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RECORDED AND VERIFIED
REBECCA P. TUCKER
REGISTER OF DEEDS
NEW HANOVER CO. NC

JUN 20 2 26 PM '85

INDEX

TO

DECLARATION

SPINNAKER POINTE CONDOMINIUM

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3. Plan of Development and Scope of Declaration - The name by which this entire condominium project shall henceforth be known is SPINNAKER POINTE. The Declarant has caused to be constructed upon the real property described on Exhibit "A" hereto attached three (3) multi-unit buildings, containing fifty-four (54) units as well as the common areas and facilities of both the buildings and the real property, all as defined herein and as shown upon the plans contained in Exhibit "C" attached hereto and made a part hereof by reference. The units of the buildings together with their privileges and appurtenances shall be offered for sale to the public by the Declarant as condominium units pursuant to the provisions of Chapter 47A of the General Statutes of the State of North Carolina, subject to the covenants, conditions, restrictions and obligations stated in the Articles of this Declaration, the Articles of Incorporation of the Association, its duly adopted By-Laws and its Rules and Regulations.

The Declarant, by this Declaration, submits only the real property described on Exhibit "A" together with the improvements thereon, to the Act and hereinafter this submission shall be referred to as SPINNAKER POINTE, PHASE I. Nevertheless, the Declarant hereby reserves to itself the exclusive right and option, but not the obligation, to add to or expand the property subject to this Declaration by the addition of all or any portion or portions of the real property described on Exhibit "B" hereto attached, incorporated herein, and made a part hereof by reference in one or more additional phases of SPINNAKER POINTE upon the following terms and in the following manner:

A. Any addition of real property subject to this Declaration, if any, shall occur only by the registration in the Office of the Register of Deeds of New Hanover County, North Carolina, of one or more supplements to this Declaration, which shall be executed only by the Declarant. The addition to or expansion of the real property subject to this Declaration shall be at the sole discretion of the Declarant without consultation with or consent of any unit owner. Every unit owner in SPINNAKER POINTE, all phases, by accepting a deed for a unit therein, shall be deemed to have agreed for himself, his heirs, devisees, successors and assigns to such addition to or expansion of the property subject to this Declaration in accordance with the provisions of this Article; and

B. The right and option as described hereinabove shall terminate on the 1st day of September 2000; and

C. In the event the Declarant adds to the real property subject to this Declaration all of the real property described in this ARTICLE, the Declarant covenants and agrees that no more than a total of 318 units will be added to the 54 units in SPINNAKER POINTE, PHASE I; and

D. The Declarant covenants and agrees that all buildings containing units built upon the real property which may be subjected to this Declaration under this Article shall be no more than four (4) stories in height above ground level situated upon finished grade and shall be constructed with materials like or substantially similar to those used in SPINNAKER POINTE, PHASE I; and

E. It is understood and declared that the undivided fractional or percentage interest owned by each unit owner of units in SPINNAKER POINTE, PHASE I, in the common areas and facilities of SPINNAKER POINTE, PHASE I, is as stated in Exhibit "E" hereunder. However, it is further declared that in the event the Declarant, pursuant to the provisions of this Article, adds to or expands the property, and therefore the number of units, unit owners, and common areas and facilities subject to this Declaration and the jurisdiction of the Association, then consequently the fractional or percentage interest owned by each unit owner of units in SPINNAKER POINTE, all phases, in the expanded common areas and facilities of SPINNAKER POINTE, all phases, shall necessarily have to change from that as established in Exhibit "E"

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hereunder. It is further understood that the Act provides that the fractional or percentage undivided interest of each unit owner in the common areas and facilities as expressed in any Declaration shall have a permanent character and shall not be altered except with the unanimous consent of all unit owners expressed in an amended Declaration duly recorded. Therefore, in the event the Declarant adds to or expands the property subject to this Declaration pursuant to this Article, then every unit owner of units in SPINNAKER POINTE, any phase, by the acceptance of the deed for his unit shall be deemed to have specifically agreed for himself, his heirs, devisees, successors and/or assigns that the Declarant shall have the exclusive right and power, as attorney-in-fact for every unit owner, to establish the undivided fractional or percentage interest of each such unit owner in the expanded common areas and facilities of SPINNAKER POINTE, all phases, as well as the right and power to establish the undivided fractional or percentage interest in the expanded common areas and facilities of SPINNAKER POINTE, all phases, to be appurtenant to additional units of SPINNAKER POINTE, and, therefore, (a) the liability of each unit owner for common expenses, not specifically assessed, (b) the interest of each unit owner in any common surplus, and (c) the voting rights in the Association of each unit owner; which such undivided fractional or percentage interests shall be stated in any supplement to this Declaration required to be executed and recorded in the Office of the Register of Deeds of New Hanover County, North Carolina, in order to expand or add to the property subject to this Declaration as is provided for hereinabove. It is hereby declared and agreed that if and when each additional Phase is added the Declarant shall establish an undivided interest without prior consultation with or consent of any unit owner of any unit in SPINNAKER POINTE, as follows:

(a) All two bedroom Condominium units that do not contain a den shall be assigned a statutory value of \$90,900.00, all two bedroom units with a den or three bedroom units, if any, shall be assigned the value of \$97,122.22 and all one bedroom units, if any, shall be assigned the value of \$84,677.78.

(b) The undivided fractional or percentage interest of each unit contained in Phase I of SPINNAKER POINTE has been determined as reflected on Exhibit "E" by totaling the value of all units, as established for statutory purposes in Paragraph (a) above, and dividing the per unit value by the total value. Therefore to determine the undivided fractional or percentage interest of any unit contained in any and all additional Phases apply the statutory values of Paragraph (a) above to each one, two or three bedroom unit contained in the additional Phases, total the values of all units contained in all Phases and divide the per unit value by the total value to determine the fractional or percentage interest of each unit.

F. Nothing herein shall be deemed to limit or alter the DECLARANT'S right, hereby reserved, to vary the internal layout, size, or configurations of any units hereafter constructed so long as the Declarant substantially conforms with the provisions of this Article.

G. Prior to the submission of any additional Phases to the development on portions of the real estate described in Exhibit "B" attached hereto, the Declarant shall obtain written consent of the holder of any Deed of Trust or Mortgage covering such additional property.

4. Dwellings, and Common Elements - The Condominium consists of Dwellings, Common Elements, and Limited Common Elements as said terms are hereinafter defined.

Dwellings, as the term is used herein, shall mean and comprise Phase I containing 3 buildings, each of which contain eighteen (18) separate and numbered dwelling units for a total of fifty four (54) units as are designated in Exhibit "C" attached to this Declaration, excluding, however, all spaces and improvements lying beneath the undecorated and/or unfinished inner surfaces of the perimeter walls and floors, and

above the undecorated and/or unfinished inner surfaces of the ceilings of each Dwelling Units, and further excluding all spaces and improvements lying beneath the undecorated and/or unfinished inner surfaces of all interior load bearing walls and/or unfinished bearing partitions, and further excluding all pipes, ducts, wires, conduits and other facilities running through any interior wall or partition for the furnishing of utility services to Dwellings, Common Elements and Limited Common Elements.

Common Elements, as the term is used herein, shall mean and comprise all of the real property, improvements, and facilities other than the Dwellings, as same are hereinabove defined, and as are reflected on the plat of Phase I in Exhibit "C" attached hereto and subsequent Phases as they shall be added to the Project. In addition, the Declarant shall construct a boardwalk facility extending from the Eastern portion of the Spinnaker Pointe tract in an easterly direction across the marshes to provide beach access to the Atlantic Ocean and said boardwalk facility shall constitute a common element of the entire Project. Furthermore, common elements shall include easements through dwellings for conduits, pipes, ducts, plumbing, wiring and other facilities for the furnishing of utility service to Dwellings, Common Elements and Limited Common Elements and easements of support in every portion of a dwelling which contributes to the support of the improvements, and shall further include all personal property held and maintained for the joint use and enjoyment of all of the owners of all such dwellings.

5. The Nature and Incidents of Unit Ownership -

A. Each unit shall be conveyed and treated as an individual real property capable of independent use and fee simple ownership, and the owner of each unit shall also own, as an appurtenance to the ownership of each said unit, an undivided interest in the common areas and facilities of SPINNAKER POINTE, PHASE I, and future phases, if any. The undivided interest in the common areas and facilities of SPINNAKER POINTE, PHASE I, appurtenant to each of the 54 units of SPINNAKER POINTE, PHASE I, is as shown upon Exhibit "E" hereto attached.

The proportional interest in the common areas and facilities that is appurtenant to each unit has been determined in a manner consistent with the Act.

B. No unit may be divided or subdivided into a smaller unit or units than as shown on Exhibit "C" hereto, nor shall any unit or portion thereof be added to or incorporated into any other unit unless written approval is first obtained from the Board of Directors of the Association as provided herein. The undivided interest in the common areas and facilities declared to be an appurtenance to each unit shall not be conveyed, devised, encumbered, or otherwise dealt with separately from said unit, and the undivided interest in common areas and facilities appurtenant to each unit shall be deemed conveyed, devised, encumbered, or otherwise included with the unit even though such undivided interest is not expressly mentioned or described in the instrument conveying, devising, encumbering, or otherwise dealing with such unit. Any conveyance, mortgage, or other instrument which purports to grant any right, interest, or lien in, to or upon a unit, shall be null, void and of no effect insofar as the same purports to affect any interest in a unit and its appurtenant undivided interest in common areas and facilities, unless the same purports to convey, devise, encumber, or otherwise trade or deal with the entire unit. Any instrument conveying, devising, encumbering, or otherwise dealing with any unit, which describes said unit by the letter/numerical designation assigned thereto in Exhibit "C" without limitation or exception, shall be deemed and construed to affect the entire unit and its appurtenant undivided interest in the common areas and facilities. Nothing herein contained shall be construed as prohibiting tenants in common, joint tenants, or as tenants by the entirety.

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C. The common areas and facilities shall be, and the same are hereby declared to be subject to a perpetual nonexclusive easement in favor of all of the owners of units in SPINNAKER POINTE, all phases, for their use and the use of their immediate families, guests or invitees, for all proper and normal purposes, and for the furnishing of services and facilities for which the same are reasonably intended, for the enjoyment of said owners of units. Notwithstanding anything above provided in this Article, the Association shall have the exclusive right to establish rules and regulations pursuant to which the owner of any unit, his family, guests and invitees, may be entitled to use the common areas and facilities, including the right to make permanent and temporary assignments of parking spaces, and to establish regulations concerning the use thereof, and the use of recreation areas.

D. Recognizing that the proper use of a unit by an owner or owners is dependent upon the use and enjoyment of the common areas and facilities in common with the owners of all other units, and that it is in the interest of all owners that the ownership of the common areas and facilities be retained in common by the owners, it is hereby declared that the proportional undivided interest in the common areas and facilities appurtenant to each unit shall remain undivided and no unit owner shall bring or have any right to bring any action for partition or division.

6. Restrictions Against Time Sharing - The dwellings located in Spinnaker Pointe may be owned by an individual, a corporation, a partnership, a joint venture and as tenants in common. No condominium unit shall be offered for sale by any owner or the Declarant on a time sharing basis as defined by the statutes of the State of North Carolina.

7. Condominium Subject to Restrictions, Etc. The dwellings and common elements located on the real property described in Exhibit "A" shall be, and the same are hereby declared to be subject to the restrictions, easements, conditions and covenants prescribed and established herein, governing the use of said dwellings and common elements, and setting forth the obligations and responsibilities incident to ownership of each dwelling and its appurtenant undivided interest in the common elements, and said dwelling and common elements are further declared to be subject to the restrictions, easements, conditions and limitations now of record affecting the land and improvements of the condominium. The dwellings and common elements located upon real property described in Exhibit "B" shall not be subject to the terms and restrictions of this Declaration until such property becomes a part of the Condominium by dedication of the Declarant in accordance with the terms of this Declaration.

8. Easements -

In addition to easements and rights established and/or reserved elsewhere in this Declaration, the following easements and rights are hereby established as covenants and burdens running with the real property and the improvements thereon:

A. In case of any emergency originating in or threatening any unit, regardless of whether the owner is present at the time of such emergency, the Board of Directors of the Association, or any other person authorized by it, or the managing agent, shall have the right to enter such unit for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate.

B. Each unit owner shall have an easement in common with the other owners of all units to use all pipes, wires, ducts, cables, conduits, public utility lines and other common facilities located in any of the other units and serving his unit. Each unit shall be subject to an easement in favor of the owners of all other units to use the pipes, ducts, cables,

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wires, conduits, public utility lines and other common facilities serving such other units and located in such unit. The Board of Directors of the Association or their designee shall have the right of access to each unit to inspect the same, to remove violations therefrom and to maintain, repair, or replace the common facilities contained therein or elsewhere in the buildings.

C. The initial and subsequent Boards may grant or assume easements, leases, or licenses for utility purposes for the benefit of the condominium, including the right to install, lay, maintain, repair, and replace water lines, pipes, sewer lines, gas mains, telephone and television wires and equipment and electrical conduits and wires over, under, along and on any portion of the Board, or its designee, the irrevocable power of attorney to execute, acknowledge, and record for or in the name of the Association or each unit owner such instruments as may be necessary to effectuate the foregoing.

D. Ingress and egress is reserved for pedestrian traffic over, through and across sidewalks, paths, walks, and lanes as the same from time to time may exist upon the common areas and facilities; and, for vehicular traffic over, through and across such portions of the common areas and facilities as from time to time may be paved and intended for such purposes for all unit owners of units in all phases of SPINNAKER POINTE, their guests, families, invitees, lessees, the Association, the Declarant, its successors and assigns.

E. The Declarant hereby reserves unto itself the right to grant and relocate easements over any of the common areas and facilities of this phase of SPINNAKER POINTE, to be used for, by, or in connection with any other phases of SPINNAKER POINTE, which may hereafter be erected on the property described in Exhibit "B" hereof, pursuant to this Declaration, as may become necessary for the purpose of the Declarant, its grantee, lessee, successor, or assigns, servicing such adjacent phases with utility services, drainage and easements for ingress and egress and regress.

F. In the event that any unit shall encroach upon any of the common areas and facilities, or any other unit or units, for any reason not caused by the purposeful or negligent act of the unit owner, or agents of such owner, then an easement appurtenant to such unit shall exist for the continuance of such encroachment upon the common areas and facilities or upon a unit for so long as such encroachment shall naturally exist; and, in the event that any portion of the common areas and facilities shall encroach upon any unit, then an easement shall exist for the continuance of such encroachment of the common areas and facilities upon any unit for so long as such encroachment shall naturally exist. If any unit or common areas and facilities shall be partially or totally destroyed as a result of fire or other casualty, or as a result of condemnation or eminent domain proceedings, and if upon reconstruction of such unit and/or common areas and facilities in accordance with this Declaration, there exists encroachments of portions of the common areas and facilities upon any unit, or of any unit upon any other unit or upon any portion of the common areas and facilities, then such encroachments shall be permitted and a valid easement for the maintenance thereof shall exist so long as such encroachments shall naturally remain.

9. Restrain Upon Separation and Partition of Common Elements. It is declared that the percentage of the undivided interest in the common element appurtenant to each dwelling shall remain undivided and no owner of any dwelling shall bring or have any right to bring any action for partition or division. Provided, however, that the co-owners interest in the common elements may be diminished by the addition of future phases as set forth in Paragraph 3 herein.

10. Easement for Air Space. The owner of each dwelling shall have an exclusive easement for the use of the air space occupied by said dwelling as it exists at any particular time and as said dwelling may lawfully be altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is vacated from time to time.

11. Administration of Spinnaker Pointe Unit Owners Association, Inc. To efficiently and effectively provide for the administration of a condominium by the owners of dwellings, a non-profit North Carolina corporation, known and designated as Spinnaker Pointe Unit Owners Association, Inc. shall be organized, and said corporation shall administer the operation and management of the condominium and undertake and perform all acts and duties incident thereto in accordance with the terms, provisions and conditions of this Declaration, and in accordance with the terms of the Articles of Incorporation of Spinnaker Pointe Unit Owners Association, Inc., hereinafter referred to as the Association, and the by-laws of said corporation. A true copy of By-Laws of said Association are annexed hereto and expressly made a part hereof as Exhibit D. The owner or owners of each dwelling shall automatically become members of the Association upon his, their or its acquisition of an ownership interest in title to any dwelling and its appurtenant undivided interest in common elements, and the membership of such owner or owners shall terminate automatically upon each owner or owners being divested of such ownership interest in the title of such dwelling, regardless of the means by which such ownership may be divested. No person, firm or corporation holding any lien, mortgage or other encumbrance upon any dwelling shall be entitled, by virtue of such lien, mortgage, or other encumbrance, to membership in the Association, or to any of the rights or privileges of such membership. In the administration of the operation and management of the condominium, said association shall have and is hereby granted the authority and power to enforce the provisions of this Declaration, levy and collect assessments in the manner hereinafter provided, and to adopt, promulgate and enforce such rules and regulations governing the use of the dwellings and common elements, as the Board of Directors of the Association may deem to be in the best interests of the condominium. The Association shall have all powers granted to it as stated in the Articles of Incorporation. The Association shall indemnify the individual members of the Board of Directors of the Association against any claim, action or judgment filed against him as a result of any action taken by the Board of Directors in the administration of the Association.

12. Residential Use Restriction Applicable to Dwellings. Each dwelling is hereby restricted to single family residential use by the owner or owners thereof, their immediate families, guests and invitees; provided, however, that so long as Spinnaker Pointe Ltd., shall retain any interest in the condominium, it may utilize a dwelling or dwellings of its choice from time to time for sales offices or other usage for the purpose of selling dwelling in said condominium. Further still, Spinnaker Pointe Ltd. may assign this commercial usage, right to such other person or entities it may choose; provided, however, that when all dwellings have been conveyed, this right of commercial usage shall immediately cease.

13. Use of Common Elements Subject to Rules of Association. The use of common elements by their owner or owners of all dwellings and all other parties authorized to use the same shall be at all times subject to such reasonable rules and regulations it may hereafter be prescribed and established by the association.

14. Condominium To Be Used For Lawful Purposes, Restriction Against Nuisances, Etc. No immoral, improper, offensive or unlawful use shall be made of any dwelling or of the common elements, nor any part thereof, and all laws, zoning ordinances and regulations of all governmental authorities having jurisdiction of the condominium shall be observed. No owner of any dwelling shall permit or suffer anything to be done or kept in this dwelling, or on the common elements, which will

increase the rate of insurance on the condominium, or which will obstruct or interfere with the rights of the other occupants of the building or annoy them by unreasonable noises, nor shall any such owner undertake any use or practice which shall create and constitute a nuisance to any other owner of a dwelling, or which interferes with the peaceful possession and proper use of any other dwelling or the common elements.

15. Right of Entry into Dwellings in Emergencies. In case of any emergency originating in or threatening any dwelling, regardless of whether the owner is present at the time of such emergency, the Board of Directors of Association or any other person authorized by it, or the building Superintendent or Managing Agent, shall have the right to enter such dwelling for the purpose of remedying or abating the cause of such emergency, and such right to entry shall be immediate and to facilitate entry in the event of any such emergency, the owner of each dwelling, if required by the Association, shall deposit under the control of the Association a key to such dwelling.

16. Right of Entry for Maintenance of Common Elements. Whenever it is necessary to enter any dwelling for the purpose of performing any maintenance, alteration or repair to any portion of the common elements, the owner of each dwelling shall permit other owners or their representatives, or the duly constituted and authorized agent of Association, to enter such dwelling, provided that such entry shall be made only at reasonable times and with reasonable advance notice.

17. Limitation Upon Right of Owners to Alter and Modify Dwellings. No owner of a dwelling shall permit there to be made any structural modifications or alterations therein without first obtaining the written consent of Association, which consent may be withheld in the event that a majority of the Board of Directors of said Association determine, in their sole discretion, that such structural modifications or alterations would affect or in any manner endanger the Building in part or in its entirety. If the modification or alteration desired by the owner of any dwelling involves the removal of any permanent interior partition, Association shall have the right to permit such removal so long as the permanent interior partition to be removed is not a load-bearing partition, and so long as the removal thereof would in no manner affect or interfere with the provision of utility services constituting common elements located therein. No owner shall cause the balcony abutting his dwelling to be enclosed, or cause any improvements or changes to be made on the exterior of the building, including painting or other decoration, or the installation of electrical wiring, television antenna, machines, or air conditioning units, which may protrude through the walls or roof of the Building, or in any manner change the appearance of any portion of the building not within the walls of such dwelling, nor shall storm panels or awnings be affixed, without the written consent of the Association being first obtained. Nothing contained herein, however, shall prevent the replacement of the air conditioners with similar air conditioning units as initially installed by the Declarant. Additional shelving and interior partitions may be added by the owner entitled to their use. Window dressing including drapes or blinds shall be of a neutral color matching the style and color as originally installed by the Declarant to provide a uniform exterior appearance. No clothes line, hammock or other amenities shall be installed on the balconies of any dwelling that may be exposed to exterior view. Furthermore, no towels or clothing shall be dried or hung from the balcony railings.

18. Right of Association to Alter and Improve Common Elements and Assessment Therefor. Association shall have the right to make or cause to be made such alterations or improvements to the common elements which do not prejudice the rights of the owner of any dwelling, unless such owner's written consent has been obtained, provided the making of such alterations and improvements are approved by the Board of Directors of such Association, and the cost of such alterations and improvements shall be assessed as common expense to be assessed and collected from all of the owners of

dwellings according to the percentages set out in Exhibit E of the Declaration. However, where any alterations and improvements are exclusively or substantially exclusively for the benefit of the owner or owners of a dwelling or dwellings requesting the same, then the cost of such alterations and improvements shall be assessed against and collected solely from the owner or owners of the dwelling or dwellings exclusively or substantially exclusively benefited, the assessment to be levied in such proportion as may be determined by the Board of Directors of Association.

19. Maintenance and Repair By Owners of Dwellings. Every owner must perform promptly all maintenance and repair work within his dwelling which, if omitted, would affect the condominium in its entirety or in a part belonging to other owners, being expressly responsible for the damages and liability which his failure to do so may engender. The owner of each dwelling shall be liable and responsible for the maintenance, repair and replacement, as the case may be, of all air conditioning and heating equipment, stoves, refrigerators, fans or other appliances or equipment, including any fixtures, and/or their connections required to provide water, light, power, telephone, sewage and sanitary service to his dwelling and which may now or hereafter be situated in his dwelling. Such owner shall further be responsible and liable for maintenance, repair and replacement of any and all window glass, wall, ceiling and floor exterior surfaces, painting, decorating and furnishings, and all other accessories which such owner may desire to place or maintain in his dwelling. Wherever the maintenance, repair and replacement of any items for which the owner of a dwelling is obligated to maintain, repair or replace at his own expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by Association, the proceeds of the insurance received by Association, or the Insurance Trustee hereinafter designated, shall be used for the purpose of making such maintenance, repair or replacement, except that the owner of such dwelling shall be, in said instance, required to pay such portion of the costs of such maintenance, repair and replacement as shall, by reason of the applicability of any deductibility provision of such insurance, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement. The balcony floor, walls facing the balcony, and balcony railings attached to his dwelling shall be maintained by the owner at his expense. Provided, however, said owner shall take no action that will alter the exterior appearance of the building. Should the owner fail to provide the maintenance and/or repairs as required, the Association shall have the right to enter the dwelling to accomplish same at the sole cost and expense of the owner and said cost and expense shall be charged against the owner and shall become a lien on his dwelling in like manner as a monthly assessment.

20. Maintenance and Repair of Common Elements. Except as set out below, Association, at its expense, shall be responsible for the maintenance, repair and replacement of all of the common elements, including those portions thereof which contribute to the support of the building, but excluding exterior glass and all conduits, ducts, plumbing, wiring and other facilities located in the common elements for the furnishing of utility services to the dwellings and said common elements, and should any incidental damage be caused to any dwelling by virtue of any work which may be done or caused to be done by Association in the maintenance, repair, or replacement of any common elements, the said Association shall, at its expense, repair such incidental damage. The interior surface of walls and floors, and the doors located within the common elements shall be repaired and maintained by the owners of the dwellings to which the exclusive use is reserved, although this shall not include replacement or repair following a fire or other catastrophe or happening for which the Association carries insurance and in such case the insurance proceeds shall be used to replace or repair pursuant to the Article dealing with insurance and damage to common elements.

21. Reserves for Replacement - The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements to the common areas and those limited

common areas which the Association may be obligated to maintain. The fund shall be maintained out of regular assessments for common expenses.

22. Working Capital - A Working Capital Fund shall be required for the initial months of the Project's operation equal to at least two (2) months assessment for each unit. Each unit's share of the Working Capital Fund will be collected and transferred to the Association at the time of closing of the sale of each unit and maintained in an account for the use and benefit of the Association. (The purpose of the Fund shall be to insure that the Association's Board will have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable. Amounts paid into the Fund are not to be considered as advance payment of regular assessments.)

23. Personal Liability and Risk of Loss of Owner of Dwelling and Separate Insurance Coverage, Etc. The owner of each dwelling may, at his own expense, obtain insurance coverage for loss of or damage to any furniture, furnishings, personal effects and other personal property belonging to such owner and may, at his own expense and option, obtain insurance coverage against personal liability for injury to the person or property of another while within such owner's dwelling or upon the common elements. All such insurance obtained by the owner of each dwelling shall, wherever such provision shall be available, provided that the insurer waives its right of subrogation as to any claims against other owners of dwellings, Association, and the respective servants, agents and guests of said other owners and Association, and such other insurance coverage should be, but is not required to be, obtained from the insurance company from which Association obtains coverage against the same risk, liability or peril, if said Association has such coverage. Risk of loss of or damage to any furniture, furnishings, personal effects and other personal property (other than such furniture, furnishings and personal property constituting a portion of the common elements) belonging to or carried on the person of the owner of each dwelling, or which maybe stored in any dwelling, or in, to or upon common elements shall be borne by the owner of each such dwelling. All furniture, furnishings and personal property constituting a portion of the common elements and held for the joint use and benefit of all owners of all dwellings shall be covered by such insurance as shall be maintained in force and effect by Association as hereinafter provided. The owner of a dwelling shall have no personal liability for any damages caused by the Association or in connection with the use of the common elements. The owner of a dwelling shall be liable for injuries or damage resulting from an accident in his own dwelling, including the balcony, to the same extent and degree that the owner of a house would be liable for an accident occurring within the house. Any rental, sales or management entity utilizing any portion of the common elements shall hold the Association harmless from any claims or demands for property damage or personal injury arising by reason of the acts or negligence of such entity, its employees, servants or agents.

24. Insurance Coverage To Be Maintained By Association: Insurance Trustee, Appointment and Duties: Approval of Insurers By Institutional Lender: Use and Distribution of Insurance Proceeds, Etc. The following insurance coverage shall be maintained in full force and effect by Association covering the operation and management of the Condominium and the said Condominium, meaning the dwellings and common elements, to-wit:

(a) Casualty insurance covering all of the dwellings and common elements, in an amount equal to the maximum insurance replacement value thereof, exclusive of excavation and foundation costs, as determined annually by the insurance carrier, such coverage to afford protection against (i) loss or damage by fire or other hazards covered by the standard extended coverage or other perils endorsements; and (ii) such other risks of a similar or dissimilar nature as are or shall be customarily covered with respect to buildings similar in construction, location and use to the Condominium, including but not limited to vandalism, malicious mischief, wind storm, water damage and war risk insurance, if available.

the renewal of any policy or policies of casualty insurance, nor for the sufficiency of coverage, nor for the form or content of the policies, nor for the failure to collect any insurance proceeds.

The sole duty of the Insurance Trustee shall be to receive such proceeds of casualty insurance as are paid and to hold same in trust for the purposes herein stated, and for the benefit of Association and the owners of all dwellings and their respective mortgagees, such insurance proceeds to be disbursed and paid by the Insurance Trustee as hereinafter provided. Association, as a common expense, shall pay a reasonable fee to said Insurance Trustee for its services rendered hereunder, and shall pay such costs and expenses as said Insurance Trustee may incur in the performance of any duties and obligations imposed upon it hereunder. Said Insurance Trustee shall be liable only for its willful misconduct, bad faith or gross negligence, and then for only such money which comes into the possession of said Insurance Trustee. Wherever the Insurance Trustee may be required to make distribution of insurance proceeds to owners of dwellings and their mortgagees, as their respective interests may appear, the Insurance Trustee may rely upon a Certificate of the President and Secretary of the Association, executed under oath, and which Certificate will be provided to said Insurance Trustee upon request of said Insurance Trustee made to Association, such Certificate to certify unto said Insurance Trustee the name or names of the owners of each dwelling, the name or names of the Mortgagee or Mortgagees who may hold a mortgage or mortgages encumbering each dwelling, and the respective percentages of any distribution which may be required to be made to the owner or owners of any dwelling or dwellings, and his or their respective Mortgagee or Mortgagees, as their respective interests may appear. Where any insurance proceeds are paid to the Insurance Trustee for any casualty loss, the holder or holders of any mortgage or mortgages encumbering a dwelling shall not have the right to determine or participate in the determination of repair or replacement of any loss or damage, and shall not have the right to elect to apply insurance proceeds to the reduction of any mortgage or mortgages, unless such insurance proceeds represent a distribution to the owner or owners of any dwelling or dwellings, and their respective mortgagees, after such insurance proceeds have been first applied to repair, replacement or reconstruction of any loss or damage, or unless such casualty insurance proceeds are authorized to be distributed to the owner or owners of any dwelling or dwellings and their respective mortgagee or mortgagees, by reason of loss of or damage to personal property constituting a part of common elements and as to which a determination is made not to repair, replace or restore such personal property. So long as Lenders shall have the right to approve the amount and/or have the right to approve the company or companies with whom said casualty insurance coverage is placed, Lenders shall also have the right to approve the amount of such insurance coverage to be maintained provided, however, said coverage shall be limited to the replacement value of any building.

In the event of the loss of or damage only to common elements, real or personal property, which loss or damage is covered by the casualty insurance, the proceeds paid to the Insurance Trustee to cover such loss or damage shall be applied to the repair, replacement or reconstruction of such loss or damage. If the insurance proceeds are in excess of the cost of the repair, replacement or reconstruction of such common elements, then such excess insurance proceeds shall be paid by the Insurance Trustee to the owners of all of the dwellings and their respective mortgagees, the distribution to be separately made to the owner of each dwelling and his respective mortgagee or mortgagees, as their interests may appear, in such proportion that the share of such excess insurance proceeds paid to the owner of each dwelling and his said mortgagee or mortgagees, if any, shall bear the same ratio to the total excess insurance proceeds as does the undivided interest in common elements appurtenant to each dwelling bear to the total undivided interests in common elements appurtenant to all dwellings. If it appears that the insurance proceeds covering the casualty loss or damage payable to the Insurance Trustee are not sufficient to pay

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(b) Public liability and property damage insurance in such amounts and in such form as shall be required by Association to protect said Association and the owners of all dwellings, including but not limited to, water damage, legal liability, hired automobile, nonowned automobile and off premises employee coverage. In no event shall the property damage insurance be less than 100% of the replacement value of the buildings in the Project nor shall the public liability insurance coverage be less than \$1,000,000.00 per bodily injury.

(c) Workmen's Compensation insurance to meet the requirements of law.

(d) Such other insurance coverage, other than title insurance, as the Board of Directors of Association, in its sole discretion may determine from time to time to be in the best interests of Association and the owners of all of the dwellings or as an institutional type lender may reasonably require so long as it is the owner of a mortgage on any dwelling.

All liability insurance maintained by association shall contain cross liability endorsements to cover liability of all owners of dwellings as a group to each dwelling owner.

All insurance coverage authorized to be purchased shall be purchased by Association for itself and for the benefit of all of the owners of the dwellings. The cost of obtaining the insurance coverage authorized above is declared to be a common expense, as are any other fees and expenses incurred which may be necessary or incidental to carrying out the provisions hereof.

All policies of casualty insurance covering the Condominium shall provide for the insurance proceeds covering any loss to be payable to the Insurance Trustee named as hereinafter provided, or to its successor, and the insurance proceeds from any casualty loss shall be held for the use and benefit of Association and all of the owners of all dwellings and their respective Mortgagees, as their interests may appear, and such insurance proceeds shall be applied or distributed in the manner herein provided. Association is hereby declared to be and appointed as Authorized Agent for all of the owners of all dwellings for the purpose of negotiating and agreeing to a settlement as to the value and extent of any loss which may be covered under any policy of casualty insurance, and is granted full right and authority to execute in favor of any insurer a release of liability arising out of any occurrence covered by any policy or policies of casualty insurance and resulting in loss of or damage to insured property.

So long as any lender or its assignee of its rights in this Declaration (which assignment shall be evidenced by a recordable document, a certified copy of which shall be furnished the Association), hereinafter referred to as lenders, is the holder of a mortgage on any dwelling in the Condominium, said lenders shall have the right to approve the company or companies with whom Association shall place its casualty insurance coverage, and such casualty insurance coverage shall only be placed by Association with such company or companies as are approved by such lenders. At such time as lenders shall not hold a mortgage on any dwellings, then the company or companies with whom such casualty insurance may be placed shall be selected by Association, and all parties beneficially interested in such insurance coverage shall be bound by such selection of insurance company or companies made by Association.

The Association shall have the right to designate the Insurance Trustee and all parties beneficially interested in such insurance coverage shall be bound thereby.

The Insurance Trustee shall be a banking institution having trust powers and doing business in the State of North Carolina. The Insurance Trustee shall not be liable for the payment of premiums nor for

for the repair, replacement or reconstruction of the loss or damage, or that the insurance proceeds when collected will not be so sufficient, then Association shall deposit with the Insurance Trustee a sum which, together with the insurance proceeds received or to be received, will enable said Insurance Trustee to completely pay for the repair, replacement or reconstruction of any loss or damage, as the case may be. The monies to be deposited by Association with the Insurance Trustee, in said latter event, may be paid by Association out of its Reserve for Replacements Fund, and if the amount in such Reserve for Replacements Fund is not sufficient, then Association shall levy and collect an assessment against the owners of all dwellings and said dwellings in an amount which shall provide the funds required to pay for said repair, replacement or reconstruction.

In the event of the loss of or damage to more than seventy five (75%) per cent of the dwellings contained in the Condominium which loss or damages is covered by casualty insurance a called meeting of the unit owners shall be held by the Board of Directors and a determination shall be made by a majority vote of the unit owners as to whether or not the common elements and dwellings shall be repaired or replaced or reconstructed and in the event that the unit owners determine that the repairs shall not be made the proceeds of said insurance shall be first applied to any outstanding mortgages on any dwelling or common element and paid on a pro-rata basis to the unit owners in accordance with their percentages of ownership. In the event of the loss of or damage to less than seventy five (75%) per cent of the common elements and any dwellings which loss or damages covered by casualty insurance the proceeds paid to the Insurance Trustee to cover such loss or damage shall be first applied to the repair, replacement or reconstruction, as the case may be, of common elements, real or personal, and then any remaining insurance proceeds shall be applied to the repair, replacement or reconstruction of any dwelling or dwellings which may have sustained any loss or damage so covered. If the insurance proceeds are in excess of the cost of the repair, replacement or reconstruction of the common elements, and the insurance proceeds shall be paid and distributed by the Insurance Trustee to the owners of all dwellings, and to their mortgagee or mortgagees, as their respective interests may appear, such distribution to be made in the manner and in the proportions as are provided hereinbefore. If it appears that the insurance proceeds covering the casualty loss or damage payable to the Insurance Trustee are not sufficient to pay for the repair, replacement or reconstruction of the loss or damage, or that the insurance proceeds when collected will not be so sufficient, then the Board of Directors of Association shall, based upon reliable and detailed estimates obtained by it from competent and qualified parties, determine and allocate the cost of repair, replacement or reconstruction between the common elements and the dwelling or dwellings, sustaining any loss or damage. If the proceeds of said casualty insurance are sufficient to pay for the repair, replacement or reconstruction of any loss of or damage to common elements, but should the same not be sufficient to repair, replace or reconstruct any loss of or damage to any dwelling or dwellings, then Association shall levy and collect an assessment from the owner or owners of the dwelling or dwellings sustaining any loss or damage, and the assessment so collected from said owner or owners shall be deposited with said Insurance Trustee so that the sum on deposit with said Insurance Trustee shall be sufficient to completely pay for the repair, replacement or reconstruction of all common elements, and dwelling or dwellings. In said latter event, the assessment to be levied and collected from the owner or owners of each dwelling or dwellings sustaining loss or damage shall be apportioned between such owner or owners in such manner that the assessment levied against each owner of a dwelling and his dwelling shall bear the same proportion to the total assessment levied against all of said owners of dwellings sustaining loss or damage as does the cost of repair, replacement or reconstruction of each owner's dwelling bear to the cost applicable to all of said dwellings sustaining loss or damage. If the casualty insurance proceeds payable to the Insurance Trustee in the event of the loss of or damage to common elements, and dwelling or dwellings is not in an amount which will pay for the complete repair, replacement or

reconstruction of the common elements, it being recognized that such insurance proceeds are to be first applied to payment for repair, replacement, or reconstruction of said common elements before being applied to the repair, replacement or reconstruction of a dwelling or dwellings, then the cost to repair, replace or reconstruct said common elements in excess of available casualty insurance proceeds shall be levied and collected as an assessment from all of the owners of all dwellings in the same manner as would such assessment be levied and collected had the loss or damage sustained been solely to common elements and the casualty insurance proceeds not been sufficient to cover the cost of repair, replacement or reconstruction, and the cost of repair, replacement or reconstruction of each dwelling or dwellings sustaining loss or damage shall then be levied and collected by assessment of the owner or owners of dwelling or dwellings sustaining the loss or damage in the same manner as is above provided for the apportionment of such assessment between the owner and owners of dwelling or dwellings sustaining such loss or damage.

In the event of loss of or damage to property covered by such casualty insurance, Association shall, within sixty (60) days after any such occurrence, obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before such loss or damage, such estimates to contain and include the cost of any professional fees and premium for such Bond as the Board of Directors of Association may deem to be in the best interests of the membership of said Association. Wherever it shall appear that the insurance proceeds payable for such loss or damage will not be sufficient to defray the cost of the repair, replacement or reconstruction thereof, the additional monies required to completely pay for such repair, replacement, or reconstruction of said loss or damage, whether to be paid by all of the owners of dwellings or only by the owner or owners of any dwelling or dwellings sustaining loss or damage, or both, shall be deposited with said Insurance Trustee not later than thirty (30) days from the date on which said Insurance Trustee shall receive the monies payable under the policy or policies of casualty insurance.

In the event of the loss of or damage to personal property belonging to Association, the insurance proceeds, when received by the Insurance Trustee, shall be paid to Association. In the event of the loss of or damage to personal property constituting a portion of the common elements, and should the Board of Directors of Association determine not to replace such personal property as may be lost or damaged, then the insurance proceeds received by the Insurance Trustee shall be paid to all of the owners of all dwellings and their respective mortgagee or mortgagees, as their interests may appear, in the manner and in the proportions hereinbefore provided for the distribution of excess insurance proceeds.

25. Apportionment of Tax or Special Assessment If Levied and Assessed Against the Condominium as a Whole. In the event that any taxing authority having jurisdiction over the condominium shall levy or assess any Tax or Special Assessment against the condominium, as a whole, as opposed to levying and assessing such Tax or Special Assessment against each dwelling and its appurtenant undivided interest in common elements as now provided by law, then such Tax or Special Assessment so levied shall be paid as a common expense by Association, and any Taxes or Special Assessments which are to be so levied shall be included, wherever possible, in the estimated Annual Budget of Association, or shall be separately levied and collected as an assessment by Association against all of the owners of all dwellings and said dwelling if not included in said Annual Budget. The amount of any Tax or Special Assessment paid or to be paid by Association in the event that such Tax or Special Assessment is levied against the Condominium, as a whole, instead of against each separate dwelling and its appurtenant undivided interest in common elements shall be apportioned among the owners of all dwellings so that the amount of such Tax or Special Assessment so paid by the owner or owners of each dwelling shall be that portion of such total Tax or Special Assessment which bears the same ratio to said total Tax or Special Assessment as the

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undivided interest to each dwelling bears to the total undivided interest in common elements appurtenant to all dwellings. In the event that any Tax or Special Assessment shall be levied against the condominium in its entirety, without apportionment by the taxing authority to the dwellings and appurtenant undivided interests in common elements then the assessment by Association, which shall include the proportionate share of such Tax or Special Assessment attributable to each dwelling and its appurtenant undivided interest in common elements, shall separately specify and identify the amount of such assessment attributable to such Tax or Special Assessments, and the amount of such Tax or Special Assessment so designated shall be and constitute a lien prior to all mortgages and encumbrances upon any dwelling and its appurtenant undivided interest in common elements, regardless of the date of the attachment and/or recording of such mortgage or encumbrance, to the same extent as though such Tax or Special Assessment had been separately levied by the taxing authority upon each dwelling and its appurtenant undivided interest in common elements.

All personal property taxes levied or assessed against personal property owned by Association shall be paid by said association and shall be included as a common expense in the Annual Budget of the Association.

26. Association to Maintain Registry of Owners and Mortgages. Association shall at all times maintain a Register setting forth the names of the owners of all of the dwellings, and in the event of sale or transfer of any dwelling to a third party, the purchaser or transferee shall notify Association in writing of his interest in such dwelling together with such recording information as shall be pertinent to identify the instrument by which such purchaser or transferee has acquired his interest in any dwelling. Further the owner of each dwelling shall at all times notify Association of the names of the parties holding any mortgage or mortgages on any dwelling, the amount of such mortgage or mortgages, and the recording information which shall be pertinent to identify the mortgage or mortgages. The holder of any mortgage or mortgages upon any dwelling may, if he so desires, notify Association of the existence of any mortgage or mortgages held by such party on the dwelling, and upon receipt of such notice, Association shall register in its records all pertinent information pertaining to the same.

27. Mortgagee's Rights - The Association shall make available to Unit Owners, lenders, holders, insurers or guarantors of any first mortgage, current copies of the Master Deed, By-Laws, or other rules concerning the Property Regime and the books, records and financial statements of the Association. As herein referred to the word "available" shall mean available for inspection upon request during normal business hours or under other reasonable circumstances. In addition, the holder of any first mortgage on any unit in the Condominium Regime shall be entitled, upon written request, to a financial statement for the immediately preceding fiscal year of the Owners Association.

Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the Unit number or address any mortgagee, insurer or guarantor shall be entitled to timely written notice of:

(a) Any condemnation or casualty loss that affects either a material portion of the Project or the Unit securing its mortgage;

(b) Any 60 day delinquency in the payment of assessments or charges owed by the Owner of any Unit on which it holds a mortgage;

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

(d) Any proposed action that requires the consent of a specified percentage of mortgage holders.

28. Assessments: Liability, Lien and Enforcement. The Association, is given the authority to administer the operation and management of the condominium, it being recognized that the delegation of such duties to one entity is in the best interests of the owners of the dwellings. To properly administer the operation and management of the project, Association will incur, for the mutual benefit of all of the owners of dwellings, costs and expenses which will be continuing or nonrecurring costs, as the case may be, which costs and expenses are sometimes herein referred to as "common expense." To provide the funds necessary for such proper operation and management, the said Association has heretofore been granted the right to make, levy and collect assessments against the owners of all dwellings and said dwellings. In furtherance of said grant of authority to Association to make, levy and collect assessments to pay the costs and expenses for the operation and management of the Condominium, the following provisions shall be operative and binding upon the owners of all dwellings, to-wit:

A. All assessments levied against the owners of dwellings and said dwellings shall be uniform and, unless specifically otherwise provided for in this Declaration, the assessments made by Association shall be in such proportion that the amount of assessment levied against each owner of a dwelling and his dwelling shall bear the same ratio to the total assessment made against all owners of dwellings and their dwellings as does the undivided interest in common elements appurtenant to each dwelling bear to the total undivided interest in common elements appurtenant to all dwellings. Should Association be the owner of any dwelling or dwellings, the assessment which would otherwise be due and payable to Association by the owner of such dwelling or dwellings, reduced by an amount of income which may be deprived from the leasing such dwelling or dwellings by Association, shall be apportioned and assessment therefor levied ratably among the owners of all dwellings which are not owned by Association, based upon all dwellings which are not owned by Association, based upon their proportionate interests in the common elements exclusive of the interest therein appurtenant to any dwelling or dwellings owned by Association.

B. The assessment levied against the owner and his dwelling shall be payable in monthly installments. Each new owner shall pay an initial assessment equal to two months condominium fee in addition to the pro-rata balance of the Association fees due at the end of the quarter in which the closing occurs.

C. The Board of Directors of Association shall establish an Annual Budget in advance of each fiscal year which shall correspond to the calendar year, and such Budget shall project all expenses for the forthcoming year which may be required for the proper operation, management and maintenance of the condominium, including a reasonable allowance for contingencies and reserves, such Budget to take into account projected anticipated income which is to be applied in reduction of the amount required to be collected as an assessment each year. Upon adoption of such Annual Budget by the Board of Directors of Association, copies of said Budget shall be delivered to each owner of a dwelling and the assessment for said year shall be established based upon such Budget, although the delivery of a copy of said Budget to each owner shall not affect the liability of any owner for such assessment. Should the Board of Directors at any time determine, in the sole discretion of said Board of Directors, that the assessments levied are or may prove to be insufficient to pay the costs of operation and management of the condominium, or in the event of emergencies, said Board of Directors shall have the authority to levy such additional assessment or assessments as it shall deem to be necessary.

D. The Board of Directors of Association, in establishing said Annual Budget for operation, management and maintenance of the Project shall include therein a sum to be collected and maintained as reserve fund for replacement of common elements, which reserve fund shall be for the purpose of enabling Association to replace structural elements and mechanical equipment constituting a part of the common elements as well as

the replacement of personal property which may constitute a portion of the common elements held for the joint use and benefit of all of the owners of all dwellings. The amount to be allocated to such Reserve Fund for Replacements shall be established by said Board of Directors so as to accrue and maintain at all times a sum reasonably necessary to anticipate the need for replacements of said common elements. The amount collected and allocated to the Reserve Fund for Replacements from time to time shall be maintained in a separate account by Association, although nothing herein contained shall limit Association from applying any monies in such Reserve Fund for Replacements to meet other needs or requirements of Association in operating or managing the Project in the event of emergencies, or in the event that the sums collected from the owners of dwellings are insufficient to meet the then fiscal financial requirements of Association, but it shall not be a requirement that these monies be used for such latter purposes, as a separate assessment may be levied therefor if deemed to be preferable by the Board of Directors of Association in the sole discretion of said Board of Directors.

E. The Board of Directors of Association, in establishing said Annual Budget for operation, management and maintenance of the Project, shall include therein a sum to be collected and maintained as a general operating service which shall be used to provide a measure of financial stability during periods of special stress when such sums may be used to meet deficiencies from time to time existing as a result of delinquent payment of assessments by owners of dwellings, as a result of emergencies or for other reason placing financial stress upon the Association. Any dwelling owner shall have the right, upon request of the Secretary of the Association to review the books of the Association during reasonable business hours.

F. All monies collected by Association shall be treated as the separate property of the said Association, and such monies may be applied by the said Association to the payment of any expense of operating and managing the condominium, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration and the Articles of Incorporation and By-Laws of said Association and as the monies for any assessment are paid unto Association by any owner of a dwelling the same may be co-mingled with the monies paid to the said Association by the other owner of dwellings. Although all funds and other assets of Association, and any increments thereto or profits derived therefrom, or from the leasing or use of common elements, shall be held for the benefit of the members of Association, who shall own any common surplus in the proportions of their percentage of undivided interest in the condominium, no member of said Association shall have the right to assign, hypothecate, pledge or in any manner transfer this membership interest therein, except as an appurtenance to his dwelling.

G. The payment of any assessment or installment thereof due to Association shall be in default if such assessment, or any installment thereof, is not paid unto Association, on or before the due date for such payment. When in default, the Board of Directors may accelerate the remaining installments to the annual assessment upon notice thereof to the dwelling owner, whereupon the entire unpaid balance of the annual assessment shall become due upon the date stated in the notice, which shall not be less than ten (10) days after the date of the notice. In the event any assessment, installment, or accelerated assessments are not paid within twenty (20) days after their due date, the Association, through its Board of Directors, may proceed to enforce and collect the said assessments against the dwelling owner owing the same in any manner provided for by the Act, including the right to foreclosures and sale. When in default, the delinquent assessment or delinquent installment thereof due to Association shall bear interest at the rate of 8% per annum until such delinquent assessment or installment thereof, and all interest due thereon, has been paid to Association.

H. The owner or owners of each dwelling shall be personally liable to Association for the payment of all assessments, regular or special, which may be levied by Association while such party or parties are owner or owners of a dwelling in the condominium. In the event that any owner or owners are in default in payment of any assessment or installment thereof owed to the Association, such owner or owners of any dwelling shall be personally liable for interest on such delinquent assessment or installment thereof as above provided, and for all cost of collecting such assessment or installment thereof and interest thereon, including a reasonable attorney's fee, whether suit be brought or not.

I. No owner of a dwelling may exempt himself from liability for any assessment levied against such owner and his dwelling by waiver of the use or enjoyment of any of the common elements, or by abandonment of the dwelling, or in any other manner.

J. Recognizing that the necessity for providing proper operation and management of the Project entails the continuing payment of costs and expenses therefor, which results in benefit to all of the owners of dwellings, and that the payment of such common expenses represented by the assessments levied and collected by Association is necessary in order to preserve and protect the investment of the owner of each dwelling, Association is hereby granted a lien upon such dwelling and its appurtenant undivided interest in common elements, which lien shall secure and does secure the monies due for all assessments now or hereafter levied against the owner of each dwelling, which lien shall also secure interest, if any, which may be due on the amount of any delinquent assessments owing to Association, and which lien shall also secure all costs and expenses, including a reasonable attorney's fee, which may be incurred by Association in enforcing this lien upon said dwelling and its appurtenant undivided interest in the common elements. The lien granted to Association may be foreclosed in the same manner as mortgages may be foreclosed in the State of North Carolina, and in any suit for the foreclosure of said lien, the Association shall be entitled to rental from the owner of any dwelling from the date on which the payment of any assessment or installment thereof became delinquent and shall be entitled to the appointment of a Receiver for said dwelling. The rental required to be paid shall be equal to the rental charged on comparable type of Dwelling Units in the coastal areas of North Carolina. The lien granted to the Association shall further secure such advances for taxes, and payments on account of superior mortgages, liens, or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien, and the Association shall further be entitled to interest at the rate of 8% per annum on any such advances made for such purpose. All persons, firms or corporations who shall acquire, by whatever means, any interest in the ownership of any dwelling, or who may be given or acquire a mortgage, lien or other encumbrance thereon, is hereby placed on notice of the lien granted to Association, and shall acquire such interest in any dwelling expressly subject to such lien.

K. The lien herein granted unto Association shall be effective from and after the time of recording in the Public Records of New Hanover County, North Carolina, a claim of lien stating the description of the dwelling encumbered thereby, the name of the record owner, the amount due and the date when due, and the lien shall continue in effect until all sums secured by said lien, as herein provided, shall have been fully paid. Such claims of lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorney's fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claims or lien shall be signed, and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record. The claim of lien filed by the Association shall be subordinate to the lien of any mortgage or any other lien recorded prior to the time of recording of the Association's Claim of Lien.

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In the event that any person, firm or corporation shall acquire title to any dwelling and its appurtenant undivided interest in common elements by virtue of any foreclosure or judicial sale or by conveyance in lieu of foreclosure, such person or firm or corporation so acquiring title shall only be liable and obligated for such assessments as shall accrue and become due and payable for said dwelling and its appurtenant undivided interest in common elements subsequent to the time of acquisition of such title, and shall not be liable for the payment of any assessments which were in default and delinquent at the time it acquired such title subject to the lien of any assessment by Association representing an apportionment of Taxes or Special Assessment levied by taxing authorities against the condominium in its entirety. In the event of the acquisition of title to a dwelling by foreclosure or judicial sale, any assessment or assessments as to which the party so acquiring title shall not be liable and shall be absorbed and paid by all owners of all dwellings as a part of the common expense, although nothing herein contained shall be construed as releasing the party liable for such delinquent assessment from the payment thereof or the enforcement of collection of such payment by means other than foreclosure.

L. Whenever any dwelling may be sold or mortgaged by the owner thereof, which sale shall be concluded only upon compliance with other provisions of this Declaration, Association, upon written request of any owner of such dwelling, shall furnish to the proposed purchaser or mortgagee, a statement verifying the status of payment of any assessment which shall be due and payable to Association by the owner of such dwelling. Such statement shall be executed by any Officer of the Association and any purchaser or mortgagee may rely upon such statement in concluding the proposed purchase or mortgage transaction, and Association shall be bound by such statement. In the event that a dwelling is to be sold or mortgaged at the time when payment of any assessment against the owner of said dwelling and such dwelling due to Association shall be in default (whether or not a claim of lien has been recorded by the Association) then the proceeds of such purchase or mortgage proceeds, shall be applied by the purchaser or mortgagee first to payment of any then delinquent assessment or installment thereof due to Association before the payment of any proceeds of purchase or mortgage proceeds to the owner of any dwelling who is responsible for payment of such delinquent assessment.

In any voluntary conveyance of a dwelling, the Grantee shall be jointly and severally liable with the Declarant for all unpaid assessments against Declarant made prior to the title of such voluntary conveyance, without prejudice to the rights of the Grantee to recover from the Declarant the amounts paid by the Grantee therefor.

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

Notwithstanding anything in this Declaration to the contrary, it is declared that until each dwelling (condominium unit) in Phase I shall be exempt from the assessment created herein until such time as the dwelling is conveyed by the Declarant to the Grantee. Except as expressly provided herein, no dwelling and its appurtenant percentage interest shall be exempt from said assessment. Moreover, until such time as a dwelling is conveyed by the Declarant, to a grantee, the Declarant shall be assessed and pay to the Association in lieu of an assessment thereof a sum equal to the actual amount of actual operating expenditures for the calendar year less an amount equal to the total assessments made by the Association against owners of dwellings other than those owned by Spinnaker Pointe Ltd. The actual operating expenditures for this purpose

shall also include any reserves for replacements or operating reserves. Commencing 1 January 1986, the Declarant shall be subject to the assessments as provided for in this Declaration so that it will pay assessments on the same basis provided for under this Declaration as the same are paid by dwelling owners. This paragraph shall not apply to additional phases but may be amended to reflect the addition of future phases.

29. Termination of Contracts - Spinnaker Pointe Homeowners Association prior to the passage of control by the Developer, is not bound either directly or indirectly to contracts or leases executed by the Developer unless there is a right of termination of any of such contracts or leases without cause which is to be exercisable without penalty by the Association at any time after transfer of control upon not more than ninety (90) days notice to the other party.

30. Termination.

(a) All of the unit owners may remove the property from the provisions of Chapter 47A, General Statutes of North Carolina by an instrument to that effect, duly recorded, provided that the holders of all liens affecting any of the dwellings consent thereto or agree, in either case by instruments duly recorded, that their liens be transferred to the percentage of the undivided interest of the unit owner in the property as hereinafter provided.

(b) Upon removal of the property from the provisions of Chapter 47A, General Statutes of North Carolina, the property shall be deemed to be owned as tenants in common by the unit owners. The Undivided interest in the property owned as tenants in common which shall pertain to each unit owner shall be the percentage of the undivided interest previously owned by such unit owner in the common areas and facilities.

(c) The removal provided for hereinabove shall in no way bar the subsequent readmission of the property to the provisions of Chapter 47A, General Statutes of North Carolina.

31. Amendment of Declaration. Except for any alteration in the percentage of ownership in common elements appurtenant to each dwelling, or alteration of the basis of apportionment of assessments which may be levied by Association in accordance with the provisions hereof, in which said instances consent of all of the owners of all dwellings and their respective mortgagees shall be required, and except for any alteration, amendment or modification of the rights and privileges granted and reserved hereunder in favor of Declarant, Spinnaker Pointe Ltd., and the Lender which said rights and privileges granted and reserved unto the said Declarant and the Lender shall only be altered, amended or modified with the respective express written consent of the said Declarant or Lender, as the case may be, this Declaration may be amended in the following manner:

An amendment or amendments to this Declaration may be proposed by the Board of Directors of Association acting upon a vote of the majority of the Directors, or by the members of Association owning a majority of the dwellings in the condominium, whether meeting as members or by instrument in writing signed by them. Upon any amendment or amendments to the Declaration being proposed by said Board of Directors or members, such proposed amendment or amendments shall be transmitted to the President of Association, or other Officer of Association in the absence of the President, who shall thereupon call a Special Meeting of the members of Association for a date not sooner than twenty (20) days nor later than sixty (60) days from receipt by him of the proposed amendment or amendments and it shall be the duty of the Secretary to give to each member written or printed notice of such Special Meeting, stating time and place thereof, and reciting the proposed amendment or amendments in reasonable detailed form, which notice shall be mailed not less than ten

(10) days nor more than thirty (30) days before the date set for such Special Meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States Mail addressed to the member at his Post Office address as it appears on the records of Association, the postage thereon prepaid. Any member may, by written waiver of notice signed by such member, waive such notice and such waiver, when filed in the records of Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such member. At such meeting, the amendment or amendments proposed must be approved by an affirmative vote of all the members owning a dwelling in the condominium in order for such amendment or amendments to become effective. Thereupon, such amendment or amendments of this Declaration shall be transferred and certified by the President and Secretary of Association as having been duly adopted, and the original or an executed copy of such amendment or amendments so certified and executed with the same formalities as a Deed shall be recorded in the Public Records of New Hanover County, North Carolina, within ten (10) days from the date on which the same became effective, such amendment or amendments to specifically refer to the recording data identifying the Declaration. Thereafter, a copy of said amendment or amendments in the form in which the same were placed of record by the Officers of Association shall be delivered to all of the owners of all dwellings and mailed to the mortgagees listed in the Registry required to be maintained by Article 24 hereof, but delivery and mailing of a copy thereof shall not be a condition precedent to the effectiveness of such amendment or amendments. At any meeting held to consider such amendment or amendments, the written vote of any member of Association shall be recognized if such member is not in attendance at such meeting or represented by proxy, provided such written vote is delivered to the Secretary of Association at or prior to such meeting. Furthermore, no amendment to this Declaration shall be adopted which would operate to affect the validity or priority of any Mortgage held by a Mortgagee or which would alter, amend or modify in any manner whatsoever the rights, powers and privileges granted and reserved herein in favor of any Mortgagee or in favor of Declarant (including, without limitation, the consent rights set forth in this sentence) without the consent of all such Mortgagees or Declarant as the case may be.

32. Remedies In Event of Default. The owner or owners of each dwelling shall be governed by and shall comply with the provisions of this Declaration, and the Articles of Incorporation and the By-Laws of Association and its rules and regulations as any of the same are now constituted or as they may be adopted and/or amended from time to time. A default by the owner or owners of any dwelling shall entitle Association or the owner or owners of other dwelling or dwellings to the following relief:

A. Failure to comply with any of the terms of this Declaration or other restrictions and regulations contained in the Articles of Incorporation, By-Laws of Association, or its rules and regulations, shall be grounds for relief which may include without intending to limit the same, an action to recover sums due for damages, injunctive relief, foreclosure of lien or any combination thereof and which relief may be sought by Association or, if appropriate, by an aggrieved owner of a dwelling.

B. The owner or owners of each dwelling shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, or by that of any member of his family, or his or their guests, employees, agents, or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a dwelling or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies or rights of subrogation.

C. In any proceeding arising because of an alleged default by the owner of any dwelling, the Association, if successful, shall be entitled to recover the costs of the proceedings, and such reasonable attorney's fees as may be determined by the Court, but in no event shall the owner of any dwelling be entitled to such attorney's fees.

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

E. All rights, remedies and privileges granted to Association or to the owner or owners of a dwelling pursuant to any terms, provisions, covenants or conditions of this Declaration or other above mentioned documents, shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising the same from exercising such other and additional right, remedies or privileges as may be available to such party at law or in equity.

F. The failure of the Declarant, Spinnaker Pointe Ltd., or the Lender to enforce any right, privilege, covenant, or condition which may be granted to them, or either of them, by this Declaration or other above mentioned documents shall not constitute waiver of the right of either of said parties to thereafter enforce such right, provision, covenant or condition in the future.

33. Use or Acquisition of Interest In the Condominium to Render User or Acquirer Subject to Provisions of Declaration, Rules and Regulations. All present or future owners, tenants, or any other person who might use the facilities of the condominium in any manner, are subject to the provisions of this Declaration and all documents appurtenant hereto and incorporated herewith, and the mere acquisition or rental of any dwelling, or the mere act of occupancy of any dwelling or use of common elements, shall signify that the provisions of this Declaration are accepted and ratified in all respects.

34. Right of Declarant to Sell or Lease Dwellings Owned by It: And Right of Declarant to Representation on Board of Directors of Association. So long as the Declarant herein, Spinnaker Pointe Ltd., shall own any dwelling, the said Declarant shall have the absolute right to lease or sell any such dwelling to any person, firm or corporation, upon any terms and conditions as it shall deem to be in its own best interest. In addition, should any mortgagee or holder of a Deed of Trust acquiring title through foreclosure or by deed in lieu of foreclosure it shall likewise have the absolute right to lease or sell any such dwellings to any person, firm or corporation upon any terms and conditions as it deems to be in its own best interest. Further, so long as any phase or phases of the condominium project have not been submitted to the Unit Ownership Act or the Declarant is the owner of five (5) or more dwellings, then Declarant shall have the right to designate and select the persons who shall serve as members of each Board of Directors of the Association. Whenever Declarant shall be entitled to designate and select any person or persons to serve on any Board of Directors of Association the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or By-Laws of Association, and Declarant shall have the right to remove any person or persons selected by it to act and serve on said Board of Directors and to replace such person or persons with another person or other persons to act and serve in the place of any Director or Directors so removed for the remainder of the unexpired term of any Director or Directors so removed. Any Director designated and selected by Declarant need not be a resident in the condominium. The power of the Declarant to designate Directors as above referred to shall terminate unless sooner waived on the 1st day of July, 1990; provided, however, that so long as there shall exist a construction

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or land acquisition lien created by Mortgage or Deed of Trust, the Declarant shall not waive its rights to designate Directors as above referred to without the express written consent of said Mortgagee or holder of a Deed of Trust.

The power of the Declarant to designate Directors as above referred to shall terminate upon the earlier of the following events:

(a) Four (4) months after seventy five (75%) per cent of the units in the Project (all Phases) have been conveyed to unit purchasers; or

(b) The fifth anniversary date following the first unit conveyance to a purchaser in Phase I of Spinnaker Pointe. The terms "control" means the right of the Declarant to control the Homeowners Association, the Association's Board, the Project or the Unit Owners Association in any manner except through votes allocated to units it owns on the same basis as votes pertaining to sold units.

Any representative of Declarant serving on the Board of Directors of Association shall not be required to disqualify himself upon any vote upon any management contract or other matter between Declarant and Association where the said Declarant may have a pecuniary or other interest. Similarly, Declarant as a member of Association, shall not be required to disqualify itself in any vote which may come before the membership of Association upon any management contract or other matter between Declarant, and Association where Declarant, may have a pecuniary or other interest.

35. Severability. In the event that any of the terms, provisions or covenants of this Declaration are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holding shall not affect, alter, modify or impair in any manner whatsoever any of the other terms, provisions or covenants hereof or the remaining portions of any terms, provisions or covenants held to be partially invalid or unenforceable.

36. Liberal Construction and Adoption of Provisions of Condominium Act. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan of Condominium ownership. The North Carolina General Statute entitled "Unit Ownership Act", in particular Chapter 47A thereof as the same may be amended from time to time thereafter is hereby adopted and expressly made a part hereof. In the event of any conflict between the provisions of this Declaration and the Unit Ownership Act of North Carolina as the same may be amended, shall take the place of the provisions in conflict with the Declaration.

37. Declaration Binding Upon Developer Grantor or Declarant, Its Successors and Assigns, and Subsequent Owners. The restrictions and burdens imposed by the covenants of this Declaration are intended to and shall constitute covenants running with the land, and shall constitute an equitable servitude upon each dwelling and its appurtenant undivided interest in common elements and this Declaration shall be binding upon Declarant, its successors and assigns, and upon all parties who may subsequently become owners of dwellings in the condominium, and their respective heirs, legal representatives, successors and assigns.

38. Definitions. - For the purposes of this Declaration and the By-Laws of the Association, hereinafter defined, the following definitions for the terms used herein and therein shall apply unless otherwise defined by the contest thereof.

A. Act - Shall mean and refer to the Unit Ownership Act, Chapter 47A of The General Statutes of the State of North Carolina, as such may be supplemented or amended from time to time. In the event of any conflict between the provisions of this Declaration and the Unit

Ownership Act of North Carolina (Chapter 47A, General Statutes of North Carolina), said Act shall control.

B. Association - Shall mean and refer to SPINNAKER POINTE UNIT OWNERS ASSOCIATION, INC., the mandatory association of all unit owners.

C. Assessment - Shall mean and refer to a share of the funds required for the payment of the common expenses, on a regular basis or on a special assessment basis (which shall be collected in addition to the regular condominium fee assessment), as herein defined, of the Association which from time to time shall be levied or assessed against the unit owner by the Association.

D. Building - Shall mean and refer to the three (3) multi-unit residential structures which Declarant has constructed upon the real property described in Exhibit "A" and all future multi-unit residential structures which may be constructed on lands described in Exhibit "B" and hereafter added to the Condominium Regime in accordance with the terms of this Declaration.

There are fifty four (54) units in Phase I, eighteen (18) located in each of the three (3) buildings. The three buildings located in Phase I consist of three (3) stories each. Each building contains six (6) two bedroom units with den and twelve (12) two bedroom units without den. The buildings have been principally constructed of wood. There are no basements.

Building A contains units 101, 106, 201, 206, 301, and 306, each of which contains 1176 square feet of heated floor space and 112 square feet of deck area. In addition, Building A contains units 102, 103, 104, 105, 202, 203, 204, 205, 302, 303, 304 and 305, each of which contains 912 square feet of heated floor space and 96 square feet of balcony space.

Building B contains units 107, 112, 207, 212, 307 and 312, each of which contains 1176 square feet of heated floor space and 112 square feet of deck area. In addition, Building B contains units 108, 109, 110, 111, 208, 209, 210, 211, 308, 309, 310 and 311, each of which contains 912 square feet of heated floor space and 96 square feet of balcony space.

Building C contains units 113, 118, 213, 218, 313, and 318, each of which contains 1176 square feet of heated floor space and 112 square feet of deck area. In addition, Building C contains units 114, 115, 116, 117, 214, 215, 216, 217, 314, 315, 316 and 317, each of which contains 912 square feet of heated floor space and 96 square feet of balcony space.

Each unit will be conveyed by its unit and building number and letter. No unit bears the same designation as any other unit.

Access to each building is provided through two (2) stairwells located at each end of the building which are joined by exterior hallways extending along the length of the building and provide access to each unit on each of the three (3) levels.

All built-in kitchen appliances, the refrigerator, air conditioning and heating system, dishwasher, hot water heater, and stacked washer/dryer located in each unit are a part of the unit in which they are located and not common elements. The balcony adjacent to each unit, including the railings adjacent to the same, are a part of each unit and are not common areas or elements.

All stairwells and hallways located in each building shall constitute a portion of the common elements.

Unit or Condominium Unit shall mean and refer to any of those fifty four (54) subdivisions of enclosed spaces within the three (3) buildings, together with any additional areas or spaces accompanying the same as defined hereinbelow, and which are intended to or will be sold as dwelling units pursuant to the act and this Declaration. A deed for any particular unit should convey such unit by its unit and building designation.

Each unit has two (2) bedrooms, a living/dining/kitchen area with bar, two (2) full baths, three (3) clothes closets and a closet housing the hot water heater and the air handling equipment. In addition, all units except Units 101, 106, 201, 206, 301 and 306 in Building A, Units 107, 112, 207, 212, 307 and 312 in Building B, and Units 113, 118, 213, 218, 313, and 318 in Building C contain a closet housing the washer and dryer connections. Units 101, 106, 201, 206, 301 and 306 in Building A, Units 107, 112, 207, 212, 307 and 312 in Building B, and Units 113, 118, 213, 218, 313 and 318 in Building C, also contain a den and an additional clothes closet.

The definition stated herein for "Unit" is complete and all other aspects of the condominium not hereinabove defined as a part of the unit is defined hereby as a part of the common areas and facilities of the condominium.

The specifics, such as style, construction, materials, and finishes of the buildings and the units located therein are best described in the plans of the buildings which are shown in Exhibit "C" attached hereto and made a part hereof by reference, and which control in case of conflict with the provisions hereof.

E. Board - Shall mean and refer to the Board of Directors of the Association and Director shall mean and refer to a member of said Board.

F. By-Laws - Shall mean and refer to those By-Laws of the Association providing for the government of the Association as they are duly adopted and amended from time to time by the Association. A copy of the initial By-Laws are attached hereto as Exhibit "D" and made a part hereof by reference.

G. Common Areas/Common Elements and Facilities - Generally shall mean and refer to all of the real property, described on Exhibit "A", and all of the improvements and facilities thereof which are not units, as defined hereinafter, and which are not items of personal property owned, held, and maintained by unit owners. Without in any way limiting the generality of the foregoing, the common areas shall include, but not be limited to, the following:

1. All of the real property more particularly described in Exhibit "A" attached hereto, reference to which is hereby made for a more particular description;

2. All foundations, columns, girders, beams, supports, roofs, ventilation fans and vents, load bearing walls, including all exterior and all interior walls (except nonload bearing partition walls wholly within a unit) of the buildings;

3. All stairways, stairwells and stairs and their components which give access to the units.

4. All yards, garden areas, parking and drive areas and sidewalks, and boardwalks;

5. All installations of and facilities, apparatus, conduits, and equipment for the provision of all utility services, including, but not limited to, all water and sewer services, electricity, heating, air

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conditioning, telephone, irrigation, trash disposal, if any, and cable TV, if any, supplied for the common use and convenience of the unit owners, and which are not defined as part of the units, hereinbelow;

6. All other portions of the real property and the improvements thereon which are not specifically a part of the units themselves, as hereinafter defined, or owned by unit owners as personal property, shall be common areas and facilities intended for the common and necessary or convenient use and enjoyment, existence, maintenance or safety of the condominium project.

H. Common Expenses - Shall mean and refer to the total cost and expense incurred by the Association (as hereinbefore provided) for the administration, maintenance, operation, enjoyment, safety, repair, and replacement (including a capital reserve for repair, maintenance, and replacement) of the common areas and facilities as well as any other expense incurred by the Association pursuant to the fulfillment of its obligations and purposes as stated herein and labeled as common expenses. Common expense is additionally intended to mean and refer to any expense incurred by the Association as shall be hereinafter agreed upon by the Association of unit owners as common expenses of the Association.

I. Common Surplus - Shall mean and refer to the balance of all revenues of the Association remaining after the deduction of the common expenses.

J. Condominium - Shall mean and refer to all of the real property and the buildings, improvements and structures, easements and rights of way and appurtenances belonging thereto and all articles of personal property intended for common use in connection therewith included in Phase I described in Exhibit "A" attached hereto and all future Phases that may be submitted in accordance with the provisions of Paragraph 7 hereof and in accordance with the provisions of the Act and the supplements and amendments hereto as are provided hereinabove.

K. Declarant - Shall mean and refer to Spinnaker Pointe Ltd., a North Carolina Corporation.

L. Declaration - Shall mean and refer to this instrument as it may from time to time be lawfully amended or supplemented.

M. Majority or Majority of Unit Owners - Shall mean and refer to the owners of fifty-one (51%) per cent of the aggregate interest in the common areas and facilities, as established by this Declaration hereinabove, assembled at a duly called meeting of the unit owners.

N. Person - Shall mean and refer to individual, corporation, partnership, association, trustee, or other legal entity.

39. The following named individual is designated as the person to receive service of process for the Association:

John Sheahan
1000 N. Lake Park Boulevard
Carolina Beach, North Carolina 28424

IN WITNESS WHEREOF, the Declarant, Spinnaker Pointe Ltd., has caused this Declaration of Condominium to be executed the day and

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year first above written.

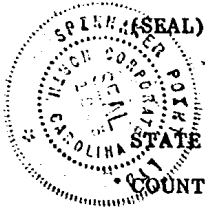
Signed, Sealed and Delivered
In the Presence of

Neil S. Campbell
W.C. Coffey, Jr.

SPINNAKER POINTE LTD.,

By: James A. Ham
President
ATTEST:

Donald F. Hardee
Secretary



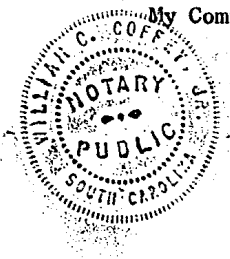
STATE OF SOUTH CAROLINA)
COUNTY OF CLARENDON)

I, W. C. Coffey, Jr. a Notary Public in and for the State and County aforesaid, do hereby certify that Donald F. Hardee personally appeared before me this day and acknowledged that he is Secretary of SPINNAKER POINT, LTD., a North Carolina Corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its corporate name by its President, sealed with its corporate seal, and attested by himself as its Secretary.

WITNESS my hand and notarial seal this 27th day of March, 1985.

W.C. Coffey, Jr.
Notary Public

My Commission Expires: 11/19/89



STATE OF NORTH CAROLINA
New Hanover County
The Foregoing Certificate of
William Cf Coffey, Jr.
Notary Public
is certified to be correct.
This the 28 day of June 1985.

Rebecca P. Tucker, Register of Deeds
By Mary Sue Oles, Asst.

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EXHIBIT "A"

Description of Property

PHASE I

All that piece, parcel or tract of land lying, being and situate on the North End of Pleasure Island, in the City of Carolina Beach, County of New Hanover, State of North Carolina, containing 4.55 acres being designated as Tract No. 1-A (Phase I Develop) on the Plat hereinafter referred to and being more particularly described as follows:

Beginning at a point on the Eastern side of the right of way of the Northern terminus of Georgia Avenue of Carolina Beach, North Carolina proceeding North 9° 4' West 25 feet to a point; thence N 18° 26' East 231.84 feet to a point; thence N 80° 56' East 175.25 feet to a point; thence S 71° 34' East 122 feet to a point; thence S 18° 26' West 152 feet to a point; thence S 71° 34' East 118 feet to a point; thence S 9° 4' East 208 feet to a point; thence S 80° 56' West 138.5 feet to a point; thence S 9° 4' East 162 feet to a point; thence S 80° 56' West 26.5 feet to a point; thence N 9° 4' West 25 feet to a point; thence S 80° 56' West 155 feet to a point; thence N 9° 4' West 60 feet to a point; thence S 80° 56' West 105 feet to a point; thence N 9° 4' West 300 feet to the point of beginning.

Reference is hereby made to a plat made by Jack G. Stocks, R.L.S., dated June 14, 1984, and to a subdivision plat for Phase I Development made by Tynes, Seamon & Whiteside, Architects and Engineers, dated July 1984 attached hereto as a portion of Exhibit "C".

TOGETHER with a 20 foot easement of right of way as shown on Exhibit "C" extending from the Northeastern most point of the above described tract in an Easterly direction across Tract 1-B hereinafter described in Exhibit "B" and reflected on a plat contained in Exhibit "C". Said easement of right of way to provide access for ingress and egress from Tract 1-A to the boardwalk facility across the marshlands to the ocean front which easement shall measure 20 feet in width on its Eastern and Western boundary. Said easement shall be perpetual in nature and shall run with the ownership of the above described tract. PROVIDED, HOWEVER, the Developer specifically reserves unto itself the right to relocate said easement as it in its sole discretion may determine to be necessary in the development of further Phases of the Project.

DESCRIPTION

of

COMMON AREA MARSHLANDS AND BEACH FRONTAGE

All that piece, parcel or tract of land lying, being and situate on the North end of Pleasure Island, in the City of Carolina Beach, County of New Hanover, State of North Carolina, containing 48 acres, more or less, being designated as "Third Tract" on the plat hereinafter referred to and being more particularly described as follows: BEGINNING at the point of intersection of the Western right of way line of Canal Drive (40 foot right of way) with the Northern right of way line of 17th. Avenue (25 foot right of way) as shown on map Northern section Carolina Beach, and recorded in Map Book 3 at Page 67 of the New Hanover County Registry; Running thence with the Western right of way line of Canal Drive, South 28 degrees 06

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minutes West 24.91 feet to a point; Running thence North 61 degrees 54 minutes West 150.67 feet to a point in the edge of marsh; Running thence with the edge of marsh, South 44 degrees 29 minutes West 59.11 feet, South 00 degrees 24 minutes East 45.0 feet, South 59 degrees 36 minutes West 70.0 feet, South 85 degrees 36 minutes West 100.0 feet, South 08 degrees 54 minutes East 35.0 feet, South 27 degrees 54 minutes East 85.0 feet, South 77 degrees 06 minutes West 105.0 feet, South 21 degrees 06 minutes West 80.0 feet, South 04 degrees 54 minutes East 90.0 feet and South 42 degrees 54 minutes East 80.0 feet to a point in the Western line of the Northern Extension #1 of Carolina Beach as shown on Map recorded in Map Book 18 at Page 103 of the New Hanover County Registry; Running thence with the Western line of said Northern Extension, South 28 degrees 06 minutes West 690.0 feet to a point; Running thence North 61 degrees 54 minutes West 503.39 feet to a point; Running thence North 09 degrees 04 minutes West 403.39 feet to a point in the edge of marsh; Running thence with said marsh, North 71 degrees 04 minutes 30 seconds East 139.83 feet, South 70 degrees 52 minutes East 81.69 feet, North 24 degrees 17 minutes 30 seconds West 37.95 feet, North 33 degrees 49 minutes East 49.05 feet, South 47 degrees 22 minutes East 33.98 feet, North 32 degrees 33 minutes East 58.55 feet, North 10 degrees 23 minutes 30 seconds West 103.81 feet, North 50 degrees 58 minutes West 82.45 feet, North 78 degrees 57 minutes West 44.48 feet, North 28 degrees 20 minutes 30 seconds East 59.05 feet, North 17 degrees 46 minutes 30 seconds West 56.50 feet, North 21 degrees 50 minutes 30 seconds East 39.41 feet, North 13 degrees 34 minutes 30 seconds West 70.31 feet, North 58 degrees 04 minutes 30 seconds East 54.75 feet, North 11 degrees 01 minute East 75.35 feet, North 45 degrees 24 minutes East 34.45 feet, North 28 degrees 04 minutes East 44.09 feet, North 00 degrees 41 minutes 30 seconds East 122.56 feet, North 02 degrees 16 minutes 30 seconds West 53.54 feet, North 28 degrees 53 minutes West 79.20 feet, North 11 degrees 33 minutes West 69.02 feet, North 25 degrees 36 minutes West 88.69 feet, North 40 degrees 44 minutes 30 seconds West 94.32 feet, North 20 degrees 29 minutes 30 seconds West 65.04 feet, North 30 degrees 07 minutes West 46.88 feet, North 72 degrees 45 minutes 30 seconds West 83.59 feet, and North 51 degrees 51 minutes 30 seconds West 299.53 feet; Running thence North 34 degrees 45 minutes East 17.32 feet to a point in the Southern line of the Freeman Heirs Tract; Running thence with the southern line of the Freeman Heirs Tract, South 86 degrees 44 minutes East 1967.87 feet to a point on the Western edge of the Atlantic Ocean; Running thence the same course continued South 86 degrees 44 minutes East 50.0 feet to a point in the high water line of the Atlantic Ocean; Running thence Southwardly along the high water line of the Atlantic Ocean to a point in the Northern right of way line of 17th. Avenue; Said point being located South 61 degrees 54 minutes East from the point of beginning; Running thence with the Northern right of way line of 17th. Avenue, North 61 degrees 54 minutes West 50.0 feet to a point that is located South 16 degrees 06 minutes West 1088.55 feet from the above mentioned point on the Western edge of the Atlantic Ocean; running thence with the Northern right of way line of 17th. Avenue, North 61 degrees 54 minutes West 251.55 feet to the point of beginning. Containing 48 acres more or less.

Reference is hereby made to a plat made by Jack G. Stocks, R.L.S., dated June, 1983, attached hereto as a portion of Exhibit "C".

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EXHIBIT "B"

Description of Land of Future Phases
of Spinnaker Pointe Condominiums

All that piece, parcel or tract of land lying, being and situate in the City of Carolina Beach, on the North End of Pleasure Island, New Hanover County, North Carolina, containing 16.22 acres, being designated as Tract 1-B on the Plat hereinafter referred to and being more particularly described as follows:

Beginning at a point on the Northeastern terminus of Georgia Avenue of the City of Carolina Beach, North Carolina proceeding S 80° 56' West 170 feet to a point; thence N 9° 4' West 42.14 feet to a point; thence N 72° 54' 30" East 70.49 feet to a point; thence N 17° 54' 30" East 1144.99 feet to a point; thence S 86° 44' East 60 feet to a point; thence S 34° 45' West 17.32 feet to a point; thence S 51° 51' 30" East 299.53 feet to a point; thence S 72° 45' 30" East 83.59 feet to a point; thence S 30° 7' East 46.88 feet to a point; thence S 20° 29' 30" East 65.64 feet to a point; thence S 40° 44' 30" East 94.32 feet to a point; thence S 25° 36' East 88.69 feet to a point; thence S 11° 33' East 69.02 feet to a point; thence S 28° 53' East 79.2 feet to a point; thence S 2° 16' 30" East 53.54 feet to a point; thence S 00° 41' 30" West 122.56 feet to a point; thence S 28' 4" West 44.09 feet to a point; thence S 45° 24' West 34.45 feet to a point; thence S 11° 1' West 75.35 feet to a point; thence S 58° 4' 30" West 54.75 feet to a point; thence S 13° 34' 30" East 70.31 feet to a point; thence S 21° 50' 30" West 39.41 feet to a point; thence S 17° 46' 30" East 56.4 feet to a point; thence S 28° 20' 30" West 59.05 feet to a point; thence S 78° 57' East 44.84 feet to a point; thence S 50° 58' East 82.45 feet to a point; thence S 10° 23' 30" East 103.81 feet to a point; thence S 32° 33' West 58.55 feet to a point; thence N 47° 22' West 39.98 feet to a point; thence S 33° 49' West 49.05 feet to a point; thence S 24° 17' 30" East 37.95 feet to a point; thence N 70° 52' West 81.69 feet to a point; thence S 71° 4' 30" West 139.83 feet to a point; thence N 9° 4' West 25 feet to a point; thence S 80° 56' West 60 feet to a point; thence N 9° 4' West 370 feet to a point; thence N 71° 34' West 118 feet to a point; thence N 18° 26' East 152 feet to a point; thence N 71° 34' West 122 feet to a point; thence N 80° 56' West 175.25 feet to a point; thence N 18° 26' East 231.84 feet to a point; thence S 9° 4' East 25 feet to the point of beginning.

Reference is hereby made to a plat by Jack G. Stocks, R.L.S., dated June 14, 1984, and to a subdivision plat for Phase I Development made by Tynes, Seamon & Whiteside, Architects and Engineers, dated July 1984 attached hereto as a portion of Exhibit "C".

SUBJECT, HOWEVER, to that certain easement of right of way measuring 20 feet on its Eastern and Western boundary extending from the Eastern most portion of Tract 1-A on the plat hereinabove referred to extending to a walkway across the marshlands to the ocean front as reflected on said plat.

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Page C-1

Site Plan - Phase 1

Page C-2

Area Plat reflecting Sales Office Location, Tract 1-A (Phase I Development), Tract 1-B (Additional Phases of Condominium Development, and Tract 2 (Not included in Condominium Regime).

Page C-3

Area Plat reflecting the 48 acres, more or less, entitled "Third Tract" containing marsh area and beach frontage dedicated as common area, and other lands of the Declarant.

TYNES, SEAMON AND WHITESIDE
ARCHITECTS
1000 WEST 10TH AVENUE, SUITE 1000
DENVER, COLORADO 80202
PHONE: (303) 733-1100

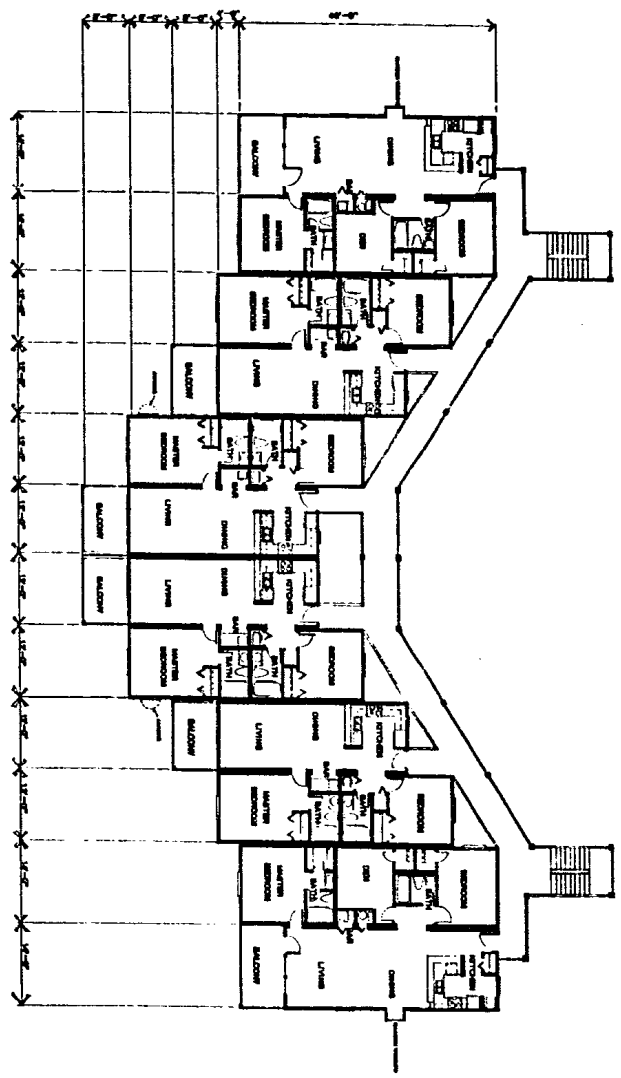
COKER BUILDERS, INC.
1001 1/2 WEST 10TH AVENUE, SUITE 1000
DENVER, COLORADO 80202
PHONE: (303) 733-1100

SPRINGDALE POINTS

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMITS	11/11/93
2	ISSUED FOR CONSTRUCTION	11/11/93
3	ISSUED FOR OCCUPANCY	11/11/93
4	ISSUED FOR RECORDS	11/11/93

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TYPICAL FLOOR PLAN



STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

ARCHITECT'S CERTIFICATE

I certify to the best of my knowledge, information and belief that Pages numbered 1 through 6 to this "Exhibit C" and the plot plan of the property, adequately and accurately depict the land, layout, location, ceiling and floor elevation, unit numbers and dimensions of units, building designation and location of the common areas and facilities affording access to each unit and that the same is an accurate copy of portions of the plans of the buildings filled with and approved by the City of Carolina Beach, North Carolina, in accordance with the requirements of Unit Ownership Act of North Carolina.



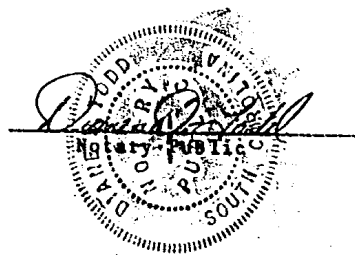
TYNES, SEAMON AND WHITESIDE

By: *Russell E. Tynes*
Russell E. Tynes, AIA

STATE OF SOUTH CAROLINA :
COUNTY OF CHARLESTON :

I, *Diane D. Todd*, a Notary Public in and for the State and County aforesaid, do hereby certify that RUSSELL E. TYNES, Registered Architect, personally appeared before me this date, and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and Notarial Seal, this the *31st* day of October, 1984.



My commission expires:
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES SEPT. 19, 1989
DIANE D. TODD

EXHIBIT "D"

BY-LAWS

of

SPINNAKER POINTE UNIT OWNERS ASSOCIATION, INC.

A corporation not for profit under
the laws of the State of North Carolina

1. IDENTITY:: These are the By-Laws of SPINNAKER POINTE UNIT OWNERS ASSOCIATION, INC., a nonprofit corporation under the laws of the State of North Carolina, the Articles of Incorporation of which were filed in the Office of the Secretary of State on 12 December, 1984. SPINNAKER POINTE UNIT OWNERS ASSOCIATION, INC., hereinafter called "Association", has been organized for the purpose of administering the operation and management of SPINNAKER POINTE, PHASE I (and future phases, if any), a condominium established or to be established in accordance with the laws of the State of North Carolina upon the property situate, lying and being in New Hanover County, North Carolina, and described in Exhibit "A" hereto attached and made a part hereof.

A. The provisions of these By-Laws are applicable to SPINNAKER POINTE, PHASE I, and all future phases, if any, and the terms and provisions hereof are expressly subject to the terms, provisions, conditions and authorization contained in the Articles of Incorporation and which may be contained in the formal Declaration of Condominium, as supplemented from time to time, which will be recorded in the Public Records of New Hanover County, North Carolina, at the time said property and the improvements now or hereafter situated thereon are submitted to the plan of condominium ownership, the terms and provisions of said Articles of Incorporation and Declaration of Condominium, as supplemented, to be controlling wherever the same may be in conflict herewith.

B. All present or future owners, tenants, future tenants, or their employees, or any other person that might use SPINNAKER POINTE Condominium, all phases, or any of the facilities thereof in any manner, are subject to the regulations set forth in these By-Laws and in said Articles of Incorporation and Declaration of Condominium.

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C. The office of the Association shall be at 1000 N. Lake Park Boulevard, Carolina Beach, North Carolina, 28428. The registered agent at said address is John Sheahan.

D. The fiscal year of the Association shall be the calendar year, except that in the initial year of operation of the Condominium, the fiscal year shall commence with the closing of the sale of the first Condominium unit.

2. MEMBERSHIP, VOTING, QUORUM, PROXIES:

A. The qualification of members, the manner of their admission to membership and termination of such membership, and voting by members, shall be as set forth in Article VI of the Articles of Incorporation of the Association, the provisions of which said Article VI of the Articles of Incorporation are incorporated herein by reference.

B. A quorum at members' meetings shall consist of persons entitled to cast a majority of the votes of the entire membership. The joinder of a member in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such person for the purpose of determining a quorum.

C. The vote of the owners of a Condominium unit owned by more than one person or by a corporation or other entity shall be cast by the one person named in a certificate signed by all of the owners of the Condominium unit and filed with the Secretary of the Association, and such certificate shall be valid until revoked by subsequent certificate. If such a certificate is not on file, the vote of such owners shall not be considered in determining the requirement for a quorum, nor for any other purpose.

D. Votes may be cast in person or by proxy. Proxies shall be valid only for the particular meeting designated thereon and must be filed with the Secretary before the appointed time of the meeting.

E. Approval or disapproval of a unit owner upon any matter, whether or not the subject of an Association meeting, shall be by the same person who cast the vote of such owner if in an Association meeting.

F. Except where otherwise required under the provisions of the Articles of Incorporation of the Association, these By-Laws, the Declaration of Condominium, or whether the same may otherwise be required by law, the affirmative vote of the persons entitled to cast a majority of the votes at any duly called members' meeting at which a quorum is present shall be binding upon the members.

3. ANNUAL AND SPECIAL MEETING OF MEMBERSHIP:

A. The first annual meeting shall be held within one (1) year from the date of incorporation of the Association. Until such time, the Association shall be managed and controlled by the initial Board of Directors as provided for in Article 4 hereinbelow. The annual members' meeting shall thereafter be held at 10:00 a.m., E.D.T. at the office of the Association on the third Saturday in May of each year for the purpose of electing Directors and of transacting any other business authorized to be transacted by the members, provided, however, that if the day is a legal holiday, the meeting shall be held at the same hour on the next succeeding Saturday.

B. Special members' meetings shall be held whenever called by the President or Vice President or by a majority of the Board of Directors and must be called by such officers upon receipt of a written request from members of the Association owning a majority of the Condominium units.

C. Notice of all members' meetings, regular or special, shall be given by the President, Vice President or Secretary of the Association, or other officer of the Association in absence of said officers, to each member, unless waived in writing, such notice to be written or printed and to state the time and place and object for which the meeting is called. Such notice shall be given to each member not less than ten (10) days or more than thirty (30) days prior to the date set for such meeting, which notice shall be mailed or presented personally to each member within said time. If presented personally, receipt of such notice shall be signed by the member, indicating the date on which such notice was received by him.

If mailed, such notice shall be deemed to be properly given when deposited in the United States mail addressed to the member at his post office address as it appears on the records of the Association (register of owners) as of the date of mailing such notice, the postage thereon prepaid. Proof of such mailing shall be given by the affidavit of the person giving the notice. Any member may, by signed written waiver of notice, waive such notice and, when filed in the records of the Association whether before or after the holding of the meeting, such waiver shall be deemed equivalent to the giving of notice to the member. If any members' meeting cannot be organized because a quorum has not attended, or because the greater percentage of the membership required to constitute a quorum for particular purposes has not attended (wherever the latter percentage of attendance may be required as set forth in the Articles of Incorporation, these By-Laws or the Declaration of Condominium) the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum, or the required percentage of attendance, if greater than a quorum, is present.

D. The order of business at annual members' meetings and, as far as practical, at any other members' meetings, shall be:

- i) Calling of the roll and certifying of proxies;
- ii) Proof of notice of meeting or waiver of notice;
- iii) Reading and disposal of any unapproved minutes;
- iv) Reports of officers
- v) Reports of Committees
- vi) Appointment of inspectors of election by Chairman;
- vii) Unfinished business;
- viii) New business; and
- ix) Adjournment.

4. BOARD OF DIRECTORS:

A. The first Board of Directors of the Association shall consist of five (5) persons whose terms shall expire on the date of the first annual meeting of the members of the Association stated hereinabove. Each succeeding Board of Directors shall consist of five (5) persons, each of whom must be either an owner, a representative of the Developer, or an employee of a corporate owner. Notwithstanding the foregoing, so long as

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any Phase or Phases of the Condominium Project have not been submitted to the Unit Ownership Act or the Declarant is the owner of five (5) or more dwellings, then the Declarant shall have the right to designate and select the persons who shall serve as members of each Board of Directors of the Association. Whenever Declarant shall be entitled to designate as select any person or persons to serve on any Board of Directors of the Association the manner in which such person or persons shall be designated at the Annual Meeting of the Association held for the election of officers and directors by the Declarant delivering to the Secretary of the Corporation the names of those persons to serve as Directors. Should the Declarant fail to designate persons in writing by submitting their names in the above manner, then and in that event the entire members of the Board shall be elected as herein provided. The Declarant shall also have the right to remove any person or persons selected by it to act and to serve on said Board of Directors and to replace such person or persons with other persons to act and serve in place of any Director or Directors so removed for the remainder of the unexpired term of any Director so removed by delivering the name of the substitute Director in writing to the Secretary of the Corporation. Any Director designated and selected by the Declarant need not be a resident in the Condominium. The powers of the Declarant to designate Directors as above referred to shall terminate unless sooner waived on the first day of July, 1990; provided, however, that so long as there shall exist a construction or land acquisition lien created by Mortgage or Deed of Trust, the Declarant shall not waive its right to designate Directors as above referred to without the express written consent of said Mortgagee or holder of Deed of Trust. The power of the Declarant to designate Directors as above referred to shall terminate upon the earlier of the following events:

(a) Four (4) months after seventy five (75%) of the units in the Project (all Phases) have been conveyed to unit purchasers; or

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(b) The fifth anniversary date following the first unit conveyance to a purchaser in Phase I of Spinnaker Pointe. The terms "control" means the right of the Declarant to control the Homeowners Associations, the Association's Board, the Project or the Unit Owners Association in any manner except through votes allocated to units it owns on the same basis as votes pertaining to sold units;

(c) In the event neither of the above occur the power of the Declarant to so designate shall terminate on the first day of July, 1990.

Any representative of Declarant, serving on the Board of Directors of the Association shall not be required to disqualify himself upon any vote upon any management contract or other matter between Declarant and the Association where the said Declarant, may have a pecuniary or other interest. Similarly, Declarant, as a member of Association, shall not be required to disqualify itself in any vote which may come before the membership of the Association upon any management contract or other matter between Declarant and Association where Declarant may have a pecuniary or other interest.

B. Election of Directors shall be conducted in the following manner upon the expiration of Declarant's right to appoint them as hereinabove provided:

(1) Beginning with the first annual meeting of the membership of the Association, stated hereinabove, all members of the Board of Directors shall be elected by a plurality of the votes cast at the annual meeting of the members of the Association.

(ii) Vacancies in the Board of Directors may be filled until the date of the next annual meeting by the remaining Directors.

(iii) At the first annual meeting of the members of the Association, the term of office of the three (3) Directors receiving the highest plurality of votes shall be established at two (2) years, and the terms of office of the other two (2) Directors shall be established at one

(1) year. Thereafter, as many Directors of the Association shall be elected at the annual meeting as there are regular terms of office of Directors expiring at such time, and the term of office of the Directors so elected at the annual meeting of the members each year shall be for two (2) years expiring at the second annual meeting following their election, and thereafter until their successors are duly elected and qualified, or until removed in the manner elsewhere provided or as may be provided by law.

(iv) In the election of Directors, there shall be appurtenant to each Condominium unit a total vote equal to the number of Directors to be elected multiplied by the unit's appurtenant undivided interest in the common area as set forth in the Declaration; provided, however, that no member or owner of one (1) Condominium unit may cast a vote greater than the unit's appurtenant undivided interest in the common area for any one person nominated as a Director, it being the intent hereof that voting for Directors shall be noncumulative.

(v) In the event that the Developer, in accordance with the rights herein established, selects any person or persons to serve on any Board of Directors of the Association, Developer shall have the absolute right at any time, in its sole discretion, to replace such person or persons with another person or persons to serve on said Board of Directors. Replacement of any person or persons designated by Developer to serve on any Board of Directors of the Association shall be made by written instrument delivered to any officer of the Association, which instrument shall specify the name or names of the person or persons to be replaced and the name or names of the person or persons designated as successor or successors to the persons so removed from said Board of Directors. The removal of any Director and designation of his successor shall be effective immediately upon delivery of such written instrument by Developer to any officer of the Association.

C. The organizational meeting of each newly elected Board of Directors shall be held within ten (10) days of their election, at such

time and at such place as shall be fixed by the Directors at the meeting at which they were elected, and no further notice of the organizational meeting shall be necessary, provided a quorum shall be present.

D. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegram, at least three (3) days prior to the day named for such meeting, unless notice is waived.

E. Special meetings of the Directors may be called by the President, and must be called by the Secretary at the written request of one-third (1/3) of the votes of the Board. Not less than three (3) days' notice of a meeting shall be given to each Director, personally or by mail, telephone or telegram, which notice shall state the time, place and purpose of the meeting.

F. Any Director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice.

G. A quorum at a Directors' meeting shall consist of the Directors entitled to cast a majority of the votes of the entire Board. The acts of the Board approved by a majority of the votes cast at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except as specifically otherwise provided in the Articles of Incorporation or these By-Laws or the Declaration of Condominium. If any Directors' meeting cannot be organized because a quorum has not attended, or because the greater percentage of the Directors required to constitute a quorum for particular purposes has not attended, wherever the latter percentage of attendance may be required as set forth in the Articles of Incorporation, these By-Laws or Declaration of Condominium, the Directors who are present may adjourn the meeting from time to time until a quorum, or the required percentage of attendance if greater than a quorum, is present. At any adjourned meeting, any business that might have been

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transacted at the meeting as originally called may be transacted without further notice. The joinder of a Director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such Director for the purpose of determining a quorum.

H. The presiding officer of Directors' meetings shall be the Chairman of the Board, if such an officer has been elected; and if none, then the President of the Association shall preside. In the absence of the presiding officer, the Directors present shall designate one of their number to preside.

I. Directors' fees, if any, shall be determined by vote of the members at any annual meeting of the membership.

J. All of the powers of and duties of the Association shall be exercised by the Board of Directors, including those existing under the common law and statutes, the Articles of Incorporation of the Association, these By-Laws and the Declaration of Condominium. Such powers and duties shall be exercised in accordance with said Articles of Incorporation, these By-Laws and the Declaration of Condominium, and shall include, without limiting the generality of the foregoing, the following:

(i) To make, levy and collect assessments against members and members' Condominium units to defray the costs of the Condominium, as provided for in Article XXV of the Declaration of Condominium which Article is herein incorporated by reference, and to use the proceeds of said assessments in the exercise of the powers and duties granted unto the Association.

(ii) To maintain, repair, replace, operate and manage the common areas and facilities wherever the same is required to be done and accomplished by the Association for the benefit of its members; and, further, to approve any expenditures made or to be made for said purposes.

(iii) To reconstruct any part of the common property after casualty in accordance with Article XXII of the Declaration of Condominium, and to make further improvement to the common property,

real and personal, and to enter into any and all contracts necessary or desirable to accomplish said purposes.

(iv) To make, amend, and enforce regulations governing the use of the common property and Condominium units so long as such regulations or amendments thereto do not conflict with the restrictions and limitations which may be placed upon the use of such property under the terms of the Articles of Incorporation and Declaration of Condominium.

(v) To acquire, operate, lease, manage, and otherwise trade and deal with the property, real and personal, including Condominium units in the Condominium as may be necessary or convenient in the operation and management of the Condominium, and in accomplishing the purposes set forth in the Declaration of Condominium, provided that the acquisition of real property other than Condominium units shall require the approval of the membership.

(vi) To acquire now, or at any time hereafter, and to enter into leases and agreements whereby the Association acquires leaseholds, memberships, and other possessory or use interests in land or facilities including, but not limited to, swimming pools, tennis and other recreational facilities whether or not contiguous to the lands of the Condominium to provide enjoyment, recreation, or other use or benefit to the owners of Condominium units.

(vii) To contract for the management of the Condominium and to designate to such contractor all of the powers and duties of the Association, except those which may be required by the Declaration of Condominium to have approval of the Board of Directors or membership of the Association.

(viii) To enforce by legal means or proceedings the provisions of the Articles of Incorporation and By-Laws of the Association, the Declaration of Condominium and the regulations hereinafter promulgated governing use of the common property in the Condominium.

(ix) To pay all taxes and assessments which are now or may become liens against any part of the Condominium units and the appurtenances thereto and to assess the same against the members and their respective Condominium units subject to such liens.

(x) To purchase insurance for the protection of the members and the Association against casualty and liability in accordance with Article XXII of the Declaration of Condominium.

(xi) To pay all costs of power, water, sewer and other utility services rendered to the Condominium and not billed to the owners of the separate Condominium units.

(xii) To designate and remove personnel necessary for the utility services rendered to the Condominium and not billed to the owners of the separate Condominium units.

K. The initial Board of Directors of the Association shall be comprised of the five (5) persons designated to act and serve as Directors in the Articles of Incorporation, which said persons shall serve until their successors are selected or elected at the first annual meeting of the members of the Association provided for hereinabove. Should any member of the initial Board of Directors be unable to serve for any reason, SPINNAKER POINTE, LTD. shall have the right to select and designate a party to act and serve as a Director until the first annual meeting of the members of the Association.

L. The undertakings and contracts authorized by the initial Board of Directors shall be binding upon the Association in the same manner as though such undertakings and contracts had been authorized by any Board of Directors duly elected by the membership after the property identified herein has been submitted to the plan of condominium ownership, so long as such undertakings and contracts are within the scope of the powers and duties which may be exercised by the Board of Directors of the Association in accordance with all applicable Condominium documents.

M. Any one or more of the members of the Board of Directors may be removed, either with or without cause, at any time by a

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vote of the members owning a majority of the Condominium units in the Condominium, at any special meeting called for such purpose, or at the annual meeting; provided, however, that only the Developer shall have the right to remove a Director appointed by it.

N. The Association shall indemnify and save any member of the Board of Directors harmless from any action taken by them on behalf of the Association when said action is taken in accordance with the terms and conditions of these By-Laws, the Articles of Incorporation and the Declaration.

5. OFFICERS:

A. The executive officers of the Association shall be a President, who shall be a Director, a Vice President, a Treasurer, a Secretary and an Assistant Secretary, all of whom shall be elected annually by the Board of Directors and who may be preemptorily removed by a vote of the Directors at any meeting. Any person may hold two or more officers, except that the President shall not also be Vice President, Secretary or an Assistant Secretary. The Board of Directors shall, from time to time, elect such other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

B. The President shall be the Chief Executive Officer of the Association. He shall have all of the powers and duties which are usually vested in the office of the President of any association, including, but not limited to, the power to appoint committees from among the members from time to time, as he may, in his discretion, determine appropriate to assist in the conduct of the affairs of the Association.

C. The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Directors.

D. The Secretary shall keep the minutes of all proceedings of the Directors and the members. He shall attend to the giving and

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servicing of all notices to the members and Directors, and such other notices required by law. He shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of Secretary of an association and as may be required by the Directors or the President. The Assistant Secretary shall perform the duties of Secretary when the Secretary is absent.

E. The Treasurer shall have custody of all of the property of the Association, including funds, securities and evidences of indebtedness. He shall keep, or supervise the keeping of, the assessment rolls and accounts of the members; he shall keep the books of the Association in accordance with good accounting practices; and he shall perform all other duties incident to the office of Treasurer.

F. The compensation of all officers and employees of the Association shall be fixed by the Directors. This provision shall not preclude the Board of Directors from employing a Director as an employee of the Association, nor preclude the contracting with a Director for the management of the Condominium.

G. All officers shall serve at the pleasure of the Board of Directors and any officer may be removed from office at any time, with or without cause, by a majority vote of the Board of Directors.

H. The Association shall indemnify and save any Officer of the Association harmless from any action taken by them on behalf of the Association when said action is taken in accordance with the terms and conditions of these By-Laws, the Articles of Incorporation and the Declaration.

6. FISCAL MANAGEMENT: The provisions for fiscal management of the Association set forth in the Declaration of Condominium and Articles of Incorporation shall be supplemented by the following provisions:

A. An assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Condominium unit. Such account shall designate the name and address of the unit owner or owners, the amount of each assessment against the owners, the dates and amounts in which assessments come due, the amounts paid upon the account and the balance due upon assessments.

B. The Board of Directors shall adopt a budget for each calendar year which shall contain estimates of the cost of performing the functions of the Association, including, but not limited to, the following:

(i) Common expense budget, which may include, without limiting the generality of the foregoing, the estimated amounts necessary for maintenance and operation of and capital improvements to the common property including landscaping, street and walkways, office expense, utility service, casualty insurance, liability insurance, administration and reserves (operating and capital improvement replacement), management fees and costs of maintaining leaseholds, memberships, and other possessory or use interests in lands or facilities whether or not contiguous to the lands of the Condominium, to provide enjoyment, recreation or other use or benefit to the unit owners; and

(ii) Proposed assessments against each member and his unit.

Copies of the proposed budget assessments shall be transmitted to each member prior to January 1 of the year for which the budget is made. If the budget is subsequently amended before the assessments are made, a copy of the amended budget shall be furnished to each member concerned. Delivery of a copy of any budget or amended budget to each member shall not affect the liability of any member for any such assessments, nor shall delivery of a copy of such budget or amended budget be considered as a condition precedent to the effectiveness of said budget and assessments levied pursuant thereto, and nothing herein contained shall be construed as restricting the right of the Board of Directors, at any time in their sole discretion, to levy any additional

assessments in the event that the budget originally adopted shall appear to be insufficient to pay costs and expenses of operation and management, or in the event of emergencies.

C. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the Directors.

D. An audit of the accounts of the Association shall be made annually by a certified public accountant, and a copy of the report shall be furnished to each member not later than April 15 of the year following the year for which the report is made.

E. Fidelity bonds shall be required of the Board of Directors and all officers and employees of the Association and from any contractor handling or responsible for Association funds. The amount of such bonds shall be determined by the Directors. The premiums on such bonds shall be paid by the Association.

7. PARLIAMENTARY RULES: Roberts Rules of Order (latest edition) shall govern the conduct of corporate proceedings when not in conflict with the Articles of Incorporation and these By-Laws or with the Statutes of the State of North Carolina.

8. AMENDMENTS TO BY-LAWS: Amendments to these By-Laws shall be proposed and adopted in the following manner:

A. Amendments to these By-Laws may be proposed by the Board of Directors of the Association acting upon a vote of the majority of the Directors, or by members of the Association owning a majority of the Condominium units in SPINNAKER POINTE, all phases, whether meeting as members or by instrument in writing signed by them.

B. Upon any amendment or amendments to these By-Laws being proposed by said Board of Directors or members, such proposed amendment or amendments shall be transmitted to the President of the Association, or other officer of the Association in the absence of the President, who shall thereupon call a special joint meeting of the members

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of the Board of Directors of the Association and the membership for a date not sooner than twenty (20) days or later than sixty (60) days from receipt by such officer of the proposed amendment or amendments and it shall be the duty of the Secretary to give to each member written or printed notice of such meeting in the same form and in the same manner as notice of the call of a special meeting of the members if required as herein set forth.

C. In order for such amendment or amendments to become effective, the same must be first approved by the holders of any Deeds of Trust or Mortgages covering units or real estate contained in Spinnaker Points, and the same must be approved by an affirmative vote of a majority of the entire membership of the Board of Directors and by an affirmative vote of the members owning not less than a majority (fifty-one percent) of the condominium units in the Condominium. Thereupon, such amendment or amendments to these By-Laws shall be transcribed, certified by the President and Secretary of the Association, and a copy thereof shall be recorded in the Public Records of New Hanover County, North Carolina, within ten (10) days from the date on which any amendment or amendments have been affirmatively approved by the Directors or members. No amendment shall become operative or effective until it shall have been duly recorded.

D. Upon the approval and proper recording of any amendment or amendments, the same shall become binding upon all unit owners.

E. At any meeting held to consider any amendment or amendments to the By-Laws, the written vote of any members of the Association shall be recognized if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association at or prior to such meeting.

F. Notwithstanding the foregoing provisions of this Article 8, no amendment to these By-Laws which shall abridge, amend, or alter the right of the Developer to designate and select members of each Board of Directors of the Association, as provided in Article 4 hereof, may be

adopted or become effective without the prior written consent of the Developer.

9. COMPLIANCE: These By-Laws are set forth to comply with the requirements of the Unit Ownership Act, Chapter 47A of the General Statutes of North Carolina. In the event that any of these By-Laws conflict with the provisions of said statute, it is hereby agreed and accepted that the provisions of the statute shall apply.

The foregoing were adopted as the By-Laws of SPINNAKER POINTE UNIT OWNERS ASSOCIATION, INC., a nonprofit corporation under the laws of the State of North Carolina, at the first meeting of the Board of Directors on 13 day of December, 19 84.

James Han
Director

Henry C. McNeil Jr
Director

Robert D. ...
Director

Chris ...
Director

Donald ...
Director

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EXHIBIT A

All that tract or parcel of land lying and being in Carolina Beach, New Hanover County, North Carolina, and being more particularly bounded and described as follows:

BEGINNING at a point in the Eastern right-of-way line of Georgia Avenue (40 foot right-of-way), said point being the Northwest corner of Lot 1, Block 208, Northern section Carolina Beach, map of same being recorded in Map Book 3, at Page 67, of the New Hanover County Registry; running thence from said beginning point with the Eastern right-of-way line of Georgia Avenue, North 09 degrees 04 minutes West 300.00 feet to a point; running thence South 80 degrees 56 minutes West 170.00 feet to a point; running thence North 09 degrees 04 minutes West 200.00 feet to a point; running thence South 80 degrees 56 minutes West 200.00 feet to a point; running thence South 09 degrees 04 minutes East 200.00 feet to a point; running thence South 80 degrees 56 minutes West 97.92 feet to a point in the Southern line of the Intracoastal Waterway; running thence with the Southern right-of-way line of the Intracoastal Waterway South 72 degrees 54 minutes 30 seconds West 238.03 feet to a point in the center of the Intracoastal Waterway; running thence with the center of the Intracoastal Waterway, North 17 degrees 54 minutes 30 seconds East 1364.47 feet to a point in the Southern line of the Freeman Heirs tract; running thence with the Southern line of the Freeman Heirs tract, South 86 degrees 44 minutes East 2344.65 feet to a point on the Western edge of the Atlantic Ocean; running thence the same course continued South 86 degrees 44 minutes East 50.0 feet to a point in the high water line of the Atlantic Ocean; running thence Southwardly along the high water line of the Atlantic Ocean to a point in the Northern right-of-way line of 17th Avenue; running thence with the Northern right-of-way line of 17th Avenue, North 61 degrees 54 minutes West 50.0 feet to a point that is located South 16 degrees 06 minutes West 1088.55 feet from the above mentioned point on the Western edge of the Atlantic Ocean; running thence with the Northern right-of-way line of 17th Avenue, North 61 degrees 54 minutes West 251.35 feet to a point in the Western right-of-way line of Canal Drive; running thence with the Western right-of-way line of Canal Drive, South 28 degrees 06 minutes West 24.91 feet to a point; running thence North 61 degrees 54 minutes West 150.67 feet to a point in the edge of marsh; running thence with the edge of marsh, South 44 degrees 29 minutes West 59.11 feet, South 00 degrees 24 minutes East 45.0 feet, South 59 degrees 36 minutes West 70.0 feet, South 85 degrees 36 minutes West 100.0 feet, South 08 degrees 54 minutes East 35.0 feet, South 27 degrees 54 minutes East 85.0 feet, South 77 degrees 06 minutes West 105.0 feet, South 21 degrees 06 minutes West 80.0 feet, South 04 degrees 54 minutes East 90.0 feet and South 42 degrees 54 minutes East 80.0 feet to a point in the Western line of the Northern Extension 1 of Carolina Beach as shown on map recorded in Map Book 18, at Page 103, of the New Hanover County Registry; running thence with the Western line of said Northern Extension, South 28 degrees 06 minutes West 690.0 feet to a point; running thence North 61 degrees 54 minutes West 503.39 feet to a point; running thence North 09 degrees 04 minutes West 428.39 feet to a point; running thence South 80 degrees 56 minutes West 225.0 feet to a point in the Eastern line of Virginia Avenue; running thence with the Eastern line of Virginia Avenue, North 09 degrees 04 minutes West 25.0 feet to a point; running thence with the Northern line of Maryland

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Avenue, South 80 degrees 56 minutes West 155.0 feet to a point; running thence North 09 degrees 04 minutes West 60.0 feet to a Point; running thence South 80 degrees 56 minutes West 105.0 feet to the Point of Beginning. The same being all that Property conveyed to Spinnaker Point, Ltd. by deeds dated September 14, 1983, and recorded in Book 1233 at Page 1045 and in Book 1233 at Page 1049 of the New Hanover County Registry and being more particularly described and delineated on that certain plat of survey prepared for "Spinnaker Pointe, Ltd." dated June 1983, last revised October 24, 1984, prepared by Jack G. Stocks, Registered Land Surveyor No. L856, Wilmington, North Carolina.

AND TOGETHER WITH any and all rights, members appurtenances, easements, licenses and permits appertaining to the above described property or any part thereof.