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JOYCE M. SWICEGOOD  
REGISTER OF DEEDS  
PENDER COUNTY, NC

Recorded and Verified  
Joyce M. Swicegood  
Register of Deeds  
Pender County, NC

DECLARATION OF COVENANTS,  
RESTRICTIONS AND EASEMENTS  
FOR MANDALAY BAY

Prepared by:  Dan Rizzo  
P.O. Box 2676  
Surf City, NC 28445

STATE OF NORTH CAROLINA  
COUNTY OF PENDER

THIS DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS is made this 4<sup>th</sup> day of March, 2005, by MANDALAY BAY, LLC, a North Carolina limited liability company ("Declarant").

WHEREAS, Declarant is the owner of a certain tract of land located in Topsail Township, Pender County, North Carolina, and being more particularly described in Article I.C. of this Declaration.

AND WHEREAS, Declarant is, or will be, constructing on a portion of the Property a "residential subdivision" which will consist of single residential dwellings;

AND WHEREAS, Declarant desires to provide for the preservation and enhancement of the property values and improvements located thereon, and to this end desires to subject the Property to the covenants, restrictions and easements, as are hereinafter set forth, each and all of which are for the benefit of said real property and each present and future owner thereof;

NOW THEREFORE; it is hereby declared that the Property described herein is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions and easements hereinafter set forth;

Article 1. Definitions:

A. "Declarant" shall mean and refer to MANDALAY BAY, LLC, a North Carolina limited liability company, its successors and assigns.

B. "Declaration" shall mean and refer to this instrument, as may from time to time be amended.

C. "Property" or "Properties" shall mean and refer to all that tract of land situated in Topsail Township, Pender County, North Carolina and more particularly described on a plat entitled "Final Plat Showing Mandalay Bay (Revised)" dated November 15, 2004, prepared by John L. Pierce & Associates, P.A. and recorded in Map Book 38, Page 115, Slide 518, in the office of the Register of Deeds of Pender County, North Carolina (herein referred to as the "Property").

D. "Lot" shall mean and refer to separately delineated plot of land shown upon any recorded subdivision map of the Property and includes any improvements thereon, if any.

E. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Article 2. Architectural Control Committee:

Section A. Except for original and initial construction and subsequent modification of improvements by the Declarant on any Lot which such construction is and shall be exempt from the provisions of this provision, no building, wall, fence, landscaping, berm or hedge which act as a fence or privacy including structure, ornamentation, or other structure or improvements of any nature shall be erected, placed or altered on any Lot, nor shall any exterior addition to or change or alteration thereon be made, until the construction plans and specifications and a plan showing the nature, kind, shape, height, material and location of the structure, and landscaping as may be required by the Architectural Control Committee, have been approved in writing by the Architectural Control Committee. Each building, wall, fence, or other structure or improvements of any nature, together with any ornamentation or landscaping, shall be erected, placed or altered upon the Property only in accordance with the plans and specifications and plot plan so approved. Refusal of approval of plans, specifications and plot plans, or any of them, may be based on any ground, including purely aesthetic grounds, which in the sole and uncontrolled discretion of said Architectural Control Committee deem sufficient. Any change in the appearance of any building, wall, fence or other structure or improvements and any change in the appearance of the landscaping (excepting the planning of flowers and shrubs indigenous to the area), shall be deemed an alteration requiring approval. The Architectural Control Committee shall have the power to promulgate such rules and regulations as it deems necessary to carry out the provisions and intent of this paragraph.

Section B. (a) Within 30 days after receipt of all required information, the Architectural Control Committee shall submit in writing to the owner of the Lot a response stating whether or not the requested improvements are approved. Unless a response is given by the Architectural Control Committee within 30 days, the plan shall be deemed approved. The response of the Architectural Control Committee may be an approval, a denial, an approval with conditions or a request for additional information. A request for additional information shall be deemed a determination that the information submitted was inadequate and the 30 day time period for response shall only commence upon the receipt of the requested information. Conditional approvals may be granted and if approval with conditions is granted and thereafter construction begins, the construction shall be deemed approved by the owner of the Lot of the conditions imposed.

(b) Refusal of approval of plans, specifications and plot plans or any of them may be based upon any ground, including purely aesthetic grounds, which in the sole and uncontrolled discretion of the Architectural Control Committee shall deem sufficient. The Architectural Control Committee shall make the following affirmative findings before any plans are approved:

(1) That the improvements sought to be constructed will not have a negative economic impact on any other Lot within the subdivision.

(2) That all required specific buildings standards and other conditions contained within the Declaration and other subdivision documents have been met.

(3) That the improvements are architecturally compatible with proposed or constructed improvements on other Lots within the subdivision.

(4) That the natural features of the Lot have been retained to the maximum extent possible.

Section C. The roof, vinyl siding, paint, coating, stain and other exterior finishing colors on all buildings may be maintained as that originally installed, without prior approval of the Architectural Control Committee, but prior approval by the Architectural Control Committee shall be necessary before any such exterior roof modification (including color of shingles), siding modification or finishing color is changed.

Section D. Until such time as the sale of the last numbered Lot in the subject Property is evidenced by the recordation of a deed therefore, all rights, privilege, powers and authority granted herein to the initial Architectural Control Committee, to whom the specific power to act hereunder is expressly conveyed, shall be exercised by the Declarant, their successors or assigns. Upon the sale of the last numbered Lot in the Property, the Declarant shall assign its powers hereunder to an Architectural Control Committee to be composed of three (3) Lot Owners, who shall serve until their death, disability, resignation or transfer of ownership of all interest in the Property. Thereafter, all representatives shall be appointed by a majority vote of the Lot Owners. In the event of death, disability or resignation of any member of the

Architectural Control Committee, or a transfer of all interest in the Property by such member, the remaining members shall have full authority to designate a successor, until such time as a replacement is elected by a majority of the Lot Owners.

Section E. A majority of the Architectural Control Committee may take any action said Committee is empowered to take, may designate a representative to act for the Architectural Control Committee, and may employ personnel and consultants to act for it. The members of the Architectural Control Committee shall not be entitled to any compensation for services performed pursuant to this covenant.

Article 3. General Restrictions:

a.(I) Residential Use: No lot, lots, or portions thereof shall be put to any use other than for residential purposes, except that any Lot may be used by the Declarant for a street or roadway.

No structure shall be erected, altered, placed or permitted to remain on any Lot other than one single family townhouse dwelling, not to exceed two and one-half stories in height, a private garage and such other outbuildings as may be reasonably appurtenant to the dwelling, provided that the same are constructed in line with general architectural design and construction standards used as the dwelling itself. This covenant shall not be construed as prohibiting the use of a new dwelling as a model home for sales purposes.

(ii) Dwelling quality and size: The ground floor area of the main structure, exclusive of open porches and garages, shall not be less than 800 square feet of enclosed heated area.

b. Prohibited Structure: No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence either temporary or permanently. No trailer, mobile home, camper or like vehicle, or any other structure which is finished or partially finished at a manufacturing unit or plant and transported for quick assembly or which is designed to be disassembled and relocated shall be used as a residence at anytime. It is specifically the intention and purpose of this covenant to prohibit the location of mobile homes, trailers, modular houses, relocatable houses, or similar type structures on the property for use as a residence. This covenant shall not be construed as prohibiting the use of such a structure as a sales/rental model or office or construction site facility.

c. Nuisances: No noxious, offensive, or illegal activity shall be carried on or conducted upon any Lot nor shall anything be done on any Lot that shall be or become an unreasonable annoyance or nuisance to the neighborhood. All Lots, whether occupied or unoccupied, shall be well maintained and no unattractive growth or accumulation of rubbish or debris shall be permitted to remain on a Lot. No automobile, other vehicle(s), motorcycle(s) or other similar items shall be repaired or placed "on blocks" or stands except in an enclosed garage. Declarant, or Association, their successors or assigns, reserve the right to enter upon and cut grass, weeds, or undergrowth on any Lot or easement, but shall be under no obligation to do so.

d. Animals: No animals, livestock, or poultry of any kind shall be kept or maintained on any Lot or in any dwelling except that household pets may be kept provided that said pet shall not exceed 90 pounds in weight and are not kept for breeding or commercial purposes. Any such household pet shall not be allowed off the Lot of the Owner of said pet unless said pet is attended and on a leash, Owners shall be solely and absolutely liable for the acts of any pet kept on their Lot.

e. Garbage and Refuse Disposal: No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be burned or disposed of on any Lot and shall be kept except in sanitary containers approved by the Architectural Committee. All equipment for the storage prior to disposal of such material shall be kept in a clean and sanitary condition. The placement of containers shall be approved by the Architectural Committee and, in any event, shall be kept in an enclosed area not subject to view from any person, from any direction.

f. Exterior Lights: All light bulbs or other lights installed in any fixture located on the

exterior of any dwelling, building or other structure located on any Lot shall be clear or white lights or bulbs. No mercury vapor or similar wide area lighting similar to street lights shall be allowed without prior Architectural Committee approval.

g. Sight Distance at Intersections: No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadway of Waters Drive at the intersection of NC Highway 210 shall be placed or permitted to remain on any Lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

h. Mailboxes: All mailboxes shall retain the same style, design, color and location of the mailbox as originally provided at construction of any residence. The Architectural Committee reserves the right to approve the style, design, color and location prior to any original installation or replacement. Application shall be made to the Architectural Committee prior to installation or replacement. By accepting a deed to any subject property, owner gives the Architectural Committee the right to remove any non-approved mailbox in a reasonable manner; all costs for same shall be paid by owner, and all damages against the Architectural Committee are waived.

i. Signs: No sign, billboard, or other advertising of any kind, including without limitation "professionally prepared "for sale" and "for rent" signs, shall be placed or erected on any Lot, save and except a professionally prepared "for sale" or "for rent" sign not to exceed six (6) square feet in size. Although approval by the Architectural Committee is not required prior to the display of such signs, the Architectural Committee may itself remove, have removed, or require the removal of any such sign which in its opinion would not otherwise be allowed under paragraph 6 of this Declaration. A valid easement shall exist on any Lot for such removal by the Architectural Committee or its agents. Provided, however, nothing shall prohibit or limit in any manner "construction" signs designating the job site and builder which may be placed upon a Lot during the period of the construction of a residential dwelling on the Lot but must be immediately removed upon final completion of such construction. Notwithstanding the above, any additions to the Project Property in the Development area may be further limited in regard to signs, billboards or advertising as set out in any Supplemental Declaration. Nothing herein shall prohibit any sign erected by the Declarant or their assigns.

j. Antennas: There shall be no exterior antennas of any kind for receiving and/or sending of television, radio or other signals unless same have first been approved by the Architectural Committee.

k. Driveways/Parking: All driveways constructed on any Lot shall be paved with either asphalt or concrete. The use or construction of a headwall or other ornamental structure, gravel, rock or other material at or around the driveway culvert shall be prohibited. The earthwork extending from the driveway to each end of the culvert shall be gently sloped and sodded, as approved in each case.

l. Vehicles, Boats, Storage, Travel Trailers, etc: No vehicle without current inspection sticker, shall be parked overnight on any lot. No automobile, other vehicle(s), motorcycle(s) or other similar items shall be repaired or placed "on blocks" or stands.

m. Clotheslines: Clotheslines shall be not more than six (6) feet in height from the ground and shall not be viewable from the street or shall be surrounded by a privacy fence approved by the Architectural Control Committee.

n. Fence Minimum Requirements: No fences over 6 feet in height shall be constructed on any lot. No fence shall be erected between any building and the street right of way unless such fence shall be of an ornamental nature. Brick and split-rail fences shall be deemed to meet the requirements of this restriction. Any portion of any fence which can be viewed from

the street right of way shall be of an ornamental nature. The term fence shall include but not be limited to, a wall, fence, landscaping, berm, or hedge which act as a fence or privacy or security inducing structure. Architectural review requirements must be met prior to construction of any fence.

Article 4. Street Lighting Agreement: The Declarant reserves the right to subject the real property to a contract with an electric utility company for the installation of underground electric cables and/or the installation of street lighting, either or both which may require an initial payment and/or a continuing monthly payment to an electric utility company by the owner of Lot.

Article 5. Restrictions on Further Subdivision: No Lot which has been designated as such by Declarant by recorded plat shall be further subdivided or separated into smaller Lots. This restriction shall not apply, however, to Declarant.

Article 6. Easements:

a. Utility Easements: There is hereby reserved by the Declarant, their successors and assigns, the utility easements as shown on the recorded plats of the Property. Said easements may be used for the purpose of installing, maintaining, repairing and replacing all utility service lines and systems including, but in no way limited to, those for water, sewer, gas, telephone, electricity and cable television.

In addition to the above, there is hereby reserved for the benefit of each owner, an easement over each parcel or lot of each other owner a blanket easement and right of way on, over and under the ground within a parcel or lot for the purpose of installing, maintaining, repairing and replacing all utility service lines and systems including, but in no way limited to, those for water, sewer, gas, telephone, electricity, cable television and garbage or refuse collection and pick up.

b. Mandalay Court and Driveway Right of Way Easements: There is hereby reserved for each Owner, family members and invited guests, easements for ingress, egress and regress over and upon those areas of the Property designated as Mandalay Court (20' Ingress & Egress & Utility Easement) and "Driveway Right of Way & Utility Easement as shown on the recorded plat of the Property. Provided, however, the easement hereby reserved shall not be deemed to entitled the Owner of any Lot to park any motor vehicle upon the Lot of any other Owner.

c. Easement to Correct Drainage: For a period of two (2) years from the date of conveyance of the first Lot in a Parcel, the Declarant reserve a blanket easement and right of way on, over and under the ground within a Lot to maintain and correct drainage of surface water in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary. Following such action the Declarant shall restore the affected property to its original condition as near as practical. The Declarant shall give reasonable notice of its intent to take such action to all affected Owners, unless in the opinion of the Declarant an emergency exists which precludes such notice.

Article 7. Variances: The Architectural Control Committee may allow reasonable variances and adjustments of the restrictions set forth in this Declaration in order to overcome practical difficulties and prevent unnecessary hardships in the application of the provisions contained herein; provided, however, that any such variance granted must be done in conformity with the intent and purposes of the general development scheme and provided also that in every instance such variance or adjustment shall not materially be detrimental or injurious to other property or improvements within the Property.

Article 8. Building Plans and Specifications: No dwelling or other building shall be erected or permitted to remain on any lot unless the plans and specifications meet or exceed the requirements of "minimum property standards for one and two living units", FHA No. 300, Federal Housing Administration.

Article 9. Remedies: In the event of a violation or breach of any of these restrictions, covenants, agreements and conditions by any person or concern claiming by, through or under

the undersigned, or by virtue of any judicial proceedings, the owners of the number lots in the subdivision, or any of them, jointly or severally, shall have the right to proceed at law or in equity to compel compliance with the terms thereof or to prevent the violation or breach of any of them. The failure to enforce any right, reservation, restriction or condition contained herein, however long continued, shall not be deemed a waiver of the right to do so thereafter as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement.

Article 10. Stormwater Management: (A) No more than 1,663 square feet of any Lot shall be covered by structures or impervious materials. Impervious materials include, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, coquina or similar materials, but does not include raised, open wood decking or the water surface of swimming pools. The overflow from the storage area must pass through a 50 foot vegetated filter prior to discharge.

(B) Swales shall not be filled in, piped or altered except as necessary to provide driveway crossings.

(C) Built-upon area in excess of the permitted amount requires a state stormwater management permit modification prior to construction.

(D) All permitted runoff from outparcels or future development shall be directed into the permitted stormwater control system. These connections to the stormwater control system shall be performed in a manner that maintains the integrity and performance of the system permitted.

(E) The stormwater management system shall be constructed in its entirety, vegetable and operational for its intended use prior to the construction of any built-upon surface.

(F) During construction, erosion shall be kept to a minimum and any eroded areas of the system will be repaired immediately.

(G) The facilities shall be constructed as shown on the approved plans, Permit Number SW8040702 shall become voidable unless the facilities are constructed in accordance with the conditions of the permit, the approved plans and specifications, and other supporting data.

(H) Declarant shall at all times provide the operation and maintenance necessary to assure the permitted stormwater system functions at optimum efficiency. The approved Operation and Maintenance Plan must be followed in its entirety and maintenance must occur at the scheduled intervals including, but not limited to:

- a. Semiannual scheduled inspections (every 6 months).
- b. Sediment removal.
- c. Mowing and revegetation of slopes and the vegetated filter.
- d. Immediate repair of eroded areas.
- e. Maintenance of all slopes in accordance with approved plans and specifications.
- f. Debris removal and unclogging of storage basin, Sidewinder Infiltrator units, vegetated filter, bypass structure, catch basins and piping.
- g. A clear access path to the storage basin, vegetated filter and Sidewinder Infiltration area must be available at all times.

(I) Records of maintenance activities must be kept and made available upon request to authorized personnel of DWQ. The records will indicate the date, activity, name of person performing the work and what actions were taken.

(J) Upon completion of construction, prior to issuance of a Certificate of Occupancy, and prior to operation of this permitted facility, a certification must be received from an appropriate designer for the system installed certifying that the permitted facility has been installed in accordance with this permit, the approved plans and specifications, and other supporting documentation. Any deviations from the approved plans and specifications must be noted on the Certification. A modification may be required for those deviations.

(K) If the stormwater system was used as an Erosion Control device, it must be restored to design condition prior to operation as a stormwater treatment device, and prior to occupancy of the facility.

(L) Access to the stormwater facilities shall be maintained via appropriate easements at all times.

(M) Declarant shall submit to the Director and shall have received approval for revised plans, specifications, and calculations prior to construction, for any modification to the approved plans, including, but not limited to, those listed below:

- a. Any revision to any item shown on the approved plans, including the stormwater management measures, built-upon area, details, etc.
  - b. Project name change.
  - c. Transfer of ownership.
  - d. Redesign or addition to the approved amount of built-upon area or to the drainage area.
  - e. Further subdivision, acquisition, lease or sale of all or part of the project area. The project area is defined as all property owned by Declarant, for which Sedimentation and Erosion Control Plan approval or a CAMA Major permit was sought.
  - f. Filling in, altering, or piping of any vegetative conveyance shown on the approved plan.
- (N) Declarant shall submit final site layout and grading plans for any permitted future areas shown on the approved plans, prior to construction.
- (O) A copy of the approved plans and specifications shall be maintained on file by the Declarant for a minimum of ten years from the date of the completion of construction.
- (P) The Director may notify the Declarant when the permitted site does not meet one or more of the minimum requirements of the permit. Within the time frame specified in the notice, Declarant shall submit a written time schedule to the Director for modifying the site to meet minimum requirements. Declarant shall provide copies of revised plans and certifications in writing to the Director that the changes have been made.

The covenants and restrictions set forth in this Article 10 are intended to insure continued compliance with state stormwater management permit number SW8 040702 as issued by the Division of Water Quality and may not be changed or deleted without the consent of the State of North Carolina. The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the stormwater management permit.

Each Lot Owner shall be responsible for maintaining any swales or ditches on his/her/their respective Lot required to insure continued compliance with said stormwater management permit. Alteration of the drainage as shown on the approved plan may not take place without the concurrence of the Division of Water Quality. These covenants are to run with the land and shall be binding on all persons and parties claiming under them.

Article 11. Provisions Relating to Wetlands: All of the properties subject to these Restrictive and Protective Covenants shall also be subject to the following Special Provisions Relating to Wetlands. In developing the subject real property, the Declarant has agreed with the Department of the Army Corps of Engineers (pursuant to a permit issued by the Corps of Engineers) to restrict and prohibit any future filling or other detrimental activities in the wetland areas, which presently exist within the identified areas of the property. Accordingly, all wetlands shown and delineated on the recorded plat of the subdivision set forth in Article I hereof, shall be maintained in perpetuity in their natural or mitigated condition. No person or entity shall perform any of the following activities on such conservation area: (a) fill, grade, excavate or perform any other land disturbing activities; (b) cut, mow, burn, remove or harm any vegetation; (c) construct or place any roads, trails, walkways, buildings, mobile homes, signs, utility poles or towers or any other permanent or temporary structures, (d) drain or otherwise disrupt or alter the hydrology or drainage ways of the conservation area; (e) dump or store soil, trash, or other waste; (f) allow animal grazing or watering or use for any other agricultural or horticultural purpose on such conservation areas. This covenant is intended to ensure continued compliance with the mitigation condition of authorization issued by the United States of America, U.S. Army Corps of Engineers, Wilmington District, and therefore may be enforced by the United States of America. This covenant is to run with the land and shall be binding on the Declarant, the owner of any lot in the subdivision and all persons or entities claiming under them.

This Article 11 cannot be amended or modified without the express written consent of the U.S. Army Corps of Engineers, Wilmington District, or its authorized successor.

Article 12. Amendment: Except as provided in Article 10 above, these restrictions are subject to being altered, modified, cancelled or changed at any time as to said subdivision as a whole or as to any subdivided lot or part thereof during the first twenty (20) year period by written document executed by the Declarant or their successors in title and by the owner of not less than sixty percent (60.0%) of the subdivided lots or parts of said subdivision to which these restrictions apply, and recorded in the office of the Register of Deeds of the County in which this Declaration is recorded. After the expiration of the initial twenty (20) year period, these restrictions are subject to being altered, modified, cancelled or changed at any time as to said subdivision as a whole or as to any subdivided lot or part thereof by written document executed by not less than seventy-five percent (75%) of the Lot Owners, and recorded in the office of the Register of Deeds of the County in which this Declaration is recorded. In the event the Declarant owns sixty percent (60.0%) or more of the Lots, the Declarant may alter, modify or change these restrictions without the consent of any other Lot Owner.

Article 13. Declarant's Rights:

Any or all of the special rights and obligations of the Declarant may be transferred to other persons or entities, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the county in which this Declaration is recorded.

The Declarant shall have the rights (i) to use portions of the Property for parking for prospective purchasers or lessees of Lots and such other parties as the Declarant determine; (ii) to erect and display signs, billboards and placards and store and keep the same on the Property; and (iii) to use or permit to be used any Lot which it owns or leases as a sales and/or rental office, management office or laundry and maintenance facility.

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

This provision may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this provision shall terminate upon the earlier of (a) fifteen (15) years from the date this Declaration is recorded, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

Article 14. General Provisions:

A. Duration: The covenants and restrictions set forth herein shall run with and bind the Property for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall automatically be extended for successive ten (10) year periods unless otherwise terminated by a vote of seventy-five percent (75%) of the then record Owners of all Lots within the Properties.

B. Severability: Invalidation of anyone of the covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

C. Captions: The captions used in this Declaration are inserted solely as a matter of convenience and shall not be relied upon or used in construing the effect or meaning of any of the text of this Declaration.

D. Construction: Whenever the context so requires, the use herein of any gender shall be deemed to include the plural and the plural shall include the singular.

Article 15. Mandalay Bay Homeowners Association:

All purchasers of lots in Mandalay Bay as described herein shall, and by their acceptance of Deeds conveying such lots do, for themselves, their heirs, successors and assigns agree to become members of the Mandalay Bay Homeowners Association. The Homeowners Association shall assume responsibility for all improvements and maintenance of any common areas as shown on said recorded plat.

Each member of the Homeowners Association as described herein, by acceptance of the Deed of each lot, whether or not it shall be expressed in such Deed, is deemed to and does hereby, covenant and agree, on behalf of himself, his heirs, successors and assigns, to pay assessments to the Homeowners Association for the expenses incurred. The initial assessment for the Mandalay Bay Homeowners Association shall be Six Hundred and No/100 Dollars (\$600.00) per year for each lot.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, have caused this instrument to be executed this the 4<sup>th</sup> day of March, 2005.

MANDALAY BAY, LLC, a North Carolina  
Limited Liability Company

BY: \_\_\_\_\_

*Gerard R. Brewer*  
Gerard R. Brewer, Manager

STATE OF NORTH CAROLINA  
COUNTY OF PENDER

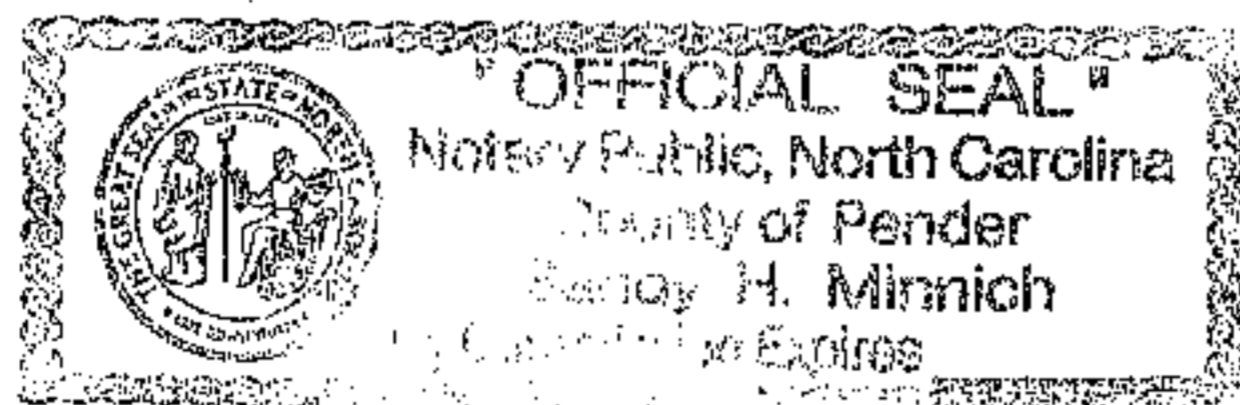
The undersigned, a Notary Public in and for said County and State, do hereby certify that Gerard R. Brewer personally came before me this day and acknowledged that he is Manager of MANDALAY BAY, LLC, a North Carolina Limited Liability Company, and that by authority duly give and as the act of the limited liability company, the foregoing instrument was signed in its name by him as its Manager.

Witness, my hand and official stamp or seal, this 4<sup>th</sup> day of March, 2005.

My commission expires:

10-9-05

*Sandy H. Minnich*  
Notary Public



NORTH CAROLINA - PENDER COUNTY: The foregoing  
(or annexed) certificate of Sandy H. Minnich, is  
certified to be correct. This 4<sup>th</sup> day of March, A.D. 2005  
JOYCE M. SWICEGOOD - Pender County Register of Deeds  
By: Leech Berry Deputy/Assistant  
Register of Deeds