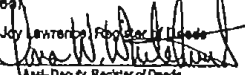


Exhibit A

Declaration of Condominium for the Condominium

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

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



FILE # 1412248

FOR REGISTRATION REGISTER OF DEEDS
Joy Lawrence
Carteret County, NC
June 18, 2012 04:20:09 PM
CARTER DECL 48 P
FEE: \$158.00
FILE # 1412248

DECLARATION OF CONDOMINIUM

FOR

THE NAUTICAL CLUB PHASE 1 CONDOMINIUM

Prepared by / Return to:
Paul Arena
Poyner Spruill LLP
301 S. College St., Suite 2300
Charlotte, N.C. 28202-6021

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DECLARATION OF CONDOMINIUM

FOR

THE NAUTICAL CLUB PHASE 1 CONDOMINIUM

THIS AMENDED AND RESTATED DECLARATION OF CONDOMINIUM (the "Declaration") is made this 8th day of June, 2012 by RBC Real Estate Finance Inc., a Delaware corporation, as Agent for itself and for First Bank pursuant to an Agency Agreement, as defined in and evidenced by Memorandum of Agency Agreement recorded in Book 1411, Page 28, Carteret County Registry ("Declarant").

RECITALS:

Pursuant to an Amended and Restated Declaration of Condominium for The Nautical Club Master Condominium recorded in Book 1412, Page 247, Carteret County Registry ("Master Declaration") Declarant has submitted to the condominium form of ownership pursuant to the North Carolina Condominium Act certain real property described on Exhibit A attached hereto and incorporated herein (the "Master Condominium Property").

Declarant is the owner of the Property (as defined hereinafter), and desires to subject the Property to Second Tier Condominium Documentation (as defined in the Master Declaration).

NOW, THEREFORE, Declarant hereby declares that the Property (as defined hereinafter) shall be held, sold, conveyed, encumbered, used, occupied, developed and improved subject to the following easements, restrictions, covenants, conditions, uses, limitations, and obligations, all of which are declared to be in furtherance of a plan for the development of the Property into a condominium under the provisions of Chapter 47C of the North Carolina General Statutes, and which shall run with the land and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall all inure to the benefit of each owner of any interest therein.

ARTICLE I
DEFINITIONS

As used herein, the terms set forth hereinafter in this Article I shall have the meanings indicated, unless otherwise expressly provided herein. Other terms may be defined elsewhere in this Declaration. Terms used herein, defined in the Act and not defined herein shall have the meaning given them in the Act.

1.1 The "Act" shall mean the North Carolina Condominium Act, Chapter 47C, North Carolina General Statutes. References in this Declaration to specific sections of the Act shall mean the statutory section referred to, as in effect on the date this Declaration is recorded.

1.2 The "Appurtenant Rights" shall mean the rights and easements appurtenant to Master Unit 1 pursuant to the WWTP Agreement, the Cross Easement and the SWNC Master Declaration.

1.3 The "Association" shall mean Nautical Club Phase 1 Condominium Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

1.4 The "Articles" shall mean the Articles of Incorporation of the Association filed with the Secretary of State of the State of North Carolina, as such Articles of Incorporation may be amended and/or restated from time to time.

1.5 The "Board of Directors" shall mean the body designated in this Declaration to act on behalf of the Association.

1.6 The "Building" shall mean the building located on Master Unit 1, which Building is divided into seventy (70) Units and Common Elements by this Declaration.

1.7 The "Bylaws" shall mean the bylaws of the Association, a copy of which is attached hereto as Exhibit C and incorporated herein.

1.8 The "Common Elements" shall mean all portions of the Condominium other than the Units, and specifically shall include the items listed in Section 4.1 and all easements herein declared and reserved for the benefit of the Association.

1.9 The "Common Element Interest" shall mean the undivided percentage interest in the Common Elements allocated to each Unit, as set forth on Exhibit B attached hereto.

1.10 The "Common Expenses" shall mean:

1.10.1 All lawful expenditures made or incurred by or on behalf of the Association generally, including any insurance premiums and ad valorem taxes, public assessments, or governmental liens levied against the Common Elements, together with any assessments for the creation and maintenance of reserves levied in accordance with the provisions of Section 7.5.

1.10.2 Expenses of administration, maintenance, general upkeep, cleaning, landscaping, repair or replacement of the Common Elements.

1.10.3 All Master Association Assessments.

1.10.4 Any other expenses declared Common Expenses by this Declaration or the Bylaws.

1.11 The "Condominium" shall mean The Nautical Club Phase 1 Condominium, a condominium established pursuant to this Declaration and the Act.

1.12 The "Condominium Instruments" shall mean this Declaration, the Articles and Bylaws of the Association, the Plans and the Rules and Regulations, as the same may be from time to time amended or supplemented in accordance with their terms.

1.13 The "Cross Easement" shall mean the Cross Easement recorded in Book 1337, Page 281, Carteret County Registry, as amended by instrument recorded in Book 1394, Page 313, Carteret County Registry.

1.14 "Declarant" shall mean Declarant (as defined above), and its successors and assigns pursuant to any express assignment or conveyance of any Special Declarant Rights in accordance with § 47C-3-104 of the Act.

1.15 The "Declarant Control Period" shall mean the period commencing on the date hereof and continuing until the first to occur of: (a) the date of the last conveyance of a Unit to an Owner other than Declarant or a successor Declarant; (b) the twenty-fifth (25th) anniversary of the recording of this Declaration at the Carteret County Register of Deeds; or (c) the voluntary written termination of all then-existing Special Declarant Rights by Declarant, by written notice to the Association.

- 1.16 "First Mortgagee" shall mean any Mortgagee whose Mortgage is a first lien on the property encumbered thereby.
- 1.17 "General Common Elements" shall mean Common Elements other than Limited Common Elements.
- 1.18 "Governmental Authority(ies)" shall mean any federal, state, county, city or local governmental or quasi-governmental authority, entity or body (or any departmental agency thereof) exercising jurisdiction over the particular subject matter at issue.
- 1.19 "Governmental Requirements" shall mean all applicable laws, statutes, ordinances, codes, rules, regulations, orders, and applicable judicial decisions or decrees, of any Governmental Authorities at the time in question.
- 1.20 "Limited Common Element" shall mean those portions of the Common Elements allocated by this Declaration, the Plans or the terms of § 47C-2-102(2) or (4) of the Act for the exclusive use and benefit of one or more, but not all, of the Units, as more fully described herein.
- 1.21 The "Master Association" shall mean Nautical Club Condo Owners Association, Inc., a North Carolina non-profit corporation, which is the unit owners' association for the Master Condominium.
- 1.22 "Master Association Assessment" shall mean any assessment charged to Master Unit 1 and/or the Association by the Master Association pursuant to the Master Declaration.
- 1.23 The "Master Condominium" shall mean The Nautical Club Master Condominium, a condominium located in Carteret County, North Carolina, as designated and described in the Master Declaration pursuant to the provisions of the Act.
- 1.24 The "Master Condominium Instruments" shall mean the "Condominium Instruments," as defined in the Master Declaration.
- 1.25 "Master Unit 1" shall mean Unit 1 of The Nautical Club Master Condominium, a condominium located in Carteret County, North Carolina, as designated and described in the Master Declaration pursuant to the provisions of the Act, and as depicted on that plat entitled "The Nautical Club Master Condominium," prepared by Bartlett Engineering & Surveying, PC, dated January 2012, and recorded in Map Book 107, Pages 477 through 481, in the Carteret County Register of Deeds, together with the percentage undivided interest in the common elements declared therein to be appurtenant to such unit.
- 1.26 "Member" shall mean every person or entity that holds membership in the Association.
- 1.27 "Mortgage" shall mean any mortgage, deed of trust or other instrument that secures financing that, at the time in question, is a lien on any portion of the Condominium, including but not limited to any Unit.
- 1.28 "Mortgagee" shall mean any holder, insurer or guarantor of the obligations secured by a Mortgage.
- 1.29 "Officer" means any person holding an office in the Association pursuant to the Bylaws, but shall not mean a member of the Board of Directors, unless such Officer also is a member of the Board of Directors.

1.30 "Owner" or "Unit Owner" shall mean the record owner, whether one or more persons or entities, of fee simple title to any Unit, together with an undivided interest in the Common Elements appertaining to such Unit as hereinafter set forth, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.31 The "Parking Area" shall mean the area located on the ground level of the Building that is improved for parking motor vehicles.

1.32 The "Plans" shall mean the plans, drawings and elevation depictions of the Building and the Units recorded in Unit Ownership file no. 10T, Pages 482 through 500, Carteret County Registry, as the same may be supplemented and amended from time to time pursuant to the terms of this Declaration or the Act.

1.33 The "Property" shall mean Master Unit 1, the Building, all other improvements located on Master Unit 1 and all rights and easements appurtenant to Master Unit 1, including the Appurtenant Rights.

1.34 "Rules and Regulations" shall mean any rules and regulations adopted pursuant to Section 6.14.

1.35 "SFI" shall mean Shearin Family Investments, LLC, a North Carolina limited liability company.

1.36 "Share of Common Expenses" shall mean the share of the Common Expenses allocated to each Unit, as set forth on Exhibit B attached hereto.

1.37 The "Special Declarant Rights" shall mean the development rights and special declarant rights reserved for the benefit of Declarant hereunder.

1.38 "Summer Winds" shall mean the Summer Winds Condominium located in Indian Beach, North Carolina, established pursuant to the Declaration of Unit Ownership of Summer Winds Condominium recorded in Book UO25, Page 397, Carteret County Registry, as amended prior to the recording of this Declaration.

1.39 The "Summer Winds Association" shall mean Summer Winds Condominiums, Inc., a North Carolina non-profit corporation, and its successors and assigns as the unit owners' association of Summer Winds. The Summer Winds Association is referred to as "SWCI" in Article XII.

1.40 The "SWNC Master Association" shall mean SWNC Master Owners Association, Inc., a North Carolina non-profit corporation.

1.41 The "SWNC Master Declaration" shall mean the Master Declaration of Covenants for SWNC Master Owners Association, Inc. between the Summer Winds Association, the Association, the SWNC Master Association and SFI recorded in Book 1394, Page 319, Carteret County Registry.

1.42 The "Town" shall mean the Town of Indian Beach, North Carolina.

1.43 A "Unit" shall mean any one of the seventy (70) physical portions of the Condominium described herein and depicted on the Plans, which are designated for separate ownership or occupancy, together with its percentage Common Element Interest as set forth in Exhibit B attached hereto and incorporated herein by reference.

1.44 The "Wastewater Utility System" shall mean the Wastewater Utility System, as defined in the SWNC Master Declaration. The Wastewater Utility System is referred to as the "Wastewater System" in Article XII.

1.45 The "WWTP Agreement" means the Agreement dated July 15, 2008 between SFI and the Summer Winds Association, which is recorded in Book 1282, Page 96, Carteret County Registry, as amended by an Addendum #1 dated August 7, 2008 between SFI and the Summer Winds Association, as further amended by an Addendum #2 dated September 22, 2009 between SFI and the Summer Winds Association, and as further amended by Amendment of Agreement dated December 16, 2011 between SFI and the Summer Winds Association recorded in Book 1394, Page 314, Carteret County Registry.

ARTICLE II THE CONDOMINIUM

2.1 Submission to Act. Declarant hereby submits the Property to the provisions of the Act. The Condominium will be administered in accordance with the provisions of the Act the Condominium Instruments and the Master Condominium Instruments.

2.2 Name. The name of the Condominium shall be "The Nautical Club Phase 1 Condominium."

2.3 Property. The real estate included in the Condominium is the Property.

2.4 Number of Units. Declarant hereby establishes within the Property seventy (70) Units, being Units 1 through 70 as shown on the Plans and herein described, and hereby designates all such Units for separate ownership. Declarant does not reserve the right to create any additional Units.

2.5 Unit Locations and Boundaries. The locations, dimensions and floor elevations of each Unit are shown on the Plans. There are seventy (70) Units in the Condominium. The identifying number for each Unit is set forth on Exhibit B and on the Plans. The upper boundary of each Unit is the horizontal plane of the top surface of the wallboard in the ceilings within the Unit. The lower boundary of each Unit is the horizontal plane of the top surface of the subflooring within the Unit. The vertical boundaries of each Unit are the vertical planes that include the back surface of the wallboard of all walls bounding the Unit, extended to intersections with each other and with the upper and lower boundaries. As provided in § 47C-2-102(1) of the Act, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces of the perimeter walls, floors, and ceilings are part of the Unit. As provided in § 47C-2-102(2) of the Act, if any chute, flue, duct, wire, pipe for water or sewer, conduit, bearing wall, bearing column, or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit shall be a Limited Common Element allocated to that Unit, as provided in Section 4.2 below, and any portion thereof serving more than one Unit or serving any portion of the Common Elements, shall be a General Common Element.

2.6 Relocation of Unit Boundaries; Subdivision; Partitioning.

2.6.1 Relocation of Boundaries Between Adjoining Units. The boundaries between adjoining Units may be relocated upon application to the Association by the Owners of such adjoining Units ("Adjoining Owners") and upon approval by the Association of such application, subject to the provisions of this Section 2.6.1, and upon the written consent of any Mortgagee holding a Mortgage on any of the Units whose boundaries are relocated. Further, no relocation of boundaries shall be permitted that impairs the structural integrity or mechanical systems or lessens the support of

any portion of the Building. Any application to the Association pursuant to this Section 2.6.1 must be in such form and contain such information as may be reasonably required by the Association, and shall be accompanied by plans detailing the proposed relocation of boundaries. Unless the Association determines within thirty (30) days after submission to it of the application that the proposed relocation of boundaries is unreasonable, the application shall be deemed approved. Notwithstanding the foregoing, during the Declarant Control Period, any application for relocation shall be submitted to Declarant rather than the Association, and Declarant, rather than the Association, shall have the above-described approval right regarding relocation of boundaries between Units. No approval, or deemed approval, of an application for relocation of Unit boundaries, shall permit any relocation of boundaries that impairs the structural integrity or mechanical systems or lessens the support of any portion of the Building. Upon approval of the proposed relocation of boundaries by the Association or Declarant (as applicable), the Association shall cause to be prepared and filed, at the Adjoining Owners' expense, an amendment to this Declaration and the Plans that identify the Units involved, describe and depict the altered boundaries, gives the dimensions and square footage of the altered Units, and states the votes, Common Element Interests and Shares of Common Expenses allocated to the altered Units as a result of the alteration. Such amendment also shall contain operative words of conveyance and shall be signed by the Adjoining Owners and consented to by their Mortgagees, if any, and shall be indexed by the Register of Deeds in the names of the Adjoining Owners.

2.6.2 Subdivision of Units. No Unit may be subdivided. No Unit may be further submitted to a condominium form of ownership pursuant to the Act, other than under this Declaration and the Master Declaration. At no time shall there be more than seventy (70) Units.

2.6.3 Partitioning. The Common Element Interest allocated to each Unit shall not be conveyed, devised, encumbered, partitioned or otherwise dealt with separately from said Unit, and the Common Element Interest allocated to each Unit shall be deemed conveyed, devised, encumbered or otherwise included with the Unit even though such interests are not expressly mentioned or described in the instrument conveying, devising, encumbering or otherwise dealing with such Unit. Any instrument conveying, devising, encumbering or otherwise dealing with any Unit which describes the Unit by the identifying number assigned thereto on the Plans and herein without limitation or exception shall be deemed and construed to affect the entire Unit and its allocated Common Element Interest. Nothing herein contained shall be construed as limiting or preventing ownership of any Unit and its allocated Common Element Interest by more than one person or entity as tenants in common, joint tenants or tenants by the entirety.

2.7 Allocation of Common Element Interests and Shares of Common Expenses. Each Unit shall have the Common Element Interest and Share of Common Expenses allocated to such Unit on Exhibit B. The Common Element Interests and Shares of Common Expenses are allocated among the Units based on the square footage of the Units. If the boundaries between any Units are relocated, then the Common Element Interests and Shares of Common Expenses allocated to the affected Units shall be reallocated among such Units based on the square footage of such Units resulting from the relocation of boundaries. If a Unit is converted partially or entirely to Common Elements pursuant to the exercise of a Special Declarant Right, then the Common Element Interests and Shares of Common Expenses of all Units remaining after such conversion shall be reallocated among such Units based on the remaining square footage of the remaining Units.

2.8 Membership in Association; Allocation of Votes. Each Owner shall be a Member of the Association. With respect to matters on which the Members of the Association are entitled to cast a vote, each Owner shall have a number of votes equal to the Share of Common Expenses allocated to the Unit(s) owned by such Owner, and at all times there shall be a total of one hundred (100) votes allocated to the

Members. If the boundaries between any Units are relocated, then the votes of the affected Units shall be reallocated among such Units based on the square footage of such Units resulting from the relocation of boundaries. If a Unit is converted partially or entirely to Common Elements pursuant to the exercise of a Special Declarant Right, then the 100 votes allocated to the Units shall be reallocated among the Units remaining after such conversion based on the square footage of the remaining Units.

2.9 The Condominium Subject to Matters of Record. The Units and Common Elements 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 thereof and setting forth the obligations and responsibilities incident to ownership of each Unit and its allocated interest in the Common Elements, and said Units 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. Without limitation of the foregoing, the Condominium, or portions thereof, is subject and subordinate to the Master Condominium Instruments and the matters described in Section 2.10 (entitled "The Condominium Subject to Matters of Record") of the Master Declaration.

2.10 Property Taxes and Assessments. All property taxes, special assessments and other charges imposed by any taxing authority shall be separately assessed against and collected on each Unit and the Common Element Interest appurtenant thereto as a single parcel. However, if for any year such taxes are not taxed to each Unit, but are taxed on the Condominium property as a whole, then such taxes shall be paid by the Association, and shall be allocated to the Owners as part of the Common Expenses.

2.11 Wastewater Treatment. Wastewater disposal to accommodate the requirements of the Condominium will be provided by the Wastewater Utility System. The Wastewater Utility System will be operated initially by the SWNC Master Association, which is a non-profit corporation formed jointly by the Master Association and the Summer Winds Association pursuant to the SWNC Master Declaration, which is incorporated into this Declaration. In the future the Wastewater Utility System may be conveyed to or operated by a utility company regulated by the North Carolina Public Utilities Commission.

2.12 Master Association Membership Rights. Pursuant to Section 5.3 (entitled "Second Tier Association to Assume Certain Membership Rights") of the Master Declaration, Declarant is deemed to have irrevocably assigned to the Association, and the Association is deemed to have irrevocably assumed, for so long as this Declaration remains in effect, the following rights of membership in the Master Association:

2.12.1 The right to attend member meetings of the Master Association;

2.12.2 The right to cast any vote and the right to give or withhold any consent, both as a member of the Master Association and as an owner of Master Unit 1, provided for in the Master Declaration.

Any votes to be cast or consents to be given or refused by the Association will be determined by the Board of Directors. Notwithstanding the foregoing, during the Executive Board Control Period, Declarant shall have the right to exercise all rights of the Association pursuant to this Section 2.12 and Section 5.3 of the Master Declaration. Accordingly, during the Executive Board Control Period, any votes to be cast or consents to be given or refused by the Association will be determined by Declarant.

2.13 Books and Records. The Association shall maintain current copies of the Condominium Instruments and all financial records of the Association, as required by § 47C-3-118 of the Act. These

items shall be available for inspection, during normal business hours and upon reasonable advance notice, by any Owner or Mortgagee.

ARTICLE III
SPECIAL DECLARANT RIGHTS

3.1 Declarant Reservation of Rights. In addition to any other rights granted to or reserved by Declarant in the Condominium Instruments Declarant reserves the Special Declarant Rights set forth hereinafter in this Article III. Except as otherwise provided in this Declaration: (a) Declarant may exercise the Special Declarant Rights any time, and from time to time, during the Declarant Control Period; (b) the Special Declarant Rights shall apply to all of the Property; (c) the Special Declarant Rights may be exercised with respect to different parcels of real estate at different times; (d) no assurances are made with regard to the order in which portions of the Condominium may be subjected to the exercise of any Special Declarant Right; and (e) if any Special Declarant Right is exercised in any portion of the Condominium subject to that Special Declarant Right, such Special Declarant Right need not be exercised in all or in any other portion of the remainder of that real estate. However, notwithstanding the foregoing, any specific expression in this Declaration as to when a particular Special Declarant Right may be exercised, or the real property with respect to which a particular Special Declarant Right may be exercised, shall prevail over the general statements above in this Section 3.1. Upon any exercise of a Special Declarant Right for which amendments of this Declaration or the Plans are required pursuant to the Act, Declarant shall prepare and record any such required amendments. Notwithstanding any other provision of this Declaration, the Special Declarant Rights, including any and all rights reserved to Declarant pursuant to this Declaration, except Declarant's right to appoint members of the Board of Directors and Officers pursuant to Section 3.7 and Declarant's right to exercise the rights of the Association as a member of the Master Association pursuant to Section 2.12, shall terminate and be of no further force and effect upon the expiration of the Declarant Control Period. Declarant's right to appoint members of the Board of Directors and Officers pursuant to Section 3.7 and Declarant's right to exercise the rights of the Association as a member of the Master Association pursuant to Section 2.12 shall terminate upon the expiration of the Executive Board Control Period.

3.2 Sales Offices, Management Offices and Model Units. Declarant shall have the right to maintain the following sales offices, management offices and model units, which may be of any size, and which Declarant may freely relocate at any time consistent with the following provisions of this Section 3.2:

3.2.1 One (1) sales and/or management office, which may be located in the Common Elements and/or any Unit(s) owned by Declarant, and which may be located or relocated in Declarant's sole discretion.

3.2.2 Two (2) model units, which shall be located in Units owned by Declarant, and which may be located or relocated in Declarant's sole discretion.

3.3 Easement Through Common Elements. Declarant shall have an easement through and upon the Common Elements to take any action Declarant is permitted to do under this Declaration, including the exercise of any Special Declarant Right. Further, Declarant shall have the right to use any easement set forth in this Declaration in favor of any of the Owners and/or the Association, to the same extent and for the same purposes as is permitted for the Owners and/or the Association.

3.4 Subdivision / Recombination / Alteration / Establishment of New Units. Declarant shall have the right to relocate boundaries between any Units owned by Declarant, subject to the provisions of

Section 2.6.1, provided that any such relocation by Declarant shall not require application to the Association or approval of the Association.

3.5 Conversion of Units to Common Elements. Declarant shall have the right to convert all or any portion of any Unit owned by Declarant into Common Elements, to designate such Common Elements as Limited Common Elements and to allocate such Limited Common Elements to the exclusive use of one or more Units.

3.6 Amendments. Declarant shall have certain approval rights regarding amendments to this Declaration, as provided in Article XIV.

3.7 Board of Directors, Officers and Association Documents. Declarant shall have the right to appoint and remove all members of the Board of Directors and all Officers. Notwithstanding any other provision of this Declaration, this right shall terminate upon the first to occur of (the "Executive Board Control Period"): (a) 120 days after the conveyance of seventy-five percent (75%) of the Units to Owners other than a Declarant, (b) two years after all Declarants have ceased to offer Units for sale in the ordinary course of business, or (c) two years after any development right to add new units was last exercised. Further, during the Executive Board Control Period, no amendment to the Articles or Bylaws shall be effective without the prior written consent of Declarant.

3.8 Boundary Relocation Review. Declarant shall have the review and approval rights regarding relocation of Unit boundaries granted to Declarant pursuant to Section 2.6.1.

3.9 Exercise of Master Unit 1 Rights. Declarant shall have the right to exercise all rights of the Association pursuant to Section 2.12 of this Declaration and Section 5.3 (entitled "Second Tier Association to Assume Certain Membership Rights") of the Master Declaration.

ARTICLE IV COMMON ELEMENTS

4.1 Common Elements. The Common Elements include all portions of the Condominium that are not part of the Units, including the following:

4.1.1 All of the undivided interest in the common elements of the Master Condominium allocated to the Property pursuant to the Master Declaration.

4.1.2 All other portions of the Property located outside of the Units, including the following: the entire ground and clubhouse levels of the Building, all interior stairwells located outside the Units, all elevator equipment rooms and other mechanical rooms, all interior hallways and corridors located outside the Units, all common storage areas and all portions of the life safety systems.

4.1.3 To the extent not covered above, all Limited Common Elements described in Section 4.2 below.

4.1.4 The foundations, roofs, columns, girders, beams, supports, exterior and interior load-bearing walls, floors within and between the Units, and all other structural elements of the Building.

4.1.5 Any public connections and meters for utility services that are not owned by the public utility, municipal agency or SWNC Master Association providing such services.

4.1.6 All tangible personal property required for the operation and maintenance of the Condominium that may be owned by the Association.

4.2 Limited Common Elements. Portions of the Common Elements described in Section 4.1 are Limited Common Elements as described herein or depicted on the Plans.

4.2.1 The Limited Common Elements shall include, without limitation, the following:

4.2.1.1 Any shutters, awnings, window boxes, doorsteps, stoops, porches, decks, balconies, patios and all exterior doors and windows, sliding glass doors, HVAC systems or other fixtures designed to serve a single Unit but located outside that Unit's boundaries shall be Limited Common Elements allocated exclusively to that Unit.

4.2.1.2 Those portions of any chute, flue, duct, wire, pipe for water or sewer, conduit, bearing wall, bearing column, or any other fixture lying partially within and partially outside the designated boundaries of a Unit, but serving exclusively that Unit, shall be Limited Common Elements allocated exclusively to that Unit.

4.2.1.3 Any portions of the heating, ventilating, and air conditioning systems, and all fans, compressors, return air grills and thermostats, whether located inside or located outside the designated boundaries of a Unit, shall be Limited Common Elements allocated exclusively to the Unit that they serve.

4.2.1.4 The private exterior balcony or balconies attached to a Unit and accessible only through such Unit shall be Limited Common Elements allocated exclusively to such Unit.

4.2.2 Except as otherwise provided herein, the Association shall maintain, repair, replace (as necessary) and insure the Limited Common Elements. However, all Common Expenses associated therewith shall be assessed exclusive against the Owners of the Units to which the Limited Common Elements are allocated. The cleanliness and orderliness of the Limited Common Elements shall be the responsibility of the individual Owner having the right to the use and enjoyment of such Limited Common Elements. Notwithstanding any other provisions of this Declaration, or any provision of the Bylaws or the North Carolina Condominium Act, the obligation for maintenance, repair or replacement of any portions of the heating, ventilating and air conditioning systems that are Limited Common Elements shall be the sole responsibility of the Owners of the Units to which such Limited Common Elements are allocated. References in this Declaration to "Common Elements" shall include Limited Common Elements unless the context clearly indicates otherwise. The allocation of use of Limited Common Elements to the Units as provided for in this Declaration shall not be altered without the unanimous consent of the Owners whose Units are affected.

4.3 Undivided Interest in Common Elements. The Owner(s) of each Unit also shall own, as an appurtenance to such Unit, an allocated undivided interest in the Common Elements, referred to herein as the Common Element Interest. Each Unit's Common Element Interest shall be as set forth on Exhibit B attached hereto. The Common Elements shall remain undivided and no Owner or any other person shall bring any action for partition or division of the whole or any part thereof except as provided in the Act.

4.4 Easement in Common Elements. Each Owner shall have a right and easement of enjoyment and access in and to the Common Elements, as provided in, and subject to, Section 9.3.

**ARTICLE V
ALTERATION OF UNITS**

5.1 Alteration of Units and Common Elements. Subject to this Article V, an Owner may make any improvement or alteration to his Unit that does not impair the structural integrity or mechanical systems or lessens the support of any portion of the Property. No Owner may change the appearance of the Common Elements or the exterior appearance of a Unit or any other portion of the Property without the express written consent of the Association, which consent may be granted or withheld in its sole discretion. Subject to this Article V, an Owner may, after acquiring an adjoining Unit, remove or alter any intervening partition or create apertures therein, even if the partition is a Common Element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Property.

5.2 Review of Alterations. No Owner may take any action permitted pursuant to Section 5.1 until the plans and specification therefor shall have been submitted to and approved in writing by Declarant during the Declarant Control Period, and thereafter by the Association, in accordance with the procedures set forth below. As used herein, the "Reviewer" shall mean the party who has the right to approve the proposed action at the time in question, whether Declarant or the Association. Maintenance, repairs, painting, wallpaper and installing or refinishing finished floor materials (i.e., excluding subfloors), shall not require approval by the Reviewer. If within thirty (30) days after submission of plans and specifications to the Reviewer the Reviewer has not sent written notices of objections thereto, the plans and specifications shall be deemed approved.

5.3 Standard of Review. The Reviewer may object to submitted plans and specifications only if the Reviewer reasonably determines that the proposed action is not permitted pursuant to Section 5.1. However, no failure to object shall be deemed to have waived, or granted any variance from, Section 5.1 or any other provision of this Declaration. Any objection must specify with particularity all matters to which the Reviewer objects and the basis for the objection and suggest revisions that would be acceptable to the Reviewer. In addition, the Reviewer otherwise shall make reasonable efforts (at no cost to the Reviewer) to aid the submitting party in preparing plans and specifications that would be acceptable to the Reviewer. The Reviewer also may object on the basis that the plans and specifications submitted are insufficient, in which case the Reviewer will specify with particularity the additional information needed. Any subsequent resubmission by a submitting party shall be reviewed and acted upon using the procedures outlined above for the original submission.

5.4 No Liability. Provided they apply the standards of review and procedures contained herein in a consistent and non-discriminatory manner, the Reviewer, in reviewing submitted plans and specifications, shall not be liable in damages to anyone submitting plans to it for approval, or to any Owner, occupant or lessee within the Property, by reason of a mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve any plans and/or specifications. Every person who submits plans to the Reviewer for review and approval in accordance with the provisions of this Article, by submission of such plans, and every Owner, occupant or lessee within the Property agrees, by acquiring title thereto or an interest therein, that he will not bring any action or suit against the Reviewer to recover such damages.

**ARTICLE VI
RESTRICTIONS ON USE**

In addition to the use restrictions set forth in Article VII (entitled "Restrictions on Use") of the Master Declaration, the Property shall be subject to the following restrictions on use:

6.1 Use. All Units shall be used for single family residential purposes only, provided that the Units also may be used for home office purposes (not involving visits by customers or other third parties) by the residents of such Units. Notwithstanding the foregoing, Declarant may maintain any Unit owned by Declarant as a sales office or model Unit, subject to the provisions of Section 3.2. For purposes of this Declaration, "single family" shall mean use and occupancy by a single household unit, or use and occupancy by no more than four (4) individuals that do not comprise a single household unit.

6.2 Nuisance. No obnoxious, offensive or unlawful activity shall be conducted within any Unit, or on or about the Common Elements, nor shall anything be done thereon or therein which may be or may become an annoyance or nuisance to the other Owners, or endanger the health and safety of any Owner. Nothing shall be done or kept in any Unit or in the Common Elements that will result in the termination of, or an increase in the premium for, the policy of property insurance for the Property maintained by the Master Association or the Association.

6.3 Prohibitions on Use of Common Elements. No Owner shall obstruct any of the Common Elements, nor shall any Owner store anything upon any of the Common Elements (except in those areas, if any, designated for such storage by the Association) without the approval of the Association. The Common Elements shall be used only for the furnishing of services and facilities for which the same are reasonably suited and which are incident to the use and occupancy of the Units.

6.4 Garbage. Trash, garbage and other waste shall be kept in sanitary containers within each Unit, and the Owner of each Unit shall be responsible for placing such garbage in designated common trash receptacles on a regular basis. No trash or garbage shall be kept or stored on any balconies or in any Common Elements except in areas designated by the Association for the storage of trash and refuse. All trash and garbage shall be bagged and tied before being deposited in any common trash receptacle.

6.5 Parking. No Owner or any guest or permitted occupant of such Owner's Unit shall park, store or keep any vehicle on the Property except wholly within marked parking spaces in the Parking Area, and in particular shall not block the entrance drives or drive aisles in the Parking Area. The parking rights of Owners and their guests and permitted occupants shall be subject to any rules or regulations that may be promulgated by the Association in accordance with Section 6.14. No boat, boat trailer, motor home, travel trailer, camper or other recreational vehicle may be parked or stored in the Parking Area at any time. No significant automobile repair or alteration shall be allowed in the Parking Area. The Parking Area shall be fairly and equally available to all Owners and their permitted occupants on a "first-come, first-served" basis while visiting the Condominium. Therefore, no person may leave or park a vehicle in the Parking Area for an indefinite or extended period of time while not contemporaneously actually occupying a Unit. The Parking Area may be utilized only while actually spending days and nights at the Condominium. The Association shall have the right to tow any vehicle in violation of this Section 6.5 at its owner's expense, and may establish and levy fines for violations of this Section 6.5. Fines imposed for violation of the parking restrictions shall be considered special assessments and shall be due and payable upon receipt of the parking violation. The Association shall have the right to enforce payment of such special assessment in the same manner as it may enforce the collection of any assessments under this Declaration and the Bylaws including charging of interest, payment of late fees and imposing of a lien against the Unit in question. Each Owner shall be responsible for any parking violation by the Owner or by any guest or permitted occupant of the Owner's Unit.

6.6 Leases of Units. Any lease of a Unit shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the Condominium Instruments and Master Condominium Instruments and that any failure by the lessee to comply with all of the terms of the Condominium Instruments or Master Condominium Instruments shall constitute a default under the lease. The Association shall have the right to promulgate a standard rental or property management agreement which

must be utilized as to form and content by any Owner electing to lease a Unit, provided that during the Declarant Control Period Declarant shall not be required to use such form when leasing any Unit owned by Declarant. Any Owner electing to lease a Unit must provide in writing to the Association a statement indicating that the Owner intends to lease the Unit and, if the Owner will lease the Unit through an agent or property manager, the notice shall specify the agent or property manager responsible for leasing the Unit and in whom is vested the responsibility for the conduct of the renters. When an Owner is represented by such an agent, any communications between the Association and such agent are deemed communications between the Association and such Owner. All tenants shall be obligated to comply with the Condominium Instruments and Master Condominium Instruments, and the Owner shall be responsible for assuring compliance. Each Owner grants to the Association the right to evict any tenant who does not comply with the Condominium Instruments and Master Condominium Instruments, and shall reimburse the Association upon demand for all costs in connection therewith. Any such cost shall be considered an assessment, and shall be enforceable against the Owner and his Unit in accordance with Article VII.

6.7 **No Timeshares.** No interest in any Unit may be subjected to a time share program, as that term is defined in N.C.G.S. § 93A-41 (10).

6.8 **Animals.** No animals, livestock or poultry of any kind shall be kept or maintained in the Condominium except that common, domestic household pets and service dogs (seeing eye dogs, etc.) may be kept or maintained in the Units, provided they are not kept or maintained for commercial purposes and provided that no Owner may have more than three (3) such pets at any one time (excluding fish). No potbellied pigs, snakes or spiders may be kept in the Condominium at any time. In addition, other animals determined in the Board of Director's sole discretion to be dangerous or incompatible with the character of the Condominium shall not be brought onto or kept on the Condominium at any time. No pet shall be permitted upon the Common Elements unless carried or leashed by a person that can control the pet. All pets shall be controlled so as not to create a nuisance or unreasonable disturbance (including loud and excessive barking) in the Condominium. Each Owner shall clean up immediately after his pet. All pets shall be registered, licensed and inoculated as required by law. Each Owner shall hold the Association harmless from any claim resulting from any action of his pet and shall repair at his expense any damage caused by his pet. If any Owner violates these rules more than twice in any twelve (12) month period, or if the Board of Directors reasonably determines that any pet is dangerous, then in addition to any fines provided in the Bylaws, the Association shall have the right to require the Owner to remove the pet permanently from the Property upon not less than ten (10) days written notice.

6.9 **Utilities.** Total electrical usage in any Unit shall not exceed the capacity of the circuits for that Unit as labeled on the circuit breaker boxes, and no electrical device causing overloading of the standard circuits may be used in any Unit without permission of the Association. All clothes dryers will have lint filters, and all stove hoods will have grease screens, and such screens and filters shall be used at all times and kept clean, and in good order and repair, by the Owner of the Unit in which they are located.

6.10 **Floor Load.** There shall be no floor load in any Unit in excess of the stated design loads for the Building, nor shall any Owner permit concentrated loads of any sort unless and until the adequacy of the structure to support such floor loads is verified by a structural engineer to the satisfaction of the Association and under such reasonable conditions and circumstances as it may require.

6.11 **Signs.** Except as expressly provided below in this Section 6.11, no flags, signs or other advertising devices shall be displayed by any Owner on or about the exterior of any Unit or in the Common Elements. An Owner may display political signs on the exterior of his Unit no more than 45 days before the day of the election and no more than seven days after the election, provided that political signs may be no larger than 24 inches by 24 inches. For purposes of this section a political sign means a sign that attempts to influence the outcome of an election, including supporting or opposing an issue on

an election ballot. An Owner may display the flag of the United States of America or the State of North Carolina on the exterior of his Unit (but not in any manner that obstructs the Common Elements) as long as its size is no greater than 4 feet by 6 feet and it is displayed in accordance with or in a manner consistent with the patriotic customs set forth in 4 U.S.C. § 5-10, as amended. During the Declarant Control Period Declarant shall not be subject to the restrictions set forth in this Section 6.11, and may display flags, signs or other advertising devices in or upon the Common Elements and/or any Unit owned by Declarant.

6.12 Satellite Dishes and Antennas. No satellite dish, antenna or similar equipment may be placed on the exterior of any Unit or in the Common Elements without the prior written approval of the Association, which may be withheld or conditioned in its sole discretion.

6.13 Balconies. The balconies adjacent to each Unit shall be kept in a clean, neat and orderly condition at all times. All furniture and other items placed on a balcony must be properly chained, bolted or otherwise secured to the balcony to prevent such item from being dislodged from the balcony by wind and thus cause a hazard. No wind chimes may be placed on any balcony.

6.14 Rules and Regulations. In addition to the use restrictions set forth in this Declaration, reasonable Rules and Regulations governing the use, enjoyment and maintenance of the Common Elements may be promulgated and amended from time to time by the Association, acting through the Board of Directors, provided that the Rules and Regulations: (a) shall not materially increase the obligations or materially decrease the rights of any Owner set forth in the Condominium Instruments; (b) shall not otherwise conflict with the terms of the Condominium Instruments; (c) shall be enforced in a consistent and non-discriminatory manner; and (d) shall not in any way abridge, curtail or otherwise interfere with any of the rights herein reserved for the benefit of Declarant. Copies of such Rules and Regulations and amendments thereto shall be posted prominently prior to their effective date and shall be furnished by the Association to all Owners upon request. All Rules and Regulations shall be binding upon the Owners, their tenants and permitted occupants until and unless such Rules and Regulations shall be specifically overruled, canceled or modified by the Board of Directors or by a written instrument approved by Owners to which are allocated least sixty-seven percent (67%) of the votes in the Association.

ARTICLE VII COVENANT FOR ASSESSMENTS

7.1 Assessments Generally. Declarant, for each Unit, and each Owner by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, hereby covenant and agree to pay the Association: (1) annual assessments or charges levied by the Association to be used as provided in Section 7.2; (2) special assessments for capital improvements levied by the Association, such assessments to be established and collected as hereinafter provided; and (3) additional assessments and other charges levied or imposed by the Association pursuant to the terms of this Declaration or the Act. Except as otherwise set forth herein or in the Bylaws, the liability of each Owner for the Common Expenses of the Association shall be in accordance with its Share of Common Expenses. Without limitation of the foregoing, the Association shall collect from the Owners and remit to the Master Association any Master Association Assessments. Except as otherwise provided herein, Master Association Assessments shall be allocated among the Units in accordance with each Unit's Share of Common Expenses.

7.2 Adoption of a Budget; Establishment of Annual Assessments. The Board of Directors of the Association shall establish an annual budget in advance for each fiscal year (which shall correspond to 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 Unit). Such budget shall project all expenses for the

forthcoming year which may be required for the proper operation, management and maintenance of the Common Elements and payment of Master Association Assessments, including a reasonable allowance for contingencies, and the budget shall take into account projected anticipated income which is to be applied in reduction of the amounts required to be collected as an assessment each year. Within thirty (30) days after adoption of the budget or any amended budget by the Board of Directors, the Board of Directors shall provide a copy of said budget or a summary thereof to each Owner, and shall set a date for a meeting of the Unit Owners to consider ratification of the budget not less than 14 nor more than 30 days after mailing of the budget or summary to the Unit Owners. There shall be no requirement that a quorum be present at the meeting. The budget shall be deemed ratified unless at that meeting Owners representing a majority of the votes in the Association, voting in person or by proxy, reject the budget. If the Board of Directors fails to propose a budget or fails to call a meeting for the ratification of a proposed budget or a proposed budget is rejected, then the annual budget last ratified shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board of Directors. Based on the ratified budget of the Association, the Board of Directors shall set the total amount of annual assessments to be collected by the Association.

7.3 Allocation of Responsibility for Annual Assessments. The total annual assessment shall be levied against the Units in accordance with each Unit's Share of Common Expenses, with the following exceptions:

7.3.1 Limited Common Elements. Common Expenses associated with the maintenance, repair or replacement of a Limited Common Element shall be assessed only against the Units to which such Limited Common Element is allocated, in proportion to such Units' respective Shares of Common Expenses.

7.3.2 Owner Misconduct. Any Common Expense caused by the misconduct of an Owner shall be assessed exclusively against such Owner's Unit except to the extent the Association is compensated therefor by insurance maintained by the Association.

7.3.3 Sewer Easement Fee. Any Per Unit Easement Fee (as defined in Article XII) or Sewer Easement Fee (as defined in the WWTP Agreement), whether charged to the Association in any Master Association Assessment or paid directly by the Association to the Summer Winds Association, shall be assessed exclusively against the Units for which the payment of such fees is required pursuant to the WWTP Agreement, with each such Unit being assessed an amount equal to the amount due for such Unit pursuant to the WWTP Agreement.

7.4 Payment of Annual Assessments; Reconciliation. Once such annual assessments are established, the Association shall send written notice of the annual assessment and the due date established by the Board of Directors to the Owner(s) of each Unit. The Owners shall pay the annual assessment in equal monthly installments on or before the fifteenth (15th) of each month. Within sixty (60) days after the end of each fiscal year, the Board of Directors shall supply to all Owners an accounting of the Common Expenses for such fiscal year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the budget adopted by the Board of Directors for such fiscal year, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be either, at the option of the Board of Directors: (a) credited to the installments due in the succeeding months of that or the following fiscal year; or (b) repaid to the Owners, in either case in proportion to the Owners' respective Shares of Common Expenses, except that to the extent that any such excess results from lower than budgeted Common Expenses that are disproportionately assessed pursuant to Section 7.3, such excess shall be credited or paid only to the Owners responsible for payment of such Common Expenses, in proportion to their actual payments to the Association for the lower than budgeted Common Expense in question.

7.5 **Reserves.** In the discretion of the Board of Directors of the Association, any budget and the assessments levied pursuant to the budget may include a reasonable amount to be set aside as a reserve for contingencies and repair and replacement of improvements located on the Common Elements; provided, however, the Board of Directors shall not approve a budget or assessments that include reserve funds if the assessments for such reserve will be taxed as income to the Association for state or federal income tax purposes.

7.6 **Penalties for Late Payments; Costs and Expenses of Collection.** Any assessment not paid within thirty (30) days following its due date shall accrue interest from the due date on the unpaid portion of the assessment at the rate of interest established from time to time by the Association, not to exceed the lesser of eighteen percent (18%) per annum or the highest lawful rate. The Association also may establish from time to time a late payment charge for delinquent assessments, in such amount (not to exceed ten percent (10%) of the then applicable amount due), which late payment charge shall become applicable on the date determined by the Board, but in no event less than thirty (30) days after the due date. The Association, in its discretion, may waive in whole or in part the imposition of interest and late payment charges with respect to any delinquent assessment. In addition to the obligation to pay assessments, interest and late payment charges, the defaulting Member also shall pay all of the Association's costs and expenses of collection, including reasonable attorneys' fees. Attorney's fees, charges, late charges (as provided above), fines, and interest thereon are also enforceable as assessments.

7.7 **Assessment Lien and Remedies for Non-Payment.** Assessments and other charges levied against a Unit and remaining unpaid for a period of thirty (30) days or longer shall constitute a lien on that Unit when a claim of lien is filed of record in the office of the Clerk of Superior Court of Carteret County. Such assessments and other charges also shall be the personal obligation of each Owner of the Unit at the time the assessment became due. The personal obligation for delinquent assessments and charges shall not pass to an Owner's successors in title unless expressly assumed by such successors. In addition to any other remedies available to the Association by law for the collection of any past due assessments, the Association may foreclose the claim of lien in like manner as a mortgage on real estate under a power of sale or in any other manner allowed or required by applicable law, and/or institute suit against the Owner(s) of the Unit at the time the assessment became due.

The lien for unpaid assessments and other charges provided for herein is prior to all liens and encumbrances except liens and encumbrances (including any Mortgage lien) recorded before the docketing of the claim of lien in the office of the Carteret County Clerk of Court, and liens for ad valorem taxes and other governmental assessments and charges that have priority over such lien by law. Any person or entity who obtains title to any Unit as a result of foreclosure of a Mortgage or tax or assessment lien that has priority over any claim of lien filed by the Association shall not be liable for the assessments against such Unit which were applicable to any period of time prior to the date on which such foreclosure became final; provided, however, the annual assessment for the year in which such foreclosure occurs shall be pro-rated and the pro-rated amount for the portion of such year after the date on which the foreclosure becomes final shall become the personal obligation of the new Owner, and shall be due and payable in accordance with this Declaration. The foreclosure shall extinguish the Association's lien for any unpaid amount applicable to the time period prior to and including the date on which the foreclosure becomes final; provided, however, if there are any proceeds of such foreclosure sale remaining after the payment of the lien of the foreclosed mortgage, the expenses of the foreclosure sale, and the payment of any other lien that has priority over the Association's lien, the excess proceeds, up to and including the amount required to satisfy the Association's lien, shall be paid to the Association. To the extent not paid out of any excess proceeds from foreclosure, any unpaid assessments shall be deemed to be a Common Expense collectible from all Owners, including the new Owner of the Unit subject to the foreclosure, in accordance with the Owners' Shares of Common Expenses.

7.8 Action to Recover Assessments. If any assessment or any portion thereof remains delinquent and unpaid for more than thirty (30) days after the assessment payments first become delinquent, the Association, acting through the Board of Directors, may institute suit to collect all amounts due pursuant to the provisions of this Declaration, the Bylaws, the Act and North Carolina law, including reasonable attorneys' fees actually incurred, and after notice and an opportunity to be heard, suspend the Owner's right to vote and the right to use the Common Elements; provided, however, the Board may not deny any Owner's access to such Owner's Unit nor cause any hazardous or unsanitary condition to exist. Enforcement under this Section 7.8 is not dependent upon or related to other restrictions and/or other actions. If any assessment, any related charges or any portion thereof remains delinquent and unpaid after sixty (60) days from the original due date, the Board of Directors may institute suit to collect such amounts and to foreclose its lien. The equitable charge and lien provided for in this Section 7.8 shall be in favor of the Association for the use and benefit of all Owners. Each Owner, by its acceptance of a deed to the Unit, vests in the Association or its agents the right and power to sue or otherwise proceed against such Owner for the collection of such charges and/or to foreclose such liens. The Association shall have the power to bid on the Unit at any foreclosure sale, by credit or cash bid, and to acquire, hold, lease, mortgage and convey the same.

7.9 Purpose of Assessments. The annual assessments levied by the Association shall be used for the improvement, maintenance, operation, repair, replacement and additions of and to the Common Elements, including the payment of insurance for the Common Elements and the payment of utility charges related thereto, for the payment of Master Association Assessments and Per Unit Easement Fees (as defined in Article XII) and for the purpose of doing any other things necessary or desirable, in the reasonable discretion of the Association to keep the Common Elements in a clean and good order and to provide for the health, welfare and safety of the Owners and occupants of the Units and the Common Elements, and for any other purpose contemplated in this Declaration.

7.10 Special Assessments. The Association also may levy special assessments payable in such manner as may be specified by the Association, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Elements, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of a majority of votes of the Members and, during the Declarant Control Period, also by Declarant. Further, the Association shall levy special assessments as may be necessary to pay any special Master Association Assessment, and no consent of the Members shall be necessary for any such special assessment. Special assessments shall be levied against the Units in accordance with each Unit's Share of Common Expenses, provided that if the Board of Directors determines that such additions, alterations or improvements are exclusively for the benefit of one (or less than all) of the Owners, the Board may decide that such assessments shall be made exclusively against such benefited Owner(s) in such proportion as may be determined by the Board.

7.11 Estoppel. Within a reasonable time after written request, any Owner shall be entitled to a written statement from the Board identifying the status of all assessments, costs, charges and dues charged against such Unit. Such statement also shall identify any special assessments that have been approved by the Board but not yet due, and any special assessments that are awaiting approval of the Members.

ARTICLE VIII MAINTENANCE

8.1 Maintenance of Common Elements and Responsibility for Payment of Common Expenses. Except as otherwise provided in Section 4.2.2, the Association shall maintain, repair and replace the Common Elements in a manner consistent with the maintenance of first class residential condominiums in the Crystal Coast area of Carteret County, North Carolina, and the cost thereof shall be a Common

Expense. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to access (at reasonable times and upon reasonable prior notice, except in case of emergency) over and upon those portions of each Unit reasonably necessary for the maintenance, repair and replacement of the Common Elements.

8.2 Maintenance of Individual Units.

8.2.1 Each Owner shall be liable and responsible for maintenance, repair and replacement, as the case may be, of such Owner's Unit in a safe, clean, sightly, attractive and good state of condition and repair and to a standard consistent with first class residential condominiums in the Crystal Coast area of Carteret County, North Carolina. To the extent not part of the Common Elements, the Owner's maintenance obligation shall include, but shall not be limited to: paint, repair, replace and care of glass surfaces, windows, doors and all equipment required to provide water, power, telephone, sewage and sanitary service to the Unit and that are part of the Unit. In addition, each Owner shall maintain, repair and replace (as necessary) any portions of the heating, ventilating and air conditioning systems that are Limited Common Elements and are allocated to such Owner's Unit.

8.2.2 If the Owner of a Unit neglects or fails to maintain his or her Unit, then the Association may provide such maintenance and all cost incurred by the Association in providing such maintenance shall be added to the annual assessment for such Unit and subject to the lien rights described in Article VII. The Association first shall give written notice to the Owner of the specific items of maintenance or repair the Association intends to perform and the Owner shall have twenty (20) days from the date of mailing of said notice within which to perform such exterior maintenance. The determination as to whether an Owner has neglected or failed to maintain such Owner's Unit as required by this Section 8.2.2 shall be made by the Board of Directors in its reasonable discretion. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each Unit and all Limited Common Elements at all reasonable times, and upon reasonable prior notice, to perform maintenance as provided in this Section 8.2.2.

ARTICLE IX EASEMENTS

9.1 Easements Reserved by Declarant. During the Declarant Control Period, Declarant shall have the easement rights set forth in Section 3.3.

9.2 Easements Reserved in Favor of the Association. The Association and their representatives shall have such easements through, on, over and upon the Common Elements and, at reasonable times and upon reasonable prior notice, to the Units as may be reasonably necessary for the purpose of exercising the Association's powers and discharging the Association's obligations under this Declaration. In case of any emergency originating in or threatening any Unit or the Common Elements, regardless of whether the Owner is present at the time of such emergency, the Association, or any other person authorized by it, shall have the right to enter any Unit or its Limited Common Elements for the purpose of remedying or abating the cause of such emergency and making any other necessary repairs not performed by the Owners, and such right of entry shall be immediate.

9.3 Easement in Common Elements. Each Owner shall have a right and easement of enjoyment and access in and to the Common Elements, including the right of ingress, egress and regress; subject, however, to the provisions of the Condominium Instruments and Master Condominium Instruments, specifically including the following:

9.3.1 The right of the Association to prescribe and promulgate reasonable Rules and Regulations for the use, enjoyment, and maintenance of the Common Elements, including the Parking Area.

9.3.2 The express terms of any easements, restrictions and other matters herein contained or otherwise of record affecting the Common Elements up to the date this Declaration is recorded.

9.3.3 The power of the Association to grant easements for utility purposes for the benefit of the Property, including the right to install, lay, maintain, repair and replace lines and equipment for water, wastewater, electricity, gas, telecommunications and other utilities over, under, along and on any portion of the Common Elements, including the Limited Common Elements. Each Owner hereby grants to the Association an irrevocable power of attorney to execute, acknowledge and record for and in the name of each Owner such instruments as may be necessary to effectuate the foregoing.

Any Owner may delegate his, her or its right of enjoyment to the Common Elements to such Owner's tenants and permitted occupants.

9.4 Encroachment Easements. If any portion of the Common Elements now encroaches upon any Unit, or if any Unit now encroaches upon any other Unit or upon any portion of the Common Elements, or if such encroachment shall occur hereafter as a result of the settling or shifting of improvements, there shall exist a valid easement for the encroachment and for the maintenance of same for so long as such improvements shall stand. If such improvements or any portion of the Common Elements is partially or totally destroyed by fire or other casualty or as a result of condemnation or eminent domain proceedings, and subsequently is rebuilt, any encroachment of parts of the Common Elements upon any Unit, or of parts of any Unit upon the Common Elements, due to such rebuilding shall be permitted, and valid easements for such encroachments and the maintenance thereof shall thereafter exist.

9.5 Easement to Repair, Maintain, Restore and Reconstruct. Each Owner shall have an easement over and upon the Common Elements as may be reasonably necessary to repair, maintain, restore and/or reconstruct such Owner's Unit.

9.6 Easements Run with Land. All easements granted herein are appurtenant to and shall run with the land and title to each Unit, and shall inure to the benefit of and be binding upon Declarant, the Association, Owners and Mortgagees, and any other person or entity having an interest in the Condominium.

ARTICLE X INSURANCE

10.1 Property Insurance. The Association shall maintain, to the extent available, property insurance upon the Building (exclusive of improvements and betterments installed by the Owners). The total amount of such insurance after the application of any deductibles shall be not less than eighty percent (80%) of the replacement cost of the Building at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies. The Association shall maintain, to the extent available, flood insurance upon the Building (exclusive of improvements and betterments installed by the Owners) in such amount and with such deductible as may be determined by the Board. Such policies shall conform in all respects to the requirements of the Act, and shall provide that, notwithstanding any provision thereof that gives the insurer an election to restore damage in lieu of making a cash settlement, such option shall not be exercisable if such restoration is prohibited pursuant to § 47C-3-113(h) of the Act. The policies shall provide that each Owner is an insured person with respect to his Unit and his allocated Common Element

Interest. Each property or flood insurance policy shall provide that adjustment of loss shall be made by the Association as insurance trustee. Each property or flood insurance policy shall provide for the issuance of certificates or mortgagee endorsements to Mortgagees.

10.2 Liability Insurance. The Association shall maintain, for the benefit of the Owners, the Association, the Board of Directors, Declarant, and their respective officers, directors, agents and employees, liability insurance in reasonable amounts covering all occurrences commonly insured, against death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements and other portions of the Property that the Association is responsible for maintaining, and for contractual liability coverage with respect to the indemnity obligation set forth in Section 10.4. Declarant and the Association shall be named insureds under such policy(ies).

10.3 Other Insurance. In addition to the insurance required hereinabove, the Association may obtain as a Common Expense such other insurance as the Association may determine to be necessary or desirable.

10.4 Association Indemnity. The Association agrees to defend, protect, indemnify and hold harmless each Owner and the occupants of such Owner's Unit from and against all claims or demands, including any action or proceeding brought thereon, and all costs, losses, expenses and liabilities of any kind, including reasonable attorneys' fees and cost of suit, asserted or incurred in connection with or arising out of the performance, or failure to perform, by the Association of its duties or obligations under this Declaration with respect to the maintenance and operation of the Common Elements; provided, however, the foregoing obligation shall not apply to claims or demands based on the negligence or the willful act or omission of an indemnified Owner or the occupants of its Unit.

10.5 Board and Officers. The Association shall obtain and maintain liability insurance on each Officer and each of the members of the Board of Directors of the Association, together with a fidelity bond on the treasurer of the Association and all others responsible for handling funds belonging to or administered by the Association, all in such amounts and in such forms as shall be determined by the Board of Directors, but in no event less than one-half the annual budgeted amount of Common Expenses. Any such policy must include the Association as a named insured.

10.6 Review Rights. The Board of Directors shall make available for review by Owners a copy of the Association's insurance policies. Each Owner shall have the right to obtain additional coverage at its own expense.

10.7 Beneficiaries. All insurance purchased by the Association pursuant to this Article shall run to the benefit of the Association, the Board of Directors, officers, all agents and employees of the Association, the Owners, and their respective Mortgagees, as their interests may appear. The Association's insurance policy may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance equals at least the replacement cost of the insured property.

10.8 Periodic Review. The Board of Directors shall conduct an annual insurance review to determine if the policies in force are adequate to meet the needs of the Association and to satisfy the requirements of § 47C-3-113 of the Act and as required herein.

10.9 Coverage Requirements. To the extent commercially practical under the circumstances, the policies required must provide that:

10.9.1 Each Owner is an insured person under the policy with respect to liability arising out of his interest in the Common Elements or membership in the Association.

10.9.2 The insurer waives its right to subrogation under the policy against any Owner or the permitted occupants of any Unit.

10.9.3 No act or omission by any Owner, unless acting within the scope of his authority on behalf of the Association, will preclude recovery under the policy.

10.9.4 If, at any time or a loss under the policy, there is other insurance in the name of an Owner or Declarant covering the same risk covered by the policy, the Association's policy provides primary insurance.

10.9.5 The policy may not be cancelled, nor may the insurer refuse to renew the policy until thirty (30) days after notice of such cancellation or non-renewal has been mailed to the Association, each Owner and each Mortgagee to whom certificates have been issued at their last known address.

10.9.6 All policies of insurance shall be written with a company licensed to do business in the State of North Carolina.

10.9.7 Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Board of Directors or its duly authorized agent; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any related thereto.

10.10 Insurance Obtained by Owners. Each Owner shall obtain and keep continuously in force additional fire and casualty and extended coverage insurance upon his personal property and any improvements and betterments installed by the Owner in his Unit. Each Owner shall obtain and maintain public liability insurance coverage in the amount of at least \$100,000.00 for bodily injury, including deaths of persons and property damage, arising out of a single occurrence. Each Owner shall file a copy of each such individual policy with the Association within thirty (30) days after purchase.

ARTICLE XI CASUALTY AND CONDEMNATION

11.1 Reconstruction and Repair. If all or any part of the Building (exclusive of improvements and betterments installed by the Owners) shall be damaged or destroyed the Association shall repair or replace the damaged portion of the Building unless: (1) the Condominium is terminated, (2) repair or replacement would be illegal under any Governmental Requirements, or (3) the Owners elect not to rebuild by an eighty percent (80%) vote, including one hundred percent (100%) of Owners of Units not to be rebuilt and one hundred percent (100%) of Owners of Units to which are allocated any Limited Common Elements not to be rebuilt. Unless one of the preceding three conditions occurs, the Association shall arrange for the prompt repair and restoration of the Building, not including any improvements and betterments installed by the Owners, and the Association shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments and in accordance with the provisions of Section 11.2. Any payment for repair and restoration in excess of the insurance proceeds shall constitute a Common Expense. Any reconstruction or repair shall be in accordance with the Plans. If the Owners vote not to rebuild any Unit, that Unit's allocated Common Element Interests automatically shall be reallocated upon the vote as if the Unit had been condemned under N.C.G.S. § 47C-1-107(a).

11.2 Distribution of Insurance Proceeds. All insurance policies procured by the Association shall provide that all losses shall be adjusted with and all proceeds shall be payable to the Association as insurance trustee. The sole duty of the Association as insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes set forth herein and for the benefit of the Owners and their Mortgagees in the following shares:

11.2.1 Proceeds on account of damage to the General Common Elements shall be held in undivided shares for each Owner and his Mortgagee, if any, each Owner's share to be the same as such Owner's Common Element Interest.

11.2.2 Proceeds on account of damage to Units or Limited Common Elements shall be held in the following undivided shares:

11.2.2.1 When the damage is to be restored, for the Owners of damaged Units and/or Limited Common Elements, in proportion to the cost of repairing the damage to each such Owner's Unit and/or Limited Common Element, which cost shall be determined by the Association.

11.2.2.2 When the damage is not to be restored, an undivided share for each Owner of the damaged Units and/or Limited Common Elements, in proportion to the relative Common Element Interests of all such Owners.

11.2.3 If a mortgagee endorsement or certificate has been issued with respect to a Unit, the share of the Owner shall be held in trust for the Mortgagee and the Owner as their respective interests may appear.

11.2.4 Proceeds of insurance policies received by the Association as insurance trustee shall be distributed to or for the benefit of the Owners in the following manner:

11.2.4.1 If it is determined pursuant to Section 11.1 that the damaged property with respect to which the proceeds are paid shall not be reconstructed or repaired, then:

11.2.4.1.1 the proceeds attributable to the damaged General Common Elements shall be used to restore the damaged area to a condition compatible with the rest of the Condominium;

11.2.4.1.2 the proceeds attributable to Units and Limited Common Elements which are not rebuilt shall be distributed to the owners of such Units and the Units to which those Limited Common Elements were allocated or to their Mortgagees, in proportion to their respective Common Element Interests; and

11.2.4.1.3 the remainder of the proceeds shall be distributed to all Owners or Mortgagees, as their interests may appear, in proportion to their respective Common Element Interests.

11.2.4.2 If the damage for which the proceeds were paid is to be repaired or reconstructed, the proceeds shall be paid to defray the costs thereof. Any proceeds remaining after payment of such repair costs shall be distributed to the Owners in proportion to their respective Common Element Interests. Such distributions shall be made to each Owner and his Mortgagee, if any, jointly.

11.3 Condemnation Proceeds. In the event of a taking in condemnation or by eminent domain of part or all of the Common Elements, unless otherwise required by the Act, the award made for such taking shall be payable to the Association for use in restoring, if possible, the affected portion of the Common Elements and distributing the excess to the Members in accordance with their Common Element Interests, provided that to the extent such excess is from an award for a taking of Limited Common Elements the excess shall be distributed solely to the Owners of the Units to which such Limited Common Elements were allocated, in accordance with their respective proportionate shares of the sum of the Common Element Interests of all such Owners. No Owner shall be deemed to have waived whatever rights that it may have to pursue a separate claim against the condemning authority by reason of the payment of condemnation awards as provided in this Section 11.3.

**ARTICLE XII
WASTEWATER DISPOSAL**

Wastewater disposal to accommodate the requirements of the Condominium will be handled by a wastewater disposal system (hereafter "Wastewater System") to be constructed by SFI which meets or exceeds all of the applicable criteria and standards established for such systems by all applicable governmental regulatory authorities. The Wastewater System will be operated by a utility company regulated by the North Carolina Public Utilities Commission or a non-profit corporation formed jointly by the Master Association and Summer Winds Condominiums, Inc. ("SWCI") (both the regulated utility and the non-profit corporation being referred to herein as the "Utility.") Each Unit and each Unit Owner will be assessed by the Association as necessary to pay the Utility its charges for service. Major components of the Wastewater System will be constructed and operated on the campus of Summer Winds Condominiums at 1505 Salter Path Road, Indian Beach, NC pursuant to easements and terms contained in that Agreement (as amended, "WWTF Agreement") dated July 15, 2008 recorded in Book 1282, Page 96, Carteret County Registry, as amended by an Addendum #1 dated August 7, 2008, as further amended by an Addendum #2 dated September 22, 2009, and as further amended by Amendment of Agreement dated December 16, 2011 recorded in Book 1394, Page 314, Carteret County Registry, and the Cross Easement recorded in Book 1337, Page 281, Carteret County Registry, as amended by instrument recorded in Book 1394, Page 313, Carteret County Registry. The provisions of the WWTF Agreement are incorporated herein, and include, among other things, that each Unit on the Property has an easement for treatment and disposal of wastewater on the Summer Winds campus and that an annual sewer easement fee based on the number of Units in the Property will be paid to SWCI by the Association in equal installments at least quarterly during each a calendar year. Such annual sewer easement fee is referred to in the WWTF Agreement, and shall be referred to herein, as the "Per Unit Easement Fee." The annual Per Unit Easement Fee per Unit payable to SWCI is initially \$500.00 per year but is subject to adjustment for changes in the Consumer Price Index. The Per Unit Easement Fee is payable only with respect to certain Units, as set forth in the WWTF Agreement, that are actually occupied or are deemed to be occupied because of the circumstances of the ownership of such Units. Because such Units are disproportionately benefitted by the Wastewater System, the Association shall assess the Per Unit Easement Fee against Units that have triggered the fee pursuant to the terms of the WWTF Agreement, and only against such Units, in addition to the assessments for paying to the Utility its charges for service. If a Unit Owner defaults in payment of any assessment to the Association that includes a charge for the Per Unit Easement Fee, the WWTF Agreement requires the Association to either: (a) file a lien against the defaulting Unit Owner's Unit for the amount of any unpaid assessment more than 60 days delinquent and to seek collection of the delinquent sum, or (b) make a full installment payment of the Per Unit Easement Fee to SWCI notwithstanding that one or more Unit Owners have defaulted in payment of assessments. If a lien is filed and the Association does not make a full installment payment of the Per Unit Easement Fee to SWCI, then pursuant to the WWTF Agreement the Association is required to collect in as expeditious a manner as possible the defaulted assessment by all practical means, including but not limited to a suit

and/or foreclosure of said lien by power of sale or judicial action. Upon collection of any defaulted assessment for the Per Unit Easement Fee the Association shall remit such collected amount to SWCI. At the written election of SWCI, the Association will assign that portion of the defaulted assessment representing the unpaid installment of the Per Unit Easement Fee and the lien securing payment of the assessment to SWCI and SWCI shall have all rights to collect the same to the same extent as the Association but for the assignment. In the event of such assignment, SWCI shall be entitled to recover its actual attorney's fees, costs and interest at the highest rate permitted by law.

In the event the Association fails to remit to SWCI any Per Unit Easement Fee it collects, SWCI also shall have the right to collect the same by action at law against the Association. In such event the Association shall pay SWCI's actual reasonable attorneys fees and costs. Such defaulted payment shall bear interest at the maximum rate allowed by law.

Notwithstanding any provision to the contrary in this Declaration, this Article XII may not be amended without the written consent of Summer Winds Condominiums, Inc.

ARTICLE XIII TERMINATION

The Condominium may be terminated only: (a) in strict compliance with § 47C-2-118 of the Act; (b) by the affirmative vote of at least eighty percent (80%) of the votes allocated to the Owners; (c) by the affirmative vote of at least fifty-one percent (51%) of the First Mortgagees; and (d) with the consent of Declarant, if the termination occurs during the Declarant Control Period.

ARTICLE XIV AMENDMENT

Other than amendments made by Declarant pursuant to any Special Declarant Right, this Declaration may be amended only: (a) with the consent of Owners to whom at least sixty-seven percent (67%) of the votes in the Association are allocated; (b) in strict compliance with the Act, including §§ 47C-2-105, 47C-2-109, 47C-2-110 and 47C-2-117 of the Act; (c) with the consent of at least fifty-one percent (51%) of the First Mortgagees; and (d) with the consent of Declarant, if the amendment is made during the Declarant Control Period. Notwithstanding the foregoing, other than amendments made by Declarant pursuant to any Special Declarant Right, no amendment to this Declaration that changes any of the following shall be effective without the consent of all Owners and Mortgagees of Units affected by the amendment (and Declarant, during the Declarant Control Period): voting rights; assessment liens or the priority of assessment liens; reallocation of Common Element Interests or Shares of Common Expenses; rights to use the Common Elements; annexation or removal of real property to or from the Condominium; conversion of Common Elements to Units; conversion of Units into Common Elements; imposition of any restrictions on sale, conveyance or leasing of Units; restoration or repair of the Condominium after damage or partial condemnation; or this Article XIV. Further, no amendment altering or impairing any Special Declarant Rights may be made without the written consent of Declarant. All amendments to this Declaration shall be filed with the Carteret County Register of Deeds.

ARTICLE XV RIGHTS OF MORTGAGEES

15.1 Mortgagee Consents. Wherever in the Condominium Instruments the approval or consent of a specified percentage of Mortgagees (or First Mortgagees) is required, it shall mean the approval or consent of Mortgagees (or First Mortgagees) holding Mortgages on Units to which are allocated that specified percentage of votes allocated to all Units then subject to Mortgages. If the Association sends to a Mortgagee by certified mail, return receipt requested, a written request for approval of any action or

amendment for which Mortgagee (or First Mortgagee) approval is required, then the failure of such Mortgagee to deny approval in writing sent by certified mail, return receipt requested, to the Association at its principal office as set forth in the records of the North Carolina Secretary of State, within thirty (30) days of receipt or refusal of delivery of the Association's request by the Mortgagee, shall constitute approval by that Mortgagee of the proposed action or amendment.

15.2 Rights to Examine Books and Records. Any Mortgagee shall have the right to examine, during normal business hours and upon reasonable notice, the books and records of the Association, including copies of the Condominium Instruments, as amended, and the financial statements of the Association, and to be furnished, upon written request, at least one copy of the annual financial statement and report of the Association, such annual statement and report to be furnished within ninety (90) days following the end of each fiscal year. Upon request of any Mortgagee, the financial statement of the Association shall be audited by an independent certified public accountant at the Mortgagee's expense.

15.3 Member Meetings. Any representative of a Mortgagee may attend and address any meeting that an Owner may attend.

15.4 Enforcement. The provisions of this Article XV are for the benefit of all Mortgagees and their successors, and may be enforced by any of them by any available means.

15.5 Amendments. Notwithstanding any other provision of this Declaration or the other Condominium Instruments, in addition to the Mortgagee consent rights set forth in Article XIV, no amendment of the Condominium Instruments that is defined below as being material shall be effective without notice to all Mortgagees who are entitled to notice pursuant to Section 15.6, and the approval of at least fifty-one percent (51%) of the First Mortgagees (or any greater percentage required by the terms of the Condominium Documents). Any amendment of the Condominium Instruments that affects any of the following matters shall be considered material:

- 15.5.1 Responsibility for maintenance and repairs of the Units or the Common Elements.
- 15.5.2 Conversion of Common Elements into Units.
- 15.5.3 The expansion or contraction of the Condominium, or the addition, annexation or withdrawal of property to or from the Condominium.
- 15.5.4 The requirements for insurance and fidelity bonds.
- 15.5.5 The imposition of any restrictions on the conveyance or leasing of Units.
- 15.5.6 The restoration or repair of the Building after casualty damage or partial condemnation.
- 15.5.7 Termination of the Condominium after occurrence of substantial destruction or condemnation.
- 15.5.8 Any provision that expressly benefits Mortgagees.

15.6 Mortgagee Notice Rights. In addition to any other rights granted herein to Mortgagees, any Mortgagee shall have the right to timely written notice of the following:

15.6.1 Any condemnation or casualty loss that affects a material portion of the Common Elements, and any condemnation or casualty loss that affects a material portion of the Unit subject to such Mortgagee's Mortgage, and of which the Association has notice.

15.6.2 Any known default under the Condominium Instruments or delinquency in the payment of assessments or charges owed by the Owner of any Unit subject to such Mortgagee's Mortgage, and that remains uncured for thirty (30) days.

15.6.3 Any notice of filing of a lien by the Association against any Unit subject to such Mortgagee's Mortgage.

15.6.4 A lapse, cancellation, unavailability or material modification of any insurance policy maintained by the Association.

15.6.5 Any proposed action that requires the consent of a specified percentage of Mortgagees.

Provided, however, that the notification rights granted above shall be available only to those Mortgagees who have submitted a written request to the Association requesting such notification. Said written request shall include the name and address of the party making such request, and shall identify the Unit on which it has a Mortgage.

ARTICLE XVI GENERAL PROVISIONS

16.1 Exercise of Power. All powers granted to the Association by this Declaration or the Bylaws shall be exercisable by the authority of the Board of Directors, except as expressly provided in this Declaration, the Bylaws or the Act.

16.2 Enforcement. The Association, the Master Association and Declarant shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Condominium Instruments. Without limitation of the foregoing, the Master Association shall have the right to exercise the power granted to the Association herein to assess the Units for Common Expenses, and to enforce and collect such assessments by lawsuit, foreclosure and/or any other means provided for herein, for the purpose of collecting any Master Association Assessments from the Owners. Failure to enforce any covenant or restrictions in the Condominium Instruments shall in no event be deemed a waiver of the right to do so thereafter. Upon notice to the Association of a violation hereunder and a failure of the Association to take action upon said violation within sixty (60) days, any Owner, Declarant or other holder of an interest in the Condominium, may undertake the enforcement of the provisions of this Declaration at his, her or its own expense. Except as otherwise expressly provided herein, the rights and remedies of every Owner, Declarant and the Association under this Declaration shall be deemed to be cumulative and in addition to any other rights available at law, in equity or otherwise, and none of such rights or remedies at law or in equity or otherwise, shall impair any such Owner's, Declarant's or the Association's standing to exercise any other right or remedy.

16.3 Invalidity of Pnrt. Invalidation of anyone of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

16.4 Running with Land. The covenants and restrictions of this Declaration shall run with and bind the land perpetually, unless this Declaration is terminated pursuant to its terms.

16.5 Interpretation. When the context in which a word is used in this Declaration indicates that such is the intent, a word in the singular number shall include the plural and vice-versa, and a word in the masculine gender shall include the feminine and neuter and vice-versa. Any use in this Declaration of any form of the verb "to include" means the word stated but not limited to. The paragraph headings or titles used in this Declaration are for convenience only, and shall not define, limit, extend or interpret the scope of this Declaration or any particular section, paragraph or provision of this Declaration. In the event of any conflict between this Declaration and the provisions of any other Condominium Instrument, the provisions of this Declaration shall control. In the event of any conflict between any Condominium Instrument and any Master Condominium Instrument, the provisions of the Master Condominium Instruments shall control.

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IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first above written.

RBC Real Estate Finance Inc., a Delaware corporation,
as Agent for itself and for First Bank pursuant
to an Agency Agreement, as defined in and
evidenced by Memorandum of Agency Agreement
recorded in Book 1411, Page 28, Carteret County Registry

By: [Signature]
Name: Scott K. Ernest
Title: Vice President

STATE OF North Carolina
COUNTY OF Mecklenburg

I, Kelly Philemon, a Notary Public of the County and State aforesaid, do hereby certify that
Scott K. Ernest personally appeared before me this day and acknowledged the due execution of
the foregoing instrument. Witness my hand and official seal this the 5 day of
June, 2012.

[Signature]
printed name: Kelly Philemon, Notary Public
My commission expires: 6-15-2014

(Official Seal)



RBC Real Estate Finance Inc., as holder of the obligations secured by the DIP Deed of Trust (as defined below) and DIP Secondary Deed of Trust (as defined below), joins in this Declaration for the sole purpose of consenting to its terms. However, RBC Real Estate Finance Inc.'s joinder herein shall not be construed as a subordination of the DIP Deed of Trust or DIP Secondary Deed of Trust to this Declaration, both of which deeds of trust shall remain liens on the real property described therein superior to this Declaration. As used herein, the "DIP Deed of Trust" shall mean the Deed of Trust from Shearin Family Investments, LLC to Spruillco, Ltd., trustee for RBC Real Estate Finance Inc., recorded in Book 1301, Page 50, Carteret County Registry. As used herein, the "DIP Secondary Deed of Trust" shall mean the Deed of Trust from Shearin Family Investments, LLC to Spruillco, Ltd., trustee for RBC Real Estate Finance Inc., recorded in Book 1301, Page 51, Carteret County Registry.

RBC Real Estate Finance Inc., a Delaware corporation

By: [Signature]
Name: Scott K. Ernest
Title: Vice President

STATE OF North Carolina
COUNTY OF Mecklenburg

I, Kelly Philemon, a Notary Public of the County and State aforesaid, do hereby certify that Scott K. Ernest personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal this the 5 day of June, 2012.

Kelly Philemon
printed name: Kelly Philemon, Notary Public
My commission expires: 6-15-2014

(Official Seal)



SCHEDULE OF EXHIBITS

- Exhibit A: Property
Exhibit B: Identifying Unit Numbers, Square Footage and Allocated Interests
Exhibit C: Bylaws

Exhibit A

The Property

That certain real property located in the County of Carteret, State of North Carolina, more particularly described as follows:

Tract 1:

Being all of Tract #4, Section "A" of that certain division of the Roosevelt Property west of Salter Path, as mapped and platted by C.C. King, Surveyor under date of September 15, 1967 said map recorded in Map Book 7, Page 26, Carteret County Registry, together with all riparian and littoral rights incident and attached thereto.

Tract 2:

Being all of Tract #3, Section "A" of that certain division of the Roosevelt Property west of Salter Path, as mapped and platted by C.C. King, Surveyor under date of September 15, 1967 said map recorded in Map Book 7, Page 26, Carteret County Registry, together with all riparian and littoral rights incident and attached thereto.

Tract 3:

All of Lot 1 (containing 0.67 ac.) as shown on plat entitled "Minor Plat Property of Shearin Family Investments, LLC" dated June 2011, last revised June 21, 2011, and recorded in Map Book 32, Page 83, Carteret County Registry.

Tract 4:

All of Lot 2 (containing 0.55 ac.) as shown on plat entitled "Minor Plat Property of Shearin Family Investments, LLC" dated June 2011, last revised June 21, 2011, and recorded in Map Book 32, Page 83, Carteret County Registry.

Exhibit B

Identifying Unit Numbers, Square Footage, Allocated Interests

<u>Unit</u>	<u>Square Feet</u>	<u>Votes, Common Element Interest and Share of Common Expenses</u>
101	1779	1.511%
102	1657	1.408%
103	1657	1.408%
104	1657	1.408%
105	1657	1.408%
106	1657	1.408%
107	1657	1.408%
108	1657	1.408%
109	1657	1.408%
110	1779	1.511%
201	1779	1.511%
202	1657	1.408%
203	1657	1.408%
204	1657	1.408%
205	1657	1.408%
206	1657	1.408%
207	1657	1.408%
208	1657	1.408%
209	1657	1.408%
210	1779	1.511%
301	1779	1.511%
302	1657	1.408%
303	1657	1.408%
304	1657	1.408%
305	1657	1.408%
306	1657	1.408%
307	1657	1.408%
308	1657	1.408%

<u>Unit</u>	<u>Square Feet</u>	<u>Votes, Common Element Interest and Share of Common Expenses</u>
309	1657	1.408%
310	1779	1.511%
401	1779	1.511%
402	1657	1.408%
403	1657	1.408%
404	1657	1.408%
405	1657	1.408%
406	1657	1.408%
407	1657	1.408%
408	1657	1.408%
409	1657	1.408%
410	1779	1.511%
501	1779	1.511%
502	1657	1.408%
503	1657	1.408%
504	1657	1.408%
505	1657	1.408%
506	1657	1.408%
507	1657	1.408%
508	1657	1.408%
509	1657	1.408%
510	1779	1.511%
601	1779	1.511%
602	1657	1.408%
603	1657	1.408%
604	1657	1.408%
605	1657	1.408%
606	1657	1.408%
607	1657	1.408%
608	1657	1.408%
609	1657	1.408%

<u>Unit</u>	<u>Square Feet</u>	<u>Votes, Common Element Interest and Share of Common Expenses</u>
610	1779	1.511%
701	1779	1.511%
702	1661	1.411%
703	1657	1.408%
704	1657	1.408%
705	1657	1.408%
706	1657	1.408%
707	1657	1.408%
708	1657	1.408%
709	1661	1.411%
710	1779	1.511%