

Melanie Arthur 31P
CARTERET COUNTY
JL Date 07/24/2006 Time 13:52:00
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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.

Melanie Arthur, Registrar of Deeds
By *[Signature]*
Asst. Deputy Registrar of Deeds

NOTE: THIS DECLARATION OF BOAT SLIP AREA CONTAINS A BINDING, IRREVOCABLE AGREEMENT TO ARBITRATE AND IS SUBJECT TO ARBITRATION PURSUANT TO THE STATE CODE STATUTE OR UNIFORM ARBITRATION ACT THAT IS APPLICABLE REGARDING BINDING ARBITRATION.

STATE OF NORTH CAROLINA
COUNTY OF CARTERET

DECLARATION OF BOAT SLIP AREA, PROTECTIVE COVENANTS,
RESTRICTIONS, EASEMENTS, CHARGES AND LIENS FOR THE
CANNONSGATE AT BOGUE SOUND BOAT SLIP ASSOCIATION, INC.

THIS DECLARATION is executed for an effective date of July 24, 2006 by R. A. North Development, Inc., a North Carolina Corporation, hereinafter referred to as "Declarant";

WITNESSETH:

WHEREAS, Declarant is the Developer of Cannonsgate at Bogue Sound Subdivision ("Subdivision"), a planned residential development located in Carteret County, North Carolina that is more particularly described in the Declaration of Protective Covenants, Restrictions, Easements, Charges and Liens for Cannonsgate at Bogue Sound Subdivision filed of record in the Carteret County Registry in Book 1121, Page 146;

WHEREAS, Declarant desires to construct piers, pilings and docks containing Boat Slips (as hereafter defined) over the waters of the Boat Slip Area (as hereafter defined) adjoining a portion of Cannonsgate at Bogue Sound Subdivision, which piers, pilings, docks and Boat Slips will be used for the common use and benefit of Boat Slip Owners (as hereafter defined), and to provide for the maintenance and upkeep of such piers, pilings, docks and Boat Slips, and the regulation thereof, through the establishment of the Cannonsgate at Bogue Sound Boat Slip Association (hereafter "Association").

WHEREAS, Declarant deems it desirable in order to insure the efficient preservation, protection and enhancement of the values of the Boat Slips and the Boat

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Slip Owners' enjoyment of the specific rights, privileges and easements at the Boat Slips that an organization be created to which will be delegated and assigned the powers of maintaining the Boat Slips, including the piers, pilings, and docks, administering and enforcing this Declaration and the provisions contained herein;

WHEREAS, Declarant has caused to be created for the purposes aforesaid, a North Carolina nonprofit corporation under the name and style of Cannonsgate at Bogue Sound Boat Slip Association, Inc..

NOW, THEREFORE, Declarant declares that the Boat Slips described in Section 3 of Article I, and such additions thereto as may hereafter be made pursuant to Article II hereof, are and shall be owned, held, transferred, sold, conveyed, demised, leased, encumbered, mortgaged, used, occupied and improved subject to the following covenants, conditions, restrictions, servitudes, easements, charges, and liens created or provided for by this Declaration of Boat Slip Area which shall run with the Boat Slips, or any part thereof, and be binding upon and inure to the benefit of all Boat Slip Owners, their heirs, personal representatives, successors and assigns.

ARTICLE I

DEFINITIONS

Section 1. "Association" means Cannonsgate at Bogue Sound Boat Slip Association, Inc., a North Carolina nonprofit corporation, its successors and assigns.

Section 2. "Boat Slip Area" means that property appearing upon a survey entitled "Cannonsgate at Bogue Sound Boat Slip Area and Boat Slips", prepared by Carolina Engineers, Registered Land Surveyors, New Bern, North Carolina, dated July 14, 2006, and recorded in map book 31, page 34, Carteret County Registry, including the piers, pilings, docks, and Boat Slips installed, or to be installed, within said Area, but excluding all bulkheads, the areas identified as "Boat Ramp", all walkways, gangways, ramps, common areas, access channel, and any other feature appearing upon said survey which is not a pier, piling, dock, or Boat Slip, such excluded areas being common areas of the Subdivision. The perimeter boundary as shown on the above referenced survey map coincides with the perimeter boundary of that area identified as "EXISTING MARINA AND ACCESS CHANNEL, (CONCRETE AND ARCHITECTURAL BLOCK BULKHEAD)" as shown on survey map entitled "HARBOR BAY WETLAND SURVEY", dated February 3, 2005, as prepared by Carolina Engineers, New Bern, N.C., and recorded in map book 30, page 775, Carteret County Registry, and is also depicted and shown on survey map entitled "CANNONSGATE AT BOGUE SOUND", dated October 3, 2005, as prepared by J DAVIS ARCHITECTS, Raleigh, N.C., and recorded in map book 30, page 832, Carteret County Registry.

Section 3. A "Boat Slip" means a four-sided portion of the submerged bottom of the Boat Slip Area, together with all of the upward vertical water column perpendicular thereto and air space above, which is dedicated and identified as a boat slip upon that

survey map entitled "Cannonsgate at Bogue Sound Boat Slip Area and Boat Slips" referenced above (hereafter "Boat Slip Area and Boat Slip Survey Plat", and which is to be used for the moorage of a waterborne vessel. The "Boat Slip Area and Boat Slip Survey Plat" identifies the location of each Boat Slip, and depicts the centerline and overall dimensions of each Slip.

Section 4. "Boat Slip Owner" or "Owner" means the record owner, whether one or more persons or entities, of a certain Boat Slip; provided, however, that Declarant shall not be considered a Boat Slip Owner for purposes of Article VI hereof.

Section 5. "Declarant" means R. A. North Development, Inc., a North Carolina Corporation, and any successor or assign to whom R. A. North Development, Inc. assigns its interest as Declarant hereunder in whole or in part by instrument recorded in the Official Records of the Carteret County Registry, Carteret County North Carolina.

Section 6. "Declaration" means the Declaration of Protective Covenants, Restrictions, Easements, Charges and Liens for Cannonsgate at Bogue Sound Subdivision recorded in Book 1121, Page 146 in the Official Records of the Carteret County Registry, Carteret County North Carolina, and any amendments thereto that may be filed of record.

Section 7. "Declaration of Boat Slip Area" means this Declaration and all amendments or supplements thereto to be recorded in the Official Records of the Carteret County Registry, Carteret County North Carolina.

Section 8. "Homeowners' Association" means Cannonsgate at Bogue Sound Homeowners' Association, Inc., a North Carolina nonprofit corporation, its successors and assigns.

Section 9. "Lot" shall mean and refer to any numbered lot of land intended for residential use, with delineated boundary lines appearing on any recorded subdivision map of the Cannonsgate at Bogue Sound Subdivision. In the event any Lot is increased in size by subdivision or combination, the same shall nevertheless be and remain a Lot for the purposes of this Declaration of Boat Slip Area.

Section 10. "Lot Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee-simple title to any Lot(s), but shall not mean or refer to any mortgagee or subsequent holder of a mortgage, unless and until such mortgagee or holder has acquired title pursuant to foreclosure or any proceedings in lieu of foreclosure. Said term "Lot Owner" shall also refer to the heirs, successors and assigns of any Lot Owner.

Section 11. "Member" shall mean a member of Cannonsgate at Bogue Sound Boat Slip Association.

Section 12. "Mortgage" means a mortgage or deed of trust which constitutes a first lien upon a Boat Slip and/or a Lot given to a bank, savings and loan association or

other institutional lender or individual for the purpose of securing indebtedness incurred to purchase a Boat Slip and/or a Lot.

Section 13. "Mortgagee" means the holder of the beneficial interest in any Mortgage.

Section 14. "Person" means an individual, corporation, limited liability company, partnership, trustee or other legal entity capable of holding title to real property.

Section 15. "Rules and Regulations" means Rules and Regulations as may be adopted from time to time by the Association which may be revised from time to time in the sole discretion of the Board of Directors.

Section 16. "Turnover Date" shall have the meaning as set forth in Article III, Section 2 (Class B:) hereof.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Property. The property which is and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration of Boat Slip Area is the Boat Slip Area as defined in Article I, Section 2 above.

Section 2. Additions to Boat Slips. Additional Boat Slips may be brought within the scheme of this Declaration of Boat Slip Area and the jurisdiction of the Association in the following way:

(a) Additional Boat Slips may be annexed to the Boat Slip Area by Declarant or its designated assign (but Declarant is under no obligation to do so), subject to regulatory approval, and brought within the scheme of this Declaration and within the jurisdiction of the Association, in future stages of development, without the consent of the Association or its members; provided however, that said annexations, if any, must occur within fifteen (15) years after the date of this instrument.

(b) The addition authorized under subsection (a) shall be made by filing an appropriate supplementary declaration with respect to the additional Boat Slips which shall extend the scheme of this Declaration of Boat Slip Area and the jurisdiction of the Association to such Boat Slips, and thereby subject such additions to assessment for their share of the Association's expenses.

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ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Only Boat Slip Owners are eligible to become Members of the Association, and shall be members of the Association. The number of Members shall be determined by the number of Boat Slips constructed by Declarant. The Boat Slips can only be owned and used by Members of the Association. No Member can use a Boat Slip for a boat that is not registered in the name of the Boat Slip Owner.

Section 2. Voting Rights. The Association shall have two classes of voting Membership:

Class A. Class A Members shall be all Boat Slip Owners with the exception of the Declarant; provided, however, that Declarant shall become a Class A Member when its Class B Membership ceases as provided hereinafter. Class A Members shall be entitled to one (1) vote for each Boat Slip owned. When more than one person or entity holds an ownership interest in any Boat Slip, all such persons shall be Members, but not more than one vote shall be cast with respect to any Boat Slip. The vote for any such Boat Slip shall be exercised as the Members holding an interest in such Boat Slip determine among themselves. In the event of disagreement, the decision of Members holding a majority of interest in such Boat Slip shall govern. Unless otherwise notified by a co-owner as to a dispute between the co-owners regarding their vote prior to the casting of that vote, the vote of a co-owner shall be conclusively presumed to be the majority vote of the Boat Slip Owners of that Boat Slip.

Class B. The Class B Member shall be Declarant and Declarant shall be entitled to three (3) votes for each Boat Slip owned by Declarant; provided that Declarant's Class B Membership shall cease and be converted to Class A Membership on the happening of the earliest of the following:

- (a) the conveyance of all Boat Slips to Boat Slip Owners other than Declarant and the occurrence of the ("Turnover Date") of the Cannonsgate at Bogue Sound Homeowners Association, Inc.
- (b) ten years after the first Boat Slip is conveyed to a Boat Slip Owner; or
- (c) at such time as Declarant, in its sole discretion, voluntarily relinquishes its Class B Member status in writing.

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From and after the happening of the earliest to occur of (a), (b), or (c) above, the Class B Member shall be deemed to be a Class A Member and entitled to one vote for each Boat Slip owned by Declarant. The earliest to occur of (a), (b), or (c) shall be referred to as the "Turnover Date".

Section 3. Suspension of Voting Rights. The Association shall have the right to suspend the voting rights of any Member which is attributable to any default or violation by such Member under this Declaration of Boat Slip Area, the Bylaws of the Association, and/or Rules and Regulations of the Association.

Section 4. Board of Directors. Initially, there shall be three (3) members of the Board of Directors of the Association who shall serve until such time as their successors are duly elected and agree to serve. The directors shall have annual meetings and other such meetings as may be called for at the request of the president of the Association, by a majority of the directors, or as called for in the Bylaws. The foregoing notwithstanding, so long as the Declarant, or its successors and assigns, is the Class B Member, Declarant shall have the sole right to select the Board of Directors and shall have the right to remove, without cause, any or all of the Directors. Declarant may select board members who are not Boat Slip Owners, or Lot Owners.

Section 5. Articles of Incorporation and Bylaws. The Articles of Incorporation of the Association and Bylaws of the Association shall be adhered to in the administration and operation of the Association.

ARTICLE IV

PIERS, PILINGS, DOCKS, AND BOAT SLIPS

Section 1. Boat Slips. The Declarant will construct one or more piers, pilings, docks and Boat Slips generally in accordance with the plan shown upon the "Boat Slip Area and Boat Slip Survey Plat". The Boat Slips will be located so as to be accessible by walkways and gangways from Cannonsgate at Bogue Sound Subdivision. The Boat Slip Area is not part of the common areas of Cannonsgate at Bogue Sound Subdivision. Ownership and use of the Boat Slips in the Boat Slip Area will be only by Lot Owners on a space available basis, and will be subject to the regulatory oversight of applicable governmental agencies having jurisdiction. Such ownership and use will also be subject to periodic and special assessments as may be determined from time to time by Cannonsgate at Bogue Sound Boat Slip Association, Inc. No Lot Owner may own more than one Boat Slip per Lot, unless it receives express written permission from the Declarant, or if Declarant is no longer a Class B Member, then by the Board. Said permission will be granted or denied in the sole discretion of the Declarant or Board. Boat Slip Owners will have the express right to sell, transfer, or convey their Boat Slip, but only to another Cannonsgate at Bogue Sound Lot Owner who owns no other Boat Slip at the time; or if another Boat Slip is owned at that time by such transferee, then only with the written permission of the Declarant or Board. When a Lot Owner also owning a Boat Slip desires to transfer, sell, or convey its Lot, the Boat Slip must be transferred, sold, or conveyed with the Lot, unless the Lot Owner owns another Lot to which no other

Boat Slip is attributable or is otherwise permitted by Declarant or the Board to own more than one Boat Slip per Lot owned.

Persons who inherit, by written will or otherwise, a Cannonsgate at Bogue Sound Lot to which the Lot Owner also owned a Boat Slip shall also inherit the Boat Slip. In no event shall a Boat Slip be owned by anyone other than a Lot Owner in Cannonsgate at Bogue Sound Subdivision. In the event an attorney for the Association deems it reasonable and appropriate for one or more legal instruments to be executed and recorded by a Boat Slip Owner in order to give full effect to the limitation of the prior sentence, then the Boat Slip Owner shall be bound to execute such instruments. In its sole discretion, the Declarant will select the manner in which Boat Slips will be sold and, for so long as the Declarant is a Class B Member, the manner in which the Boat Slips will be operated, through the Association, in order to properly administer and maintain the facility. The use of the Boat Slip Area will be subject to the terms and conditions of any regulatory agency including, but not limited to the Permit Number 120-88 issued by the State of North Carolina, Department of Environmental and Natural Resources and Coastal Resources Commission and this Declaration of Boat Slip Area.

Section 2. Amendment. The Board of Directors of the Boat Slip Association shall have, and is hereby given, the right to amend, supplement, alter, or change the provisions of this Article IV of this Declaration and all other provisions contained herein, without the consent of Cannonsgate at Bogue Sound Homeowners Association, Inc. Any such amendment adopted by the directors of the Boat Slip Association shall be submitted to the Boat Slip Owners for ratification at any regular or special meeting of the membership of Cannonsgate at Bogue Sound Boat Slip Association, Inc., and shall become effective upon ratification of such proposal(s) by the Boat Slip Owners by a majority vote of the members present in person or by proxy.

Section 3. Association Maintenance. The Declarant deems it to be highly desirable and mutually beneficial to all Boat Slip Owners that the sole and exclusive obligation to regulate, control, maintain, repair, replace (if necessary), and insure (if reasonably available) all aspects of the Boat Slip Area, including the piers, docks, and pilings, but excluding the "excluded areas" as set forth in Article I, Section 2 above, should be with the Association, and not with the individual Boat Slip Owners. Included within the reasons for this is to assure the continued safety and structural integrity of the piers, pilings, docks, and Boat Slips, to preserve and enhance property values, and to assure that such facilities are uniformly repaired or replaced as and when necessary. For such purpose and objective, the Declarant, on behalf of and binding upon all subsequent Boat Slip Owners, hereby assigns such obligations to the Association exclusively. Thus, no Boat Slip Owners shall have the authority to maintain, repair or replace any pier, piling, dock, or Boat Slip, or portion thereof, except as may be mandated by the Association's Rules and Regulations concerning personal use or as may be specifically approved by the Association. It is the intent of the Declarant that the Association determine if a reasonable plan of scheduled maintenance for the piers, pilings, docks and Boat Slips is appropriate; to implement any such plan; to make repairs to such facilities (including replacements, if necessary) which are reasonably necessary for the continued safety of the piers, pilings, docks and Boat Slips; to assure that the piers, pilings, docks and Boat Slips continue to be reasonably capable of safely and securely performing the

functions for which they were initially designed to perform; and to levy periodic and special dues and assessments to enable the Association to meet such responsibilities. The consent of the holder of a Boat Slip Owner shall not be required as prerequisite to the Association's performance of its obligations herein, and no Boat Slip Owner can "opt out" of the responsibilities associated with ownership of a Boat Slip by non-use of the Boat Slip or for any other reason.

The Boat Slip Association shall also have the sole responsibility to maintain all utilities located within the boundaries of the Boat Slip Area, including water and electricity, and also including any and all fencing, lighting and other fixtures, wires, walkways, railings, gangways and other facilities located within such Area, in a structurally sound condition. However, any facility or fixture located outside of such Area, including the "excluded areas" identified in Article I, Section 2, are part of the common areas of the Cannonsgate at Bogue Sound general subdivision, and thus maintained by the Homeowners Association.

Section 4. Boat Slip Owner Maintenance. Each Boat Slip Owner has a duty to keep the area around his Boat Slip in a neat and orderly fashion, free of any debris or trash. No Boat Slip Owner may erect, build, construct, or place any cleat, piling, storage box, lighting, gazebo, table, bench, fish cleaning station, appliance, or any other appurtenance, fixture or item of personal property, free standing, attached, or otherwise, upon any dock, piling, or other physical aspect of a Boat Slip, without the express written permission of the Association.

Section 5. Electrical Meters. Declarant will install electric power to the Boat Slip Area. Each Boat Slip shall have a place for a separate electric meter to be installed by the Boat Slip Owner to determine usage. The Boat Slip Owner shall be solely responsible for payment of all electric consumption at his respective Boat Slip and for the installation of the meter and any hook up fee and/or billing deposits, if required. The Association is empowered to determine the most efficient and equitable way to have such electric consumption billed to the individual Boat Slip Owner.

ARTICLE V

USE OF BOAT SLIP

Section 1. Exclusive Right to Use. The Boat Slips constructed and located within the Boat Slip Area are to be owned and used exclusively by individual Members of the Association, except as provided in Section 4 of this Article V. The Boat Slip Owner's use of the Boat Slip is subject to the Rules and Regulations as may be prescribed and established by Cannonsgate at Bogue Sound Boat Slip Association and the payment of all assessments and fines of said Association.

Section 2. Boat Slip General Provisions.

(a) Declarant will administer the construction, installation and initial sale of the Boat Slips, including establishing periodic assessments and any initial charge to each Boat Slip Owner which are payable to the Association.

(b) Declarant has reserved for itself and its assigns, and has granted to the Association, easements upon the Boat Slip Area for the construction, maintenance, and repair of the Boat Slip Area and for access thereto.

Section 3. Initial Conveyance of Boat Slips. Declarant shall be the initial source of all Boat Slips. A particular Boat Slip will be conveyed by a general warranty deed to the Lot Owner purchasing the Boat Slip, and shall convey a fee title.

Section 4. Leasing Boat Slips. No Boat Slip Owner may lease or rent its Boat Slip to anyone other than a Lot Owner in Cannonsgate at Bogue Sound Subdivision. Notwithstanding this section, if a Lot Owner who also owns a Boat Slip has leased his residence as per the guidelines established in the Declaration of Protective Covenants, Restrictions, Easements, Charges and Liens for Cannonsgate at Bogue Sound Subdivision then the Lot Owner may also lease his Boat Slip to such person or entity for the same duration. The registered name of the boat owner must match the name of the lessee of the residence.

Section 5. Liability Insurance on Vessels. Evidence of liability and property insurance on all vessels moored in a Boat Slip, with coverage in an amount to be determined by the Board of Directors, and with the Association being a named as an additional insured on the policy, shall be furnished to the Association prior to the use of a Boat Slip by anyone. Such owner shall annually furnish the Association with an insurance certificate issued by the insurance carrier which evidences such coverage. Such policy shall name the Association as an additional loss payee on any claim for damages to a pier, piling, or dock. The reason for this provision is to provide a source of indemnity for any pier, piling, or dock damage which results from the operation, or otherwise, of an insured vessel for which such owner is personally liable as set forth in this Declaration of Boat Slip Area.

Section 6. Vessel Moorage Restricted to Docks. No Boat Slip Owner, or any other person, shall temporarily or permanently moor or store, or cause to be moored or stored, any vessel, however large or small, at any place on the Boat Slip Area other than in his Boat Slip. No more than one vessel may be placed in a Boat Slip.

Section 7. Emergency. Only pleasure vessels, in good and seaworthy condition, and under their own power shall be permitted to occupy any Boat Slip. In the event of an emergency that has occurred during the Boat Slip Owner's absence, the Association and/or its agents, reserves the right, but not the responsibility, to take such action as it deems necessary and prudent to safeguard any vessel, its mooring space, adjacent vessels, or property of the Association. Boat Slip Owner agrees to reimburse the Association and any of its agents for any and all costs incurred on behalf of the Boat Slip Owner's vessel in emergency situations. *The Association, and/or its agents, is not responsible for checking, maintaining, or protecting any vessel in the Boat Slip Area.*

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Section 8. Vessel Appearance. All vessels shall be maintained in a clean and orderly condition. All power cords, hoses, dock lines, fenders, and rub rails must be clean of excessive mildew and any other stains that detract from a well maintained marina atmosphere.

Section 9. Use of Properties. No portion of the Boat Slip Area may be used for any commercial purpose, provided however this shall not be construed so as to prevent the Declarant from using portions of the property, as he may deem appropriate, in the sale of unsold Boat Slips.

Prior to the occupancy of any Boat Slip authorized under CAMA Permit # 120-88, a marine pump out sewage disposal facility shall be installed and made operable by Declarant. Such facility shall be part of the common area of the Cannonsgate at Bogue Sound Subdivision, owned, operated, and maintained by the Cannonsgate at Bogue Sound Homeowners Association. No sewage, whether treated or untreated, shall be discharged into the waters of the Boat Slip Area at any time from any boats using the Boat Slip Area. At no time shall more than 75 vessels be moored or docked at the Boat Slip Area. The restriction of the number of vessels shall apply to all marine vessel types including but not limited to motorboats, sailing vessels and personal watercraft. There are to be no boat lifts in the Boat Slip Area.

Nothing herein contained shall prevent a Lot Owner at Cannonsgate at Bogue Sound, who owns no Boat Slip, from using the sewage disposal facility for the wastewater disposal requirements of a boat owned by such Lot Owner, nor prevent such Lot Owner from using the boat ramp launching area for launching and retrieving personal water craft, or from using any aspect of the common area and walkways surrounding the perimeter of the Boat Slip Area, all such areas being within the common areas of the Cannonsgate at Bogue Sound Subdivision.

Section 10. Quiet Enjoyment. No obnoxious or offensive activity shall be carried on, in, or upon the Boat Slip Area, nor shall anything be done which may be or may become a nuisance or annoyance to any other Boat Slip Owner. The Association is granted specific authority to enact reasonable rules and regulations controlling these prohibitions.

Section 11. Houseboats. No houseboats or unsightly, dangerous or otherwise undesirable boats, as defined by the Board, may be left in any Boat Slip without prior approval in writing from the Board of Directors of the Association.

Section 12. No "Live Aboards" Permitted. No vessel in any Boat Slip shall be the temporary or permanent residence of anyone. However, the Association is granted specific authority to enact rules and regulations, in its discretion, which may permit short-term occupancy of vessels for specific, short-term reasons.

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ARTICLE VI

ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Boat Slip and Special Boat Slip Assessments. Each Boat Slip Owner, by acceptance of a recorded instrument therefor, whether or not it shall be so expressed in such instrument, is deemed to covenant and agree to pay to the Association reasonable periodic and special assessments (hereafter "Boat Slip Assessments" and "Special Boat Slip Assessments", respectively) established and collected by the Association as hereinafter provided. Any such assessments, together with interest, costs and reasonable attorney's fees incurred in collecting unpaid assessments, shall be a personal obligation of the Boat Slip Owner, in addition to constituting a lien against the applicable Boat Slip.

Section 2. Purpose of Boat Slip Assessments. The periodic assessments to be levied annually by the Association against each Boat Slip ("Boat Slip Assessments") shall be used as set forth below, and for the purpose of promoting the health, safety and welfare of Boat Slip Owners, and in particular for the improvement and maintenance of the Boat Slip Area. Upon determination by the Board of Directors, such assessments may also be used for improvements located outside of the Boat Slip Area, including, without limitation, identification and/or directional signage and landscaping, either exclusively or in cooperation with other associations or parties, now or hereafter designated or existing. The additional purposes are as follows:

(a) to maintain, repair and reconstruct, when necessary, the piers, pilings, docks, and all other physical features and fixtures located within the boundaries of the Boat Slip Area as defined in Article I, Section 2. However, any facility or fixture located outside of such Area, including the "excluded areas" identified in Article I, Section 2, are part of the common areas of the Cannonsgate at Bogue Sound general subdivision, and thus maintained by the Homeowners Association;

(b) to provide and pay for general lighting and water service to the Boat Slip Area to the extent necessary for the safety and enjoyment of the users thereof, subject however, to the separate obligation of Boat Slip Owners to pay for utility usage specific to a Boat Slip;

(c) to keep the piers, pilings, docks and Boat Slips clean and free from debris and to maintain same in a clean and orderly condition;

(d) to pay all ad valorem taxes, if any, levied against the piers, pilings, docks and any other property owned by the Association in connection therewith, subject however, to the separate obligation of Boat Slip Owners to pay the ad valorem taxes assessed against Boat Slips;

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(e) to pay the premiums on all insurance carried by the Association in connection with the piers, pilings, docks and all other property owned by the Association pursuant hereto or pursuant to the Bylaws of the Association;

(f) to pay all legal, accounting and other professional fees, including property management fees, incurred by the Association in carrying out its duties as set forth herein or in the Bylaws in connection with the piers, pilings, docks and Boat Slips including cost of labor, equipment, materials, management and supervision thereof, the employment of attorneys, accountants, property managers and other professionals to represent the Association when necessary and such other needs as may arise; and

(g) to maintain contingency reserves for purposes described in subsections (a) and (b) above in amounts as may be determined by the Board of Directors.

Section 3. Payment of Boat Slip Assessments; Due Dates. The initial annual Boat Slip Assessment for 2006 fiscal year payable by each Boat Slip Owner shall be \$1495.00 per Boat Slip per calendar year. Upon the closing of the initial sale of each Boat Slip by Declarant, the purchaser of each Boat Slip shall pay to the Association the annual Boat Slip Assessment prorated for the current year. The annual Boat Slip Assessment may be increased or decreased by the Board of Directors of the Association without a vote of the membership to an amount not more than a twenty percent (20%) difference in such assessment for the previous year. A majority vote of each class of voting members of the Association must approve an increase or decrease in the annual Boat Slip Assessment if the increase or decrease differs from such assessment for the previous year by more than twenty percent (20%). In determining the annual Boat Slip Assessment, the Board of Directors of the Association shall determine an amount sufficient to pay the costs of insuring, maintaining, repairing, replacing, protecting and operating the Boat Slip Area, and to perform all other obligations and duties of the Association under this Declaration of Boat Slip Area, including establishing and maintaining adequate reserves. The Board shall fix the date of commencement and the amount of the Boat Slip Assessment against each Boat Slip for each Assessment period (which shall be based on a calendar year), and shall, at that time, prepare a roster of the Boat Slips and Boat Slip Assessments applicable thereto, which shall be kept in the office of the Association and shall be open to inspection by any Boat Slip Owner. Written notice of the Boat Slip Assessment shall thereupon be sent to every Boat Slip Owner subject thereto. In the event that any Boat Slip is subject to a Boat Slip Assessment for only part of a calendar year, then the amount of such Assessment shall be prorated based on the portion of the Assessment period for which such Boat Slip is subject to such Assessment.

The Board of Directors shall fix the amount of the Boat Slip Assessment as to each Boat Slip for any fiscal year at least thirty (30) days prior to January 1 of such fiscal year, and the Association shall send written notice of the amount of the Boat Slip Assessment to each Boat Slip Owner on or before January 1 of such fiscal year. Failure of the Association to send the notice described in this Section 3 shall not relieve the Boat Slip Owners of their liability for Boat Slip Assessments.

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Each annual Boat Slip Assessment shall be fully payable in advance on the 1st day of January each year, but the Board of Directors of the Association shall have the option to permit payments in such installments and at such times as it shall determine. The exact amount of each annual Assessment shall be fixed by the Board of Directors of the Association.

Section 4. Special Assessments for Boat Slip Improvements. In addition to the Boat Slip Assessments authorized above, the Association may levy, in any assessment year, a special Boat Slip Assessment (hereafter "Special Boat Slip Assessment") applicable to that year only for the purpose of defraying, in whole or in part, the cost of any reconstruction, repair or replacement of the pier, pilings, Boat Slips, and any capital improvements located within the Boat Slip Area, including fencing, lighting, water lines and other fixtures, poles, wires, walkways, railings and other facilities located thereon and personal property related thereto. Provided that any such Special Boat Slip Assessment must be approved by a vote of no less than two-thirds (2/3) of each class of Members and may be levied only against the Owners of Boat Slips.

Section 5. Assessment Rate.(a) Both Boat Slip and Special Boat Slip Assessments must be fixed at a uniform rate for all Boat Slips;

(b) Boat Slip Assessments commence on individual Boat Slips upon the first sale by Declarant.

Section 6. Certificate Regarding Assessments. The Association shall, upon request of a Lot Owner, mortgage holder, attorney, or accountant, and for a reasonable charge, furnish a certificate to such requesting party signed by an officer of the Association setting forth the current status of Assessments relating to a particular Boat Slip. A properly executed certificate of the Association as to the status of the assessments on a Boat Slip is binding upon the Association as of the date of its issuance.

Section 7. Special Assessments Regarding Damage to Boat Slip Area. In addition to the powers for assessments set forth herein, the Board of Directors shall have the power to levy a Special Assessment against any particular Boat Slip Owner responsible for damage to the Boat Slip Area, including piers, pilings, and docks, by the negligent or willful acts of a Boat Slip Owner, members of his family, his agents, guests, lessees, employees or invitees. This provision applies to the piers, pilings, and docks of the particular Boat Slip owned by such Boat Slip Owner.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. Any Annual or Special Boat Slip Assessment not paid by its due date shall bear interest from such due date at the rate of eighteen percent (18%) per annum highest rate then permitted by law. In addition to such interest charge, the delinquent Owner shall also pay such late charge as may have been thereafter established by the Board of Directors to defray the costs arising because of late payment. The initial late charge imposed for late payment of any assessment is \$20.00 and shall be charged as to any assessment that is not

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paid within 30 days of its due date. The interest rate for late payment is eighteen percent (18%) per year (1.5% per month) which shall commence to accrue on any assessment or other account balance that is not paid within thirty (30) days of the date due. The initial date upon which liens may be filed for failure to make payment of assessments and other charges is thirty (30) days after the due date. The Board of Directors may change the initial late charge, interest rate, due dates and lien assessment date by majority vote of the directors. The Association may bring an action at law against the delinquent Boat Slip Owner or foreclose the lien against the Boat Slip and the right to use a Boat Slip, if applicable, and interest, late payment charges, costs and reasonable attorney's fees related to such action or foreclosure shall be added to the amount of such assessment. The Association shall also have the right to suspend the right to use a Boat Slip and voting rights of a Boat Slip Owner for any infraction. No Boat Slip Owner may waive or otherwise escape liability for the assessments provided for herein by not using the Boat Slip Area and/or his Boat Slip. If any assessment under this Declaration of Boat Slip Area is not paid on the date when due, then such assessment shall be deemed delinquent and shall, together with such interest thereon and cost of collection thereof as are hereinafter provided, continue as a lien on the Boat Slip which shall bind such Boat Slip in the hands of the then Boat Slip Owner, his heirs, devisees, personal representatives, successors and assigns. The personal obligation of the then Boat Slip Owner to pay such assessment or reimbursement, however, shall remain his personal obligation and will also pass on to his successor in title.

In the event the Boat Slip Owner fails and refuses, after demand by the Association, to pay any annual or special assessment, then the Association may bring legal action against the Boat Slip Owner personally obligated to pay the same or may enforce or foreclose the lien against the Boat Slip; and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and reasonable attorney's fees and late charges together with the costs of the action. The Association may further file a claim of lien in the Office of the Superior Court of Carteret County, North Carolina, pursuant to the applicable statutory lien law of North Carolina, and enforce assessment obligations as permitted by law, including without limitation, by foreclosing a claim of lien in accordance with the procedures set forth in the North Carolina General Statutes and/or by bringing an action at law against the Boat Slip Owner personally obligated to pay the assessment. Each Boat Slip Owner, by his acceptance of a deed to a Boat Slip, expressly grants to, and vests in, the Association or its agents the right and power to bring such action or foreclosure. Foreclosure may be accomplished in an action brought in the name of the Association in the manner that a foreclosure of a mortgage or deed of trust would be brought under the North Carolina General Statutes, or as otherwise expressly provided by law, and each Boat Slip Owner grants to the Association a power of sale in connection with any such charge or lien. The Association, acting on behalf of the Boat Slip Owners, shall have the power to bid on any Boat Slip and to acquire and hold, lease, mortgage and convey the same. While a Boat Slip is owned by the Association following foreclosure no right to vote shall be exercised on its behalf and no assessment shall be levied on it. **NO BOAT SLIP OWNER MAY WAIVE OR OTHERWISE ESCAPE LIABILITY FOR THE ASSESSMENTS PROVIDED FOR HEREIN BY NON-USE OF THE BOAT SLIP AREA OR**

ABANDONMENT OF HIS BOAT SLIP. The Association, by and through its Board of Directors, shall have the authority to compromise and settle claims for assessments upon a majority vote upon good cause shown.

A Lot Owner owning only a single Lot and a single Boat Slip who is in default under any term of Cannonsgate at Bogue Sound Homeowners Association and subject to foreclosure of lien on account of such default, shall also be deemed to be in default under this Declaration of Boat Slip Area. In such a case, the Lot Owner's Boat Slip is also subject to foreclosure along with the foreclosure of the lien against the Lot. The reason for this provision is to assure that in the event of such a lien foreclosure, a Boat Slip could not become owned by a non-Lot Owner. However, in the event of a lien foreclosure against a Lot wherein such Lot Owner owns another Lot, then (and provided the Owner is not also in default with respect to the other Lot) the Boat Slip owned by such Lot Owner shall not be subject to lien foreclosure because the Lot Owner continues to own a Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for in Article VI of this Declaration of Boat Slip Area shall be subordinate to the lien of any first mortgage on a Boat Slip. Sale or transfer of any Boat Slip shall not affect the assessment lien. The sale or transfer of any Boat Slip pursuant to mortgage foreclosure or any proceeding in lieu thereof, however, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer; provided, however, that the Board of Directors may in its sole discretion, recover such unpaid deficiencies as "required recoverable operating expenses" in the budget of the Association for the subsequent year, or levy a Special Boat Slip Assessment immediately. No sale or transfer shall relieve the purchases of such Boat Slip from liability for any assessment thereafter becoming due to the lien thereof, but the lien provided for herein shall continue to be subordinate to the lien of any mortgage or deed of trust as above provided.

ARTICLE VII

PROPERTY RIGHTS

Section 1. Boat Slip Owner's Easement of Enjoyment. Except as limited by Section 2 of this Article VII, every Boat Slip Owner shall have a non-exclusive right and easement of enjoyment and access in and to the Boat Slip Area, including the piers, pilings, and docks appurtenant to such Owner's Boat Slip, which right and easement shall be appurtenant to and shall pass with the title to such Boat Slip, subject to the following provisions:

(a) The duty and authority of the Association to establish Rules and Regulations concerning the orderly, safe, and equitable use and enjoyment of the Boat Slips and the Boat Slip Area by the members of the Association, and the authority to resolve any issues of controversy between such members. Declarant hereby specifically delegates to, authorizes, and empowers the Association to enact reasonable Rules and Regulations

pertaining to the personal use and enjoyment of Boat Slips and the Boat Slip Area, lighting, utilities, and other appurtenant amenities. An example of some of these Rules and Regulations would be rules pertaining to the proper operation and mooring of vessels; discharges from vessels; dock clutter; fish cleaning operations; noise control; stowage, storage, and placement of personal property, fixtures, and other such items on or about docks; regulations permitting or not permitting persons to live aboard vessels; and so forth.

(b) The right of the Association to suspend the voting and other rights of a Boat Slip Owner to the use of the Boat Slip, Boat Slip Area, and facilities for any period during which any assessment against his Boat Slip remains unpaid, and for such periods in which the Boat Slip Owner is in substantial violation of the established Rules and Regulations enacted from time to time by the Association; and

(c) The right of the Association, with the assent of Members entitled to at least two-thirds (2/3) of the votes appurtenant to each class of membership (Class A and B), to mortgage, pledge, deed in trust, or otherwise hypothecate any or all of its real or personal property as security for money borrowed or debts incurred by the Association.

Section 2. Delegation of Use.

(a) Family. The right and easement of enjoyment granted to every Boat Slip Owner in Section 1 of this Article may be exercised by members of the Boat Slip Owner's family. Family shall be defined as any number of persons related within the second degree of consanguinity or affinity, living with not more than one person who is not so related as a single household unit and one household employee of such household unit. It is not the intent of the Declarant to exclude from a residence any individual who is authorized to so remain by any state or federal law. If it is found that this definition, or any other provision contained in this Declaration of Boat Slip Area, is in violation of any law, then this Section shall be interpreted to be as restrictive as possible to preserve as much of the original section as allowed by law.

(b) Guests. Facilities located on the Boat Slip Area may be utilized by guests of Boat Slip Owners subject to this Declaration of Boat Slip Area, the By-Laws of the Association, and to the Rules and Regulations governing said use of the Association as may be established by the Board of Directors.

(c) Tenants. The right and easement of enjoyment granted to every Boat Slip Owner in Section 1 of this Article may be delegated by the Boat Slip Owner to the Boat Slip Owner's tenants who occupy a residence owned by the Boat Slip Owner within Cannonsgate at Bogue Sound, subject to Article V, Section 4 of this Declaration of Boat Slip Area.

Section 3. Additional Structures. Prior to the Turnover Date, neither the Association nor any Boat Slip Owner or any group of Boat Slip Owners shall, without the prior written approval of Declarant, erect, construct or otherwise locate any structure or

other improvement in the Boat Slip Area or on a particular Boat Slip. After the Turnover Date, the Association shall have the right of approval, and no Boat Slip Owner or any group of Boat Slip Owners shall, without the prior written approval of the Association, erect, construct or otherwise locate any structure or other improvement in the Boat Slip Area or on a particular Boat Slip.

Section 4. Animal and Pets. Dogs and other domestic animals shall be leashed and under the control of the Boat Slip Owner when in the Boat Slip Area. No dogs or other domestic animals shall be permitted to roam the Boat Slip Area, and the Association may have dogs and other animals that are not leashed picked up by governmental authorities. All persons bringing a pet in the Boat Slip Area shall be responsible for immediately removing any solid waste of said pet and obey all Rules and Regulations of the Association with regard to pets.

Section 5. Signs. No sign of any nature shall be placed on any Boat Slip without prior written approval of the Association or the Declarant. No billboards or advertising signs of any character shall be erected, placed, permitted or maintained on any Boat Slip except as herein expressly permitted. "For Sale" or similar signs may be permitted on a Boat Slip, provided the sign complies with material, size, and color guidelines approved by the Association. The Declarant or the Association has the right from time to time to revise the Rules and Regulations regarding signs in order to meet the needs of the Boat Slip Owners or satisfy any governmental regulations.

Section 6. Easements for Association. There is hereby reserved a general right and easement for the benefit of the Association, its Directors, officers, agents, employees, and permittees, including but not limited to, any property manager employed by the Association and any employees of such manager, to enter upon the Boat Slip Area or any portion thereof in the performance of their respective duties. The Declarant may, in its sole and absolute discretion, from time to time, convey, lease or grant a license, easement or other right to use the property located in the Boat Slip Area for the purpose of access, maintenance, repair, recreation or other purposes that will be for the use and benefit of the Members of the Boat Slip Association.

Section 7. Utility and System Easements. The Declarant hereby reserves unto itself and its affiliates and respective designees, so long as Declarant is the Class B Member, a perpetual easement over, upon and under the Boat Slip Area for the installation, operation, maintenance, repair, replacement, alteration and expansion of any utilities, lights, and signage, including, without limitation, equipment required to provide power, lights, telephone, and cable, within the boundaries of the Boat Slip Area.

Section 8. Public Easement. Governmental services, including, but not limited to, fire, police, health and sanitation and other public service personnel shall have a permanent and perpetual easement for reasonable rights of ingress and egress over and across the Boat Slip Area in the performance of their respective duties.

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Section 9. Dredging Easement. Obligation for Maintenance Dredging. The Declarant hereby reserves unto itself and its affiliates, designees, and assigns, for so long as Declarant is the Class B Member, and does hereby grant unto the Cannonsgate at Bogue Sound Homeowners Association, a perpetual easement over, upon, and under every Boat Slip and the Boat Slip Area in order to maintain the proper waterbody depth of the Boat Slip Area by dredging. Since the Boat Slip Owners are also Lot Owners and therefore members of such Homeowners Association, and since all Lot Owners (both those owning Boat Slips and those who do not) have rights of access and enjoyment to the waters of the Boat Slip Area over and upon the boat ramp installed for such purpose, as well as the wastewater disposal facilities, the walkways surrounding the Boat Slip Area, and the other common areas, the Declarant deems it to be appropriate to delegate to such Homeowners Association the duty of conducting routine maintenance dredging of the bottom of the Boat Slip Area and related access channel from time to time, as may be reasonably necessary to accommodate the navigation needs of the vessels coming to and departing from the Boat Slip Area.

Section 10. Noise Easement. A perpetual easement to accommodate a reasonable degree of noise and other reasonably necessary disturbances caused by the use and maintenance of boats in the Boat Slip Area is hereby dedicated for the benefit of the Boat Slips.

Section 11. No Commercial Use Allowed. No Time-Shared Vessels Allowed. No Boat Slip Owner shall make any commercial use of the Boat Slip Area (such as a charter boat or commercial fishing operation) or assign such rights to others, nor shall any vessel be owned in time-share intervals.

ARTICLE VIII

DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

Section 1. Agreement to Avoid Litigation. The Declarant, the Association, its officers, directors, and committee members, all Persons subject to this Declaration of Boat Slip Area, and any Person not otherwise subject to this Declaration of Boat Slip Area who agrees to submit to this Article (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Boat Slip Area, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that those claims, grievances or disputes described in Section 2 below ("Claims") shall be resolved using the procedures set forth in Section 3 below in lieu of filing suit in any court.

Section 2. Claims. Unless specifically exempted below, all claims, grievances or disputes arising out of or relating to the interpretation, application, enforcement of, obligations under, or rights in this Declaration, the Rules and Regulations enacted from time to time by the Association, the Association by-laws, or any other document relating to, or regulating use rights with respect to, the Boat Slip Area, shall be subject to the provisions of Section 3 below.

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The specific exemptions are as follows:

(a) any suit by the Association against any Bound Party to enforce the provisions of Article VI (Covenant For Boat Slip and Special Boat Slip Assessments);

(b) any suit by the Association to obtain a temporary restraining order, or other mandatory or prohibitive equitable relief, and such other ancillary relief as permitted to enforce the provisions of this Declaration of Boat Slip Area;

(c) any suit in which any indispensable party is not a Bound Party; and

(d) any suit which otherwise would be barred by any applicable statute of limitations.

With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in Section 3 below.

Section 3. Mandatory Procedures.

(a) Notice. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent") (collectively the "Parties") shall notify each Respondent in writing (the "Notice"), stating plainly and concisely:

1. the nature of the Claim, including the Persons involved and Respondent's role in the Claim;
2. the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
3. claimant's proposed remedy; and
4. that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation and Mediation.

1. The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in resolving the dispute by negotiation.

2. If the Parties do not resolve the Claim within thirty (30) days of the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have thirty (30) additional days to submit the Claim to mediation under the auspices of any North Carolina dispute

resolution center or such other independent mediator providing similar services upon which the Parties mutually agree. If the parties cannot agree on a mediator then the mediator shall be selected by a District Judge of the District Court of Carteret County, North Carolina.

3. If Claimant does not submit the Claim to mediation within thirty (30) days after Termination of Negotiations, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided however, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

4. Any settlement of the Claim through mediation shall be documented in writing by the mediator. If the Parties do not settle the Claim within thirty (30) days after submission of the matter to the mediation process, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

5. Within five (5) days after the Termination of Mediation, the Claimant shall make a final written settlement demand ("Settlement Demand") to the Respondent and the Respondent shall make a final written settlement offer ("Settlement Offer") to the Claimant. If the Claimant fails to make a Settlement Demand, Claimant's original Notice shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer.

(c) Final and Binding Arbitration.

1. If the Parties do not agree in writing to a settlement of the Claim within fifteen (15) days of the Termination of Mediation, the Claimant shall have fifteen (15) additional days to submit the Claim to arbitration in accordance with the Rules of Arbitration of the American Arbitration Association or such rules as may be required by the agency providing the arbitrator. If not timely submitted to arbitration or if the Claimant fails to appear for the arbitration proceeding, the Claim shall be deemed abandoned, and Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; provided however, nothing herein shall release or discharge Respondent from any liability to Persons other than the Claimant.

2. This subsection (c) is an agreement to arbitrate and is specifically enforceable under the applicable arbitration laws of the State of North Carolina. The arbitration award (the "Award") shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of North Carolina.

Section 4. Allocation of Costs of Resolving Claims.

(a) Subject to Section 4(b), each Party shall bear its own costs, including any attorney's fees incurred, and each Party shall secure equally all charges rendered by the mediator(s) and all filing fees and costs of conducting the arbitration proceeding ("Post Mediation Costs").

(b) Any Award which is equal to or more favorable to Claimant than Claimant's Settlement Demand shall add Claimant's Post Mediation Costs to the Award, such costs to be borne equally by all Respondents. Any Award which is equal to or less favorable to Claimant than any Respondent's Settlement Offer shall award to such Respondent its Post Mediation Costs.

Section 5. Enforcement of Resolution. If the Parties agree to resolve any Claim through negotiation in accordance with Section 3(b) and any Party thereafter fails to abide by the terms of the agreement reached through negotiation, or if, following arbitration, any Party, thereafter fails to comply with the Award, then the other Party may file suit or initiate administrative proceedings to enforce the agreement or Award without the need to again comply with the procedures set forth in Section 3. In such event, the Party taking action to enforce the agreement or Award is entitled to recover from the noncomplying Party (or if more than one noncomplying Party, from all the Parties pro rata) all costs incurred in enforcing the agreement or Award, including, without limitation, attorney's fees and court costs.

Section 6. Litigation. No judicial or administrative proceeding with an amount in controversy exceeding \$25,000.00, will be commenced or prosecuted by the Association unless approved by Members of the Association entitled to vote at a regular or special meeting at which a quorum is present, duly called, in whole or in part, for the purpose of approving the proceeding. This Section will not apply, however, to actions brought by the Association to enforce the provisions of this Declaration of Boat Slip Area (including, without limitations, the foreclosure of liens); the imposition and collection of Assessments; proceedings involving challenges to ad valorem taxation; counterclaims brought by the Association in proceedings instituted against it; or actions brought by the Association to enforce written contracts with its suppliers and service providers. This Section will not be amended unless the amendment is approved by the requisite percentage of votes of Members of the Association, and pursuant to the same procedures, necessary to institute proceedings as provided above. This provision will apply in addition to the negotiation and arbitration provisions of this Article VIII, if applicable.

Section 7. Miscellaneous Alternative Dispute Resolution Provisions.

(a) Conflicting Provisions. Any conflict or discrepancy between the terms and conditions set forth in this Article VIII and any term, condition or procedure of the American Arbitration Association, or any remedy allowed at law or in equity, the terms, conditions, procedures and remedies set forth herein will control.

(b) TIME IS OF ESSENCE. All periods of time set forth herein or calculated

pursuant to provisions of this Article VIII will be strictly adhered to, TIME BEING OF THE ESSENCE hereof.

ARTICLE IX

GENERAL PROVISIONS

Section 1. Enforcement. Subject to the provisions of Article VIII hereof, in the event of a violation or breach of any of these restrictions by any Boat Slip Owner or agent, or agent of such Owner, jointly or severally, Declarant, and/or Association shall have the right to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any such event or to recover damages. In addition to the foregoing, Declarant, its successors and assigns, shall have the right, but shall be under no obligation to enter upon the property where such violation exists and summarily abate or remove the same at the expense of Boat Slip Owner if, after thirty (30) days written notice of such violation, it shall not have been corrected by Boat Slip Owner. Any such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any rights, reservation, restriction, or condition contained in this Declaration of Boat Slip Area, however long continued, shall not be deemed a waiver of the rights to do so hereafter as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement. Should Declarant or Association employ counsel to enforce any of the foregoing covenants, condition, reservations, or restrictions because of a breach of the same, all costs incurred in such enforcement, including a reasonable fee for Declarant/Association's counsel, shall be paid by Boat Slip Owner of such Boat Slip(s) in breach thereof. Any amount assessed hereunder shall constitute a lien on such Boat Slip and shall be enforceable as herein provided. Failure of Declarant, Association, or any Boat Slip Owner to enforce any covenant or restriction contained herein shall not be deemed a waiver of the right to do so thereafter. In addition, the Board of Directors shall have the authority to enforce these Covenants and Restrictions, and the Rules and Regulations of the Association

Section 2. Fines, Association Administrative Proceedings Including Hearings Regarding Fines and Suspension of Services. In addition to all other remedies, in the sole discretion of the Board of Directors of the Association, a reasonable fine or fines may be imposed upon a Boat Slip Owner for failure of a Boat Slip Owner, his family, guests, invitees, Lessees or employees to comply with any covenant, restriction, rule or regulation, provided notice and hearing procedures set out in the North Carolina General Statutes are followed. Once imposed, fines shall be treated as an assessment subject to the provisions for the collection of assessments. The Association may conduct any administrative proceedings permitted or provided for under the Declaration of Boat Slip Area, the Act or as otherwise provided by law, including without limitation, the right of the Association, after notice and an opportunity to be heard, to (1) impose reasonable fines for violations of the Declaration of Boat Slip Area, Bylaws, Rules and Regulations of the Association, or (2) to suspend privileges or services provided by the Association for reasonable periods for violations of the Declaration of Boat Slip Area, Bylaws, and Rules and Regulations of the Association or during any period that assessments or other

amounts due and owing to the Association remain unpaid for a period of thirty (30) days or longer. Prior to pursuing the imposition of a fine or the suspension of privileges or services as allowed by the Act and as provided herein, the offending Boat Slip Owner will be notified and given ten (10) days in which to cure his violation or nonpayment. In the event the violation or nonpayment is not cured within this ten (10) day period, a hearing shall be held before an adjudicatory panel appointed by the Board to determine if the offending Boat Slip Owner should be fined or if privileges or services should be suspended. If the Board fails to appoint an adjudicatory panel to hear such matters, hearings shall be held before the Board. The offending Boat Slip Owner charged shall be given notice of the charge, an opportunity to be heard and to present evidence and notice of the decision. If it is decided that a fine should be imposed, a fine not to exceed one hundred dollars (\$100.00) may be imposed for the violation and without further hearing, for each day after the decision that the violation occurs; provided, however, that fines imposed shall be subject to the following minimums:

(i) The fine for the first violation or the first day of any continuing or repetitive violation shall not be less than \$25.00.

(ii) The fine for the second violation or the second day of any continuing or repetitive violation shall not be less than \$50.00.

(iii) The fine for the third violation or the third day and subsequent days of any continuing or repetitive violation shall not be less than \$100.00.

Fines imposed shall be assessments secured by liens subject to applicable law. If it is decided that a suspension of privileges or services should be imposed, notice shall be given, then the suspension may be continued until the delinquency is paid. The Association may institute actions or proceedings permitted by law to collect any sums due and owing to it.

Section 3. Severability. Invalidation of any one 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.

Section 4. Responsibility of Declarant. Declarant herein shall not in any way or manner be liable or responsible for any violation of these restrictions by any person other than itself. In addition, nothing contained in this Declaration of Boat Slip Area shall be deemed to be a representation by Declarant with regard to the requirements of any governmental authority and it shall be the duty of each Boat Slip Owner to comply with any such requirements in addition to the provisions of this Declaration of Boat Slip Area.

Section 5. Rule Against Perpetuities. In the event that any of the provisions hereunder are declared void by a court of competent jurisdiction by reason of the period of time herein stated for which the same shall be effective, then, in the event, such term shall be reduced to a period of time which shall not violate the rule against perpetuities or

any other law of the State of North Carolina, and such provision shall be fully effective for said reduced period of time.

Section 6. Binding Effect. All covenants, conditions, limitations, restrictions, easements, and affirmative obligations set forth in this Declaration of Boat Slip Area shall be binding on the Boat Slip Owners and their respective heirs, successors, and assigns, and shall run with the land. All rights, easements and agreements reserved by or granted to Declarant herein shall inure to the benefit of Declarant, its successors and assigns including, without limitation, the right to develop and submit additional phases. Declarant reserves the right in addition to all other rights of Declarant, to assign its rights of consent and approval as set out in this Declaration of Boat Slip Area and any amendment hereto or supplement thereof, to the Association, or any assignee of Declarant's development rights. At such time as Declarant, its successors and assigns no longer owns any Boat Slips or properties in the Subdivision, any right of approval reserved to Declarant by this Declaration of Boat Slip Area shall be exercised by the Association.

Section 7. Notice. Any notice required to be sent to any Member or Boat Slip Owner under the provisions of this Declaration of Boat Slip Area shall be deemed to have been properly sent when personally delivered or mailed, postpaid, to the last known address of the person who appears as Member or Boat Slip Owner of the records of Association at the time of such mailing.

Section 8. Duration. The covenants and restrictions of this Declaration of Boat Slip Area shall run with and bind the Boat Slip Area and shall inure to the benefit of and be enforceable by Declarant, Association, or Boat Slip Owner subject to this Declaration of Boat Slip Area, and their respective legal representatives, heirs, successors, and assigns. All of the restrictions and covenants set forth in this Declaration of Boat Slip Area will continue and be binding on the Declarant and the Boat Slip Owners and on their successors and assigns for a period of twenty-five (25) years from the date this instrument is filed of record in the Official Records of the Carteret County Registry, Carteret County North Carolina, and will automatically be extended thereafter for successive periods of ten (10) years, unless prior to such deadlines, the covenants and restrictions of this Declaration of Boat Slip Area are terminated by written agreement of Boat Slip Owners to which at least ninety percent (90%) of the votes in the Association are allocated, and said termination statement is recorded upon the public records of Carteret County.

Section 9. Amendment. This Declaration may be amended, changed, added to, derogated, or deleted at any time and from time to time upon sixty-seven percent (67%) vote of the membership in the Association, provided, that so long as the Declarant is the Owner of any Boat Slip affected by this Declaration of Boat Slip Area, the Declarant's consent must be obtained. Provided further, that no amendment which substantially and adversely affects any substantive right of a Boat Slip Owner to the use of such Owners's Boat Slip shall be enforceable against such Owner without such Owner's consent. Provided further, that the provisions for voting of Class A and Class B Members as

hereinabove contained in this Declaration of Boat Slip Area shall also be effective in voting for changes in this Declaration of Boat Slip Area. No amendment to the Declaration of Boat Slip Area shall be effective until executed on behalf of the Association by any officer designated for that purpose and recorded in the Official Records of the Carteret County Registry, Carteret County, North Carolina. For the purpose of this section, additions to Boat Slips as provided in Article II, Section 2 hereof shall not constitute an "amendment".

Section 10. Amendment Prior to First Conveyance by Declarant. At any time prior to the closing of the first conveyance of a Boat Slip by Declarant, the Declarant, and any mortgage holder, if any, may amend this Declaration of Boat Slip Area by mutual consent. The closing of the first sale shall mean transfer of title and delivery of a deed and not execution of a contract of sale or a like document.

Section 11. Amendment of Declaration of Boat Slip Area Without Approval of Boat Slip Owners. So long as it owns any Boat Slip, the Declarant, without the consent or approval of any other Boat Slip Owner, shall have the right to amend this Declaration of Boat Slip Area:

(a) to conform to the requirements of any law or any governmental agency having legal jurisdiction or permitting authority over the Boat Slip Area;

(b) to qualify the Subdivision or the Boat Slip Area (less Boat Slips conveyed) and improvements thereon for mortgage or improvement loans; or

(c) to make amendments which are correctional in nature only and do not involve a change which materially and adversely affects the rights, duties or obligations herein.

A letter from an official of any such governmental Agency, including without limitation, the Veterans Administration, the Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, the Governmental National Mortgage Association of the Federal National Mortgage Association, requesting or suggesting an amendment necessary to comply with the requirements of such agency shall be sufficient to conform to such request or suggestion. Such amendment shall become effective upon the date of its recordation in the Official Records of the Carteret County Registry, Carteret County, North Carolina.

Section 12. Amendment to Achieve Tax-Exempt Status. The Declarant, for so long as it is a Class B Member of the Association, and, thereafter, the Board, may amend this Declaration of Boat Slip Area as shall be necessary, in its opinion, and without the consent of any Boat Slip Owner, to qualify the Association or any property in the Boat Slip Area for tax-exempt status. Such amendment shall become effective upon the date of its recordation in the Official Records of the Carteret County Registry, Carteret County, North Carolina.

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Section 13. Assignment of Declarant's Rights. Declarant reserves the right to assign all of its rights reserved herein to a successor or an assign who also assumes Declarant's responsibilities.

Section 14. Indemnification of Officers, Directors, and Others. Subject to North Carolina law, the Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section.

The Association's officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association).

The Association shall indemnify and forever hold each such officer, director, and committee member harmless from any and all liability to others on account of any such contract, commitment, or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a common expense, maintain adequate general liability and officers and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 15. Paid Professional Manager. The Board of Directors of the Association, at the expense of the Association, may employ a professional manager or managerial firm to supervise all the work, labor, services and material required in the operation and maintenance of the Boat Slip Area and in the discharge of the Association's duties.

Section 16. Safety and Security. The Association, the Board, its directors and officers, Declarant, and, their respective agents, assigns, or employees shall not be considered insurers or guarantors of security or safety within the Boat Slip Area, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security or safety measures undertaken. No representation or warranty is made that any safety measure or security system, if any, including any mechanism, system, or procedure for limiting access to any portion of the Boat Slip Area, cannot be compromised or circumvented, nor that any such systems or measures undertaken will in all cases prevent loss or provide the detection or protection for which it is designed or intended. Each Boat Slip Owner, guest, and invitee acknowledges and agrees that the Association, the Board, its directors and officers, Declarant, and their respective agents, assigns, and employees are not insurers and that each person using the

Boat Slip Area assumes all risks for personal injury and loss or damage to property resulting from acts of third parties.

Section 17. Recreational Amenities. The use and enjoyment of any recreational facility involves risk of personal injury or damage to property. Each Boat Slip Owner, for himself, his family, allowed tenants, and permittees, acknowledges and understands that the Association, its Board and committees, and Declarant are not insurers of personal safety or property and that all such Persons assume all risks of personal injury and loss or damage to property resulting from the use and enjoyment of the Boat Slip Area which the Association owns, operates, regulates, or maintains. **The use of the Boat Slip Area is to be used at the sole risk of the Boat Slip Owner and other Lot Owners, and the Association shall not be liable or responsible for the care or protection of any boat (including her gear, equipment, and contents) nor for any loss or damage of whatever kind or nature to the boat, her contents, gear, or equipment, howsoever occasioned.**

EACH BOAT SLIP OWNER (INDEMNITOR) AGREES AND DOES HEREBY RELEASE AND DISCHARGE THE DECLARANT, THE ASSOCIATION, THE BOARD AND ANY COMMITTEES, THEIR SUCCESSORS AND ASSIGNS, AND ALL OF THEIR RESPECTIVE OFFICERS, DIRECTORS, AND THEIR SUCCESSORS IN OFFICE, EMPLOYEES, ATTORNEYS, DESIGNEES, REPRESENTATIVES AND AGENTS, HEREINAFTER COLLECTIVELY AND SEVERALLY REFERRED TO AS "INDEMNITEES" FROM AND AGAINST ALL LIABILITY FOR, AND ASSUMES THE RISK OF, ALL LOSSES, EXPENSES, LIENS, CLAIMS, DEMANDS, DAMAGES AND CAUSES OF ACTION OF EVERY KIND AND CHARACTER WHATSOEVER FOR DAMAGE TO THE PROPERTY OF INDEMNITEES AND INDEMNITEES' LESSEES, TENANTS AND INVITEES AND FOR THE PERSONAL INJURY TO OR DEATH OF ANY PERSONS (INCLUDING BUT NOT LIMITED TO INDEMNITOR, ITS OFFICERS, DIRECTORS, EMPLOYEES, ATTORNEYS, DESIGNEES, REPRESENTATIVES, TENANTS, SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS OF INDEMNITOR) AND/OR DAMAGE TO ANY PROPERTY (INCLUDING BUT NOT LIMITED TO PROPERTY BELONGING TO INDEMNITOR, ITS OFFICERS, DIRECTORS, EMPLOYEES, ATTORNEYS, DESIGNEES, REPRESENTATIVES, TENANTS SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS) AND FOR ANY OTHER LIABILITY, DAMAGES, FINES OR PENALTIES (EXCEPT WHERE REIMBURSEMENT FOR FINES OR PENALTIES IS PROHIBITED BY APPLICABLE LAW), INCLUDING COSTS, EXPENSES, PENALTIES AND INTEREST, ATTORNEY FEES AND SETTLEMENTS HEREINAFTER REFERRED TO COLLECTIVELY AND SEVERALLY AS "CLAIMS", ARISING OUT OF OR IN ANY WAY CONNECTED WITH OR RELATING TO THE USE OF THE BOAT SLIP AREA AND ITS FACILITIES, INCLUDING THOSE CLAIMS CAUSED BY ANY OR ALL OF THE INDEMNITEES. THIS INDEMNITY AGREEMENT SHALL INCLUDE

CLAIMS ARISING OUT OF, BROUGHT BY OR CAUSED, IN WHOLE OR IN PART BY INDEMNITEES, ITS OFFICERS, DIRECTORS, EMPLOYEES, TENANTS, SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS OF INDEMNITEES, AND INDEMNITOR EXPRESSLY AGREES TO DEFEND, INDEMNIFY, REIMBURSE AND HOLD INDEMNITEES, ITS OFFICERS, DIRECTORS, EMPLOYEES, ATTORNEYS, DESIGNEES, REPRESENTATIVES, TENANTS, SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS, HARMLESS FROM ALL "CLAIMS" OF ANY KIND OR CHARACTER, INCLUDING BUT NOT LIMITED TO CLAIMS IN ANY MATTER RESULTING FROM, ARISING OUT OF OR CAUSED, IN WHOLE OR IN PART, BY INDEMNITEES', (INCLUDING ITS OFFICERS, DIRECTORS, EMPLOYEES, TENANTS, SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS) WILLFUL MISCONDUCT, NEGLIGENCE, GROSS NEGLIGENCE, DELIBERATE ACTS, STRICT LIABILITY IN TORT OR BREACH OF WARRANTY, EXPRESS OR IMPLIED, INCLUDING THAT CAUSED BY ANY OF THE INDEMNITEES' OFFICERS, DIRECTORS, EMPLOYEES, ATTORNEYS, DESIGNEES, REPRESENTATIVES, TENANTS SUBCONTRACTORS, SUPPLIERS, INVITEES OR LICENSEES AND AGENTS ACTIVITIES, DIRECTLY OR INDIRECTLY, RELATED TO THE BOAT SLIP AREA.

THE FOREGOING INDEMNIFICATION SHALL NOT BE APPLICABLE TOWARD OR ENFORCEABLE IN FAVOR OF ANY INDIVIDUAL INDEMNITEE FOR A PARTICULAR CLAIM, INsofar AS THAT PARTICULAR CLAIM IS ADJUDICATED BY A COURT OF COMPETENT JURISDICTION, TO RESULT EXCLUSIVELY FROM THE GROSS NEGLIGENCE OR WILLFUL CONDUCT OF THAT INDEMNITEE SEEKING TO ENFORCE THE INDEMNIFICATION, BUT THE FOREGOING SHALL SPECIFICALLY INCLUDE CLAIMS RESULTING FROM THE NEGLIGENCE AND/OR CONTRIBUTORY NEGLIGENCE AND/OR CONCURRENT NEGLIGENCE OF ANY INDEMNITEES.

INDEMNITOR AND INDEMNITEES ACKNOWLEDGE THAT THIS STATEMENT AND THE FOREGOING INDEMNIFICATION UNDER THIS ARTICLE IX, COMPLIES WITH THE EXPRESS NEGLIGENCE RULE AND IS CONSPICUOUS AND HAS BEEN REVIEWED AND APPROVED BY EACH INDEMNITOR PRIOR TO THE PURCHASE OF A BOAT SLIP IN THE SUBDIVISION, AFTER CONSULTING WITH LEGAL COUNSEL OF THEIR CHOICE, PRIOR TO THE PURCHASE OF THE BOAT SLIP. THE INDEMNIFICATION ARISING HEREIN SHALL SURVIVE THE OWNERSHIP OF A BOAT SLIP IN THIS SUBDIVISION BY INDEMNITOR.

Declarant or the Association may, but shall not be obligated to, implement or maintain certain safety measures designed to decrease the chance of injury resulting from use of the Boat Slip Area; provided, neither the Association nor Declarant shall in any

way be considered insurers or guarantors of the safety of any Person using such facilities. In addition, neither the Association nor Declarant shall be held liable for any loss or damage by reason of failure to provide adequate safety measures or ineffectiveness of safety measures undertaken. No representation or warranty is made that any safety measures undertaken will be undertaken, or if undertaken, will be effective, nor that any such measures will in all cases prevent any personal injury or loss or damage to property that the measure is designed or intended to prevent.

Section 18. Changes in Ownership of Boat Slips. Each Boat Slip Owner is required to keep the Association apprised at all times of the current name of the Boat Slip Owner and its address, and the Lots then owned by such Owner. Within ten (10) days following the closing of any transfer of title, the Boat Slip Owner desiring to sell or otherwise transfer title to its Boat Slip shall give the Board written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. In addition, within ten (10) days following any change in the name and address of the Boat Slip Owner, the Boat Slip Owner shall give the Board written notice of the changed information and such other information as the Board may reasonably require.

Section 19. Water Rights. The surface of the water of the Boat Slip Area is public water and as such the public has a right to use such water of the Boat Slip Area in such a way that does not impede navigation or pose a risk of property damage or personal injury to others.

Section 20. Effective Date. This Declaration of Boat Slip Area shall become effective upon its recordation in the Official Records of the Carteret County Registry, Carteret County, North Carolina.

Section 21. Form of Ownership. This Declaration is not a declaration to the condominium form of ownership. No portion of the Properties is submitted by this Declaration to the condominium form of ownership.

Section 22. Conflict. With regard to restrictions placed upon the Boat Slip Area, should a conflict arise between Cannonsgate at Bogue Sound Homeowners Association and the Boat Slip Association, then the restrictions appearing in this Declaration of Boat Slip Area shall prevail.

Section 23. Venue. Each Boat Slip Owner acknowledges that regardless of where such Boat Slip Owner (i) executed a purchase and sale agreement, (ii) resides or maintains a principal place of business, (iii) obtained financing or (iv) closed on a Boat Slip, this Declaration of Boat Slip Area legally and factually was executed in Carteret County, North Carolina. Accordingly, an irrefutable presumption exists that the only appropriate venue for the resolution of any dispute lies in Carteret County, North Carolina. In addition to the foregoing, each Boat Slip Owner and the Declarant agree that the venue for resolution of any dispute lies in Carteret County, North Carolina.

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Section 24. Waiver of Right of Partition. All Boat Slip Owners, by acceptance and recordation of an instrument assigning an interest to them, hereby waive all rights of partition with respect to their ownership in the Boat Slip Area.

Section 25. North Carolina Planned Community Act. Since the Boat Slip Area is restricted to non-residential uses only, the North Carolina Planned Community Act (Chapter 47F) does not automatically apply. However, pursuant to N.C.G.S. 47F-1-102(b)(2), the Declarant hereby voluntarily imposes the provisions of such Act upon the Boat Slip Area and the administration of the Association, but only to the extent such provisions do not directly conflict with any provisions of this Declaration.

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IN WITNESS WHEREOF, The Declarant, R.A. North Development, Inc., has caused this instrument to be executed by its proper officers on July 18, 2006.

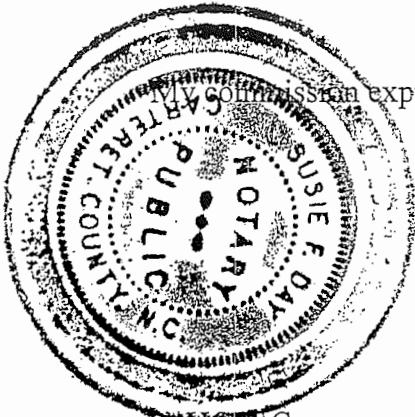
R.A. North Development, Inc.

Randolph M. Allen
Randolph M. Allen, President

STATE OF NORTH CAROLINA
COUNTY OF Carteret

I, *Susie F. Day* a Notary Public of the county and state aforesaid, certify that Randolph M. Allen personally appeared before me this day and acknowledged that he is the President of R.A. North Development, Inc., a North Carolina corporation, and by authority duly given and as an act of the corporation, the foregoing instrument was signed in its name by him as President. Witness my hand and official stamp or seal, this the 18th day of July, 2006.

Susie F. Day
Notary Public
Susie F. Day



My commission expires: 5/23/09