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Filed Book: 1816 Page: 382 Doc Id: 6106448
08/04/2003 10:24AM Receipt #: 87879
Doc Code: DECL
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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
HATTERAS ISLAND RESORT**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS for Hatteras Island Resort (the "Declaration") is made this 15th day of July, 2003, by Hatteras Island Resort, LLC, a North Carolina limited liability company, (hereinafter referred to as "Declarant") of 29 Fairway Drive, Southern Shores, NC 27949.

RECITALS

[STATEMENT OF PURPOSE]

A. Declarant is the owner of that property situated in the village of Rodanthe on Hatteras Island, North Carolina, more particularly described on Exhibit "A" attached hereto and incorporated by this reference (the "Property" or "Hatteras Island Resort").

B. Declarant's present intention is stated here for information of present interest only with respect to that Property made subject to this Declaration as hereinafter provided in Section 2.01, not as a warranty or representation of future fact as Declarant intends for Hatteras Island Resort to be a mixed community consisting of: The Estates at Hatteras Island Resort (the "Estates") consisting of single family residential lots to be developed in phases and The Villas at Hatteras Island Resort (the "Villas") consisting of Caribbean style villas representing architectural styles similar to the principles associated with that vernacular known as traditional West Indies

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Architecture and first built and occupied by sea captains who traveled the triangular waters between Hatteras Island, the West Indies and Europe.

C. Declarant is also the Owner of that property situated to the East of Hatteras Island Resort known as Hatteras Island Resort Commercial ("HIRC") consisting of a Welcome Center, Motel, Restaurant and Pier House. The uses within HIRC are presently commercial but portions of HIRC including the Motel may be converted at a future date to condominium uses and/or mixed residential and commercial uses. The Declarant as the Owner of HIRC has granted certain easements for amenity uses to Owners within Hatteras Island Resort as hereinafter set forth, but HIRC is not subject to the provisions of this Declaration.

D. In order to provide for the preservation and value of Hatteras Island Resort and assurance that all improvements within Hatteras Island Resort are in conformance with Architectural Guidelines, Declarant has made provisions for an Architectural Standards Committee (the "ASC") which shall be responsible for administering the Architectural Guidelines and any improvements to be constructed on the Property. Prior to any lot disturbance or construction of any type or for any purpose, including alterations or additions to existing structures, plans and specifications, detailing the nature, kind, shape, material and location must be submitted for approval in writing by the ASC to the harmony of external design and location of the surrounding structures and topography.

E. To accomplish the objectives as referenced within these recitals, it is in the interest of Hatteras Island Resort for the Declarant to maintain a significant role in the implementation of each phase of Hatteras Island Resort and the Declarant has therefore retained numerous rights and will exercise controls over the Property throughout the developmental period.

NOW, THEREFORE, Declarant, by this Declaration, declares that all property known as Hatteras Island Resort consisting of Hatteras Island Estates and the Villas at Hatteras Island Resort, as more particularly described in Exhibit "A", and any additional property as described in Article II which may be subjected to this Declaration by Supplemental Declaration, shall be held, sold, hypothecated, or encumbered, leased, rented, used, occupied and improved subject to the following covenants, restrictions, easements, liens and charges, all of which are declared and agreed to be in furtherance of: enhancing and projecting the architectural styles and designs promulgated within the Architectural Guidelines, the spirit of community in Hatteras Island Resort and to enhance the value of properties which covenants, easements, and restrictions shall run with the real property subjected to this Declaration as may be reasonably modified and amended from time to time in furtherance of the Statement of Purpose recited herein, all of which shall be binding on all parties; their respective heirs, personal representatives, successors, transferees and assigns, as well as occupants, guests and invitees having or acquiring any right, title or interest in Hatteras Island Resort.

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Article I
Definitions

Section 1.01. Definitions. When using this Declaration, unless the content shall prohibit or otherwise require, the following words set forth within this Article I shall have all of the following meanings and all definitions applicable to the singular and plural forms of such terms.

Section 1.02. "Act" refers to the North Carolina Planned Community Act as codified in Chapter 47F of the North Carolina General Statutes.

Section 1.03. "Additional Declaration" shall mean and refer to any Declaration of Covenants, Conditions and restrictions filed in the office of the Register of Deeds of Dare County, North Carolina with regard to a certain phase, section or portion of the Property as more particularly described in Article II hereof.

Section 1.04. "Additional Property" shall mean and refer to any real property, other than the property described in Exhibit "A" attached hereto, which may be subjected to the Declaration as more particularly set forth in Article II hereof. The Additional Property includes all real property currently owned by Declarant, and any adjacent or nearby property hereafter acquired by Declarant.

Section 1.05. "Architectural Standards Committee" ("ASC") shall mean and refer to that committee responsible for administering the Hatteras Island Resort and setting and approving all structural improvements, additions, modifications and changes within Hatteras Island Resort, unless the Declarant executes a Supplemental Declaration subjecting any portion of HIRC to be regulated by ASC.

Section 1.06. "Articles of Incorporation" shall mean the Articles of Incorporation of Hatteras Island Resort Association, Inc. as filed with the Secretary of State of North Carolina.

Section 1.07. "Assessments" shall mean and refer to all annual assessments, special assessments, individual assessments, and other fees and charges levied by the Association in accordance with the Governing Documents.

Section 1.08. "Association" shall mean and refer to Hatteras Island Resort Association, Inc., a North Carolina non-profit association.

Section 1.09. "Board" shall mean and refer to the Board of Directors of the Association.

Section 1.10. "Bylaws" shall mean the Bylaws of the Association as they may now or hereafter exist.

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Section 1.11. "Commercial Site" or "Commercial Uses" shall mean that parcel of land designated as 1A on the Subdivision Plat of Hatteras Island Resort intended for use as the site for improvements designed to accommodate commercial or business enterprises to serve residents and amenities of Hatteras Island Resort and/or the public, which parcel is not subject to the provisions of this Declaration.

Section 1.12. "Common Area" or "Common Property" shall mean and refer singularly or collectively, as applicable, to all real property and improvements thereon or associated therewith, which is/are owned or leased by the Association (or by Declarant for later transfer, lease, or assignment to the Association); easements granted to or reserved by or on behalf of the Association (or the Declarant for later transfer or assignment to the Association); and other real property which has been designated as Common Area on any plat recorded in the Office of the Register of Deeds, Dare County, North Carolina by Declarant or by any other party entitled to subject Additional property in this Declaration, in a Supplemental Declaration, or in a deed or other written instrument, and also shall refer to all personal property owned or leased by the Association and designated as Common Area by the Declarant or the Association. The Common Area is for the common use, enjoyment or benefit of the Owners, and/or for the enhancement or protection of the Property or any part thereof, and may include, without limitation, active and passive recreational areas and facilities. All Common Area shall be subject to the terms and conditions of this Declaration. Common Area may also include, as determined by Declarant in its sole discretion, all water retention and detention ponds and areas, if any, including all stormwater facilities, structures and improvements associated therewith, required to be constructed, repaired, replaced or maintained on or near the Property or any portion thereof by the laws, rules or regulations of any governmental authority having jurisdiction thereof and which is required to handle stormwater runoff from any part or all of the Property. Notwithstanding the foregoing, in no event shall any portion of HIRC be considered part of the Common Area notwithstanding that HIRC may be dedicated to amenity uses for the benefit of all Owners within Hatteras Island Resort. The Common Area also includes all water lines, septic tanks and septic drainfield serving more than one Villa. All Common Area within the Villas shall be Limited Common Area dedicated only to the owners of the Villas and shall not be Common Area subject to any rights or uses by Owners within the Estates.

Section 1.13. "Common Expenses" shall mean and refer to (i) expenses of administration, maintenance, improvement, repair or replacement of Common Area or Common Property and/or rights of way, (ii) expenses declared to be or described as Common Expenses by the provisions of this Declaration, (iii) premiums for hazard, liability or other insurance as may be obtained by the Association, (iv) all other expenses incurred by the Association in carrying out its functions and duties under the Declaration, (v) charges for utility services used in connection with the Common Area and Improvements thereof and (vi) maintenance, repair and replacement of that easement granted for beach access including any necessary replacement and repair of the vegetated dune line along the ocean front of Hatteras Island Resort.

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Section 1.14. "Declarant" shall mean and refer to Hatteras Island Resort, LLC, a North Carolina limited liability company, its successors and assigns in whole or in part.

Section 1.15. "Declarant's Rights and Obligations Period" refers to any and all privileges, powers, easements, exemptions, rights and duties reserved to the Declarant by the Governing Documents, and any reasonable amendments thereto related to the development of Hatteras Island Resort including the pursuit and furtherance of the recitals set forth within the Statement of Purpose. The Declarant's Rights and Obligations Period shall extend until September 15, 2013. The Declarant may voluntarily elect an earlier termination of the Declarant's Rights and Obligations Period by giving written notice to the Association. During the Declarant's Rights and Obligations Period, the Declarant shall have all those Special Declarant's Rights defined by the Act and in addition those rights which shall include at a minimum: the right to make all appointments to the ASC, the right to appoint a majority of the Members to the Board of the Association and the right to approve any amendments to the Governing Documents.

Section 1.16. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for Hatteras Island Resort as it may be amended and supplemented from time to time as herein provided.

Section 1.17 "Dwelling Unit" shall mean and refer to a portion of the Property, whether developed or undeveloped, intended for development, use and occupancy as an attached or detached dwelling for single family residential use. By way of illustration, but not limitation, each single-family, detached house on a Lot and each Villa shall constitute a separate Dwelling Unit

Section 1.18 "Entrance Monument Easements" shall mean and refer to the easements reserved by Declarant and granted to the Association in Article X, Section 10.06 hereof over, under and across certain areas of the Property, for the installation and maintenance of entrance monuments and related improvements for the Property.

Section 1.19. "Governing Documents" refers to this Declaration, the Hatteras Island Resort Association, Inc. Articles of Incorporation and Bylaws of the Association.

Section 1.20. "Hatteras Island Resort Commercial". refers to that Property located within Parcel 1A of the Subdivision Plat of Hatteras Island Resort dedicated for commercial purposes including a motel, welcome center, restaurant and pier house which is **not** subject to this Declaration, but which has granted easements to those amenities as set forth in Article X herein.

Section 1.21 "Improvements" shall mean and include all buildings, storage sheds or areas, roofed structures, decks, patios, parking areas, exterior recreational areas, recreational equipment and facilities, mailboxes, exterior antennae, dishes or other apparatus to receive or transmit television or

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radio or microwave or other signals, loading areas, trackage, fences, walls hedges, mass plantings, poles, driveways, ponds lakes, changes in grade or slope of a Lot or Dwelling Unit, silt preparation of a Lot or Dwelling Unit, landscaping, exterior clotheslines, swimming pools, tennis courts, signs, exterior illumination, changes in any exterior color or shape and any other exterior construction or exterior structure or other exterior improvement which may not be included in any of the foregoing. The definition of Improvements includes both original Improvements of all Lots and Villas and all later changes and additions to Improvements.

Section 1.22. "Landscaped Rights-of-Way" shall mean the medians and other areas within public or private street rights-of-way within or adjoining the Property which are designated as Common Area or Landscaped Rights-of-Way on any plat recorded in the Office of the Register of Dare County, North Carolina by Declarant or by any other party entitled to subject Additional Property to the Declaration, and which shall be maintained by the Association as a Common Expense.

Section 1.23. "Limited Common Area" or "Limited Common Property" or "Limited Common Open Space" (these terms being used interchangeably herein) shall mean and refer singularly or collectively, as applicable, to all real property and improvements thereon or associated therewith, and to all personal property, which is/are owned or leased by, or located in an easement granted to or reserved by or on behalf of, the Association (or the Declarant for later transfer or assignment to the Association) for the use, improvement, enhancement or benefit of Owners of Lots or Dwelling Units in a particular section or phase located within the Development, or for the enhancement or protection of such portion of the Development, and which has been designated on any plat recorded in the Office of the Register of Deeds, Dare County, North Carolina, by Declarant or by other party entitled to subject Additional Property to the Declaration, as Limited Common Area (the question of such use, improvement, enhancement or benefit being as determined by Declarant). There may be Limited Common Area in one or more sections or phases located within the Development. Limited Common Area shall, for the purposes of this Declaration, be considered a sub-classification of Common Area, and, except as may be otherwise provided herein (i) all provisions of this Declaration relating to the rights, duties and obligations of the Association with respect to the Common Area shall apply to the Limited Common Area; and (ii) all provisions of this Declaration relating to the rights and obligations of Owners or Members with respect to Common Area shall, with respect to Limited Common Area, be exercised by or imposed upon only those Owners of Lots or Dwelling Units in phases or sections of the Development to which the particular Limited Common Area relates (as determined by the Declarant). All that Property other than the Lots in the Villas shall be deemed Limited Common Area of the Villas.

Section 1.24. "Lot" shall mean and refer to any numbered plot of land which is part of the Property, and which is part of the Property other than the Common Area, and which is shown on any plat in the Office of the Register of Deeds, Dare County, North Carolina which Declarant has recorded, caused to be recorded or approved for recordation. Declarant hereby reserves the right to reconfigure, at any time and from time to time without the consent of the Owners or Members of the

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Association, the boundaries of any Lot or Dwelling Unit (including Villas) owned by the Declarant and to thereby configure Lots or Dwelling Units, create streets create additional Lots or Dwelling Units, eliminate existing Lots or Dwelling Units, create additional Common Area or reduce proposed Common Area not yet conveyed to the Association (provided that no such reduction violates any applicable ordinances of Dare County or other entity having governmental jurisdiction over such Common Area). Declarant's exercise of this right shall be evidenced by the recording of a revised map of the affected Lot, Dwelling Unit or Common Area. Upon the recording of any such revised map, each Lot or Dwelling Unit or Villa shown on the previously recorded map that has been revised by the new map shall cease to be a "Lot" or "Dwelling Unit" or "Villa" as defined herein and each revised Lot or Dwelling Unit or Villa as shown on the new map shall be "Lot" or "Dwelling Unit" or "Villa" as defined herein.

Section 1.25 "Maintain", "Maintenance" or any substantially similar term used in this Declaration, when applied to a power or duty of the Association shall mean and include, without limitation, the right to maintain, repair, replace, reconstruct, improve, clean, landscape, operate and use the improvement, property or other item which is the subject thereof.

Section 1.26 "Member" shall mean and refer to each Owner of a Lot, Dwelling Unit or Villa who is a member of the Association as provided in this Declaration.

Section 1.27 "Motel" shall mean and refer to that 32 unit motel that is a part of HIRC.

Section 1.28. "Owner" shall mean and refer to the fee simple title to any Lot situated within the Estates of the Villas of Hatteras Island Resort. Notwithstanding any applicable theory of any lien or mortgage law, Owner shall not mean or refer to any mortgagee or trust beneficiary unless and until such mortgagee or trust beneficiary has acquired title pursuant to foreclosure or any legal proceeding in lieu of foreclosure.

Section 1.29 "Pier House" shall mean and refer to the Pier House access to the Rodanthe Fishing Pier situated within HIRC.

Section 1.30. "Plans" shall mean and refer to the complete drawings and specifications for any contemplated Dwelling or Dwelling Unit including, but not limited to those showing the shape, dimensions, materials, basic exterior finishes and colors, location on site, driveway, parking, decorative landscape planting, floor plans and elevations therefore.

Section 1.31 "Pool" shall mean and refer to the swimming pool and area adjacent to the swimming pool situated within HIRC.

Section 1.32 "Property" shall mean the communities of: the Estates at Hatteras Island Resort and the Villas at Hatteras Island Resort, and any additions thereto as are made subject to this



Declaration by any Supplemental Declarations(s) under the provisions of this Declaration.

Section 1.33 "Sign" shall mean any writing, pictorial representation, emblem, flag, or any other figure of similar character which is (i) a structure or part thereof, or is attached to, painted on or in any other manner represented on a Dwelling Unit, Villa or any other structure (ii) used to announce, direct attention to, or advertise and (iii) visible from outside an Improvement.

Section 1.34 "Single Family Home" shall mean any detached home built on any vacant lot within the Estates of Hatteras Island Resort.

Section 1.35 "Special Assessment" shall mean assessments levied in accordance with Article VIII Section 8.01(2) of this Declaration.

Section 1.36 "Subdivision Plat" shall mean that plat of Hatteras Island Resort prepared by B.I.L.T. dated July 3, 2003 which depicts Phase 1 and Phase 2 of the Estates at Hatteras Island Resort, Parcels: 3A, 3B and 3C of the Villas at Hatteras Island Estates and Parcel 1A of Hatteras Island Resort Commercial Subdivision Plat, which is recorded in Plat Cabinet F at Slide 46 in the Public Registry of Dare County, North Carolina; however, Parcel 1A is not a part of Hatteras Island Resort for purposes of this Declaration.

Section 1.37. "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.

Section 1.38 "The Estates at Hatteras Island Resort" shall be made up of single family dwellings constructed or to be constructed on a lot within Parcels in Phase 1 and Phase 2 of the Estates and those Lots adjacent to the Northwest corner of the Estates being more particularly described as Lots: 31 and 32 as shown on the corrected map of Revised Holiday Shores in Map Book 8 at Page 11 in the Public Registry of Dare County, North Carolina.

Section 1.39 "The Villas at Hatteras Island Resort" shall mean and refer to a single family Dwelling Unit constructed or to be constructed on a lot within Parcels: 3A, 3B and 3C of the Subdivision Plat.

Section 1.40 "Welcome Center" shall mean and refer to the reception building within HIRC.

Article II
Property

Section 2.01. Property Made Subject to Declaration. The Property is hereby made subject to this Declaration and the Property shall be owned, held used, occupied, leased, transferred, sold,

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mortgaged and/or conveyed by Declarant, the Association and each Owner subject to this Declaration and the terms, covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration. Declarant shall have the right as set forth below, but shall have no obligation, to subject the Additional Property to this Declaration.

Section 2.02. Annexation of Additional Property by Declarant within Ten Years. If prior to September 15, 2013, Declarant is the Owner of any real property which Declarant currently owns, or which Declarant hereafter acquires and which is contiguous or adjacent to the Property, which Declarant desires to subject to this Declaration (such real property being referred to herein as "Additional Property"), it may do so by filing of and recording a Supplemental Declaration or additional Declaration which shall extend this Declaration to such Additional Property"; provided however, that such Supplemental Declaration or Additional Declaration, as applied to the Additional Property covered thereby, may include such specific additional terms, covenants, conditions, restrictions, easements, charges and liens, not inconsistent with this Declaration, as may be set forth in such Supplemental Declaration. There shall be no requirement that any party other than the Declarant consent to, approve, or execute any such Supplemental Declaration or Additional Declaration.

Section 2.03 Other Annexations of Additional Property. If at any time Persons other than the Declarant desire to subject real property (also referred to as Additional Property) to this Declaration, such real property may only be subjected hereto if the owner thereof, and Declarant up to September 15, 2013, consents in writing. If after September 15, 2013, Declarant or any other Person desires to subject real property to this Declaration, the owner of such property to be annexed must consent in writing. All subjection to this Declaration, authorized by this Section 3 must be approved by the affirmative vote of two-thirds (2/3) of the votes of each class of membership entitled to be cast by the Members present or represented by proxy at a duly called meeting of the Association at which a quorum is present. Upon such consent and/or affirmative vote, such Additional Property shall be subjected to this Declaration by the recordation in the Dare County, North Carolina Registry of a Supplemental Declaration or Additional Declaration signed by the owner of such Additional Property, by Declarant (if such annexation occurs prior to September 15, 2013), and by the Association.

Section 2.04. Changes to this Declaration or Additional or Supplementary Declaration Requiring Declarant's Consent. Notwithstanding anything contained herein to the contrary, it is expressly understood and agreed that, for so long as there is a Class B Membership, the prior written consent of Declarant shall be required for any parties to modify, change and/or amend, in whole or in part, the terms and provisions of this Declaration, any Supplemental Declaration, and/or any Additional Declaration or to impose new or additional covenants, conditions, restrictions or easements on any part of the Property.

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Article III
Membership and Voting Rights

Section 3.01. Membership Each and every Owner of a Lot or Dwelling Unit within the Estates and the Villas shall automatically become and be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot or Dwelling Unit, and the Board may make reasonable rules relating to the proof of ownership of a Lot or Dwelling Unit.

Section 3.02. Classes of Voting Members. Subject to the rights of Declarant reserved in this Section 3.02, the Association shall have two classes of voting membership as follows:

Class A. Class A Members shall be all Owners of Lots, with the exception of Declarant until such time as Declarant's Class B Membership is converted to Class A Membership as provided in this Article. Unless otherwise provided by a Supplemental or Additional Declaration as Set forth in Section 2.04 hereof, a Class A Member shall be entitled to one (1) vote for each Lot or Dwelling Unit owned by such Class A Member at the time notice is given of the particular meeting at which Class A membership votes are eligible to be cast. Provided, when two (2) or more persons own or hold interests in any Lot or Dwelling Unit, all such Persons shall be Class A Members, and the one (1) vote for such Lot or Dwelling Unit shall be exercised as they, among themselves, determine, but fractional voting shall be prohibited and in connection with any particular vote no more than one Class A Membership (1) vote shall be cast with respect to each Lot or Dwelling Unit.

Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to three (3) votes for each Lot or Dwelling Unit owned by the Class B Member at the time notice is given of the particular meeting at which the Class B votes are eligible to be cast.

The Class B Membership shall terminate and be converted to Class A Membership up on the happening of the first to occur of the following:

- (a) when the total votes outstanding in Class A Membership equal the total votes outstanding in Class B Membership. Provided, however, and notwithstanding anything to the contrary that may appear herein or in the Declaration, if at any time prior to September 15, 2013, the Class B Membership terminates for the foregoing reason and thereafter, Declarant pursuant to Section 2.01 of Article II of the Declaration, annexes Additional property to the Declaration, such that, following such annexation, if votes are allocated to the Lots or Dwelling Units owned by Declarant at the rate of three (3) votes per Lot or Dwelling Unit Declarant's total outstanding votes would exceed the total outstanding votes of the Class A Members, the Class B Membership shall be reinstated until such time as it again terminates due to one of the events of termination stated herein. Prior to September 15, 2013, or the voluntary termination of the Class B

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Membership by Declarant, whichever first occurs, there shall be no limitation on the number of times the Class B Membership may terminate and be reinstated in accordance with the provisions of this paragraph (a); or

- (b) voluntary termination by Declarant; or
- (c) September 15, 2013.

Section 3.03. Voting, Quorum and Notice Requirements. Except as may be otherwise specifically set forth in this Declaration, the Articles or the Bylaws, the vote of the majority of the aggregate votes entitled to be cast by all classes of the Members present, or represented by legitimate proxy, at a legally constituted (duly called) meeting of the Association at which a quorum is present, shall be the act of the Members with respect to the matter that is the subject of such vote. The number of votes required to constitute a quorum shall be as set forth herein or in the Bylaws. Notice requirements for all action to be taken by the Members of the Association shall be as set forth herein or in the Bylaws.

Section 3.04. Termination of Membership. A Person's membership in the Association shall terminate automatically whenever such Person ceases to be an Owner, but such termination shall not release or relieve any such Person from any liability or obligation incurred under or in any way connected with the association of this Declaration during the period of such Person's ownership of a Lot or Dwelling Unit, or impair any rights or remedies which the Association or any other Member has with regard to such former member.

Section 3.05. Limited Common Property. With respect to matters specifically affecting Limited Common Property (as contrasted with matters affecting Common Property or the Association), only those Class A Members (with the Class B Member) who own Lots or Dwelling units in the particular section or phase of the Development to which such Limited Common Property relates shall be entitled to vote on and receive notice of matters affecting that particular Limited Common Property, and the quorum requirements with respect to any required votes affecting such Limited Common Property shall be based upon the number of Members entitled to vote on such matters and not based upon the entire membership of the Association.

Article IV
Property Rights in the Common Area

Section 4.01. Easement of Enjoyment. Subject to the provisions of this Declaration (and subject to the provisions of any Supplemental Declaration or Additional Declaration which may be applicable and not inconsistent herewith), every Owner shall have a right and easement of use and enjoyment in and to the Common Area, and every Owner of a Lot or Dwelling Unit in a

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Section 4.03. Changes in Boundaries; Additions to Common Areas. Declarant expressly reserves for itself and its successors and assigns the right to reasonably change and realign the boundaries of the Common Areas and the Limited Common Areas and any Lots, including the realignment of boundaries between adjacent Lots or Dwelling Units owned by Declarant, provided that any such change or realignment of boundaries shall not materially decrease the acreage of the Common Areas and shall be evidenced by a revision of and/or addition to those plats of Hatteras Island Resort which shall be recorded in the Office of the Register of Deeds of Dare County, North Carolina. Except as provided herein, lots in the Estates may not be subdivided or separated into smaller lots or any portion of a lot separately conveyed.

Section 4.04. Damage or Destruction of Common Areas by Owner. If any Owner or any of their guests, tenants, licensees, agents, employees of Owner or his family damages any of the Common Areas as a result of negligence or misuse, the Owner hereby authorizes the Association to repair the damage. The cost of repair shall be the responsibility of that Owner and shall become an Individual Lot Assessment payable by the responsible Owner. In the event an Owner disputes either responsibility or the amount of damage claimed, then the Owner may request a hearing pursuant to the revisions of Section 7.14 (b) and any liability determined shall be an assessment secured by lien as allowed by the Act.

Section 4.05. Streets. The Association may make rules and regulations concerning driving and parking within Hatteras Island Resort including any designations of parking, the posting of speed limits and any other traffic signs to take reasonable measures to discourage excessive speed and encourage safe driving on the streets.

Section 4.06. Ingress and Egress. Notwithstanding anything to the contrary appearing in this Declaration, if ingress and egress to any Lot or Dwelling Unit is through any part of the Common Area, any conveyance or encumbrance of such part of the Common Area shall be subject to an easement for ingress and egress for such Lot or Dwelling Unit over and upon such portion of the Common Area as is designated for ingress and egress (by a public or private street or right of way) and shown on a recorded plat of such Common Area, Lot or Dwelling Unit affected thereby or created or reserved by Declarant in an instrument recorded in the Carteret County, North Carolina Registry.

Section 4.07. Title to Common Areas. The Declarant shall retain the legal title to the Common Areas until such time as it has completed improvements, if any, thereon and until such time as, in the opinion of the Declarant, the Association is able to maintain the same but, notwithstanding any provision to the contrary herein, the Declarant hereby covenants, for itself, its successors and assigns, that it shall convey the Common Areas to the Association at its option anytime prior to September 15, 2013.

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Section 4.08. Stormwater Management Improvements. The Association will be responsible for maintenance of any stormwater management swales, channels and check dam repairs. Each Association shall be responsible to insure that each owner within each neighborhood maintains his driveway. Such maintenance is to include removal of sediments within the swales and channels, restabilization of the swales and channels as needed, check dam repairs and upkeep of the vegetation cover on a periodic, as required basis. Each Dwelling Unit which is attached to another Dwelling Unit is hereby subject to an easement upon and across such other attached Dwelling Unit for the drainage and discharge of water from any storm drain to or toward downspouts situated on the other attached Dwelling Unit and the owner of such Dwelling Unit may not alter or obstruct such drainage or flow of water to the detriment of the other Dwelling Unit or the common areas of Hatteras Island Resort.

Section 4.09. Sales and Construction Offices. Notwithstanding any provisions of restrictions herein to the contrary, there is hereby reserved for the benefit of Declarant and its successors and assigns during the Declarant's Rights and Obligations Period, the alienable and transferable right and easement in and to Hatteras Island Resort for the maintenance of signs, sales offices, construction offices, business offices and model Dwelling Units, together with such other facilities as may be reasonably required, convenient, or incidental to the completion and improvement of Common Areas, and/or sale of Lots, or any Additional Phases, for so long as Declarant owns any Lot or Dwelling Unit primarily for the purpose of sale.

Article V
Declarant's Reserved Rights and Obligations

Section 5.01. Duration of the Declarant's Rights and Obligations Period. The rights and obligations reserved for the benefit of the Declarant (the "Declarant's Rights and Obligations Period") shall extend until September 15, 2013. The Declarant, however, may elect to voluntarily terminate all or any portion of the Declarant's Rights and Obligations Period by expressing such election in writing to the Association.

Section 5.02. Right to Complete Hatteras Island Resort. The Declarant shall have the right to conduct all lawful activities required or related to the completion of the Hatteras Island Resort as such may be reasonably amended from time to time and as approved under the Ordinances of Dare County, North Carolina.

Section 5.03. Additional Phases. The Declarant hereby declares that all of that property described in the Exhibit "B" is subject to the Declarant's right to unilaterally subject such property to this Declaration. For the duration of the Declarant's Rights and Obligations Period, the Declarant shall have the right to incrementally annex all or any portions of that property comprising the additional phases by executing one or more Supplementary Declarations.

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Section 5.04. Governing Documents. During the Declarant's Rights and Obligations Period, the Association shall make no amendments to the Governing Documents or take any other action that may adversely affect the Declarant's interest without the Declarant's prior written consent.

Section 5.05. Easements. The Association shall take no action seeking to alter easements established in the Governing Documents by the Declarant, nor to prevent establishment of easements necessary to complete the Hatteras Island Resort.

Section 5.06. The Declarant's Representation on the Board. During the Declarant's Rights and Obligations Period, the Declarant shall have the right to appoint two of the three members serving on the Board of the Association which right of appointments may earlier be terminated as provided in Section 5.01 herein. The number of members of the Board and composition may not be changed during the Declarant's Rights and Obligations Period without the Declarant's written consent.

Article VI Architectural Standards

Section 6.01. Purpose. Declarant desires to provide for the preservation of the values of Hatteras Island Resort with respect to any Dwelling Unit to be constructed on any portion of the Property. To that end, Declarant will establish an Architectural Standards Committed (the "ASC"). The purpose of the appointed ASC is to maintain standards as to appearance, shape, dimension, construction material, and color among other things, in order to establish a desirable consistency and harmony, among adjacent and surrounding structures and relative to location and topography.

Section 6.02. Advance Approval Required. All construction (which term shall include within its definition: staking, clearing, excavation, grading and other site work) or modification (except interior alterations not affecting the external structure or appearance of any building) including plantings or removal of plants, trees or shrubs shall not take place except in strict compliance with this Article, until the requirements below have been fully met and written approval of the Architectural Standards Committee ("ASC") has been obtained pursuant to Section 6.03 below. Unless approved in accordance with this Article, no structure, including, but not limited to: fences, porches, patios, decks, privacy walls, gates, pools, whirlpools or other pools, and awnings shall be placed, erected or installed upon any Lot and/or Dwelling Unit.

Unless otherwise approved by the ASC, all improvements constructed on any portion of Hatteras Island Resort shall be designed by and built in accordance with the plans and

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specifications of an approved licensed architect and an approved licensed general contractor. For the purposes of this Article, an "Approved Licensed Architect" and "Approved Licensed General Contractor" shall mean an architect or general contractor properly licensed who has made application and has been approved by the ASC. The requirements and procedure for becoming an approved architect or general contractor shall be determined by the ASC.

This Article shall not apply to the activities of the Declarant, nor to construction of improvements or modifications to the Common Areas by or on behalf of the Association

This Article may not be amended during the Declarant's Rights and Obligations Period without the Declarant's prior written consent.

Section 6.03. Architectural Standards Committee. During the Declarant's Rights and Obligations Period, the Declarant retains the right to determine the composition and appointment of all members of the ASC. Thereafter, all appointments shall be made by the Board.

Responsibility for administration of the Architectural Guidelines and review of all applications for construction and modifications under this Article VI shall be handled by the ASC. The members of the ASC need not be Owners within Hatteras Island Resort and may but not need include: architects, engineers or similar professionals, whose compensation, if any, shall be established and remitted from time to time by the Declarant. The Declarant may establish reasonable fees to be charged by the ASC for review of applications hereinafter and may require such fees to be paid in full prior to review of any application.

Section 6.04. Guidelines and Procedures. The Declarant shall prepare the initial design and development guidelines and applications and review procedures (the "Architectural Guidelines") which shall be applicable to all construction activities within Hatteras Island Resort. The Architectural Guidelines may contain general provisions applicable to all of Hatteras Island Resort, as well as specific provisions which vary from the Estates to the Villas and any Additional Property annexed to this Declaration depending upon the location, unique characteristics and intended use.

The ASC shall adopt the Architectural Guidelines and thereafter shall have sole and full authority to reasonably amend the Architectural Guidelines from time to time without the consent of the Association, provided said amendments are consistent with the Statement of Purpose set forth within this Declaration; however, any amendments during the Declarant's Rights and Obligations Period must have the prior written consent of the Declarant. Subsequent to the Declarant's Rights and Obligations Period, any amendments to the Architectural Guidelines may be either proposed by the ASC to the Association or may be proposed initially by the Association and any adoption thereafter must be by a majority vote of the Board.

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The ASC shall make the Architectural Guidelines available to Owners and approved Architects and General Contractors who seek to engage in any development and construction in Hatteras Island Resort and all such persons shall conduct their activities in strict accordance with the Architectural Guidelines. A written document acknowledging receipt of the Architectural Guidelines shall be signed by the appropriate General Contractor prior to commencement of any construction activity. All Owners, Architects, General Contractors, sub-contractors, materialmen and their agents shall conduct their activities strictly in accordance with the Architectural Guidelines.

Any amendments to the Architectural Guidelines as may be reasonably adopted from time to time by the ASC in accordance with this Section 6.04 shall apply to construction and modifications commenced after the date of such amendment only, and shall not require modifications or removal of structures previously approved by the ASC once the approved construction or modification has commenced.

The ASC 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 proposed construction and any modification, addition or alteration to any prior approvals shall be submitted to the ASC 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.

The plans to be submitted must include site plans which depict all access streets and walkways, pathways, and other exterior improvements, grading drainage plan, fill plan, if any, indicating runoff, foundation plan, exterior and lighting plan. The architectural drawings submitted must include total enclosed heated/air conditioned square footage, the floor plans, including an exact computation of the square footage of each floor and drawn to the scale of one quarter inch equals one foot, elevation drawings for all sides which shall indicate existing grade, fill and finished floor elevation, detailed drawings of typical wall sections and any other extra features, and a complete identification of colors and materials, including shingles, siding and color.

At time of submission, three sets of plans shall be submitted along with a review fee of \$300.00 with the completed ASC application form. Construction of all improvements must be completed within eight months from the date the ASC grants an applicant approval.

Section 6.05. Non-Precedential Nature of Approvals. Each applicant acknowledges that the composition of the ASC will change from time to time and that decisions regarding aesthetic matters and interpretation and application of the Architectural Guidelines may reasonably vary from time to time. In addition, each applicant acknowledges that it may not always be possible to

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identify objectionable features of proposed Improvements until the Improvements are completed, in which case it may be unreasonable to require changes to the Improvements previously approved, but the ASC may refuse to approve similar Improvements in the future. Approval of Improvements for any particular applicant or Dwelling Unit shall not be deemed a waiver of the right to withhold approval as to any similar Improvements subsequently submitted for approval.

Section 6.06. No Waiver of Future Approvals. The approval of the ASC 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 ASC, 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 6.07. Basis for Decision and Variance. The ASC shall approve or disapprove any application in its reasonable discretion, based primarily on adherence with the Architectural Guidelines; however, the ASC reserves the right to grant variances based on architectural merit and on existing landscape conditions. The ASC may also consider the nature, kind, shape, height of materials and location of the proposed improvements, harmony with surrounding structures and topography, and other factors including purely aesthetic considerations, which in the sole opinion of the ASC will affect the desirability or suitability of the construction.

Section 6.08. Limitation of Liability. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and the ASC shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications or for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the ASC or the Association, 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 on or modifications to any Dwelling Unit.

Section 6.09. Enforcement. Any construction, alteration or other work done in violation of this Article or in a manner inconsistent with the application approved by the ASC shall be deemed to be nonconforming. Upon written request from the ASC ("Notice of Nonconformity"), an Owner shall, at his own cost and expense, promptly remove the nonconformity and restore the property to substantially the same condition as existed prior to the creation of the nonconformity. In the event an Owner is in disagreement as to the Notice of Nonconformity, then the Owner has the right to request a hearing before a three-member panel designated by the ASC provided the Owner delivers written notice for request of hearing to the Secretary of the Association no later than ten (10) days from the date the Owner received the Notice of Nonconformity. Upon receipt of any request for hearing, the Secretary of the Association shall thereafter calendar a hearing not less than seven (7) days nor more than fifteen (15) days before the ASC. Subject to procedures as may be established by the ASC, any Owner may appeal the ASC's decision to the Board. The

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Board at its election may either calendar a further hearing or uphold, modify or reverse the decision of the three member panel of the ASC and said decision by the Board shall be final. Upon issuance of the Notice of Nonconformity, all construction shall be stayed pending compliance by the Owner or resolution by the ASC or review and final decision by the Board. In accord, a stop-work order may be posted on the Owner's property by the ASC. Should an Owner fail to remove and restore any nonconformity as required hereunder, the Association 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, including reasonable attorney's fees allowed by the Act, may be assessed against the nonconforming Lot or Dwelling Unit and collected as an Individual Assessment pursuant to Section 8.05.

Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Hatteras Island Resort may be excluded by the Declarant (during the period of the Declarant's Rights and Obligations Period) from Hatteras Island Resort, subject to the notice and hearing procedures established by the ASC. In such event, neither the Association, its officers nor directors shall be held liable to any person for exercising the rights granted by this Section.

In addition to the foregoing, the ASC 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 ASC.

Article VII USE RESTRICTIONS

Section 7.01. Purpose. In order to preserve the natural setting and beauty of Hatteras Island Resort, and to establish and preserve a harmonious and aesthetically pleasing design pursuant to standards promulgated by the Association, and to protect and promote the value of all properties within Hatteras Island Resort each Lot and Dwelling Unit (including the Villas) located within Hatteras Island Resort shall be subject to the restrictions set forth in this Article VII. Every grantee of any interest in Hatteras Island Resort (unless specifically exempted) by acceptance of a deed or other conveyance of such interest, agrees to be bound by the provisions of this Article VII.

Section 7.02. General Provisions. All Properties within Hatteras Island Resort shall be used for only single family, non-transient residential purposes consistent with this Declaration and any reasonable amendments. The Association acting through its Board, shall have authority to make and to enforce standards and restrictions governing the use of Hatteras Island Resort. Such regulations and use restrictions shall be binding upon all Owners, occupants, invitees and

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