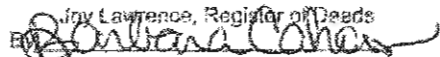


NORTH CAROLINA, CARTERET COUNTY  
This instrument and this certificate are duly filed at  
the date and time and in the Book and Page shown  
on the first page hereof.

Joy Lawrence, Register of Deeds  
  
Asst. Deputy, Register of Deeds

✓ Prepared by and mail  
to after recording to:

Harold E. Russell, Jr.  
Attorney at Law  
Russell Law Group, PLLC  
P.O. Box 19001  
Raleigh, NC 27619

STATE OF NORTH CAROLINA

CARTERET COUNTY

**DECLARATION OF CONDOMINIUM UNDER THE PROVISION OF  
CHAPTER 47C OF THE GENERAL STATUTES OF NORTH CAROLINA  
AND COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
THE GRANDE VILLAS AT THE PRESERVE CONDOMINIUM**

**THIS DECLARATION OF CONDOMINIUM** for The Grande Villas at the Preserve  
Condominium, (and as may be amended or supplemented as set forth herein, "Declaration") is  
made this 23<sup>rd</sup> day of January, 2009, by Indian Beach Acquisition LLC, a Delaware limited  
liability company, hereinafter referred to as "Declarant" pursuant to the North Carolina  
Condominium Act.

**WITNESSETH:**

WHEREAS, Declarant is the owner and developer of certain real estate in Carteret  
County, North Carolina, a portion of which is more particularly described on Exhibit A attached  
hereto and incorporated by reference;

WHEREAS, Declarant desires to impose pursuant hereto, easements, covenants and  
restrictions upon all of the Property covered by this Declaration, and to establish certain rights  
for, and impose certain obligations upon, the Owners of the Property described in Exhibit A;

WHEREAS, Declarant wishes to submit the Property to the provisions of the North  
Carolina Condominium Act contained in Chapter 47C of the North Carolina General Statutes by

the recording of this Declaration of Condominium with the office of the Carteret County Register of Deeds; and

WHEREAS, under the Condominium Act it is necessary that the rights, privileges, and obligations of Declarant, Unit Owners, Condominium Association and Board, mortgagees, and others who may be interested therein, be explicitly set forth.

NOW THEREFORE, the Declarant hereby declares that all of the Property is being subjected to the terms of the North Carolina Condominium Act by this Declaration and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following covenants, conditions and restrictions, all of which are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Condominiums as a whole and of each of said Units. All of these restrictions shall run with the land and shall be binding upon the Declarant and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the Property or any part or parts thereof subject to such restrictions, and shall inure to the benefit of the Declarant and every one of the Declarant's successors in title to any of the Property.

#### **ARTICLE I DEFINITIONS**

Section 1.1 "Act" shall mean and refer to The North Carolina Condominium Act, Chapter 47C of the North Carolina General Statutes.

Section 1.2 "Annual Organizational Board Meeting" shall mean the annual organizational board meeting of the Board, which shall take place immediately before or after each Annual Meeting of the Members.

Section 1.3 "Annual Meeting" means the annual meeting of the Members held in Carteret County, North Carolina, within the last quarter of each calendar year, upon proper notice, at a date, time and at a place from time to time designated by the Board. The first Annual Meeting of the Members shall be held within one (1) year from the date of incorporation on such date as the initial Board shall determine.

Section 1.4 "Articles" or "Articles of Incorporation" shall mean those Articles, attached hereto as Exhibit E, filed with the Secretary of State of North Carolina, incorporating as the unit owners association The Grande Villas at the Preserve Condominium Homeowners Association, Inc. as a non-profit corporation under the provisions of North Carolina law, as the same may be amended from time to time.

Section 1.5 "Assessments" means Regular Assessments, Special Assessments, Working Capital Assessments, Individual Assessments and Fine Assessments.

Section 1.6 "Association" shall mean and refer to The Grande Villas at the Preserve Condominium Homeowners Association, Inc. formed or to be formed as a non-profit corporation, its successors and assigns.

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Section 1.7 “Board” or “Board of Directors” shall mean and refer to the Board of Directors of the Association.

Section 1.8 “Bylaws” shall mean the Bylaws of the Association, attached hereto as Exhibit F, as the same may be amended from time to time.

Section 1.9 “Common Elements” shall mean all portions of the Condominium other than the Units.

Section 1.10 “Common Expenses” shall mean, refer to, and include all charges, costs and expenses incurred by the Association for and in connection with the administration of the Condominiums, including, without limitation thereof, operation of the Condominiums, maintenance, repair, replacement and restoration (to the extent not covered by insurance) of the Common Elements; the costs of any additions and alterations thereto; all labor, services, common utilities, materials, supplies, and equipment therefor; all liability for loss or damage arising out of or in connection with the Common Elements and their use; all costs incurred in acquiring a Unit pursuant to judicial sale; and all administrative, accounting, legal, and managerial expenses; and all ad valorem taxes, public assessments, and governmental liens levied against the Common Elements. “Common Expenses” shall also include the cost of operation, maintenance, improvement, and replacement of any Recreational Facilities, including establishing reserves therefor. “Common Expenses” shall also include amounts incurred in replacing, or substantially repairing, capital improvements within the Common Elements, including, but not limited to parking space or vehicular or pedestrian travelway sealing or resurfacing. “Common Expenses” shall also include all reserve funds or other funds established by the Association. “Common Expenses” shall be construed broadly.

Section 1.11 “Condominium” or “Condominiums” shall mean and refer to The Grande Villas at the Preserve Condominium, as created or to be created by Declarant on the Property, pursuant to the Declaration of Condominium for The Grande Villas at the Preserve Condominium.

Section 1.12 “Constituent Documents” shall mean this Declaration, the Bylaws, the Articles of Incorporation, and the Rules and Regulations, if any, and any other basic documents used to create and govern the Condominiums.

Section 1.13 “Declarant” shall mean and refer to Indian Beach Acquisition LLC, a Delaware limited liability company, its successors and assigns.

Section 1.14 “Default” shall mean any violation or breach of, or any failure to comply with, the Restrictions, this Declaration or any other Constituent Documents.

Section 1.15 “Declarant Control Period” means the period commencing on the date on which this Declaration is recorded in the Carteret County Register of Deeds and terminating on the earlier of (i) one hundred twenty (120) days after conveyance of seventy-five percent (75%) of the Units to Unit Owners other than Declarant or (ii) 2 years after Declarant has ceased to offer Units for sale in the ordinary course of business.

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Section 1.16 "Fine Assessment" means the charge established by Section 5.5.2 of this Declaration.

Section 1.17 "Individual Assessment" means the charge established by Section 5.4 of this Declaration.

Section 1.18 "Limited Common Elements" shall mean and refer to those areas so designated by this Declaration, the terms of N.C.G.S. §47C-2-102(2) or (4), or on the Plans which service or are reserved for use by a certain Unit or Units to the exclusion of other Units, including but not limited to parking space(s) and storage space(s) allocated to each Owner.

Section 1.19 "Member" shall mean and refer to all those Owners who are Members of the Association as provided in Article IV below.

Section 1.20 "Owner" shall mean and refer to the record owner, including Declarant, whether one or more persons or entities, of a fee simple title to any Unit located within the Condominiums.

Section 1.21 "Plat" or "Plans" or "Floor Plans" shall mean and refer to those floor plans of the Units, including a complete description thereof, together with the respective locations and dimensions of each Unit, recorded in Condominium Drawer 10T, Pages 397 - 423, Carteret County Registry, as the same may be amended or supplemented by Declarant from time to time.

Section 1.22 "Property" shall mean and refer to that certain real estate described in Exhibit A and all other real estate that may be annexed into this Declaration and the Association by the Declarant.

Section 1.23 "Recreational Facilities" shall mean and refer to the common community and recreational facilities located upon the property designated on the Plat, including, but not limited to, the swimming pool, cabana, fitness room, game room, sauna, fire pit, club room, children's room and the related grounds, landscaping and improvements located, or to be located thereon.

Section 1.24 "Regular Condominium Assessment" means the charge established by Article V of this Declaration.

Section 1.25 "Resident" shall mean and refer to any person, not an Owner, living in the Owner's Unit, including, but not limited to, temporary guests and Tenants.

Section 1.26 "Restrictions" shall mean all covenants, conditions, restrictions, easements, charges, liens and other obligations provided for in this Declaration, including, without limitation, all notices, rules and regulations issued in accordance with this Declaration.

Section 1.27 "Rules and Regulations" shall mean and include the rules and regulations made from time to time by the Board of Directors as provided in Section 4.3 below.

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Section 1.28 "Special Assessment" means the charge established by Section 5.2 of this Declaration.

Section 1.29 "Tenant" means any person occupying any Unit pursuant to a written lease agreement with the Owner thereof or with any other person or entity claiming under the Owner.

Section 1.30 "Unit" shall mean and refer to a portion of the Property, as more particularly described in Section 2.4 of this Declaration, that is the subject of individual ownership by an Owner. The location of Units within the building located on the Property and the dimensions of the Units are designated on the Plans.

Section 1.31 "Working Capital Assessment" means the charge established by Section 5.3 of this Declaration.

When applicable for the sense of this instrument, the singular should be read as including the plural and the male, female, and neuter pronouns and adjectives should be read as interchangeable.

## **ARTICLE II** **PROPERTY SUBJECT TO THIS DECLARATION**

Section 2.1 Submission. Developer hereby submits the Property described in Exhibit A to the Act and this Declaration.

Section 2.2 Name. The Property shall hereafter be known as The Grande Villas at the Preserve Condominium, a Condominium.

Section 2.3 Division of Property into Separately Owned Units. Developer, pursuant to the Act, and to establish a plan of condominium ownership for the Condominiums, does hereby divide the property described on Exhibit A into the Common Elements, Limited Common Elements and the eighty six (86) Units shown on the Plans, and does hereby designate all such Units for separate ownership, subject, however, to the provisions of Section 2.5 hereof.

Section 2.4 Boundaries of Units. The boundaries of each Unit are as follows:

(a) Upper Boundary. The upper boundary of each Unit shall be the horizontal plane of the lower face of the structure supporting the ceiling extended to an intersection with the vertical boundaries.

(b) Lower Boundary. The lower boundary of each Unit shall be the horizontal plane of the uncovered or unfinished upper surface of the floor extended to an intersection with the vertical boundaries.

(c) Vertical Boundaries. The vertical boundaries of each Unit shall be as follows: (i) with respect to demising walls between Units: the vertical planes, the elevations of which coincide with the center line of the demising walls; (ii) with respect to all other walls: the vertical

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As provided in N.C.G.S. §47C-2-102(1), all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces of the perimeter walls, floors, and ceilings are part of the Unit. As provided in N.C.G.S. §47C-2-102(2), if any chute, flue, duct, wire, pipe for water or sewer, conduit, bearing wall, bearing column, or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit shall be a Limited Common Element, and any portion thereof serving more than one Unit, or any portion of the Common Elements, shall be a Common Element.

Section 2.5 Alterations of Units. Subject to the provisions of the Bylaws, a Unit may be altered pursuant to the provisions of Section §47C-2-111 of the Act.

Section 2.6 Limited Common Elements. Limited Common Elements shall mean and include those areas and facilities of the Condominium reserved for exclusive use by the Unit Owner(s) of a particular Unit(s), which areas and facilities shall include, without limitation, any parking spaces (each a "Parking Space"; and collectively, the "Parking Spaces"), deck, porch, patio, courtyard, balcony, storage unit appurtenant to a Unit or Units (each a "Storage Unit"; and collectively, the "Storage Units"), all as shown on the Floor Plans. Each Unit Owner is hereby granted an exclusive and irrevocable license to use and occupy such Limited Common Elements as are associated with the Unit Owner's Unit. The Association shall be responsible for the maintenance and repair of the Limited Common Elements; but each Unit Owner shall be responsible for the cleanliness and orderliness of the Limited Common Elements associated with the Unit Owner's Unit. The Parking Space(s) and Storage Unit(s) are reserved to each Unit as set forth on Exhibit D attached hereto. Notwithstanding the allocation of Parking Spaces and Storage Units as allocated in Exhibit D, the Declarant (during the Declarant Control Period) and the Association may, at any time prior to the Conveyance of a Unit, re-assign the Parking Space(s) or Storage Unit(s) previously assigned thereto. After the conveyance of a Unit by Declarant, an assigned Parking Space or Storage Unit may be re-assigned by Declarant (during the Declarant Control Period) and the Association with the prior written consent of the Unit Owner. The Unit Owner's consent shall not be unreasonably withheld, delayed or conditioned. Declarant (during the Declarant Control Period) or the Association may, without the joinder of the Unit Owners or the holders of first mortgages on the Units, amend this Declaration to reflect a re-assignment of a Parking Space or Storage Unit, in accordance with this Article XI. In addition to those defined in Section 1.18, Limited Common Elements include those set forth on plats recorded in the Carteret County Registry as labeled and shown thereon.

Section 2.7 Unit Allocations. The allocations to each Unit of a percentage of undivided interest in the Common Elements and of a percentage of the Common Expenses, are as stated on Exhibit B. Each Owner will have a vote equal to their undivided interest in the Condominium.

Section 2.8 Encumbrances. The liens, defects and encumbrances on the property to which the rights of the Unit Owners and occupants are hereby made subject are set out on Exhibit C.

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Section 2.9 Reservation of Special Declarant Rights. Declarant hereby reserves all special Declarant rights as herein stated and as further defined by the Act and specifically stated in N.C.G.S §47C-1-103(23).

**ARTICLE III**  
**PROPERTY RIGHTS IN COMMON ELEMENTS**

Section 3.1 Owner's Easements of Enjoyment. Except as herein otherwise provided, each Owner shall have a right and easement of enjoyment in and to the Common Elements, which shall be appurtenant to and shall pass with the title to his Unit. Each Tenant shall have a non-transferable right to use and enjoy the Common Elements, if any, which right shall terminate when such person ceases to have the status of a Tenant. Such rights and privileges shall be subject, however, to the following:

3.1.1. The right of the Board to suspend the right of any Owner or the privilege of any Resident to such use of the Common Elements that are recreational in nature as determined by the Board for any infraction of the Rules and Regulations relating to the Common Elements for a period not to exceed sixty (60) days for each such infraction, or for any non-payment or delinquency of the Assessments against such Owner's Unit for a period not to exceed the period of such non-payment or delinquency;

3.1.2. The right of the Board to adopt, enforce and, from time to time, amend reasonable limitations upon use and Rules and Regulations pertaining to the use of the Common Elements, including regulations limiting guests of Owners and Tenants who may use the Common Elements at any one time;

3.1.3. All applicable provisions of valid easements and/or agreements of the Association relating to the Common Elements.

3.1.4. The right of the Association to grant permits, licenses and public or private easements over Common Elements for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Property.

Section 3.2 Extension of Use. Any Owner may extend his right of enjoyment of the Common Elements to the immediate and/or extended members of his family, his Tenants, guests or contract purchasers of the Owner's Unit, as regulated by the Association. No Unit may be leased to a Tenant for a term of less than seven (7) days.

Section 3.3 Use of Common Elements by Declarant. In addition to the specific rights and easements reserved herein, Declarant and its affiliates and associates shall have the right to use Common Elements for promotional, sales and similar purposes until all of the Units owned by Declarant have been sold.

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**ARTICLE IV**  
**UNIT OWNERS ASSOCIATION**

Section 4.1 Unit Owners Association. There has been created a North Carolina non-profit corporation, known as The Grande Villas at Preserve Condominiums Association, Inc. which shall be responsible for the maintenance, management and control of the Common Elements and upon each Unit as more specifically set forth in this Declaration.

Section 4.2 Board of Directors and Officers. The Board of Directors, and such officers as may be elected or appointed in accordance with the Bylaws, shall conduct the affairs of the Association. The Board of Directors may also appoint committees and managers or other employees and agents who shall, subject to the general direction of the Board of Directors, be responsible for the day-to-day operation of the Association. The Board of Directors shall be controlled by the Declarant for such period as is specified in the By Laws.

Section 4.3 Rules and Regulations. By a majority vote of the Board of Directors, the Association may, from time to time adopt, amend and repeal Rules and Regulations with respect to all aspects of the Association's rights, activities and duties under this Declaration. The Rules and Regulations may, without limitation, govern use of the Condominiums, including prohibiting, restricting or imposing charges for the use of any portion of the Condominiums by Owners, Residents or others, interpret this Declaration or establish procedures for operation of the Association or the administration of this Declaration; provided, however, that the Rules and Regulations shall not be inconsistent with this Declaration, the Articles, or the Bylaws. A copy of the Rules and Regulations, as they may from time to time be adopted, amended or repealed, shall be maintained in the office of the Association and shall be available to each Owner upon request.

Section 4.4 Membership of Condominium Owners Association. Every Owner of a Unit shall be a Member of the Association. Such Owner and Member shall abide by the Association's Rules and Regulations, shall pay the Assessments provided for in this Declaration, when due, and shall comply with decisions of the Association's governing body. Conveyance of fee simple title to a Unit automatically transfers membership in the Association without necessity of further documents. Membership shall be appurtenant to and may not be separated from ownership of any Unit that is subject to Assessment.

Section 4.5 Maintenance Obligations of the Association. The Association, at its expense, shall maintain, operate and keep in good repair, unless such obligations are assumed by any municipal or governmental agency having jurisdiction thereof, the Common Elements and all improvements located thereon for the common benefit of the Condominiums. This obligation shall include, without limitation, the maintenance, repair, replacement and painting of the following landscaping and improvements (to the extent that such improvements or landscaping are located upon or constitute Common Elements): (a) all private driveways, pavement, sidewalks, walkways and parking spaces; (b) all lawns, trees, grass and landscape areas, shrubs and fences, except as otherwise set forth herein below; (c) the Recreational Facilities; (d) all conduits, ducts, utility pipes, plumbing, wiring and other facilities which are part of or located in, or for the furnishing of utility services to the Common Elements and which are not for the exclusive use of a single Unit; (e) the Common Elements outside the boundaries of the Units.

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The Association shall determine when maintenance, repair, replacement and care shall be done, and its determination shall be binding. During the Declarant Control Period, Declarant shall have the right to employ a manager to oversee and implement the Association's maintenance obligations, and any such management fees incurred thereby shall be paid by the Association. The Association also shall also perform the other duties prescribed by the Declaration or the Association's Rules and Regulations.

Section 4.6 Maintenance Obligation of the Unit Owners. The responsibilities of each Unit Owner shall include:

4.6.1. To clean, maintain, keep in good order, repair and replace at his expense all portions of his Unit. Any repair, replacement and maintenance work to be done by an Owner must comply with any Rules and Regulations of the Association including architectural control and visual harmony.

4.6.2. To perform his responsibilities in such manner so as to not unreasonably disturb other persons residing within the Condominiums.

4.6.3. Not to paint or otherwise alter, decorate or change the appearance of any exterior portion of his Unit, without the written consent of the Association.

4.6.4. Not to impair the use of any easement without first obtaining the written consent of the Association and of the Owner or Owners for whose benefit such easements exist.

4.6.5. Each Unit Owner shall be deemed to agree by acceptance of delivery of a deed to a Unit, to repair and/or replace at his expense all portions of the Common Elements which may be damaged or destroyed by reason of his own intentional or negligent act or omission, or by the intentional or negligent act or omission of any invitee, tenant, licensee or family member, including, but not limited to any repairs necessary which result from damage incurred by pets or vehicles owned by the Unit Owner, or owned by any guest, invitee, Tenant or licensee of such Unit Owner; provided, however, that if such damage is an insurable loss under the Association's insurance policy or policies, then the proceeds of such policy or policies shall be utilized to pay for the loss, and the Owner shall be responsible for payment of any uninsured loss, including the deductible, as an Individual Assessment in accordance with Section 7.7 below.

Section 4.7 Construction Defects. The obligations of the Association and of Owners to repair, maintain and replace the portions of the Condominiums for which they are respectively responsible shall not be limited, discharged or unreasonably postponed by reason of the fact that any maintenance, repair or replacement may be necessary to cure any latent or patent defects in materials or workmanship in the construction of the project. The undertaking of repair, maintenance or replacement by the Association or Owners shall not constitute a waiver of any rights against any warrantor, but such rights shall be specifically reserved. Likewise, this Section 4.7 is not intended to work for the benefit of the person or entity responsible for the construction defect. Also, performance by the Association may be delayed if the Association does not have the means or the funds to repair the defect or if by repairing the defect, the

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Association would be compromising the right to sue to have the defect corrected and/or to collect damages caused by the defect.

Section 4.8 Effect of Insurance or Construction Guarantees. Notwithstanding the fact that the Association and/or any Unit Owner may be entitled to the benefit of any guarantee of material and workmanship furnished by any construction trade responsible for any construction defects, or to benefits under any policies of insurance providing coverage for loss or damage for which they are respectively responsible, the existence of construction guarantee or insurance coverage shall not excuse any unreasonable delay by the Association or any Unit Owner in performing his obligation hereunder. Likewise, this Section 4.8 is not intended to work for the benefit of the person or entity responsible for the construction defect. Also, performance by the Association may be delayed if the Association does not have the means or the funds to repair the defect or if, by repairing the defect, the Association would be compromising the right to sue to have the defect corrected and/or to collect damages caused by the defect.

## ARTICLE V **COVENANT FOR ASSESSMENTS**

Section 5.1 Regular Assessments. Regular Assessments for the payment of the Common Expenses shall be made in the manner provided herein, and in the manner provided in the Bylaws and this Declaration of Condominium for The Grande Villas at the Preserve Condominiums. The Regular Assessment is established for the benefit and use of the Association and shall be used in covering all of the Common Expenses. In addition to the Regular Assessment for Common Expenses, there will be a separate Regular Assessment each year for all premiums for hazard, liability and other insurance with respect to the Condominiums.

Section 5.2 Special Assessment. In addition to levying Regular Assessments, and to the extent the reserve fund is insufficient, the Board of Directors may levy Special Assessments to construct, structurally alter, or replace improvements which are a part of the Common Elements, provided that funds shall not be assessed for any capital improvement in excess of Twenty Five Thousand and 00/100 Dollars (\$25,000.00) for any one item or in excess of Fifty Thousand and 00/100 Dollars (\$50,000.00) in the aggregate in any one calendar year ("Capital Expenditure Limit") without the prior written consent of two-thirds (2/3) of the votes of the Members who are voting either in person or by proxy at a meeting duly called for such purpose or unless expressly stated in the annual budget. The Board of Directors shall have the authority to adjust the Capital Expenditure Limit annually to account for inflation, which adjustment shall be effective each January (hereinafter referred to as the "Adjustment Date") commencing January 1 of the next year following the year during which the sale of the first Unit by Declarant occurs. As of each Adjustment Date, the Capital Expenditure Limit shall be increased from the Capital Expenditure Limit on the date of this Declaration ("Effective Date") by a percentage equal to the percentage increase, if any, in the Consumer Price Index, All Urban Consumers ("CPI-U") (1982-1984=100), All Items, as compiled and published by the Bureau of Labor Statistics, U.S. Department of Labor ("CPI") from the Effective Date to the Adjustment Date. If, after the date of this Declaration, the CPI is converted to a different standard reference base or otherwise revised or ceases to be available, the determination of any new amount shall be made with the use of such conversion factor, formula or table for converting the CPI as may be

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published by any other nationally recognized publisher or similar statistical information selected by the Board. The Board of Directors shall calculate each Unit's proportionate share of the Special Assessment for the capital improvements and shall give the Unit Owner(s) written notice of the proportionate share and of the date(s) the Special Assessment is due and payable. Due to the changing charges related to various insurance requirements contained in Article VII of this Declaration, it is anticipated some or all of the insurance premiums required will be billed separately annually or on a more frequent basis as determined by the Board and shall be designated as a Special Assessment.

Section 5.3 Working Capital Assessment. The Declarant, as the agent of the Association, shall collect from each initial purchaser of a Unit at the time of closing an "working capital assessment" equal to twice the estimated monthly assessment for Common Expenses. Such funds shall not be considered advance payments of assessments. The Declarant will deliver said funds collected from each initial purchaser of a Unit to the Association to provide the necessary working capital for the Association. In addition, upon the expiration of the Declarant Control Period, the Declarant shall forward to the Association a contribution to the working capital fund, in the amount specified above, for each unsold Unit in the Condominium held by Declarant, and in that event, Declarant shall be entitled to retain as a reimbursement the working capital contributions ultimately made by the initial purchasers of such Units. Such funds may be used for certain prepaid items, initial equipment and supplies, organizational expenses and other start-up costs, and for such other purposes as the Board may determine. Except for the permitted reimbursement of prepaid contributions referred to above, the Declarant may not use the working capital fund to defray any of the Declarant's expenses, reserve contributions, or construction costs, or to make up any budget deficits of the Association during the Declarant Control Period.

Section 5.4 Individual Assessment. In the event the need for maintenance, repair or replacement of any improvement on the Property, for which the Association has the maintenance, repair and/or replacement obligation, is caused through the willful or negligent act of an Owner, his family, his pet(s), or the Resident, the cost of such maintenance, repairs or replacements shall be paid by such Owner; provided, however, that if such damage is an insurable loss under the Association's insurance policy or policies, then the proceeds of such policy or policies shall be utilized to pay for the loss, and the Owner shall be responsible for payment of any uninsured loss, including the deductible, as an Individual Assessment in accordance with Section 7.7 below. The Board shall have the maintenance, repair or replacement completed. The cost thereof allocable to the Owner shall be provided by the Board to said Owner and shall be paid by said Owner within thirty (30) days thereafter, unless an earlier date is otherwise set forth herein.

Section 5.5 Date of Commencement of Assessments; Due Dates; Determination of Regular Assessments; Fine Assessments.

5.5.1. The monthly Regular Assessment provided for herein shall commence as to each Owner of a Unit, upon written notice by the Board of Directors of the Association. The Board of Directors shall fix the amount of the monthly Regular Assessment to be paid by each Member against each Unit at the beginning of each calendar year. Written notice of the monthly Regular Assessment shall be sent to every Member subject thereto. The Board of Directors shall establish the due dates.

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5.5.2. The Board of Directors, or an adjudicatory panel established by the Board of Directors, may levy a reasonable Fine Assessment, as a fine or penalty for violation of this Declaration, all in accordance with the North Carolina Condominium Act. A lien may be filed for this Fine Assessment, and this Fine Assessment may be enforced by foreclosure and otherwise treated as a Regular Assessment.

5.5.3. If the Association is paying the bills for utilities and services for the Condominiums or any Unit Owner within the Condominiums, the Association may assess each Unit Owner benefited for its share of the utilities and services in accordance with the "Vote and Common Expense Apportionment" table attached hereto as Exhibit B and incorporated by reference.

While each Unit Owner shall bear a proportionate share of the costs for utilities and services as per the "Vote and Common Expense Apportionment" table, the Association can assess an extra amount against a Unit Owner to recover the cost of any extraordinary amount of utilities or services used by that Unit Owner. "Extraordinary" shall be as determined by the discretion by the Board of Directors. The Assessment for utilities and services, as same shall be contracted for by or be the responsibility of the Association, shall be part of the Regular Assessment and shall be considered a Common Expense.

5.5.4. Both Regular and Special Assessments for a Unit Owner shall be determined by the Association as per the "Vote and Common Expense Apportionment" table (Exhibit B).

Section 5.6 Billing. The Association shall inform each Unit Owner of the amount of the total Regular Assessment due from the Owner of that particular Unit. This Regular Assessment may be paid in monthly installments or as otherwise required by the Association. The Owner of each Unit must pay his Unit's required Regular Assessment in advance on the first calendar day of each month, unless the Association otherwise directs. Payment is to be made to such person at such an address as the Association determines. Special Assessments are due thirty (30) days after the bill for the Special Assessment has been mailed or otherwise sent out by the Association, unless the Association otherwise directs.

Section 5.7 Common Surplus. If the Regular Assessment collected in any given year is in excess of the actual Common Expenses for that year, the Board may, at its sole discretion: (a) return each Owner's share of the Common Surplus; (b) credit each Owner's share of the Common Surplus to each Owner's payment as for the Regular Assessment for the following year; or (c) apply the Common Surplus to the reserve.

Section 5.8 Assessment Certificate. The Association shall, upon demand, at any reasonable time, furnish to any Owner liable for Assessments a certificate in writing signed by an Officer or other authorized agent of the Association, setting forth the status of said Assessments; i.e., "current," and if not current, "delinquent" and the amount due. Such certificate shall be conclusive evidence of the payment of any Assessment therein stated to have been paid. A reasonable charge to cover labor and materials may be made in advance by the Association for each certificate.

Section 5.9 Books and Records of the Association. The Association shall keep full and correct books of account. The Association shall make available to all Unit Owners and the holders of all first mortgages on Units, current copies of the books, records and financial statements of the Association upon reasonable request during normal business hours. All funds collected by the Association shall be held and expended solely for the purposes designated by this Declaration and shall be deemed to be held for the use, benefit and account of the Association and all of the Unit Owners. All books and records must be kept in accordance with good accounting procedures and must be reviewed at least once a year by an independent accounting firm.

Section 5.10 Non-Payment of Assessment. Any Assessments levied pursuant to these covenants which are not paid on the date when due shall be delinquent and shall, together with such interest and other costs as set out elsewhere in this Declaration, thereupon become a continuing lien upon the Unit which shall bind the Unit in the hands of the then Owner and the Owner's successors and assigns.

If the Assessment is not paid within thirty (30) days after the due date, the Assessment shall bear interest at a reasonable rate of twelve percent (12%) per year or at such other reasonable rate set by Association in its minutes, not to exceed the maximum amount allowed by law, and the Association may bring an action at law against the Owner personally obligated to pay the same and/or foreclose the lien against the Unit, in either of which events interest, costs and reasonable attorneys' fees shall be added to the amount of each Assessment. No Owner may waive or otherwise escape liability for the Assessments by non-use or waiver of use of the Common Elements or by abandonment of his Unit.

Section 5.11 Priority of Association Lien. The lien provided for in this Article V shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments and liens of bona fide first mortgages which have been filed of record before a claim of this lien hereunder has been docketed in the Office of the Clerk of Superior Court in Carteret County, and may be foreclosed in the same manner as a mortgage on real property under power of sale in an action brought by the Association in accordance with the Act. The Association is entitled to recover its reasonable attorneys' fees, court costs and collection costs as part of the lien. In any such foreclosure action, the Association shall be entitled to become a purchaser at the foreclosure sale.

Section 5.12 Disputes as to Common Expenses; Adjustments. Any Owner who believes the portion of Common Expenses chargeable to his Unit, for which an assessment lien has been filed by the Association has been improperly charged against his Unit, may bring action in an appropriate court of law.

Section 5.13 Purchaser at Foreclosure Sale Subject to Declaration, Bylaws, Rules and Regulations of the Association. Any purchaser of a Unit at a foreclosure sale shall automatically become a Member of the Association and shall be subject to all the provisions of this Declaration, the Bylaws and the Rules and Regulations.

Section 5.14 Non-Liability of Foreclosure Sale Purchaser for Past Due Common Expenses. When the holder of a first mortgage or first deed of trust of record or other purchaser

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of a Unit acquires title to the Unit as a result of foreclosure of the first mortgage, first deed of trust or by deed in lieu of foreclosure, such acquirer of title, his or its successors and assigns, shall not be solely liable for the share of the Common Expenses or other Assessments by the Association chargeable to such Unit which became due prior to the acquisition of title to the Unit by such acquirer, other than Assessments for which a claim of lien has been docketed with the Carteret County Clerk of Superior Court prior to the recordation of the lien being foreclosed. Such unpaid share of Common Expenses or Assessments shall be deemed to be Common Expenses collectible from all of the Units, including that of such acquirer, his or its successors or assigns. This provision shall not relieve the party acquiring title or any subsequent Owner of the subject Unit from paying future Assessments.

Section 5.15 Liability for Assessments Upon Voluntary Conveyance. In a voluntary conveyance of a Unit, any grantee or his first mortgagee shall inform the Board of Directors in writing of such contemplated conveyance, and such grantee or first mortgagee shall be entitled to a statement from the Board of Directors of the Association setting forth the amount of all unpaid Assessments (including current Assessments) against the grantor due the Association. Neither the grantee nor the mortgagee shall be personally obligated for any delinquent Assessments, but such delinquent Assessments, along with interest, late charges, costs and reasonable attorneys' fees shall be a lien against the Unit in accordance with Section 5.10 and Section 5.11 herein.

Section 5.16 Late Charge. The Association may impose a charge against any Unit Owner who fails to pay any amount assessed by the Association against his Unit within ten (10) days after such Assessments are due and payable and who fails to exercise his rights under this Declaration or under the laws of the State of North Carolina to successfully contest such Assessment after notice and an opportunity to be heard. The amount of the late charge shall not exceed the sum of one hundred fifty and 00/100 Dollars (\$150.00), or such other lawful amount as may be determined by the Association from time to time. Additionally, if a Unit Owner shall be in Default in payment of an installment upon an assessment or of a single monthly assessment, the Association has the right to accelerate all monthly Assessments remaining due in the current fiscal year. The total of such Assessments, together with the delinquent Assessments shall then be due and payable by the Unit Owner no later than ten (10) days after the delivery of written notice of such acceleration to the Unit Owner or twenty (20) days after mailing of such notice to him by certified mail, whichever occurs first. If such acceleration amount is not paid by the due date, the above-described late charge may be imposed on the part of such accelerated amount not paid by the due date.

Section 5.17 Miscellaneous.

5.17.1.1. The Association may change the interest rate due on delinquent Assessments (including any late charges), except the rate cannot be changed more often than once every six (6) months. As of its effective date, the new interest rate will apply to all Assessments then delinquent.

5.17.1.2. The Owner has the sole responsibility of keeping the Association informed of the Owner's current address if different from the Unit owned. Otherwise, notice sent by the Association to the Owner at the United States Postal Service postal

alternate ingress and egress is provided or unless the restrictions are only temporary. All easements reserved hereunder shall be perpetual and non-exclusive.

Section 6.7 Reservation of Access Easement by Declarant. Declarant reserves an easement for itself, its grantees, successors and assigns, to enter upon the Condominiums for access, including ingress and egress for both vehicles and pedestrians, to and from any public street, road, land, walkway or right-of-way. The easement shall be over the streets, sidewalks, bridges and other access ways of the Condominiums. Declarant further reserves the right to connect, at Declarant's expense, to any street, roadway, walkway or other means of access that are located on the Common Elements of the Condominiums. This reservation of access easements and the right of connection should be construed liberally in favor of the Declarant, in order to facilitate the development of all or any portion of The Grande Villas at Preserve Condominiums.

Section 6.8 Reservation of Construction Easement by Declarant. The Declarant reserves the non-exclusive right and easement to temporarily go upon the Condominiums in order to complete the development of the Condominiums and the construction of the improvements to be located therein. The easement should be construed broadly in favor of the Declarant, including giving Declarant temporarily the right to store construction materials, equipment or dirt. After the construction is finished, Declarant must, at Declarant's cost, repair any damage done to the Condominiums including to any landscaping. As soon as reasonably possible after Declarant has completed construction, Declarant must remove all debris, equipment, materials and dirt from the Condominiums.

Section 6.9 Roadway Easement. Declarant has reserved and hereby grants to all Unit Owners of the Condominiums, the non-exclusive right of ingress and egress on, over and across private roadways (the "Roadways") located on or to be located on a portion of the Condominiums.

Section 6.10 Declarant's Easements: General. The easements and grants reserved for and granted to the Declarant also benefit and bind any heirs, successors and assigns of Declarant and their respective guests, invitees or lessees.

Section 6.11 Easements to Run with Land. All easements and rights described in this Article VI are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the Declarant, its successors and assigns, and any Owner, purchaser, mortgagee, and other person or entity now or hereafter having an interest in the Condominiums, or any part or portion of it.

Section 6.12 Reference to Easements and Deeds. Reference in the respective deeds of conveyance or any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Declaration, shall be sufficient to create and reserve such easements and rights to the respective grantees, mortgagees and trustees in said instruments as fully and completely as if such easements and rights were recited fully and set forth in their entirety in such instruments.

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**ARTICLE VII**  
**INSURANCE**

Section 7.1 General Insurance. The Association shall carry a master policy of fire and extended coverage, vandalism, malicious mischief and liability insurance on all buildings and improvements upon the Property. The Association may carry a flood insurance policy and excess wind coverage. If required by law, the Association shall carry workmen's compensation insurance with respect to the Condominiums and the Association's administration. Such policies shall be in accordance with the following provisions:

7.1.1. The Association shall purchase a master policy for the benefit of the Association, the Unit Owners and their mortgagees as their interest may appear, subject to the provisions of this Declaration and the Bylaws. The "master policy" may be made up of several different policies purchased from different agencies and issued by different companies.

7.1.2. All buildings and improvements upon the Property, including Units (exclusive of improvements and betterments installed by Unit Owners), Limited Common Elements and Common Elements now or at any time hereafter constituting a part of the Condominiums shall be insured against fire and other perils covered by a standard extended coverage endorsement, in an amount not less than eighty percent (80%) of the replacement value thereof, with a deductible agreed to by the Board of Directors, exclusive of the cost of the land, foundations, footings, excavation, and architect's fees, without deduction for depreciation. The policy shall provide that each Owner is an insured person with respect to his Unit and his allocated interest in the Common Elements. The policy shall have cost of demolition, water damage (excluding floods, backing up of sewers and drains, the running off of surface water, and the overflow of a body of water), and agreed amount endorsements and a deductible on any single loss or group of losses within one year in such amounts as shall be found reasonable by the Board of Directors, after carefully considering and comparing the increased premium costs resulting from a low deductible with the lower premium costs but higher per loss risk resulting from a high deductible, together with all other pertinent factors. The policy providing such coverage shall provide no mortgagee shall have any right to apply the proceeds thereof to the reduction of any mortgage debt. Such policy shall provide coverage for built-in fixtures and equipment in an amount not less than eighty percent (80%) of the replacement cost thereof (subject to the deductible provisions described above) and shall also provide that the insurer shall have no right to contribution from any insurance which may be purchased by any Unit Owner as hereinafter permitted. Such policy shall also contain either a waiver by the insurer of any increased hazard clause, a severability of interest endorsement, or a provision stating that the coverage will not be affected by the act, omission or neglect of any person unless such act, omission or neglect is within the knowledge and control of the Association prior to the occurrence of the loss. Such policy shall not provide coverage for any items of personal property owned by any Unit Owner.

7.1.3. Such master policy of insurance shall contain provisions requiring the issuance of certificates of coverage and the issuance of written notice to the Association

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and to any mortgagee or mortgagees of any Unit Owner not less than thirty (30) days prior to any expiration, substantial modification or cancellation of such coverage.

7.1.4. Such insurance by the Association shall not prevent an Owner of a Unit to obtain insurance on its own property, but no Unit Owner may at any time purchase individual policies of insurance covering any item which the Association is required to insure. If any Unit Owner does purchase such a policy, he or she shall be liable to the Association for any damages, expenses or losses which it suffers or incurs as a result thereof, and the Association shall have the same lien rights provided by Article V hereof for Common Expense payments with respect to any such damages, expenses or losses not paid to it by such Owner.

7.1.5. The Board of Directors shall review the insurance coverage required under this Section 7.1 at least annually, and if any of such insurance coverage becomes impossible or impractical to obtain, the Association shall obtain coverage that most closely approximates the required coverage with the deductible provisions as determined by the Board of Directors. In any event, all such insurance must comply, at a minimum, with the applicable requirements set forth in the Act.

7.1.6. If the required insurance coverage under this Section 7.1 ceases to exist for any reason whatsoever, any mortgagee of any portion of the Condominiums may remedy that lack of insurance by purchasing policies to supply that insurance coverage. The funds so advanced shall be deemed to have been loaned to the Association; shall bear interest at a per annum rate two percent (2%) higher than the basic interest rate in any note secured by the mortgagee's mortgage against a portion of the Condominiums; and shall be due and payable to the mortgagee by the Association immediately. The repayment of this obligation shall be secured by a Special Assessment against all Unit Owners under Article V of this Declaration and shall not require a vote of the Members of the Association, anything to the contrary in this Declaration notwithstanding.

7.1.7. The Association shall also maintain liability insurance in reasonable amounts, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Elements. The Association shall try to have its liability insurance contain cross-liability endorsements or appropriate provisions to cover liability of the Unit Owners, individually and as a group (arising out of their ownership interest in the Common Elements), to another Unit Owner. The Board of Directors may procure Flood Insurance and Excess Wind Coverage.

Section 7.2 Fidelity Insurance. The Association must have fidelity coverage against dishonest acts on the part of Officers and employees, Members of the Association, members of the Board, trustees, employees or volunteers responsible for the handling of funds collected and held for the benefit of the Unit Owners. The fidelity bond or insurance must name the Association as the named insured and shall be written in an amount sufficient to provide protection which is in no event less than the insured's total Regular Assessment, plus all accumulated reserves and all other funds held by the Association either in its own name or for the benefit of the Unit Owners.

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Section 7.3 Directors' and Officers' Errors and Omissions Insurance. The Association shall purchase insurance to protect itself and to indemnify any Director or Officer, past or present against expenses actually and reasonably incurred by him in connection with the defense of any action, suit or proceeding, civil or criminal, in which he is made a party by reason of being or having been such Director or Officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty to the Association; or to obtain such fuller protection and indemnification for Directors and Officers as the law of North Carolina permits. The policy or policies shall be in an amount to be reasonably determined by the Association.

Section 7.4 Premiums. All premiums upon insurance purchased by the Association shall be Common Expenses. Notwithstanding the foregoing, the Unit Owners may be responsible for certain deductibles to the insurance policies purchased by the Association as outlined in Section 7.1 and Section 7.7 herein.

Section 7.5 Repair of Destroyed Unit and Proceeds. Any portion of the Condominium for which insurance is required which is damaged or destroyed shall be repaired or replaced promptly by the association unless (1) the Condominium is terminated, (2) repair or replacement would be illegal under any State or local health or safety statute or ordinance, or (3) the Unit Owners decide not to rebuild by an eighty percent (80%) vote, including one hundred percent (100%) approval of Owners of Units not to be rebuilt or Owners assigned to Limited Common Elements not to be rebuilt. The cost of repair or replacement in excess of insurance proceeds and reserves is a common expense. If the entire Condominium is not repaired or replaced, (1) the insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Condominium, (2) the insurance proceeds attributable to Units and Limited Common Elements which are not rebuilt shall be distributed to the Owners of those Units and the Owners of the Units to which those Limited Common Elements were allocated or to lien holders, as their interest may appear, and (3) the remainder of the proceeds shall be distributed to all the Unit Owners or lien holders, as their interest may appear, in proportion to their Percentage of Interest in Common Elements as shown on Exhibit B. If the Unit Owners vote not to rebuild any Unit, that Unit's allocated interests are automatically reallocated upon the vote as if the Unit had been condemned under N.C.G.S. §47C 1 107(a), and the association promptly shall prepare, execute, and record an amendment to the declaration reflecting the reallocations. Notwithstanding the provisions of this subsection, N.C.G.S. §47C 2 118 governs the distribution of insurance proceeds if the Condominium is terminated.

Section 7.6 Power of Attorney. Each Unit Owner shall be deemed to appoint the Association as his true and lawful attorney-in-fact to act in connection with all matters concerning the maintenance of the master policy or any other insurance policy obtained by the Association. Without limitation on the generality of the foregoing, the Association as said attorney shall have full power and authority to purchase and maintain such insurance, to collect and remit the premiums therefore, to collect proceeds and to distribute the same to the Association, the Unit Owners and their respective mortgagees as their interest may appear, to execute releases of liability and to execute all documents and to do all things an behalf of such Unit Owners and the Condominiums as shall be necessary or convenient to the accomplishment

of the foregoing; and any insurer may deal exclusively with the Association in regard to such matters.

Section 7.7 Responsibility of Unit Owner. The Association shall not be responsible for procurement or maintenance of any insurance covering the contents of any Unit, improvements and betterments installed in any Unit by the Owner, or the liability of any Unit Owner for injuries not caused by or connected with the use, ownership, maintenance, or repair of the Common Elements. Each Owner shall obtain and keep continuously in force additional fire and casualty and extended coverage insurance upon his personal property and any improvements and betterments installed by such Owner in his Unit. Each Owner shall obtain and maintain public liability insurance coverage in the amount of at least \$100,000.00 for bodily injury, including deaths of persons and property damage, arising out of a single occurrence. Each Owner shall file a copy of each such individual policy with the Association within thirty (30) days after purchase.

Each Unit Owner agrees if any Owner(s) damages a building or other improvements now or at any time hereafter constituting a part of the Common Elements which is covered under the Association's insurance policy, the Owner or Owners causing such damage shall be responsible for paying the lesser of (a) the insurance deductible due under the Association's insurance policy; or (b) the cost to repair and/or replace any damage to a building or other improvements, which amount shall be due within ten (10) days after the delivery of written notice of such deductible due or replacement/repair costs by the responsible Unit Owner(s) or twenty (20) days after mailing of such notice by certified mail, whichever occurs first. In the event a Unit Owner refuses or fails to pay the insurance deductible or replacement/repair costs in the time period provided in the preceding sentence, the amount thereof may be advanced by the Association and the amount so advanced by the Association shall be assessed to such Owner as an Individual Assessment, which shall be due and payable following seven (7) days written notice. To the extent that insurance proceeds are insufficient (such as, without limitation, the amount of any deductible), each Owner will be liable to the Association for any damage to the Common Elements or any improvements or equipment thereon which may be sustained as a result of the negligence or willful misconduct of said Owner or Resident, and will be assessed by the Association for the repair or replacement thereof together with costs and attorneys' fees, as an Individual Assessment in accordance with the provisions of Article V hereof.

Section 7.8 Release. All policies purchased under this Article VII by either the Association or the individual Unit Owners shall provide for the release by the issuer thereof, of any and all rights of subrogation or assignment and all causes and rights of recovery against any Unit Owners, member of their family, their employees, their tenants, servants, agents and guests, the Association, any employee of the Association, the Board, or any occupant of a Unit in the Condominiums, for recovery against any one of them for any loss occurring to the insured property resulting from any of the perils insured against under the insurance policy.

Section 7.9 Approximate Coverage. If any of the required insurance coverage under this Article VII becomes or is impossible to obtain or can be obtained only at an unreasonable cost, the Association shall obtain coverage which most closely approximates the required coverage, if such substitute insurance is available.

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Section 7.10 Additional Policy Requirements. All such insurance coverage obtained by the Association shall be written in the name of the Association, for the use and benefit of the Association, the Unit Owners and their mortgagees, as further identified below. Such insurance shall be governed by the provisions hereinafter set forth:

7.10.1. Exclusive authority to adjust losses under policies in force on the Condominiums obtained by the Association shall be vested in the Association provided, however, that no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

7.10.2. In no event shall the insurance coverage obtained by the Association hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their mortgagees, and the insurance carried by the Association shall be primary.

7.10.3. All casualty insurance policies shall have an agreed amount endorsement with an annual review by one or more qualified persons.

7.10.4. The Association shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

7.10.4.1. a waiver of subrogation as discussed in Section 7.8;

7.10.4.2. that no policy may be canceled, invalidated, or suspended on account of the acts of any one or more individual Owners;

7.10.4.3. that no policy may be canceled, invalidated or suspended on account of the conduct of any 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; and

7.10.4.4. that any "other insurance" clause in any policy exclude individual Owner's policies from consideration.

**ARTICLE VIII**  
**THE GRANDE VILLAS AT THE PRESERVE CONDOMINIUM HOMEOWNERS  
ASSOCIATION, INC.**

Section 8.1 The Grande Villas at the Preserve Condominium Homeowners Association, Inc. The administration of the Condominiums shall be vested in the Association. The Owner of any Unit, upon acquiring title, shall automatically become a Member of the Association and shall remain a Member until such time as his ownership of such Unit ceases for any reason, at which time his membership in the Association shall automatically cease. The Association shall have full power and responsibility to administer, operate, sustain, maintain, and govern the Condominiums including but not limited to, the powers and responsibilities to make prudent investments of funds held by it; to make reasonable Rules and Regulations; to borrow

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money; to make Assessments; to bring lawsuits and defend lawsuits; to enter into contracts; to enforce all of the provisions of this Declaration, the Bylaws and any other documents or instruments relating to the establishment, existence, operation, alternation of the Condominiums. The powers of the Association shall be construed liberally and shall include, without limitation, all of the powers set forth in N.C.G.S. §47C-3-102.

Section 8.2 Board of Directors. Unless otherwise specifically stated in this Declaration, the Association shall act exclusively through its Board of Directors. The Association, in accordance with the Bylaws, shall choose the Board. The Board of Directors shall be controlled by the Declarant during the Declarant Control Period. Not later than 60 days after conveyance of twenty five percent (25%) of the Units to Unit Owners other than a Declarant, at least one member and not less than twenty five percent (25%) of the members of the Board shall be elected by Unit Owners other than the Declarant. Not later than 60 days after conveyance of fifty percent (50%) of the Units to Unit Owners other than a Declarant, not less than thirty three percent (33%) of the members of the Board shall be elected by Unit Owners other than the Declarant. The Board shall be authorized to delegate the administration of its duties and powers by written contract to a managing agent or administrator employed for that purpose by the Board.

Section 8.3 Limitations on Association's Duties.

8.3.1. The Association did not construct the improvements, including the Units or Common Elements. The Association does not warrant in any way or for any purpose, the improvements in or to the Condominiums. Construction defects are not the responsibility of the Association.

8.3.2. The Association shall have a reasonable time in which to make any repair or do any other work which it is required to do under the Constituent Documents. The Association must first have actual knowledge of a problem. Any determination of the reasonableness of the Association's response must allow for the fact that the Association is volunteer and that the funds available to the Association are limited.

8.3.3. In case of ambiguity or omission, the Board may interpret the Declaration and the other Constituent Documents, and the Board's interpretation shall be final if made without malice or fraud. Notwithstanding the foregoing, the Declarant may overrule any interpretation affecting it for so long as Declarant owns any portion of the Property or any portion of the Condominiums; and such interpretation cannot be enforced against the Declarant, its successors or assigns.

**ARTICLE IX**  
**HARMONY, ENVIRONMENTAL CONTROLS**

Section 9.1 Architectural Control Committee. Except for original construction performed by or on behalf of Declarant or as otherwise in these covenants provided, no building, fence, wall, sidewalk, walkway, driveway or other structure, or improvement or anything attached thereto visible from the outside of the structure or improvement (including, without limitation, storm doors, windows, drapes or window coverings) shall be erected, placed, altered,

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or maintained within the Condominiums nor shall any exterior addition to or change (including any change in color) or alteration therein be made until the proposed building plans, specifications, exterior color and finish, general contractor and all subcontractors, and construction schedule shall have been submitted to and approved in writing by the Board of Directors of the Association, or by any architectural control committee appointed by said Board of Directors. Refusal of approval of plans, location or specification by said Board of Directors or architectural control committee may be based upon any reasonable ground, including, without limitation, lack of harmony of external design, color, location or relation to surrounding structures and topography and purely aesthetic considerations which, in the discretion of said Board of Directors or architectural control committee shall be deemed sufficient. After approval by the Board of Directors or architectural control committee is given, no alterations may be made in such plans except by and with their prior written consent. One copy of all plans, specifications and related data shall be furnished the Board of Directors or architectural control committee for its records.

**ARTICLE X**  
**USE RESTRICTIONS**

Section 10.1 Use and Occupancy. The Association shall make Rules and Regulations to govern the use and occupancy of the Condominiums. In addition, the following covenants, conditions, and restrictions, as to use and occupancy shall run with the land and shall be binding upon each Unit Owner, his heirs, tenants, licensees and assigns.

Section 10.2 Purpose of Condominiums. Except as otherwise provided in this Declaration, no part of the Condominiums shall be used for other than housing (including short term occupancy of Units owned by Declarant) and the common recreational purposes as designated on the Plat and Plans, and each Unit shall be used only for residential purposes, unless the Board of Directors authorizes some other use. Except for the construction, sales and management activities (including, without limitation, the right of Declarant to maintain one or more model Units, or sales offices) of the Declarant, or as authorized by the Board, no business, trade, industry, occupation or profession of any kind, whether for profit or not for profit, may be conducted, maintained, or permitted on any part of the Property. To the extent permitted by law, an Owner may use a portion of his Unit for an office or studio (other than a music and/or dance studio) provided the activities conducted therein shall not interfere with the quiet enjoyment or comfort of any other owner or occupant; and provided further such activities do not increase the normal flow of traffic or individuals in and out of the Condominiums or in and out of said Owner's Unit.

There shall be no storage or parking of any items, including baby carriages, playpens, bicycles, wagons, toys, vehicles, benches or chairs in any part of the Common Elements, except as permitted by the Rules and Regulations. Patios, porches, verandas, balconies and decks may be used only for their intended purposes.

Section 10.3 Parking. Except for vehicles being used by persons providing services to the Declarant, the Association, the Unit Owners or otherwise used or authorized to be used at the Condominium by the Declarant, no part of the Condominiums may be used for the parking of

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any trailer coach, house trailer, mobile home, automobile trailer, motorcycle, camp car, recreational vehicle, camper, truck which exceeds 3/4 ton, boat, boat trailer, or any vehicle with letters or other markings over four inches tall or wide, or any other similar vehicle (collectively, "Special Vehicles"), unless such Special Vehicles are parked in a specific area designated by the Board for such special vehicles. However, the residents of any one Unit may not collectively park more than the number of operative vehicles authorized by the Board (other than Special Vehicles) in the Condominiums. In addition, such authorized vehicles may only be parked in spaces specifically designated by the Board. Inoperative vehicles may not be parked within the Condominiums. No auto maintenance and/or repairs may be performed within the grounds of the Condominiums. Vehicles, whether owned by a Unit Owner or not, parked in violation of any part of this Declaration or in violation of any Rules or Regulations, shall be towed away and stored at the Owner's risk and expense. By parking on the Property, the Owner of the vehicle or other vehicle user hereby waives any claim against the Association resulting directly or indirectly out of the towing, unless the towing can be shown beyond a reasonable doubt to have been done maliciously by the Association. The Association is not obliged to try to determine the owner of a vehicle and first give notice, before towing the vehicle. If a Unit Owner is not sure about the right to park at any particular area or space, the Unit Owner should request, in writing, a written opinion from the Board. If the Board gives the approval sought by the Unit Owner or if the Board does not answer the written request by the Board, the Unit Owner may park in the space until further written notice to the contrary from the Board. The Association's right to tow a vehicle includes the right to immobilize it.

Section 10.4 Compliance With Insurance Policies and Waste. Nothing shall be done or kept in any Unit, in the Common Elements or on a Unit which will increase the rate of insurance of the buildings, or contents thereof, applicable for residential use, without the prior written consent of the Association. No Unit Owner shall permit anything to be done or kept in his Unit in the Common Elements or on a Unit which will result in the cancellation of insurance on the buildings, or contents thereof, or which would be in violation of any law. No waste will be committed in the Common Elements. All laws shall be obeyed.

Section 10.5 Exterior Surfaces of Buildings. Unit Owners shall not cause or permit anything to be hung or displayed on the inside or outside of windows (except as provided herein) or hung on the outside of the Unit doors (including but not limited to decorative door arrangements) or placed on the exterior walls of a building, and no sign (other than those described in Section 10.10 hereof and directional signs or signs concerning the use of the Common Elements), awning, canopy, flag (except as allowed by North Carolina General Statutes), shutter, radio or television antenna shall be affixed to or placed upon the exterior walls or roof or any part of the building or the Common Elements without the prior written consent of the Association. Unless otherwise approved in writing by the Association, Unit Owners shall not cause or permit any curtains, shades or other window coverings to be hung inside or outside any windows, doorways, and/or patio doors which will show any color on the outside other than white or neutral tones.

Section 10.6 Animals and Pets. No animals of any kind shall be raised, bred, or kept in any Unit or in the Common Elements, except that two dogs, two cats or one of each, or two other household pets maybe kept in a Unit, subject to the Rules and Regulations, provided it is not kept, bred or maintained for any commercial purpose and is kept subject to the Rules and

Regulations of the Association. Dogs, cats or other household pets must be kept within the confines of the Owner's Unit except when being held on a hand leash by the owner of the animal. No Unit Owner shall install a fence and/or electric fence on any portion of the Common Element without the prior written consent of the Board. No pet may be "staked," housed, tied up or otherwise left in any Common Element. A Unit Owner shall be responsible for cleaning up after his household pet. Notwithstanding the above, the Association shall have the right to promulgate Rules and Regulations pertaining to the size, number and type of such household pets and the right to levy fines and enforcement charges against persons who do not clean up after their pets. Additionally, the right of an Owner to maintain an animal in a Unit shall be subject to termination if the Board in its full and complete discretion, determines maintenance of the animal constitutes a nuisance or a threat to others or creates a detrimental effect on the Condominiums or Owners. No dog house or other structure used or intended for the housing or keeping of animals may be constructed, placed or maintained on any part of the Common Elements.

Section 10.7 Nuisances. No noxious or offensive activity shall be carried on in any Unit or in the Common Elements or in the Unit of an Owner, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other Unit Owners or occupants.

Section 10.8 Impairment of Structural Integrity of Building. Nothing shall be done in any Unit, or on any Unit, or in, on or to the Common Elements which will impair the structural integrity of any building or which, absent the prior written approval of the Board, would structurally change any building.

Section 10.9 Laundry or Rubbish and Open Fires in Common Elements and Facilities. No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any part of the Common Elements, Limited Common Elements, or on any Unit in a manner visible from any Common Element, neighboring Unit or street. The Common Elements shall be kept free and clear of rubbish, debris and other unsightly materials. All trash, garbage or other rubbish shall be deposited only in covered sanitary containers as provided in Section 10.12 below. No open fires shall be permitted on any part of the Condominiums other than fires in charcoal grills or other similar cooking devices located upon Common Elements and facilities owned by the Association and constituting a portion of the Recreational Facilities, provided the use of such devices does not violate any local governmental rules or regulations; provided, however, that such cooking fires as may be permitted by the Association's insurance carrier and also as authorized by the Board may be located on Limited Common Elements or Common Elements.

Section 10.10 Prohibited Activities. Except as otherwise provided in this Declaration, no business, trade, industry, occupation or profession of any kind, whether for profit or not for profit, shall be conducted, maintained or permitted on any part of the Condominiums. A Unit Owner is not permitted to place and maintain "For Sale" or "For Rent" signs in the window of his Unit. No other sign that is visible from the outside of Units may be placed on any part of the Condominiums except as expressly permitted by the Board of Directors. Declarant and/or the Board shall have the right to immediately remove and dispose of those items in violation of this Declaration. The right is reserved by the Declarant to use any unsold or unoccupied Units or

other structures in the Condominiums as models and/or offices in connection with the construction, sale or rental of Units.

So long as the Declarant owns a Unit, no action may be taken nor may any Rule or Regulation be adopted or amended that would (a) directly or indirectly alter the exterior appearance of any part of the Condominiums; (b) reduce or discontinue any maintenance standard or practice in effect as of the date when the Declarant no longer controls the Board; (c) adversely affect the Declarant's sale or leasing of any Units; or (d) otherwise adversely affect the Declarant, any of its rights, or any Unit owned by it without, in each case, first obtaining the Declarant's written consent.

Section 10.11 Alteration of Common Elements. Nothing shall be altered, constructed in or removed from the Common Elements except as otherwise provided in this Declaration and except upon the written consent of the Association. In addition, a Unit Owner must obtain the prior written consent of the Board prior to installing any landscaping or planting any flowers, herbs or vegetables, on any portion of the Condominiums (including any Unit).

Section 10.12 Trash Disposal. Each Unit Owner shall deposit all trash, garbage, or other rubbish as directed and instructed by the Board. Unit Owners shall keep trash containers at all times in such location as designated by the Board. The Board shall have the right to dispose of any trash, garbage, or other rubbish of a Unit Owner in violation of this Article X and may assess the Unit Owner for the cost of such removal, which amount shall be payable on the date the next installment of the regular assessment is due.

Section 10.13 Nondiscrimination. No Owner (including the Declarant), or any employee, agent or representative thereof, shall discriminate upon the basis of sex, race, age, color, creed or national origin in the sale, lease or rental of any Unit nor in the use of the Common Elements.

## ARTICLE XI ENFORCEMENT

### Section 11.1 Enforcement.

11.1.1. The Association or any Unit Owner may enforce these covenants, conditions and restrictions. Enforcement of these covenants, conditions and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate ("Violating Party") any covenant, condition or restriction, either to restrain or enjoin such violation or to recover damages, and against the land to enforce any lien created by these covenants. In addition to all other amounts due on account of said violation or attempted violation, the Violating Party shall be liable to the parties enforcing the covenants and/or restrictions of this Declaration (the "Enforcing Parties") for all reasonable attorney's fees and court costs incurred by the Enforcing Parties. Failure or forbearance by the Association or any Owner to enforce any covenant, condition or restriction herein contained in no event shall be deemed a waiver of the right to do so thereafter. In any lawsuit filed to enforce this Declaration by injunction or

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restraint, there shall be and there is hereby created and declared to be a conclusive presumption that any violation or breach or any attempted violation or breach of any of the within covenants, conditions or restrictions cannot be adequately remedied by action at law or by recovery of damages.

11.1.2. In addition to all other remedies of the Association, the Association shall have the right to assess a maximum fine of \$150.00 per day (or such higher amount as may be allowed by law) per violation against any Owner who violates any provision of this Declaration or the Articles, Bylaws or Rules and Regulations of the Association after such Owner has been given notice of the violation and an opportunity to be heard with respect to the violation in accordance with such policies and procedures as may be adopted from time to time by the Board of Directors or as may be set forth in the Bylaws.

11.1.3. In addition to the above rights, the Association may also enter upon a Unit or any land upon which a violation exists to remove any violation, perform maintenance or make repairs thereon which is the responsibility of a Unit Owner who has failed to remove said violation or to perform such maintenance or make such repairs (i) after having given such Owner at least ten (10) days prior notice, or (ii) without giving notice in the event of an emergency.

Any action brought by the Association hereunder may be brought in its own name, in the name of its Board or in the name of its managing agent. In any case of flagrant or repeated violation by a Unit Owner, he may be required by the Association to give sufficient surety or sureties for his future compliance with the covenants, conditions and restrictions contained in this Declaration, the Bylaws and the Rules and Regulations.

Section 11.2 Severability. Invalidation of any one of these covenants, conditions or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 11.3 Restrictions Run With Land. The easements, other permanent rights or interests herein created, and the covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Unit subject to this Declaration, their respective legal representatives, heirs, successors, and assigns.

Section 11.4 Amendment. Except in those cases which require unanimous consent of the Owners to amend the Declaration as specified in N.C.G.S. §§ 47C-1-107, 47C-1-106(d), 47C-2-112(a), 47C-2-108(b), 47C-2-118(b), or 47C-2-113, the Association (the Declarant controlling the Association until the expiration of the Declarant Control Period) may amend this Declaration at any time, as long as said amendment is consistent with the design, scheme and purposes of this Declaration, by the affirmative vote or written agreement of the Owners to whom not less than seventy-five percent (75%) of all of the votes in the Association are allocated in accordance with Section 4.4 and Section 4.5 above. Any amendment must be recorded in the Carteret County Register of Deeds. Following the end of the Declarant Control Period, no such agreement to amend, in whole or in part, shall be effective unless written notice of the proposed amendment is sent to every Member at least thirty (30) days in advance of any action taken, and

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no such amendment shall be effective with respect to any permanent easements or other permanent rights or interests relating to the Common Elements herein created (unless such amendment is consented to in writing by Declarant and all other beneficiaries of such permanent easements, rights or interests).

Section 11.5 Reservation of Special Declarant Rights. Declarant reserves the right to maintain sales and management offices, model units, construction trailers, storage or staging areas, and advertising signs upon Units owned by it or the Common Elements, and to exercise all other "Special Declarant Rights" as defined in the Act, until sixty (60) days following the date when Declarant no longer owns a Unit or the maximum period allowed pursuant to the Act. Declarant shall have the right to assign all or a portion of any rights or easements reserved herein by a written assignment thereof recorded in the Carteret County Public Registry.

Section 11.6 Special Declarant Rights. The rights reserved herein and in the Bylaws for the benefit of a Declarant, including all rights stated in N.C.G.S. §47C-1-103(23) include, not by way of limitation, the following: to complete the improvements indicated on the floor plans; to maintain sales offices, management offices, models and signs advertising the Condominiums; to use easements through the Common Elements; to elect, appoint or remove members of the Board during the Declarant Control Period.

Section 11.7 Management and Service Contracts. Any agreement for the professional management of the Common Elements may not exceed three (3) years and shall provide for termination by either party without cause and without payment of a termination fee upon thirty (30) days notice.

Section 11.8 Binding Determination. In the event of any dispute or disagreement with or between any Owner(s) relating to, or of any other disputes, disagreements or questions regarding the interpretation or application of the provisions of this Declaration or the Articles or Bylaws of the Association, the determination thereof (i) by Declarant for so long as Declarant retains control of the Association; and (ii) thereafter by the Board of Directors of the Association shall be final and binding on each and all such Owners providing any determination which directly or indirectly affects Declarant shall require Declarant's prior consent to become binding upon Declarant.

Section 11.9 Captions and Titles. All captions, titles or headings in this Declaration are for the purpose of reference and convenience only and are not deemed to limit, modify or otherwise affect any of the provisions hereof, or to be used in determining the intent or context thereof.

Section 11.10 Notices. Except as otherwise provided in this Declaration, any notice to any Owner under this Declaration shall be in writing, shall be effective on the earlier of (i) the date when received by such Owner, or (ii) the date which is three (3) days after mailing (postage prepaid) to the last address of such Owner set forth in the books of the Association. The address of an Owner shall be at his Unit (or any of them if more than one) unless otherwise specified in writing to the Association. The Articles and Bylaws shall specify the permissible manner of giving notice for voting and all other Association matters for which the manner of giving notice is not prescribed in this Declaration.

Section 11.11 Governing Law. This Declaration shall be deemed to be made under, and shall be construed in accordance with and shall be governed by, the laws of the State of North Carolina. Suit to enforce any provision hereof or to obtain any remedy with respect hereto shall be brought in state court in Carteret County, and for this purpose each Owner by becoming such hereby expressly and irrevocably consents to the jurisdiction of said court.

## **ARTICLE XII** **MORTGAGEE'S RIGHTS**

Section 12.1 Notice of Rights of Mortgagee of a Unit. As used herein, the term "Mortgagee" shall mean the holder of a first lien mortgage or deed of trust on a Unit, and the guarantor of the mortgage, who provides notice to the Association with its name and address with a request to receive any notices and other rights provided to "Mortgagees" under this Article XII. A Mortgagee of a Unit shall be entitled to receive timely written notification of

12.1.1. any default, not cured within sixty (60) days after its occurrence, by the Owner of the Unit with respect to any obligation of the Owner under the Declaration, the Bylaws of the Association or the Articles of Incorporation of the Association. Any Mortgagee of a Unit can make the request for notification. The notification shall be sent not later than the sixty-fifth (65th) day after the occurrence of an uncured Default;

12.1.2. any condemnation or casualty loss that affects either a material portion of the project or the Unit securing its mortgage; or

12.1.3. any proposed action that requires the consent of a specified percentage of Mortgagees.

Section 12.2 Rights of First Refusal. Any right of first refusal now or hereafter contained in this Declaration or any amendment or modification hereto or otherwise arising in favor of the Association or certain Owners shall not apply to or preclude or impair in any way the right of the first Mortgagee to (i) foreclose or take title to the Unit pursuant to the remedies provided in its mortgage; (ii) accept a deed or assignment in lieu of foreclosure in the event of a default under the Mortgage; or (iii) sell or lease a Unit acquired by the Mortgagee.

Section 12.3 Rights of Mortgagee. Unless at least fifty one percent (51%) of the Mortgagees (based upon one vote for each first mortgage or deed of trust owned), , the Association shall not:

12.3.1. by an act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements (the granting of easements for public utilities or for other purposes consistent with the intended use of the Condominiums shall not be deemed a transfer within the meaning of this clause);

12.3.2. change the method of determining the obligations, assessments, dues or other charges which may be levied against a Unit;

12.3.3. by act or omission change, waive or abandon any scheme of regulation or enforcement thereof pertaining to the architectural design or exterior appearance of the Units or Common Elements; the exterior maintenance of the Units, or Common Elements; the maintenance of common fences or driveways or the upkeep of lawns and plantings in the Condominiums;

12.3.4. fail to maintain fire and extended coverage insurance on insurable Common Elements on current replacement cost basis in an amount not less than eighty percent (80%) of the insurable value (based on current replacement cost);

12.3.5. use hazard insurance proceeds for losses to any Common Elements for other than the repair, replacement or reconstruction of such Common Elements;

12.3.6. amend this Declaration if such amendment is of a material adverse nature to mortgagees; or

12.3.7. terminate the legal status of the project after substantial destruction or condemnation occurs.

It shall be implied that the Mortgagee approves such action under this Section 12.3 when a Mortgagee fails to submit a response to any written proposal for an amendment within sixty (60) days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested.

Section 12.4 Right to Examine Books and Records. Mortgagees, their successors or assigns, shall have the right to examine the books and records of the Association.

Section 12.5 Taxes and Insurance. Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Unit and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such Unit, and first mortgagees making such payments shall be owed immediate reimbursement therefor from the Unit Owner.

Section 12.6 Insurance Proceeds and Condemnation Awards. No provision of this Declaration or any other document or instrument affecting the title to the Property, Common Elements, any Unit or the organization or operation of the Association shall give an Owner or any other party priority over any rights of first mortgagees of Units within the Condominiums pursuant to their mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or taking of Common Elements.

### ARTICLE XIII **NON-DEDICATED OR PRIVATE STREETS**

Section 13.1 Use. All non-dedicated or private streets or vehicular or pedestrian ways constructed within the Condominiums are reserved as easements of public access for the common use of the Owners of Units within The Grande Villas at The Preserve Condominium and their families, guests and invitees, by commercial vehicles authorized to make pick-ups and

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deliveries, by public and private utilities' personnel, trucks and equipment, by postal authorities and mail carriers, by emergency personnel and vehicles such as police, fire and ambulance, and by such other persons or classes of persons, as reasonably regulated by the Board of Directors of the Association, as a means of ingress or egress, and for such other uses as may be authorized from time to time by said Board. Such non-dedicated or private streets or vehicular or pedestrian ways may also include underground utility lines, mains, sewers or other facilities to transmit and carry sanitary sewerage and storm water drainage. Except as provided by this Declaration, no acts shall be taken or things done by an Owner or the Association which are inconsistent with the reservation and grant of use and enjoyment hereinabove provided. All non-dedicated or private streets shall be maintained by the Association and no governmental agencies shall have any liability or responsibility for maintenance of private streets as required by the Ordinances of the Town of Indian Beach.

Section 13.2 Storm Cleanup, Maintenance, Reconstruction or Resurfacing. The Association, at the cost and expense of the Association, shall provide snow removal from, maintenance to and resurfacing or reconstruction of any non-dedicated streets or vehicular or pedestrian ways or any storm water drainage facilities included as a part thereof or installed thereunder as it deems necessary or appropriate from time to time within its sole discretion.

**ARTICLE XIV**  
**CONSENT OF MORTGAGEE**

The Property and the buildings and improvements located on the Property are currently encumbered by that certain Construction Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated July 20, 2007, executed and delivered by Borrower to Joel R. Solomon, Trustee for Corus Bank, N.A., and recorded in Book 1235 at Page 196 in the Carteret County Public Registry. A Consent and Subordination Agreement, executed by the trustee and the beneficiary under the Deed of Trust, and consenting to the execution and recordation of this Declaration, is being recorded in the Carteret County Public Registry in connection with the recording of this Declaration.

[Signature page to follow]

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IN WITNESS WHEREOF, Declarant has caused this instrument to be duly executed under seal the day and year first above written.

**DECLARANT:**

INDIAN BEACH ACQUISITION LLC, a Delaware limited liability company

By: GREYSTONE REAL ESTATE HOLDINGS CORP., its managing member

By: *Stephen Rosenberg*  
Stephen Rosenberg, President of Greystone Real Estate Holdings Corp.

STATE OF New York

COUNTY OF Queens

I, Kristina Andrews, a Notary Public for said County and State, do hereby certify that Stephen Rosenberg, President of Greystone Real Estate Holdings Corp., the Managing Member of INDIAN BEACH ACQUISITION LLC, a Delaware limited liability company, personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing instrument.

WITNESS my hand and official stamp or seal, this 23 day of January, 2009.



[SEAL}

*Kristina Andrews*  
Signature of Notary Public

Printed Name: Kristina Andrews

My Commission Expires: 5/14/11

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**EXHIBIT A**  
**LEGAL DESCRIPTION**

On Bogue Banks and being a portion of the Roosevelt estate property, and being all of Tract #6, Section "B" as mapped and plated by C.C. King, Surveyor, under date of September 15, 1967, said map recorded in Map Book 7, Page 26, Carteret County Registry, and being bounded and defined as follows: BEGINNING at a point in the ordinary highwater mark of the Atlantic Ocean, at the southern extremity of the Salter Path west boundary line where it intersects the ordinary highwater mark of the Atlantic Ocean (Salter Path west boundary line as defined in S.P.D. #1502, registered certificate #112, as recorded in Book 3-A, Page 401, Carteret County Registry); from such beginning point runs thence with the Salter Path west boundary line North 2-10' west 150 to a concrete monument; thence continuing on the same course, North 2-10' West 439.4 feet to a point in the southern margin of the Salter Path Road; runs thence with the southern margin of the Salter Path Road, South 82-40' West 200.8 feet, and South 89-10' West 100 feet to a point of intersection with the state access road and the Salter Path Road; runs thence with the southern margin of the Salter Path Road and the east margin of the state access road South 66-05' West 84.5 feet; thence following the contours of the eastern margin of the state access road the following courses and distances: South 34-38' West 53 feet; South 15-32' West 64 feet; and South 6-24' West 446 feet, more or less, to the ordinary highwater mark of the Atlantic Ocean; thence following the ordinary highwater mark of the Atlantic Ocean North 88-42' East 496.73 feet to the point of beginning, together with all riparian and littoral rights attached thereto.

There is further conveyed without warranties all property as shown on the plat in Map Book 30, Page 772, Carteret County Registry, not included within tract 6 described above.

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**EXHIBIT B**  
**VOTE AND COMMON EXPENSE APPORTIONMENT**

Unit Description	Approx. Gross Square Footage per Unit	Approx. Heated Square Footage per Unit	Allocation of Voting Interest and Common Expense Allocation per Unit (Heated Square Footage)	Percentage of Interest in Common Elements
A-1 through A-6	1641	1590	1.13%	1.13%
A-7 through A-8	2483	2405	1.70%	1.70%
B-1 through B-6	1378	1323	0.94%	0.94%
C-1 through C-6	1378	1323	0.94%	0.94%
C-7 through C-8	2539	2460	1.74%	1.74%
D-1 through D-6	1378	1323	0.94%	0.94%
E-1 through E-6	1378	1323	0.94%	0.94%
E-7 through E-8	2583	2501	1.77%	1.77%
F-1 through F-6	1386	1331	0.94%	0.94%
G-3 through G-6	2198	2106	1.49%	1.49%
G-7	2198	2106	1.49%	1.49%
G-8	2725	2598	1.84%	1.84%
H-1 through H-6	1386	1331	0.94%	0.94%
I-1 through I-6	1378	1323	0.94%	0.94%
I-7 through I-8	2583	2501	1.77%	1.77%
J-1 and J-6	1378	1323	0.94%	0.94%
K-1	1378	1323	0.94%	0.94%
K-2 Through K-5	2756	2646	1.87%	1.87%
K-6	1378	1323	0.94%	0.94%
K-7 through K-8	2539	2460	1.74%	1.74%
L-1 through L-6	1378	1323	0.94%	0.94%
M-1 through M-6	1641	1590	1.13%	1.13%
M-7 through M-8	2483	2405	1.70%	1.70%
<b>Total</b>	<b>146,603</b>	<b>141,148</b>	<b>100.00%</b>	<b>100.00%</b>

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EXHIBIT C

1. Corus Bank ("Beneficiary") holds the beneficial interest by virtue of that certain Deed of Trust (the "Deed of Trust") recorded in the Carteret County Registry, which Deed of Trust encumbers all or a portion of the Properties described in the Declaration. As Unit purchases are closed, said Units will be released upon payment of release fees to the Beneficiary.
2. Corus Bank ("Secured Party") holds a security interest by virtue of that certain UCC Financing Statement (the "UCC") recorded in the Carteret County Registry, which UCC encumbers all or a portion of the Properties described in the Declaration. As Unit purchases are closed, said Units will be released upon payment of release fees to the Secured Party.
3. Building and zoning laws and ordinance of the Town of Indian Beach and State and Federal regulations.
4. The provisions of Articles of Incorporation, Declaration and Bylaws of The Grande Villas at the Preserve Condominium.
5. The Condominium plans.
6. Existing restrictions, utility easements and other easements of record, if any.
7. The provisions of Chapter 47C of the North Carolina General Statues.
8. Current ad valorem taxes of the Town of Indian Beach and Carteret County.

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**EXHIBIT D**  
**PARKING SPACE AND STORAGE UNIT ALLOCATIONS**

<u>UNIT</u>	<u>PARKING</u>	<u>STORAGE</u>
A-8 (PH)	112,113	73
A-7 (PH)	70,71	80
A-6	142,143	54
A-5	180,181	51
A-4	129,130	38
A-3	135,136	44
A-2	173,174	6
A-1	125,166	37
B-6	109,14	13
B-5	80,15	18
B-4	79,63	15
B-3	78,64	14
B-2	75,18	12
B-1	74,19	11
C-8 (PH)	110,111	76
C-7 (PH)	104,105	81
C-6	73,40	9
C-5	72,39	7
C-4	106,38	8
C-3	68,37	5
C-2	67,36	3
C-1	66,35	1
D-6	100,7	2
D-5	179,6	17
D-4	178,5	16
D-3	141,4	50
D-2	140,3	53
D-1	139,2	52
E-8 (PH)	115,116	77
E-7 (PH)	101,102	82
E-6	138,26	49
E-5	137,27	46
E-4	134,28	47
E-3	132,29	43
E-2	133,30	45
E-1	131,31	42
F-6	176,177	48
F-5	170,171	40
F-4	175,49	10
F-3	172,50	4
F-2	128,51	41
F-1	127,52	39
G-8 (PH)	86,87	75
G-7 (PH)	118,119	83
G-6	65,99	89
G-5	69,103	88

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G-4	199,200	87
G-3	167,168	86
H-6	190,191	61
H-5	196,197	34
H-4	195,53	29
H-3	198,54	71
H-2	162,55	67
H-1	163,56	69
I-8 (PH)	76,77	74
I-7 (PH)	121,122	84
I-6	152,47	60
I-5	153,34	64
I-4	156,33	62
I-3	157,48	63
I-2	158,32	65
I-1	159,1	68
J-6	123,20	35
J-1	151,25	58
K-8 (PH)	92,93	78
K-7 (PH)	94,120	85
K-6	85,41	23
K-5	96,45,95,24	31,32
K-4	189,43,192	22,33
K-3	149,44,150	56,57
K-2	91,42,117	20,30
K-1	97,46	36
L-6	114,13	24
L-5	83,12	19
L-4	84,11	21
L-3	88,10	26
L-2	89,9	25
L-1	90,8	27
M-8 (PH)	107,108	79
M-7 (PH)	98,124	90
M-6	147,148	55
M-5	187,188	59
M-4	160,161	70
M-3	154,155	66
M-2	194,193	28
M-1	165,201	72

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# NORTH CAROLINA

## Department of The Secretary of State

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To all whom these presents shall come, Greetings:

I, **ELAINE F. MARSHALL**, Secretary of State of the State of North Carolina, do hereby certify the following and hereto attached to be a true copy of

### ARTICLES OF INCORPORATION

OF

### THE GRANDE VILLAS AT THE PRESERVE CONDOMINIUM HOMEOWNERS ASSOCIATION, INC.

the original of which was filed in this office on the 19th day of July, 2006.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Raleigh, this 19th day of July, 2006

*Elaine F. Marshall*

Secretary of State

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**ARTICLES OF INCORPORATION  
OF  
THE GRANDE VILLAS AT THE PRESERVE CONDOMINIUM  
HOMEOWNERS ASSOCIATION, INC.**

The undersigned, being of the age of eighteen years or more, does hereby make and acknowledge these Articles of Incorporation for the purpose of forming a non-profit corporation under and by virtue of Chapter 55A of the General Statutes of North Carolina and the laws of the State of North Carolina.

**ARTICLE I  
NAME**

The name of the corporation is **THE GRANDE VILLAS AT THE PRESERVE CONDOMINIUM HOMEOWNERS ASSOCIATION, INC.**

**ARTICLE II  
DURATION**

The period of duration of the corporation is perpetual.

**ARTICLE III  
PURPOSES AND POWERS**

The purpose and powers for which the corporation is organized are as follows:

1. To operate and manage a condominium known as THE GRANDE VILLAS AT THE PRESERVE CONDOMINIUM, located in Indian Beach, Carteret County, North Carolina.
2. To undertake the performance of, and carry out the acts and duties incident to the administration of the operation and management of THE GRANDE VILLAS AT THE PRESERVE CONDOMINIUM in accordance with the terms, provisions, conditions and authorization contained in both the Articles and the Declaration of Condominium which shall be recorded in the Carteret County Registry at such time as the real property and the improvements thereon are submitted to said Declaration;
3. To make, establish and enforce reasonable Rules and Regulations governing the use of the Common Elements, land, and other real and personal property which may be owned by the Association itself;
4. To make, levy and collect assessments against Unit Owners; to provide the funds to pay for Common Expenses of the Association as provided in the

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Declaration and to use and expend the proceeds of assessments in the exercise of the powers and duties of the Association; to use said assessments to promote the recreation, acquisition, improvement and maintenance of the Common Area, service and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, including but not limited to the cost of repair, replacement and additions thereto, the cost of labor, equipment, materials, management, supervision thereof, the maintenance of insurance in accordance with the Bylaws, including the employment of attorneys to represent the Association when necessary for such other needs as may arise;

5. To maintain, repair, replace and operate the properties for which the Association is responsible;
6. To enforce by any legal means, the provisions of the Declaration, the Bylaws of the Association, and the Rules and Regulations for the use of the Association property;
7. To contract for the management of the recreational property and to delegate to such manager or managers all powers and duties of the Association except those powers and duties which are specifically required to have approval of the Executive Board or the membership of the Association;
8. To have all of the common law and statutory powers of a non-profit corporation and also those powers as set out in the Declaration and all powers reasonably necessary to implement the purposes of the Association.

#### **ARTICLE IV MEMBERSHIP**

The membership of the Association shall consist of the owners of units in THE GRANDE VILLAS AT THE PRESERVE CONDOMINIUM. Membership shall be established by acquisition of fee title to a unit whether by conveyance, devise, descent, or judicial decree. A new owner designated in such deed or other instrument shall thereupon become a member of the Association, and the membership of the prior owner as to a unit designated shall be terminated. Each new owner shall deliver to the Association a true copy of such deed or instrument of acquisition of title.

Neither one's membership in the Corporation nor a member's share in the funds and assets of the Corporation may be assigned, hypothecated or transferred in any manner except as an appurtenance to THE GRANDE VILLAS AT THE PRESERVE CONDOMINIUM.

As stated herein, the term "Declarant" shall mean INDIAN BEACH ACQUISITION, LLC, a Delaware limited liability company, its successors or assigns.

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**ARTICLE V  
EXECUTIVE BOARD**

The number of members of the Executive Board and the method of election of the same shall be fixed by the Bylaws; however, the number of Board members shall not be less than three (3). Board members shall be elected at large from the membership.

Except as provided by N.C.G.S. § 55-A-8-60, no officer of the Corporation or member of the Executive Board shall be personally liable for money damages as a result of any action for breach of his duty as an officer or as a member of the Executive Board, whether by or in the right of the Corporation or otherwise.

The provisions of N.C.G.S. § 55A-8-50 through § 55A-8-58 shall fully apply without restriction or limitation as to indemnification of members of the Executive Board and Officers, employees or agents of the Corporation.

The first election by the members of the Association for Directors shall not be held until after the Developer has relinquished control of the Association as set out in the Declaration of Condominium. Thereafter, the election of membership shall be as provided in the Bylaws. After the Declarant has relinquished control, a Board of Directors shall be elected at the annual meeting of the membership.

**ARTICLE VI  
INITIAL EXECUTIVE BOARD**

The number of Directors constituting the initial Board of Directors shall be three (3), and the names and address of the persons who are to serve as the first Board of Directors are as follows:

**NAME & MAILING ADDRESSES:**

Thomas Ryan  
8414 Falls of Neuse Road, Ste. 202  
Raleigh, NC 27615

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**ARTICLE VII  
TAX STATUS**

The Corporation shall have all of the powers granted to non-profit corporations under the laws of the State of North Carolina. Notwithstanding any other provisions of these Articles, this Corporation hereby elects tax-exempt status under Section 528 of the Internal Revenue Code of 1986. This Corporation shall not carry on any activities prohibited by a Corporation electing tax-exempt status under Section 528, or any corresponding sections or provisions of any future United States Internal Revenue law. It is further provided no distributions of income of the Corporation are to be made to members, directors or officers of the corporation; provided, however, members of the Corporation may receive a rebate of any excess dues and assessments previously paid. No part of the net earnings of the organization shall inure to the benefit of its members, directors, officers, or other persons except the organization shall be authorized and empowered to pay reasonable compensation for the services rendered and to make payments and distributions in furtherance of the exempt purposes of the organization. In the event of dissolution, the residual assets of the organization will be turned over to one or more organizations with similar purposes or pursuant to N.C.G.S. § 55A-14-03.

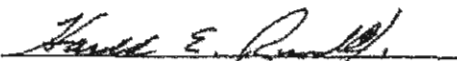
**ARTICLE VIII  
REGISTERED OFFICE AND AGENT**

The name and address of the initial registered office is Corporation Service Company, 327 Hillsborough Street, Raleigh, Wake County, North Carolina 27603; the principal office location and mailing address of the corporation in the State of North Carolina is 1435 Salter Path Road, Indian Beach, Carteret County, North Carolina 28512.

**ARTICLE IX  
INCORPORATOR**

The name and address of the incorporator is Harold E. Russell, Jr., 2304 Wesvill Court, Suite 340, Raleigh, Wake County, North Carolina 27607.

IN WITNESS WHEREOF, the incorporator has hereunto set his hand and seal this the 20<sup>th</sup> day of June, 2006.

  
Harold E. Russell, Jr. INCORPORATOR

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NORTH CAROLINA  
~~WARREN~~  
WARREN COUNTY

I, the undersigned Notary Public, do hereby certify that Harold E. Russell, Jr., personally appeared before me this day and acknowledged the due and voluntary execution of the foregoing instrument.

WITNESS my hand and notarial seal this 20<sup>th</sup> day of June, 2006.

Catherine R. Gardner  
Catherine R. Gardner, Notary Public

My Commission Expires:

6-18-2008



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**EXHIBIT F**  
**BYLAWS**  
**OF**  
**THE GRANDE VILLAS AT THE PRESERVE**  
**CONDOMINIUM HOMEOWNERS ASSOCIATION, INC.**

**ARTICLE I**  
**NAME AND LOCATION**

The name of the corporation is **THE GRANDE VILLAS AT THE PRESERVE CONDOMINIUM HOMEOWNERS ASSOCIATION, INC.** (hereinafter referred to as "The Grande Villas"). The principal office shall be located at 1435 Salter Path Road, Indian Beach, North Carolina 28512. The location of the principal office of the Association may be changed by the Board of Directors. Meetings of Members and Directors shall be held at such places within Carteret County, North Carolina or as shall be designated by the Board of Directors.

**ARTICLE II**  
**DEFINITIONS**

The following words and terms, when used in these Bylaws or any amendments hereto, or unless the context clearly indicates otherwise, are defined as follows (terms and words used herein without definition shall have the meanings, if any, specified therefor in the "Definitions" section of the Act):

**Section 2.1** "Act" shall mean and refer to The North Carolina Condominium Act, Chapter 47C of the North Carolina General Statutes.

**Section 2.2** "Annual Organizational Board Meeting" shall mean the annual organizational board meeting of the Board, which shall take place immediately before or after each Annual Meeting of the Members.

**Section 2.3** "Annual Meeting" means the annual meeting of the Members held in Carteret County, North Carolina, within the last quarter of each calendar year, upon proper notice, at a date, time and at a place from time to time designated by the Board. The first Annual Meeting of the Members shall be held within one (1) year from the date of incorporation on such date as the initial Board shall determine.

**Section 2.4** "Article" or "Articles of Incorporation" shall mean those articles, filed with the Secretary of State of North Carolina, incorporating as the unit owners association The Grande Villas at the Preserve Condominium Homeowners Association, Inc. as a non-profit corporation under the provisions of North Carolina law, as the same may be amended from time to time.

**Section 2.5** “Assessments” means Regular Assessments, Special Assessments, Working Capital Assessments, Individual Assessments and Fine Assessments.

**Section 2.6** “Association” shall mean and refer to The Grande Villas at the Preserve Condominium Homeowners Association, Inc. formed or to be formed as a non-profit corporation, its successors and assigns.

**Section 2.7** “Board” or “Board of Directors” shall mean and refer to the Board of Directors of the Association.

**Section 2.8** “Bylaws” shall mean these Bylaws of the Association, as the same may be amended from time to time.

**Section 2.9** “Common Elements” shall mean all portions of the Condominium other than the Units.

**Section 2.10** “Common Expenses” shall mean, refer to, and include all charges, costs and expenses incurred by the Association for and in connection with the administration of the Condominiums, including, without limitation thereof, operation of the Condominiums, maintenance, repair, replacement and restoration (to the extent not covered by insurance) of the Common Elements; the costs of any additions and alterations thereto; all labor, services, common utilities, materials, supplies, and equipment therefor; all liability for loss or damage arising out of or in connection with the Common Elements and their use; all premiums for hazard, liability and other insurance with respect to the Condominiums; all costs incurred in acquiring a Unit pursuant to judicial sale; and all administrative, accounting, legal, and managerial expenses; and all ad valorem taxes, public assessments, and governmental liens levied against the Common Elements. “Common Expenses” shall also include the cost of operation, maintenance, improvement, and replacement of any Recreational Facilities, including establishing reserves therefor. “Common Expenses” shall also include amounts incurred in replacing, or substantially repairing, capital improvements within the Common Elements, including, but not limited to parking space or vehicular or pedestrian travelway sealing or resurfacing. “Common Expenses” shall also include all reserve funds or other funds established by the Association. “Common Expenses” shall be construed broadly.

**Section 2.11** “Condominium” or “Condominiums” shall mean and refer to The Grande Villas at Preserve Condominium, as created or to be created by Declarant on the Property, pursuant to the Declaration of Condominium for The Grande Villas at the Preserve Condominium.

**Section 2.12** “Constituent Documents” shall mean the Declaration, these Bylaws, the Articles of Incorporation, and the Rules and Regulations and any other basic documents used to create and govern the Condominiums.

**Section 2.13** “Declarant” shall mean and refer to Indian Beach Acquisition, LLC, a Delaware limited liability company, its successors and assigns.

**Section 2.14** “Default” shall mean any violation or breach of, or any failure to comply with, the Restrictions, this Declaration or any other Constituent Documents.

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**Section 2.15** "Declarant Control Period" means the period commencing on the date on which this Declaration is recorded in the Carteret County Register of Deeds and terminating on the earlier of (i) one hundred twenty (120) days after conveyance of seventy-five percent (75%) of the Units to Unit Owners other than Declarant or (ii) 2 years after Declarant has ceased to offer Units for sale in the ordinary course of business.

**Section 2.16** "Fine Assessment" means the charge established by Section 5.5.2 of the Declaration.

**Section 2.17** "Individual Assessment" means the charge established by Section 5.4 of the Declaration.

**Section 2.18** "Limited Common Elements" shall mean and refer to those areas so designated by this Declaration, the terms of N.C.G.S. §47C-2-102(2) or (4), or on the Plans which service or are reserved for use by a certain Unit or Units to the exclusion of other Units, including but not limited to parking space(s) and storage space(s) allocated to each Owner.

**Section 2.19** "Member" shall mean and refer to all those Owners who are Members of the Association as provided in Article III below.

**Section 2.20** "Owner" shall mean and refer to the record owner, including Declarant, whether one or more persons or entities, of a fee simple title to any Unit located within the Condominiums.

**Section 2.21** "Plat" or "Plans" or "Floor Plans" shall mean and refer to those floor plans of the Units, including a complete description thereof, together with the respective locations and dimensions of each Unit, recorded in Condominium Drawer \_\_\_\_\_, Pages \_\_\_\_\_ - \_\_\_\_\_, Carteret County Registry, as the same may be amended or supplemented by Declarant from time to time.

**Section 2.22** "Property" shall mean and refer to that certain real estate described in Exhibit A and all other real estate that may be annexed into this Declaration and the Association by the Declarant.

**Section 2.23** "Recreational Facilities" shall mean and refer to the common community and recreational facilities located upon the property designated on the Plat including, but not limited to, the swimming pool, cabana, fitness room, game room, sauna, fire pit, club room, children's room and the related grounds, landscaping and improvements located, or to be located thereon.

**Section 2.24** "Regular Condominium Assessment" means the charge established by Article V of the Declaration.

**Section 2.25** "Resident" shall mean and refer to any person, not an Owner, living in the Owner's Unit, including, but not limited to, temporary guests and Tenants.

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**Section 2.26** “Restrictions” shall mean all covenants, conditions, restrictions, easements, charges, liens and other obligations provided for in this Declaration, including, without limitation, all notices, rules and regulations issued in accordance with the Declaration.

**Section 2.27** “Rules and Regulations” shall mean and include the rules and regulations made from time to time by the Board of Directors as provided in Section 4.3 of the Declaration.

**Section 2.28** “Special Assessment” means the charge established by Section 5.2 of the Declaration.

**Section 2.29** “Tenant” means any person occupying any Unit pursuant to a written lease agreement with the Owner thereof or with any other person or entity claiming under the Owner.

**Section 2.30** “Unit” shall mean and refer to a portion of the Property, as more particularly described in Section 2.4 of the Declaration, that is the subject of individual ownership by an Owner. The location of Units within the building located on the Property and the dimensions of the Units are designated on the Plans.

**Section 2.31** “Working Capital Assessment” means the charge established by Section 5.3 of this Declaration.

### **ARTICLE III**

#### **MEMBERS**

**Section 3.1** **Members**. Every Owner of a Unit shall be a Member of the Association. Such Owner and Member shall abide by the Association’s Rules and Regulations, shall pay the Assessments provided for in the Declaration, when due, and shall comply with decisions of the Association’s governing body. Conveyance of fee simple title to a Unit automatically transfers membership in the Association without necessity of further documents. Membership shall be appurtenant to and may not be separated from ownership of any Unit that is subject to Assessment. Provided, however, any person or entity who holds title or interest in a Unit merely as security for the performance of an obligation shall not be a Member of the Association.

**Section 3.2** **Voting**. The total vote of the Association shall consist of the sum of the votes of the Members present in person or by Proxy at a legally constituted meeting at which a quorum is present. The number of votes present at a meeting constituting a quorum shall be as set forth in the Bylaws, as amended from time to time. Notice requirements for all action to be taken by the Members of the Association shall be as set forth herein as the same may be amended from time to time. Quorum and notice requirements shall be as provided in Bylaws except when otherwise specified in the Declaration.

When more than one person holds an interest in any Lot, all such persons shall be Members; and the vote for such Unit shall be exercised as they among themselves determine. However, in no event may more than one vote per interest owned as described in Exhibit B attached hereto be cast with respect to any Unit owned by a Member, and in no event shall

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fractional votes be allowed. When one or more Co-Owners signs a proxy or purports to vote for his or her Co-Owners, such vote shall be counted unless one or more other Co-Owners is present and objects to such a vote or, if not present, submits a proxy or objects in writing and such writing is delivered to the Secretary of the Association before the vote is counted. Cumulative voting is not allowed.

A persons or entity's Membership in the Association shall terminate automatically whenever such person or entity ceases to be an Owner, but such termination shall not release or relieve any such person or entity from any liability or obligation incurred under or in any way connected with the Association or this Declaration during the period of such ownership, or impair any rights or remedies which the Association or any other Owner has with regard to such former Owner.

**Section 3.3 Right of Declarant to Representation on Board of Directors of the Association.** Notwithstanding anything contained herein to the contrary, Declarant (or its expressed assignee of the right granted in this section) shall have the right to designate and select any person or persons to serve on any Board of Directors, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or these Bylaws of the Association.

Declarant shall have the right to remove any person or persons selected by it to act and serve on said Board of Directors and replace such person or persons with another person or persons to act and serve in the place of any director or directors so removed. Any director designated and selected by Declarant need not be an Owner. Any representative of Declarant serving on the Board of Directors of the Association shall not be required to disqualify himself from any vote upon any contract or matter between Declarant and the Association where Declarant may have pecuniary interest or other interest.

The Board of Directors shall be controlled by the Declarant during the Declarant Control Period. Not later than 60 days after conveyance of twenty five percent (25%) of the Units to Unit Owners other than a Declarant, at least one member and not less than twenty five percent (25%) of the members of the executive board shall be elected by Unit Owners other than the Declarant. Not later than 60 days after conveyance of fifty percent (50%) of the Units to Unit Owners other than a Declarant, not less than thirty three percent (33%) of the members of the executive board shall be elected by Unit Owners other than the Declarant.

#### ARTICLE IV

#### MEETINGS OF MEMBERS

**Section 4.1 Annual Meetings.** The first annual meeting of the Members shall be held within one year from the date of incorporation of the Association. Each subsequent regular meeting of the Members shall be held in the same month of each year thereafter unless a different date is fixed by the Board of Directors.

**Section 4.2 Special Meetings.** Special meetings of the Members may be called at any time by the President or Board of Directors of the Association, or by any Member pursuant to the

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written request of the holders of not less than one-tenth (1/10) of all votes appurtenant to the Units. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in said notice.

**Section 4.3 Place of Meetings.** Meetings of the Members shall be held at such place, within Carteret County, as may be determined by the Board of Directors.

**Section 4.4 Notice of Meeting.** Except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws, written or printed notice stating the time and place of the meeting shall be delivered not less than ten (10) nor more than fifty (50) days before the date of any Membership meeting, either personally or by mail, by or at the direction of the President, the Secretary, or other person calling the meeting, to each Member of record entitled to vote at such meeting; provided that such notice must be given not less than twenty days before the date of any meeting at which a merger or consolidation is to be considered. If mailed, such notice shall be deemed to be delivered to the Member at his address as it appears on the record of Members of the association, with postage thereon prepaid.

In the case of a special meeting, the notice of meeting shall specifically state the purpose or purposes for which the meeting is called; but, in the case of an annual or substitute annual meeting, the notice of meeting need not specifically state the business to be transacted thereat unless such a statement is required by the provisions of the North Carolina Non-profit Corporation Act or Chapter 47C of the North Carolina General Statutes.

When a meeting is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. When a meeting is adjourned for less than thirty days, it is not necessary to give any notice of the adjourned meeting other than by announcement at the meeting at which the adjournment is taken.

**Section 4.5 Quorum.** Except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws, the presence at the beginning of the meeting of Members or of proxies entitled to cast twenty percent (20%) of the votes shall constitute a quorum for any action. If, however, such quorum shall not be present or represented at any meeting, a majority of the Members entitled to vote thereat shall have power to adjourn the meeting to a latter date, without notice other than announcement at the meeting.

**Section 4.6 Proxies.** Voting may be either in person or by one or more agents authorized by a written proxy executed by the Member or by his duly authorized attorney in fact. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot or may cease upon written notice of cancellation of proxy by Member. A proxy is void if it is not dated. A proxy terminates eleven (11) months after its date, unless it specifies a shorter term.

**Section 4.7 Informal Action by Members.** Any action which may be taken at a meeting of the Members may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the persons who would be entitled to vote upon such

action at a meeting and filed with the Secretary of the Association to be kept in the minute book of the Association.

**Section 4.8 Loss of Right to Vote.** The vote of any Member who is shown on the books or records of the Association to be more than sixty (60) days delinquent in any payment due the Association shall not be an eligible vote and shall not be counted for purposes of deciding any question so long as such delinquency is not cured, nor shall such Member be eligible to be elected to not remain on the Board of Directors.

## ARTICLE V

### **BOARD OF DIRECTORS**

**Section 5.1 General Powers.** The business and affairs of the Association shall be managed by its Board of Directors. In exercising its powers and performing its duties under the Declaration and these Bylaws, the Board of Directors shall act as, and shall be, the agent of the Unit Owners, subject to, and in accordance with, the terms of the Declaration and these Bylaws. The Board of Directors shall also have the status conferred upon it under, or pursuant to, the terms of the Act.

The Board shall be authorized to delegate the administration of those duties and powers it deems appropriate and in the best interest of the Association concerning the routine management of the condominium by written contract to a managing agent or administrator employed for that purpose by the Board (an "Independent Manager"). The Board may not delegate to the Independent Manager the complete and total responsibilities and duties of the Association in violation of the Nonprofit Corporation Act of North Carolina or the North Carolina Condominium Act. Any Independent Manager contract entered into during the Declarant Control Period shall be terminable as required by N.C.G.S. §47C-3-105. The Independent Manager shall at all times be answerable to the Executive Board and subject to its direction.

**Section 5.2 Number, Term and Qualifications.** The number of directors constituting the Board of Directors shall be one. At the first annual meeting of the Association after which transition to homeowner control has taken place, the number of Directors may be increased to five (5). At this first annual meeting after transition, the Members may elect one director to serve for a term of one year, two directors to serve for a term of two years, and two directors to serve for a term of three years, should they elect to increase the number of directors to five (5). If the Members elect to continue to maintain a board of three (3) Members, they shall elect a one, two and three year director. At subsequent annual meetings thereafter, the Members shall elect the number of directors needed to fill the vacancy or vacancies created by the director or directors whose term(s) is(are) expiring to serve for a term of three (3) years. A Director need not be a Member of the Association, but a majority of the Directors must be members of the Association.

**Section 5.3 Election of Directors.** Except as provided in Section 6 of this Article V, the directors shall be elected at the annual meeting of Members; and those persons who receive the highest number of votes shall be deemed to have been elected. If any Member so demands, the election of directors shall be by ballot. Cumulative and fractional voting is prohibited.

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**Section 5.4 Election.** The directors may be elected by secret written ballot, if a Member so demands, at the annual meeting of the Members. In such election, the Members or their proxies may cast, with respect to each vacancy, as many votes as they are entitled under the provisions of Article III of these By-Laws. The persons receiving the highest number of votes shall be elected. Cumulative and fractional voting are not permitted.

**Section 5.5 Removal.** Any director may be removed at any time with or without cause by a majority vote of the Members.

**Section 5.6 Vacancies.** Any vacancy occurring in the Board of Directors may be filled by the selection of a successor by the remaining Directors. Such successor shall serve for the unexpired term of his predecessor. The Members may elect a director at any time to fill any vacancy not filled by the Directors.

**Section 5.7 Compensation.** No Director shall receive compensation for any service he may render to the Association in the capacity of Director. However, any Director may be reimbursed for actual expenses incurred in the performance of his duties.

## ARTICLE VI

### **MEETINGS OF DIRECTORS**

**Section 6.1 Regular Meetings.** A regular meeting of the Board of Directors shall be held at least quarterly, without notice and at such place and hour as may be fixed from time to time by the Board of Directors.

**Section 6.2 Special Meetings.** Special meetings of the Board of Directors shall be held when called by the President of the Association or by any two Directors.

**Section 6.3 Quorum.** A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

**Section 6.4 Informal Action by Directors.** Any action which may be taken at a meeting of the Board of Directors may be taken without a meeting if written consent to the action so taken is signed by all the Directors and filed with the minutes of the proceedings of the Board, whether done before or after the action is so taken.

**Section 6.5 Chairman.** A Chairman of the Board of Directors shall be elected by the Directors and shall preside over all Board meetings until the President of the Association is elected. Thereafter, the President shall serve as Chairman. In the event there is a vacancy in the office of President, a Chairman shall be elected by the Board of Directors to serve until a new President is elected.

**Section 6.6 Participation in Meetings by Means of Conference Telephone.** Members of the Board of Directors, or any committee of the Board, may participate in a meeting

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of the Board or of such committee by means of a conference telephone or similar communications device by means of which all persons participating in the meeting can hear each other, and participation by such means shall constitute presence in person at such meeting.

## ARTICLE VII

### POWERS AND DUTIES OF THE BOARD OF DIRECTORS

**Section 7.1 Powers.** The Board of Directors shall have the authority to exercise all powers and duties of the Association necessary for the administration of the affairs of the Condominium except such powers and duties as by law or by the Constituent Documents may not be delegated by the Owners to the Board of Directors. The powers and duties to be exercised by the Board of Directors shall include, but shall not be limited to, the following:

(a) adopt and publish rules and regulations governing the use of the Common Elements and the personal conduct of the Members and their guests thereon, and to establish fines and penalties for the infraction thereof;

(b) suspend a Member's voting rights during any period in which he shall be in default in the payment of any assessment levied by the Association pursuant to the provisions of the Declaration. Such rights may also be suspended after such notice and hearing as the Board, in its discretion, may determine, for a period not to exceed 60 days for infraction of the published rules and regulations of the Association;

(c) exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the Membership by other provisions of these By-Laws, the Act, the Articles of Incorporation, or the Declaration;

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

(e) employ a manager, independent contractor, or such other employees or agents as it may deem necessary and prescribe their duties; in the event a contract is entered into with a management company to manage the affairs of the Association, such contract must be terminable by the Board of Directors without cause or penalty with no more than thirty (30) days notice;

(f) employ attorneys to represent the Association when necessary;

(g) to execute deeds or other legal documents to effectuate the transfer of Common Elements as allowed under the Declaration; and

(h) appoint and remove at pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation, and require of them such security or fidelity bond as it may deem expedient.

(i) conduct any such activity as allowed by the Act.

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**Section 7.2 Duties.** It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members or at any special meeting when such statement is requested in writing by Members entitled to at least one-fourth (1/4) of the votes appurtenant to the Units;

(b) supervise all officers, agents and employees of the Association and see that their duties are properly performed;

(c) as more fully provided in the Declaration, to:

(i) fix the amount of the annual assessment against each Lot at least thirty (30) days before January 1 of each year;

(ii) send written notice of each assessment to every Owner subject thereto at least fifteen (15) days before January 1 of each year; and

(iii) as to any Lot for which an assessment is overdue by thirty (30) days or more, bring an action at law against the Owner personally obligated to pay the assessment or foreclose the lien against such Lot.

(d) issue, or cause an appropriate office to the Association to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board of Directors for the issuance of such certificates. If a certificate states that an assessment has been paid, such certificate shall be conclusive evidence of such payment as of the date of its issuance;

(e) procure and maintain adequate liability insurance covering the Association in an amount not less than \$1,000,000.00 and adequate hazard insurance on the real and personal property owned by the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) cause the Common Elements and all facilities erected thereon including private streets to be maintained;

(h) establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements constructed on the Common Elements; and

(i) provide such notices to and obtain such consent from the Owners and holders of first deeds of trust on Lots within the Properties as required by the Declaration or these Bylaws; and

(j) pay all ad valorem and public assessments levied against the real and personal property owned by the Association in fee simple.

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## ARTICLE VIII

### OFFICERS AND THEIR DUTIES

**Section 8.1** Enumeration of Officers. The officers of the Association shall be a President and Vice President, who shall at all times be Members of the Board of Directors, a Secretary, and a Treasurer and such other officers as the Board may create from time to time by resolution.

**Section 8.2** Election of Officers. The election of Officers shall take place at the first meeting of the Board of Directors. Officers shall include a President, Vice President, a Secretary, and a Treasurer, and such other officers as the Board may from time to time by resolution create.

**Section 8.3** Term. The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, be removed, or be otherwise disqualified to serve.

**Section 8.4** Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may determine from time to time.

**Section 8.5** Resignation and Removal. Any officer may be removed from office, with or without cause, by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of 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 8.6** Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

**Section 8.7** Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

**Section 8.8** Duties. The duties of the Officers are as follows:

(a) President. The President shall preside at all meetings of the Board of Directors, shall see that orders and resolutions of the Board are carried out, shall sign all leases, promissory notes, mortgages, annexations of Additional Properties, amendment to the Declaration and Bylaws, deeds and other written instruments, and, in the absence of the Treasurer, shall sign all checks.

(b) Vice President. The Vice President shall act in the place instead of the President in the event of his death, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

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(c) Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members, keep the corporate seal of the Association and affix it on all papers requiring a seal, serve notice of meetings of the Board and of the Members, keep appropriate current records showing the Members of the Association and their addresses, and perform such other duties as required by the Board.

(d) Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all funds of the Association and shall disburse such funds as directed by resolution of the Board of Directors, shall sign all checks of the Association, shall keep proper books of account, shall cause an annual audit of the Association books to be made by an independent public accountant at the completion of each fiscal year, and shall prepare an annual budget and a statement of income and expenditures to be presented to the Membership at its regular annual meeting, and deliver a copy of each to the Members.

## ARTICLE IX

### COMMITTEES

The Board of Directors of the Association may appoint a Nominating Committee, as provided in these Bylaws, and shall appoint an Architectural Control Committee, as provided in the Declaration. The Board of Directors may appoint such other committees as it deems appropriate in carrying out its purpose.

## ARTICLE X

### BOOKS AND RECORDS

The books, records and papers of the Association shall at all time, during reasonable business hours, be subject to inspection by any Member or his authorized agent by appointment. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection at the principal office of the Association, where authorized copies, as outlined in a resolution by the Board of Directors, may be purchased at a reasonable cost.

## ARTICLE XI

### ASSESSMENTS

As more fully provided in Article V of the Declaration, each Member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made.

**ARTICLE XII**

**CORPORATE SEAL**

The Association shall have a seal in circular form having within its circumference the words: THE GRANDE VILLAS AT THE PRESERVE CONDOMINIUM HOMEOWNERS ASSOCIATION, INC.

**ARTICLE XIII**

**AMENDMENTS AND CONFLICTS**

**Section 13.1 Amendments.** These Bylaws may be amended, at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members present at a meeting duly called for such purpose, in person or by proxy, except that the Federal Housing Administration or the Veterans Administration shall have the right to veto amendments.

**Section 13.2 Conflicts.** In case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

**ARTICLE XIV**

**FISCAL YEAR**

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

**CERTIFICATION**

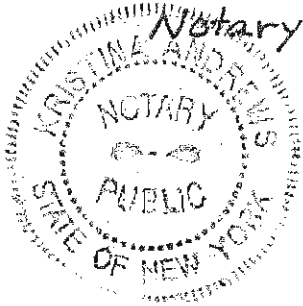
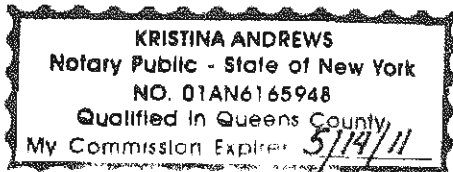
I, the undersigned, do hereby certify that I am the duly elected and acting Director of The Grande Villas at the Preserve Condominium Homeowners Association, Inc., a North Carolina non-profit corporation, and that the foregoing Bylaws constitute the original Bylaws of said The Grande Villas at the Preserve Condominium Homeowners Association, Inc. as duly adopted at a meeting of the Board of Directors thereof, held on the 23 day of January, 2009.

**IN WITNESS WHEREOF**, I hereunto subscribed my name and affixed the seal of said The Grande Villas at the Preserve Condominium Homeowners Association, Inc. this 23 day of January, 2009.

*Kristina Andrews*  
*Kristina Andrews*  
Notary Public

The Grande Villas at the Preserve Condominium Homeowners Association, Inc.

By: *[Signature]* President



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