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FOR REGISTRATION REGISTER OF DEEDS
REBECCA P. SMITH
NEW HANOVER COUNTY, NC
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STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

DECLARATION OF CONDOMINIUM
VILLAS ON CLAM SHELL CONDOMINIUM
SECTIONS 1 AND 2

CLAM SHELL VILLAS, L.L.C., a North Carolina Limited Liability Company, hereinafter called "DECLARANT", being the owner in fee simple of the property hereinafter described, hereby submits said property to condominium ownership pursuant to Chapter 47C of the General Statutes of North Carolina as amended, known as the "North Carolina Condominium Act", and to that end does hereby publish and declare that all of the said property to be known as "VILLAS ON CLAM SHELL CONDOMINIUM, SECTION 1" is and shall be held, conveyed, hypothecated, encumbered, used, occupied, and improved subject to the following conditions, covenants, restrictions, uses, limitations and objections, all of which shall be deemed to run with the land and shall be a burden and benefit to Declarant, their successors and assigns, and any person acquiring or owning an interest in the property and improvements, their grantees, successors, heirs, executors, administrators, devisees and assigns.

Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to Chapter 47F of the General Statutes of North Carolina known as the North Carolina Planned Community Act and subject to the following easements, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

Some of the following Covenants may be intended to insure ongoing compliance with North Carolina State Stormwater Management Permit as issued by the Division of Water Quality under NCAN 2H.1000. The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the stormwater management permit. The covenants are to run with the land and be binding on all persons and parties claiming under them. The covenants pertaining to stormwater may not be altered or rescinded without the express written consent of the State of North Carolina Division of Water Quality. Alteration of the drainage as shown on the approved plan may not take place without the concurrence of the Division of Water Quality.

1. DEFINITIONS. Unless it is plainly evident from the context that a different meaning is intended, as used herein:

A. "Act" or "North Carolina Condominium Act" means the statutory provisions set forth in Chapter 47C of the North Carolina General Statutes, the North Carolina Condominium Act, under which the condominium is established.

B. "Assessment" means a share of the funds required for the payment of Common Expenses which from time to time is assessed against the Unit Owner by the Association.

C. "Association" means the entity responsible for the operation of the condominium pursuant to the Act, which entity includes all of the Unit Owners acting as a group in accordance with the By-Laws and Declaration.

D. "Board of Directors" or "Board" means the Board of Directors of the Association, and "Director" means a member of the Board.

E. "By-Laws" means the By-Laws for the government of the condominium as they exist from time to time. A copy of the initial By-Laws are hereto attached as Exhibit "E" and made a part hereof by reference.

F. "Building" or "Buildings" shall mean all structures and improvements now or hereafter erected upon the property.

G. "Common Areas and Facilities" means the portion of the condominium property owned, in undivided interest, by all of the owners, as more specifically set forth herein in Paragraph 5, and as modified as allowed herein.

H. "Common Expenses" include the expenses of administration, maintenance, operation, repair and replacement (including a capital reserve for repair maintenance and replacement), of the common area and facilities, and other expenses declared by the Association to be Common Expenses, as further defined in the Act.

I. "Common Profits" means the balance of all revenue of the Association remaining after deduction of Common Expenses.

J. "Condominium" means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the Unit Owners.

K. "Condominium Documents" means this Declaration, the By-Laws, the Rules and Regulations and all other Exhibits attached hereto and all other documents and regulations promulgated pursuant to the authority created herein and in the Act, and as such documents shall be amended from time to time.

L. "Declarant" means CLAM SHELL VILLAS, L.L.C., its successors, and assigns, and shall be synonymous with "Developer".

M. "Declaration" means this instrument as it may be from time to time amended or supplemented.

N. "Development rights" means any right or combination of rights reserved by a declarant in the declaration to add real estate to a condominium; to create units, common elements, or Limited Common Elements within a condominium; to subdivide units or convert units into common elements; or to withdraw real estate from a condominium.

O. "Eligible Mortgage Holder" or "Eligible Holders" is defined as a holder of a first mortgage or lien on a unit who has requested notice of certain matters from the Association.

P. "Limited Common Areas and Facilities" means and includes those common areas and facilities which are reserved for the use of a certain unit or units, to the exclusion of other units, as more specifically defined herein.

Q. "Mortgagee" shall mean a beneficiary under a mortgage or Deed of Trust.

R. "Plans" shall mean and refer to the plans and specifications of the condominium prepared by Talbot Land Surveying, P.C., Registered Land Surveyor, recorded under the name of the condominiums in the Unit Ownership file in the Office of the Register of Deeds of New Hanover

County, in Condominium Plat Book 15 at Page 396 and attached hereto as Exhibit "B", sheets ~~1 through~~ and incorporated herein by reference.

T. "Property" means and includes the land described in Article 2 of this Declaration together with any buildings and improvements located thereon.

U. "Special declarant rights" means rights reserved for the benefit of a declarant to complete improvements indicated on plats and plans filed with the declaration (Section 47C-2-109); to exercise any development right (Section 47C-2-110); to maintain sales offices, management offices, signs advertising the condominium, and models (Section 47C-2-115); to use easements through the common elements for the purpose of making improvements within the condominium or within real estate which may be added to the condominium (Section 47C-2-116); to make the condominium part of a larger condominium (Section 47C-2-121); or to appoint or remove any officer of the association or any executive board member during any period of declarant control (Section 47C-3-103(d)).

V. "Unit" or "Condominium Unit" means a part of the property which is to be subject to private ownership, as designated on the Exhibits attached to this Declaration and as further defined in the Act.

W. "Unit Owner" or "Owner" means a person or entity, or any combination thereof, who owns a unit.

2. DESCRIPTION OF PROPERTY. All of that certain tract or parcel of land with the building and improvement thereon erected, or to be erected, situate, lying and being in the Town of Carolina Beach, New Hanover County, State of North Carolina, and being more particularly described in Exhibit "A" attached hereto and incorporated by reference hereby as though fully incorporated herein.

Declarant submits only that portion of the land described in Exhibit "A" attached hereto upon which Sections 1 and 2 of VILLAS ON CLAM SHELL Condominiums are to be constructed. Both Section 1 and 2 contain one building. The property hereby submitted is more particularly described by that Condominium Plat recorded in the New Hanover County Registry in Condominium Plat Book 15 at Page 396. Nevertheless, Declarant hereby reserves the right and option, but not the obligation, to expand the property subject to this Declaration by adding all or any portion or portions of the land described in Exhibit "F" to the coverage of this Declaration. If Declarant chooses to expand the property dedicated to Condominium ownership, the expansion will contain a maximum of six (6) units in addition to the four in Sections 1 and 2. The Developer retains the right to add contiguous, or nearly contiguous, tracts to the project at its sole discretion, in which case the maximum number of units could increase.

Any extension shall occur, if at all, by the recordation of one or more amendments to this Declaration and one or more supplementary condominium plats as required by law. Each such amendment to the Declaration shall be called a "Supplemental Declaration" and shall be executed by the Declarant or its successors and assigns. The recordation of any such supplemental declaration and expansion of the property subject to this Declaration effectuated thereby, shall not require consent or ratification of any Unit Owner.

Further terms, conditions, liabilities, and rights concerning expansion into further sections of development, are to be found in Paragraph 34, Expansion of Condominium, of this Declaration.

3. DESCRIPTION OF BUILDING. the Declarant has constructed, or will construct, upon the property described in Exhibit "A" attached hereto, two (2) two-unit buildings to be used for residential purposes as herein provided. Each Section contains one building. A plat or survey of the property showing the location of said buildings is attached hereto and made a part hereof as Exhibit "B". The buildings are more particularly described in the plans thereof, a copy of which plans are attached hereto as Exhibit "B" and made a part of hereof, showing all particulars of the buildings as required by law.

In general, the buildings each have three stories built on wood piling foundation and constructed primarily of wood frame with vinyl siding exterior. Each buildings will contain two units, one with two bedrooms, having approximately 1300 total square feet of enclosed area, and one with three bedrooms, having approximately 2600 total square feet of enclosed area.

In addition, the buildings will have parking spaces required by The Town of Carolina Beach Zoning, walkways, stairs, landscape areas, and other appurtenances and facilities. All parking shall be only in parking spaces, and not in other parts of the streets and common areas.

4. UNIT DESIGNATION AND DESCRIPTION.

A. DESIGNATION. The unit designation of each unit, its location and dimensions, is set forth in Exhibit "B" hereto attached and made a part hereof. Each unit is identified by a section number and a numeric designation (Ex.: 1-100, 1-200, 2-100, etc.).

B. DESCRIPTION. The legal description of each unit shall consist of the Section number, and a unit number which identifies such unit as shown on the plats hereto attached as Exhibit "B". Each unit is bounded both as to horizontal and vertical boundaries by the interior surface of its perimeter walls, ceilings and floors which are shown on said plans, subject to such encroachments as are contained in the buildings, whether the same now exist or may be caused or created by construction, settlement or movement of the buildings, or by permissible repairs, construction or alteration.

Each unit shall be conveyed and treated as an individual property capable of independent use and fee simple ownership, and the Unit Owner of each unit shall also own, as an appurtenance to the ownership of each said unit conveyed, an undivided interest in the common areas and facilities. The percentage of undivided interest in the common areas and facilities appurtenant to each unit shall be as set forth in Exhibit "C" attached hereto and made a part hereof. The percentage of undivided interest in the common areas and facilities that is appurtenant to each unit has been determined by a ratio formulated upon the approximate relation that the square footage of each unit at the date of the Declaration bears to the then square footage of all the units having an interest in the common areas and facilities. The square footage of each unit and the square footage of all of the units has been determined by the Declarant, and its determination shall be binding upon all units and Unit Owners. Except as provided in Paragraphs 27 and 34, below, the percentage of undivided interest in the common areas and facilities assigned to each unit shall not be changed without the unanimous consent of the owners of all the units.

5. COMMON AREAS AND FACILITIES.

A. The common areas and facilities generally shall mean and refer to all of the real property, described in Paragraph 2, and all of the improvements and facilities thereon which are not units, as defined hereinabove and in NCGS Chapter 47C, and which are not items of personal property owned, held and maintained by Unit Owners. Without in any way limiting the generality of the foregoing, the common areas shall include, but not be limited to, the following:

(1) All of the real property more particularly described in Paragraph 2 of this Declaration.

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

(3) All stairways, stairwells and stairs and their components, if any, which give access to more than one unit.

(4) All yard and garden areas, parking and drive areas, sidewalks, and any other amenities.

(5) All installations of and facilities, apparatus, conduits, and equipment for the provisions of all utility services, including, but not limited to, all water and sewer service, electricity, heating, air conditioning, telephone, irrigation, trash disposal, if any, and cable TV, if any, supplied

for the common use and convenience of the Unit Owners, and which are not defined as part of the units, hereinbelow.

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

(7) All hand railings, including those on balconies serving only one Unit.

(8) Any swimming pool and all related equipment situated on the Common Area.

B. (1) The undivided share in the common elements or common areas which are appurtenant to a unit shall not be separated therefrom and shall pass with the title to the unit, whether or not separately described.

(2) A share in the common areas appurtenant to a unit cannot be conveyed or encumbered except together with the unit.

(3) The shares in the common areas appurtenant to units shall remain undivided, and no action for partition of the common elements shall lie.

C. The initial undivided interest of each Unit Owner in such common areas and facilities is set forth in Exhibit "C" and is attached hereto and made a part hereof.

6. LIMITED COMMON AREAS AND FACILITIES. The limited common areas and facilities appurtenant to each unit are defined in NCGS Chapter 47C, and as follows:

A. Decks accessible only from a particular unit, and outside unit entries at ground level, and any stairs that serve only one unit.

B. All non-load bearing walls located entirely within the unit.

C. All materials, including but not limited to, studs, sheet-rock, plywood, carpet, paint, paneling, tile, vinyl or brick, attached to, or on the inside surfaces of perimeter walls, floors and ceilings of the unit.

D. All doors, windows, glass in doors and windows, screens, ventilation fans and vents located entirely within the unit or extending into the unit from the perimeter walls, floors or ceilings thereof.

E. All ducts and related components and all water, power, telephone, television and cable television, electricity, plumbing, gas and sewage lines located in the unit; provided, however, that the portion of said lines located in a common compartment for, or installation of, such lines shall be general common areas and facilities as described above.

F. The limited common areas and facilities which are appurtenant to any unit(s) shall not be separated therefrom and shall pass with title to any unit(s), whether or not separately described.

7. MEMBERSHIP and VOTING RIGHTS

A. Every Owner of a Unit which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of any Unit which is subject to assessment.

B. The Association shall have two classes of voting memberships

1. Class "A". Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Unit owned. When more than one person holds an interest in the Unit, all such persons shall be members. The vote for such Unit shall be

exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Unit.

2. Class "B". The Class B member shall be the Declarant and shall be entitled to thirteen (13) votes in all matters. The Class B membership shall automatically terminate upon the happening of either of the two following events, which ever occurs earliest:

- (a) Upon the closing of the sale of all units in all sections, or
- (1) ten years after the sale of the first unit, or December 1, 2015.

C. Notice and Quorum for Action. There shall be written notice of any meeting called for the purpose of taking any action authorized by this Declaration, which notice shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, after the period of Declarant control, the presence of members or of proxies entitled to cast seventy-five percent (75%) of all the votes of the membership shall constitute a quorum.

Notwithstanding anything to the contrary, after control of the Association has been transferred from the Declarant to the Unit Owners, the approval of at least seventy-five percent (75%) of all Unit Owners' votes are required to amend these Covenants or the Homeowners' Association By-Laws, or to convey or encumber the Common Area, but no amendment shall act to reduce the remaining Declarant rights set out herein.

8. USE.

A. Residential Use

The buildings and each of the units shall be used for residential and lodging accommodation purposes, which shall include the rental of any units by the owner(s) thereof for residential pursuant to rules and regulations established by the Association and other uses reasonably incidental thereto, including meetings by persons owning or occupying such units. Each Unit Owner shall have the right to use the common areas and facilities in accordance with the purposes for which they are intended and for all purposes incident to the use and occupancy of his or her unit and such right shall be appurtenant to and run with his or her unit; provided, however, that no person shall use the common areas and facilities or any part thereof in such manner as to interfere with or restrict or impair the use thereof by others entitled to the use thereof or in any manner contrary to or not in accordance with this Declaration, the By-Laws, and such Rules and Regulations as may be established from time to time by the Board of Directors. The uses contemplated by this paragraph cannot be changed, amended or modified without the written consent of the owners of all units; however, so long as the Declarant shall retain ownership of any units, it may utilize any such unit or units for sales or rental offices, models or other usage for the purpose of selling or renting units within said project. The Declarant may assign this limited commercial usage right to any other person or entities as it may choose; provided, however, that when all units have been sold, this right of commercial usage by the Declarant, its successors and assigns shall immediately cease. The use by Declarant as such shall not be a violation of the use restrictions contained in the declaration, rules and regulations or other condominium documents. Declarant reserves the right to use any unsold unit for such purposes as its sole discretion, and to locate, or relocate, the units at will.

B. Property Rights

1. Owners' Easements Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common area which shall be appurtenant to and shall pass with the title to every Unit, subject to the following provisions:

- a. The right to the Association to limit the number of guests of members;
- b. The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against this Unit remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

c. The right of the Association to dedicate or transfer all or part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be deemed necessary by the Developer or agreed to by seventy-five percent (75%) of all votes. No such dedication or transfer shall be effective unless an instrument signed by seventy-five percent (75%) of each class of members as defined hereinafter agreeing to such dedication or transfer has been recorded; however, until such time as the Declarant has conveyed the Common Areas to the Association, the Declarant may, in its sole discretion, dedicate or transfer Common Area for drainage and utility easements reasonably necessary for the continuing development of the Property and any allowable additional property, and additional sections to be incorporated into the Development.

d. The right of the Association to impose regulations for the use and enjoyment of the Common Area and improvements thereon, which regulations may further restrict the use of the Common Area.

e. The right of the Association to impose regulations on the conduct of Owners, tenants, guests, and invitees.

f. There shall be no outside clothes lines, or similar facilities, in or on any common area or limited common areas, balconies, railing, or stairwells.

g. All furniture, artwork, chimes, or other items visible in or on any common area, limited common areas, balcony or stairwell shall be approved by the Homeowners Association. The Association may require any item to be removed at their discretion, for any reason, including but not limited to aesthetic reasons and auditory reasons. Fines may be imposed for failure to remove any item after requested in writing.

2. Assignment of Use. Owner may assign, in accordance with the By-Laws, his or her right of enjoyment to the Common Area and facilities to the members of his family, guests, tenants, or contract purchasers who reside on the property.

3. Rights of Enforcement. Any Unit Owner is entitled to enforce the provisions contained in these covenants which are not the exclusive powers of the Owners Association or Declarant. Any powers which, by their terms, must necessarily be enforced by the Owners Association shall be solely enforced by the said Association.

9. COVENANTS FOR ASSESSMENTS

A. Creation of the Lien and Personal Obligation of Assessment. The Declarant, for each Unit owned within the Properties, hereby covenants, and each Owner of any Unit by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

1. An initial assessment equal to Five Hundred Seven Dollars (\$507.00) for Unit 1-100 and Unit 2-100 and One Thousand Fourteen Dollars (\$1014.00) for Unit 1-200 and Unit 2-200 as initial working capital, plus the unit's prorata share of the insurance premiums on policies covering the development for the first insurance year, and the unit's prorata share of the dues for the month of closing, shall be payable upon closing of the initial purchase of the Unit; and

2. Annual assessments or charges, which may be collected monthly, quarterly or bi-annually at the discretion of the Board of Directors; and

3. Special assessments for capital improvements, such assessments to be established and collected as hereinafter provided; and

4. Any and all fines assessed per the terms of this declaration shall be an assessment on the unit owned by the person so fined.

The annual assessments, special assessments and fine or other levies, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Any such liens may, upon default in payment thereof, which is not cured within 15 days of notice of default, may be foreclosed by power of sale in accord with the terms of Chapter 45 of the North Carolina General Statutes. The trustee for any such proceeding shall be a person appointed in writing by the Developer, or Board of Directors, as specified herein.

B. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvements and maintenance of the Common Area, including but not limited to the following:

1. Maintenance of the private roads, streets, parking and walkways constructed within the development shall be the responsibility of the Association. Maintenance of the public roads and streets constructed within the development, if any, shall be the responsibility of the Association until accepted for maintenance by the Town of Carolina Beach, or other municipal or governmental organization. The purpose of maintenance of the public roads and streets, if any, shall automatically terminate upon such roads and streets being taken over by the Town of Carolina Beach, or similar entity for maintenance; however, provision shall continue for maintenance of walkways, sidewalks, and parking areas within a development.
2. Payment of all water and sewer bills for the units and Common Areas.
3. Maintenance of the exterior of the buildings, units and other common area improvements situated on the properties, specifically including swimming pools and associated improvements, and specifically excluding any Limited Common Area as defined herein and in NCGS Chapter 47C.
4. Payment of taxes and other municipal charges and fees assessed on the Common Areas.
5. Maintenance of all drainage easements, water lines and sewer lines located in the Common Area.
6. To keep all amenities in the Common Area clean and free from debris, and to maintain all amenities in an orderly condition. Further, to maintain the landscaping in accordance with reasonable standards for residential/rental communities, including any necessary removal and replacement of landscaping.
7. To provide garbage removal services for all units; Declarant reserves the right to enter contracts for the removal of trash and garbage for all such units in the development, which contracts can call for payments for such service either directly for the Unit Owner, or by the Unit Owners Association; any such contract shall have a maximum duration of three years.
8. To pay the premiums on all insurance carried by the Owners Association as required by this Declaration, and to reimburse Declarant for such policy premiums advanced on behalf of the Association.
9. To pay all legal, accounting and other professional fees, incurred by the association in carrying out its duties as set forth herein or in the Bylaws or Rules and Regulations, specifically including fees charged by a management company.
10. To accumulate and maintain and a Contingency Reserve Fund for unanticipated expenses and capital improvement or repair to the Units or Common Area.

C. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Unit to an Owner, the maximum annual assessment shall be Three Thousand Four Hundred Two Dollars (\$3,042.00) for Unit 1-100 and Unit 2-100 (\$253.50 per month), and Six Thousand Eighty Four Dollars (\$6,084.00) for Unit 1-200 and Unit 2-200 (\$507.00 per month). However, if the pool is not completed at the time of the sale of any unit, annual dues may be reduced by the amount estimated for pool maintenance.

1. From and after January 1 of the year immediately following the conveyance of the first Unit to an Owner, the maximum annual assessment may be increased each year not more than five percent (5%) above the maximum assessment for the previous year without a vote of the membership.

2. From and after January 1 of the year immediately following the conveyance of the first Unit to an Owner, the maximum annual assessment may be increased above five percent (5%) by a vote of three-fourths (3/4) of all members who are voting in person or by proxy, at a meeting duly called for this purpose.

3. The Board of Directors may fix the initial assessment provided for above at an amount not in excess of the maximum, provided that the Board of Directors may increase the amount of the initial annual assessment to a maximum of Four Thousand Eight Hundred Dollars (\$4,800.00) for Unit 1-100 and Unit 2-100 (\$400.00 per month), and Nine Thousand Six Hundred Dollars (\$9,600.00) for Unit 1-200 and Unit 2-200 (\$800.00 per month); notwithstanding the provisions of subparagraphs a and b above, and thereafter the limitations set forth in said subparagraphs shall apply to any annual increase.

D. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only 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 roads and Common Area, including maintenance of water or sewer lines and other elements of the water or sewer system as required by government permits or as needed, and to fixtures, and personal property related thereto.

E. Insurance. Amount and Scope of Insurance. All insurance policies upon the property, including Limited Common Areas (except personal property within a unit) shall be secured by the Board or by the Managing Agent, if so designated by the Board, who shall have the authority to, and shall, obtain such insurance against (1) loss or damage by fire or other hazards normally insured against, and (2) such other risks, including public liability insurance, as from time to time shall be customarily required by private institutional Mortgage Investors for projects similar in construction, location and for such amounts as the responsible authority shall determine. However, such liability coverage shall be for at least \$1,000,000.00 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under this policy shall include, without limitation, legal liability of the insured for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the common areas and legal liability arising out of law suits related to employment contracts of the Owners Association. In obtaining such coverage the responsible authority shall consider the reasonable requirements of holders of first liens on individual units.

All insurance policies must contain provisions generally as follows:

1. Amount and Scope of Insurance. All insurance policies upon the Units shall contain insurance against (1) Loss or damages by fire, flood, if applicable, or other hazards normally insured against, and (2) such other risks, including liability insurance, as from time to time shall be customarily required by institutional Mortgage Lenders or Investors for units similar in construction, location and use.

2. Proceeds. All insurance policies purchased pursuant to these provisions shall name the Association as insured and shall provide that all proceeds thereof shall be payable to the Board of Directors as Insurance Trustee or to such attorney-in-fact or institution with trust powers as may be approved by the Board of Directors, subject to Lenders' right, if any.

3. Policies. All insurance policies shall be with a company or companies doing business in the State of North Carolina and holding a rating of "B" or better by the current issue of Best's Insurance Reports. All insurance policies shall be written for the benefit of the Association and the Unit Owners and their mortgagees as their respective interests may appear, and shall provide that all proceeds thereof shall be payable to the Board of Directors as Insurance Trustee or to such attorney-in-fact or institution with trust powers as may be approved by the Board of Directors.

4. Distribution of Insurance Proceeds. Proceeds of insurance policies shall be distributed to or for the benefit of the beneficial owners in the following manner:

a. Expenses of Trust. All reasonable expenses of the Insurance Trustee shall be first paid or provision made therefor.

b. Reconstruction or Repair. The remaining proceeds shall be used to defray the cost of repairing the damage or reconstruction for which the proceeds are paid. Any proceeds remaining after defraying such cost shall be distributed to the beneficial owners, including lienholders of record, or retained by the Association for such Common Expenses or purposes as the Board shall determine. Upon the agreement of 100% of Unit Owners in any damaged building, the building may not be rebuilt; however, the Insurance Trustee is authorized to demolish the remainder of the building, clear the units of all debris, and place, or return, the lot and section upon which the building was located to a safe and attractive condition. In the event any building is not rebuilt, all remaining insurance proceeds shall be used first to pay off all liens or encumbrances upon the units, then for clean up costs, as provided for above, then Insurance Trustee expenses, and the remainder to be divided among the Unit Owners as directed by the Board of Directors.

F. Other Insurance The Board of Directors of the Association shall obtain, maintain and pay for such other insurance coverage on the Common Areas and Facilities as is normally required by institutional mortgage companies or investors for projects similar in construction, location and use, including, but not limited to Flood Insurance. The Board of Directors shall make its best efforts to assure that there is no coverage "gap" which would result in a loss to the Association, or Unit Owners in the event of damage or destruction to the Common Area, or any improvements located thereon.

G. Notice and Quorum for Any Action Authorized Under Sections C and D. Written notice of any meeting called for the purpose of taking any action authorized under Section C and D shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast seventy-five (75%) of all the votes of the membership shall constitute a quorum.

H. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all similar Units and may be collected on a monthly or quarterly basis, as determined by the Declarant or the Board of Directors. The rate of assessment shall be based on the units' interest in the common area. Notwithstanding the provision for uniform assessments, if a unit or building is located in a flood hazard area, while others are not, those units in the flood zone assessments may be higher to accommodate flood insurance on the improvements located thereon, as shall be determined at the sole discretion of the Declarant, or the Board of Directors.

I. Date of Commencement of Annual Assessments and Due Dates. The annual assessments provided for herein shall commence as to each Unit upon its sale by the Declarant, and shall be prorated for the month of sale (assuming annual assessments are collected monthly). The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Unit at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors and the Board of Directors shall have the authority to require the assessments to be paid in prorata monthly installments. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Unit have been paid.

J. Effect of Nonpayment of Assessments and Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of Eighteen Percent (18%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Unit.

K. Lien for Assessments. The Association may file a lien against a lot when any assessment levied is left unpaid for a period of 30 days or longer. Any such liens may, upon default in payment thereof, which is not cured within 15 days of notice of default, may be foreclosed by power of sale in accord with the terms of Chapter 45 of the North Carolina General Statutes. The trustee for any such proceeding shall be a person appointed in writing by the Developer, or Board of Directors, as specified herein.

A. The lien shall constitute a lien against the Lot when and after the claim of lien is filed of record in the office of the Clerk of Superior Court of New Hanover County. The Association may foreclose the claim of lien in like manner as a mortgage on real estate under power of sale under article 2A of chapter 45 of the General statutes. The Trustee for such purposes shall be the either the President of the Association, a Director of the Association, or such person who is appointed by the Association, or the Declarant during the period of Declarant control, to so act. Fees, charges, late charges fines, interest, reasonable attorney's fees, and other charges imposed pursuant to Sections 47F-3-102, 47F-3-107, 47F-3-107.1 and 47F-3-115 of the North Carolina General Statutes are enforceable as Assessments.

B. The lien under this section shall be prior to all liens and encumbrances on a lot except (i) liens and encumbrances (specifically including, but not limited to, a mortgage or deed of trust on the lot) recorded before the docketing of the claim of lien in the office of the Clerk of Superior court, and (ii) liens for real estate taxes and other governmental assessments and charges against the lot.

C. The lien for unpaid assessments is extinguished unless proceedings to enforce the tax lien are instituted within three years after the docketing of the claim of lien in the office of the Clerk of the Superior Court.

D. Any judgment, Decree, or order in any action brought under this section shall include costs and reasonable attorneys' fees for the prevailing party.

E. Where the holder of a first mortgage or deed of trust of record, or other purchaser of a lot obtains title to the Lot as a result of foreclosure of a first mortgage or deed of trust, such purchaser and its heirs, successors and assigns shall not be liable for the Assessments against the Lot which became due prior to the acquisition of title to the Lot by such purchaser. The unpaid assessments shall be deemed to be Common Expenses collectible from all of the Lot Owners including such purchaser, its heirs successors or assigns.

F. A claim of lien shall set forth the name and addresses of the association, the name of the record owner of the Lot at the time the claim of lien is filed, a description of the Lot and the amount of the lien claimed.

L. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Unit shall not affect the assessment lien. However, the sale or transfer of any Unit pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Unit from liability for any assessments thereafter becoming due or from the lien thereof.

10. PROCESS AGENT. Ron K. Jessip, II, 8803 Shipwatch Drive, Wilmington, New Hanover County, North Carolina 28412, is hereby designated as the person to receive service of process in any action provided for in the Act. The Board of Directors may change the process

agent by filing a Declaration of Change in the Office of the Register of Deeds of New Hanover County.

11. MAINTENANCE.

A. All Limited Common Area, including, but not limited to, plumbing, air conditioning, floor and wall covering, heating, electrical, telephone, cabinetry, partition walls, suspended ceilings and other fixtures and equipment located within the unit, and all windows or doors opening into the unit, shall be maintained (and, if owner desires, insured) by the owner. Any replacement or substitution of such fixtures and equipment shall be compatible with any common areas and facilities effected thereby. The Association shall not be responsible for repairing, maintaining, or insuring such fixtures and equipment, except that the Association shall maintain and repair all handrailings on balconies serving only one unit, providing that any such maintenance or repair caused by the Unit Owner's misuse shall an expense of the Unit Owner to be collected by special assessment as provided for herein and in the By-Laws. Such assessment may include the cost to the Association incurred in the abatement of any nuisance maintained by the Unit Owner therein.

B. All parts of a condominium unit shall be kept in good condition and repair by and at the expense of the owner. The unit shall be maintained by the owner in a clean and safe condition, free of nuisance. Each Unit Owner will promptly comply with any requirements of the insurance underwriters of the insurance for the common areas and facilities when so requested in writing by the Board or its designated agent. Any failure of an owner to repair, maintain or replace as may be required pursuant to the Condominium Documents or a determination by the Board of its designated agent that such failure will endanger or impair the value of the common areas and facilities or any unit, or the limited common areas and facilities belonging to another owner, may be, upon written notice to the owner of the nature of the required repair, maintenance or replacement, repaired or replaced by the Association at the expense of the Unit Owner, to be collected by special assessment as provided for herein and in the By-Laws. Such assessment may include the cost to the Association incurred in the abatement of any nuisance maintained by the Unit Owner therein.

12. EASEMENTS.

A. Each Unit Owner shall have an easement in common with the other owners of all other units to use all pipes, wires, ducts, cables, conduits, public utility lines and other common facilities serving such other units and located in such unit. The Association shall have the right to be exercised by the Board of Directors or its agents, to enter each unit from time to time at reasonable hours as may be necessary for the operation of the condominium to inspect the same, to remove violation therefrom and to maintain, repair or replace the common facilities, if any, contained therein or elsewhere in the building.

B. Each unit and all common areas and facilities and limited common areas and facilities are hereby subject to an easement for the repair, maintenance, expansion, reduction, inspection, removal, relocation or other service of or to all gas, electricity, television, telephone, water, plumbing, sewer, utility, drainage or other lines or other common areas and facilities, whether or not the cause of any or all of those activities originates in the unit in which the work must be performed.

C. Easements are hereby declared and granted, and the Board may hereafter declare, grant or assume easements for utility purposes for the benefit of the property, including the right to install, lay, maintain, repair and replace water lines, pipes, sewer lines, gas mains, telephone and television wires and equipment and electrical conduits, and wires over, under, along and on any portion of the common areas; each Unit Owner hereby grants to the Board, or its designee, an irrevocable power of attorney to execute, acknowledge, and record, for and in the name of the Association or each Unit Owner such instruments as may be necessary to effectuate the foregoing.

D. In the event that by reason of the construction, reconstruction, settlement or shifting of the building, any portion of the common areas and facilities encroaches upon any unit, or any unit encroaches upon any other unit, or any unit encroaches upon the common areas and facilities, (whether the same now exists or may be caused or created by existing construction, settlement or movement of the buildings, or by permissible repairs, construction or alteration), valid cross-easements for the maintenance of such encroachment are hereby established and shall exist for the benefit of such unit or common elements so encroaching so long as all or any part of the building containing such unit or common elements so encroaching shall remain standing, provided, however, that in no event shall a valid easement for any encroachment be created in favor of the owner of any unit or in favor of the owners of the common elements if such encroachment occurred due to the willful conduct of said owner or owners.

E. Ingress and egress is reserved for pedestrian traffic over, through and across sidewalks, paths, walks, and lanes as the same from time to time may exist upon the common areas and facilities; and, for vehicular traffic over, through and across such portions of the common areas and facilities as from time to time may be paved and intended for such purposes, for all Unit Owners or units in VILLAS ON CLAM SHELL CONDOMINIUM, their guests, families, invitees, lessees, the Association, the Declarant, its successors and assigns.

F. In case of any emergency originating in or threatening any unit or the common areas and facilities, regardless whether the Unit Owner is present at the time of such emergency, the Board of Directors or any other person authorized by it, shall have the right to enter any unit for the purpose of remedying or abating the causes of such emergency and making any other necessary repairs not performed by the Unit Owners, and such right of entry shall be immediate.

G. All easements and rights described herein are easements appurtenant, running with the land, and shall inure to the benefit of and be binding on the undersigned, their successors and assigns, and any other owner, purchaser, mortgagee and other person having an interest in said land, or any part or portion thereof, regardless of whether or not reference to said easement is made in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Declaration.

H. An easement is hereby granted to all police, fire protection, ambulance and all similar persons, companies or agencies performing emergency services to enter upon the units and Common Areas in the performance of their duties.

I. The Declarant reserves the right to subject the real property in this subdivision to a contract with Progress Energy, or other applicable utility company, for the installation of street lighting, which contract requires a continuing monthly payment by each residential customer.

13. PARTITIONING. The common area and facilities shall remain undivided, and no Unit Owner or any other person shall have the right to bring any action to partition any part thereof, unless the property has been removed from the provisions of the Act. Nothing herein contained, however, shall be deemed to prevent ownership of a dwelling unit by the entirety, jointly, or in common, or in any other form permitted by law.

14. COMMON EXPENSES, COMMON PROFITS. The Unit Owners are bound to contribute prorata, in the percentages computed according to Chapter 47C of North Carolina General Statute which percentages are set forth in Exhibit "C" hereto attached, toward the expenses of administration and of maintenance and repair of the general and limited common areas and facilities, and toward any other expenses lawfully assessed by the Association. No Unit Owner may exempt himself from contributing toward such expense by waiver of the use or enjoyment of the common area and facilities or by the abandonment of the unit belonging to him.

The common profits of the property, if any, after payment of all expenses of operation and maintenance of the property and the establishment of a sinking fund or other reserve funds or any other matters reasonably necessary and appropriate for the maintenance of the property as determined by the Board of Directors in accordance with the Condominium Documents, shall be distributed among the Unit Owners according to the percentages for each unit set forth in Exhibit "C".

15. TAXES. If there is any Unit Owner other than a Declarant, each condominium unit and its percentages of undivided interest in the common areas and facilities set forth in Exhibit "C" hereto attached, shall be deemed to be a separate parcel and shall be separately assessed and taxed for all types of taxes authorized by law, including but not limited to, ad valorem levies and special assessments. Each unit holder shall be liable solely for the amount of taxes against his individual unit and shall not be affected by the consequence resulting from the tax delinquency of any other unit holders. Neither the building, the property, nor any of the common areas and facilities shall be deemed to be a separate parcel for purposes of taxation.

16. LIENS.

A. With the exception of liens which may result from the initial construction of this condominium, including expenses incurred by the Declarant on behalf of the Association, no liens of any nature may be created subsequent to the recording of this Declaration against the condominium property as a whole (as distinguished from an individual unit, together with its undivided common interest in the common areas and facilities) except with the unanimous consent of the Unit Owners and the holders, if any, of prior liens thereon.

B. No labor performed or materials furnished to the common areas and facilities shall be the basis for a lien thereon unless authorized by the Condominium Documents or expressly authorized by the Board, in which event, same might be the basis for the filing of a lien against all condominium units in the proportions for which the owners thereof are liable for Common Expenses.

C. Unless otherwise provided by law, in the event a lien against one or more condominium units becomes effective, each owner thereof may relieve his condominium unit of the lien by paying the proportionate amount attributable to his condominium unit. Upon such payment, it shall be the duty of the lienor to release the lien of record for such condominium unit.

D. Assessments against Unit Owners by the Association made pursuant to the By-Laws shall, if not paid when due, bear interest at such rate as is determined by the Board, not to exceed the maximum rate allowed by law, and shall create a lien to the extent of such assessment, together with interest thereon, in favor of the Association against the unit of the defaulting owner and shall be enforced as provided by the North Carolina Condominium Act.

E. To the extent permitted by law, all liens provided for herein shall be subordinate, and are hereby subordinated, to the lien of any first mortgage given to any lender to secure a loan, the proceeds of which are used to finance the purchase of any unit or units, unless any such lien provided for herein shall have been recorded in the Office of the Clerk of Superior Court of New Hanover County prior to the recordation of said first lien mortgage in the Office of the Register of Deeds of New Hanover County, North Carolina.

17. DAMAGE AND DESTRUCTION. Except as provided elsewhere in this Declaration, damage to or destruction of the common areas and facilities, and to the extent insurance proceeds are available, limited common areas and facilities, shall be promptly repaired and restored by the Board using the proceeds of any insurance available for those purposes, and the Unit Owners of all units shall be liable for assessment of any deficiency, in accordance with their undivided interests in the common areas and facilities; provided, however, if more than eighty percent (80%) of the owners of the condominium project units and one hundred percent (100%) of the units not to be rebuilt resolve not to proceed with reconstruction or restoration, then in that event, the property shall be either (a) sold or otherwise transferred as hereinafter provided, or (b) deemed to be owned as tenants-in-common by the Unit Owners, and subject to the provisions of Section 47C-2-118 (Termination) of the Act as the same exists at the date hereof or as amended hereafter. Any reconstruction or repair shall substantially in accordance with the plans and specifications of the original building and improvements, unless other plans and specifications are approved by the Board and by eligible holders holding mortgages on units which have at least 51% of the votes of units subject to eligible holder mortgages.

18. NATURE OF INTEREST IN UNIT.

A. Every unit together with its undivided common interest in the common areas and facilities, shall for all purposes be a separate parcel of real property, and the Unit Owner thereof shall be entitled to the exclusive ownership and possession of such unit subject only to the Condominium Documents and the covenants, restrictions, easements, regulations, resolutions and decisions adopted pursuant thereto.

B. The owner shall be entitled to use the common areas and facilities in accordance with the purpose for which they are intended, but no such use shall hinder or encroach upon the lawful rights of the owners of other units.

19. EMINENT DOMAIN.

A. If a unit is acquired by eminent domain, or if part of a unit is acquired by eminent domain leaving the Unit Owner with a remnant which may not practically or lawfully be used for any purpose permitted by the Declaration, the award must compensate the Unit Owner for his unit and its interest in the common elements, whether or not any common elements are acquired. Unless the condemnor acquires the right to use the unit's interest in common elements, that unit's undivided interests are automatically reallocated to the remaining units in proportion to the respective undivided interests of those units before the taking exclusive of the unit taken, and the Association shall promptly prepare, execute, and record an amendment to the Declaration reflecting the reallocations. Any remnant of a unit remaining after part of a unit is taken under this subsection is thereafter common area.

B. Except as provided in subsection (A), if part of a unit is acquired by eminent domain, the award must compensate the Unit Owner for the reduction in value of the unit and of its interest in the common elements, whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides, (1) that unit's undivided interests are reduced in proportion to the reduction in the size of the unit, or on any other basis specified in the Declaration, and (2) the portion of the undivided interests divested from the partially acquired unit is automatically reallocated to that unit and the remaining units in proportion to the respective undivided interests of those units before the taking, with the partially acquired unit participating in the reallocation on the basis of its reduced undivided interests.

C. If part of the common area is acquired by eminent domain, the portion of the award not payable to Unit Owners under subsection (A) must be paid to the Association. Unless the Declaration provides otherwise, any portion of the award attributable to the acquisition of a limited common area must be apportioned among the owners of the units to which that limited common area was allocated at the time of acquisition.

D. The court decree shall be recorded in every county in which any portion of the condominium is located.

20. RIGHTS OF ELIGIBLE MORTGAGE HOLDERS. To the extent permitted by law, an eligible mortgage holder upon written request to the Owners Association, identifying the name and address of the holder, will be entitled to timely written notice of:

A. Any condemnation, loss or casualty loss which affects a material portion of the project or any units on which there is a first mortgage held by such eligible mortgage holder.

B. Any delinquency in payment of assessments or charges owned by an owner of the unit subject to a first mortgage held, by such eligible holder, which remains uncured for a period of sixty days.

C. Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Owners Association.

D. Any proposed action which would require the consent of a specified percentage of eligible mortgage holders.

E. In addition to the foregoing rights, the eligible mortgage holders shall be afforded the following rights subject to the extent permitted by law and as allowed by the North Carolina Condominium Statutes as they now exist or as they may be amended from time to time.

(1) Any election to terminate the legal status of the project after substantial destruction or a substantial taking in condemnation of the project property must require the approval of at least 51% of the votes of the unit estates subject to eligible mortgage holders.

(2) Unless otherwise provided in the Declaration or By-Laws, no reallocation of interest in the common areas resulting from a partial condemnation or partial destruction of the project may be effected without the prior approval of eligible holders holding mortgages on all remaining unit estates whether existing in whole or in part, and which have at least 51% of the votes of such remaining unit estates subject to eligible holders of mortgages.

(3) If a professional management is ever used to govern the condominium, any decisions to establish self management by the Association shall require the prior consent of owners of unit estates to which at least 67% of the votes of the Owners Association are allocated and the approval of eligible holders holding mortgages on unit estates which have at least 51% of the votes of unit estates subject to eligible holder mortgages.

21. FIDELITY BONDS.

A. General. The Association shall maintain blanket fidelity bonds for all officers, directors, employees and all other persons handling or responsible for funds of the Association. If the Association shall delegate some or all the responsibility for the handling of its funds to a management agent, such fidelity bonds shall be maintained by such management agent for its officers, employees and agents handling or responsible for funds of or administered on behalf of the Association.

B. Amounts of Coverage. The total amount of fidelity bond coverage required shall be based upon best business judgement and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond. However, in no event may the aggregate amount of such bonds be less than a sum equal to three months' aggregate assessments on all units plus reserve funds.

C. Other Requirements. Fidelity bonds required herein must meet the following requirements:

(1) Fidelity bonds shall name the Association as obligee.

(2) The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions.

(3) The premiums on all bonds required herein for the Association (except for premiums on fidelity bonds maintained by a management agent for its officers, employees and agents) shall be paid by the Association as a common expense.

(4) The bonds shall provide that they may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least ten (10) days' prior written notice to the Association of a condominium project, to any insurance trustee and each eligible mortgage holder.

22. RECOMMENDATION OF RENTAL AGENTS. At the annual meeting of the Association, or such other meeting of the Association as is designated by the Board, the Board may, upon notice to the owners, recommend for the approval of the Association one or more rental agents for the rental of units during the forthcoming year. Prior to recommending agents for the approval of the Association, the Board shall have authority to require any agent desiring to qualify as an approved agent to submit a copy of the proposed rental agreement to be used by such agent, together with such other information as the Board may reasonably require. The Board may require, as a condition of approval, that all rental agreements incorporate such standard procedures as may be required to minimize problems of security, maintenance, quality and operation of the common areas and facilities of the property. Neither the Association nor the Board shall have, or attempt to impose as a condition of approval, any control over the

commission schedule or fees charged by any approved rental agent, or the permissible period of rental, all of which shall be for the sole determination of the approved rental agent and any owner selecting such agent. Each owner shall have the absolute right to enter into any direct rental, lease or sales arrangement with renters, lessees and purchasers which shall be consistent with the Declaration, By-Laws of the Association and such other regulations as may from time to time be promulgated by the Association and/or Board. Nothing herein shall be construed as creating or authorizing any rental pooling or as requiring the rental of a unit by an owner or as restricting the owner's use of his unit. If any court of law, governmental regulatory body having appropriate jurisdiction or approved legal counsel to the Association determine that any portion of this provision is unlawful or would require registration of the offering of any unit as a security, then such portion of this provision shall be invalid until such requirement is eliminated.

23. TIME OF PAYMENT. Each unit's monthly assessment as set forth in Exhibit "C" of the Common Expenses for the month of closing shall be payable at the time of conveyance of title to the owner by the Declarant prorated as of the closing date. Subsequent payment shall be due on the first day of each month. Payments not received when due shall bear interest at the maximum permissible legal rate until paid.

24. WORKING CAPITAL. At the time title is conveyed to an owner (other than the Declarant), each purchaser of a unit shall contribute to the Association as a working capital reserve an amount equal to two months Dues, Four Hundred Thirty Dollars (\$430.00) for unit 1-101 and Eight Hundred Sixty One Dollars (\$861.00) for unit 1-102, all units shall also contribute for their prorata share of the insurance premiums for the first insurance year. Such funds shall be used solely for initial operating capital expenses of the Association, supplies and the common areas and facilities furnishings and equipment, etc, and to reimburse Declarant for insurance premiums advanced on behalf of the Association. At the time of selection of the regular Management Agent, the interim Management Agent shall pay to the account of the Association all unused funds and shall provide an accounting of all revenue and expenditures. Amounts paid into the working capital fund are not to be considered as advance payment of regular assessments.

25. UNITS SUBJECT TO CONDOMINIUM DOCUMENTS. All present and future owners, tenants and occupants of units and their guests or invitees, shall be subject to, and shall comply with the provisions of the Condominium Documents, and as the Condominium Documents may be amended from time to time. The acceptance of a deed of conveyance or the entering into of a lease or the entering into occupancy of any dwelling unit shall constitute an agreement that the provisions of the Condominium Documents are accepted and ratified by such owner, tenant or occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such unit as though such provisions were made a part of each and every deed of conveyance or lease. Failure to comply with the provisions of the Condominium Documents shall entitle the Association or any other owner to seek legal and/or equitable relief, including costs and reasonable attorney's fees incurred in enforcing such compliance.

26. AMENDMENT OF DECLARATION. This Declaration may be amended, after the period of Developer control, by vote of not less than 75% in common interest of all Unit Owners, cast at a meeting duly held in accordance with the provisions of the By-Laws. No such amendment shall be effective until recorded in the Office of the Register of Deeds for New Hanover County wherein the property is located. The By-Laws may be amended in accordance with the procedure set forth in such By-Laws.

No amendment shall be allowed which acts to the detriment of the Declarant or any right reserved to Declarant by this Declaration, or any concomitant document drawn in connection with this condominium project, without the express written approval of the Declarant.

27. TERMINATION. Except as provided in Paragraph 17 above, this Declaration may be terminated, and the condominium property removed from the provisions of the North Carolina Condominium Act, only by an instrument meeting the requirements of NCGS 47C-2-118 and executed by all of the Unit Owners and duly recorded, which said instrument shall provide either that the condominium regime is to be sold following termination or is not to be sold following termination. If the condominium is to be sold upon termination, title to the real estate in the

condominium vests in the Association upon termination. If the condominium is not to be sold upon termination, title to all the real estate of the condominium vests in the Unit Owners as tenants in common in proportion to their respective interests as herein provided. While the tenancy in common exists, and during the period between termination and sale of the condominium project, each Unit Owner and his successors and assigns have an exclusive right to occupancy of the portion of the real estate that formerly constituted his unit.

Following the termination of the condominium, the proceeds of any sale of real estate, together with the assets of the Association, are held by the Association as trustee for Unit Owners and holders of liens on the units as their interests may appear. Following termination, creditors of the Association holding liens on the units, which were recorded before termination, may enforce those liens in the same manner as any lienholder. All other creditors of the Association are to be treated as if they had perfected liens on the units immediately before termination.

The respective interests of Unit Owners referred to are as follows:

A. Except as provided in paragraph (2), the respective interests of Unit Owners are the fair market value of their units, Limited Common Elements, and common element interests immediately before the termination, as determined by one or more independent appraisers selected by the Association. The decision of the independent appraisers shall be distributed to the Unit Owners and becomes final unless disapproved within 30 days after distribution by Unit Owners of units to which twenty-five percent (25%) of the votes in the Association are allocated. The proportion of any Unit Owner's interest to that of all Unit Owners is determined by dividing the fair market value of that Unit Owner's unit and common element interest by the total fair market values of all the units and common elements

B. If any unit or any limited common element is destroyed to the extent that an appraisal of the fair market value thereof prior to destruction cannot be made, the interests of all Unit Owners are their respective common element interests immediately before the termination.

In the event it is determined in the manner provided in Paragraph 17 hereof that the property shall not be repaired or reconstructed after fire or other casualty, the condominium will be terminated and the Condominium Documents revoked. The determination not to repair or reconstruct after fire or other casualty shall be evidenced by a certificate of the Association providing that all liens affecting all of the units are transferred to the percentage of undivided interest of the Unit Owners as set forth hereinabove, and certifying as to facts effecting the termination, which certificate shall become effective upon being duly recorded in the New Hanover County Register of Deeds.

28. INCORPORATION OF ASSOCIATION. It is the intention of Declarant that all rights of the Association shall be vested in a non-profit corporation known as VILLAS ON CLAM SHELL OWNER'S ASSOCIATION, INC., or similar, which shall be or has been, formed, pursuant to the laws of the State of North Carolina and the applicable Federal laws. Such association shall be formed and operated in accordance with this Declaration and the By-Laws attached hereto as Exhibit "E", and incorporated herein, and all governing laws, as they shall be amended from time to time.

The homeowner membership list will be comprised of those persons or entities owning units in VILLAS ON CLAM SHELL CONDOMINIUM. The annual meeting of members shall be held at Carolina Beach, North Carolina, upon the earlier of the following events: 45 days after all of the units have been conveyed to unit purchasers; five (5) years following conveyance of the first unit in the project; two years after Declarant ceases to sell units or offer units for sale in the ordinary course of business; two years after any development rights to expand the condominium project expire; or upon notice by Declarant to Unit Owners. The first directors and officers will hold office until the initial annual meeting occurs, and new directors and officers are elected.

29. INVALIDITY. The invalidity of any provision of this Declaration shall not impair or affect the validity and enforceability of the remainder of this Declaration, and in such event, all

of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included.

30. WAIVER. No provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

31. PERPETUAL NON-EXCLUSIVE EASEMENT IN COMMON AREAS. The common area and facilities shall be, and the same is hereby declared to be, subject to a perpetual non-exclusive easement in favor of all of the owners of condominium units in the condominium for their use and the use of their immediate families, guests, and invitees, for all proper and normal purposes, and for the furnishings of services and facilities for which the same are reasonably intended, for the enjoyment of said owners of condominium units. Notwithstanding anything above provided in this article, VILLAS ON CLAM SHELL OWNERS ASSOCIATION, INC., herein identified, shall have the exclusive right to establish the rules and regulations pursuant to which the owner of any condominium unit, his family, guests and invitees, may be entitled to use the common areas and facilities, including the right to make permanent and temporary assignments of parking spaces, and to establish rules and regulations concerning the use thereof.

32. LAW CONTROLLING. This Declaration and the By-Laws shall be construed under and controlled by the laws of the State of North Carolina.

33. WARRANTIES. Declarant acknowledges that all contractual warranties set forth in the building's construction contract, of material and equipment in the unit, shall accrue to the benefit of the owner of such unit, along with all warranties, if any, provided by the manufacturer or supplier of appliances, air conditioners, heating and utility systems in the unit. THE CLOSING OF TITLE OR OCCUPANCY OF THE UNIT SHALL CONSTITUTE AN ACKNOWLEDGMENT BY THE UNIT OWNER THAT DECLARANT MAKES NO OTHER IMPLIED OR EXPRESS WARRANTIES RELATING TO THE UNIT OR THE COMMON AREAS AND FACILITIES, EXCEPT FOR SUCH WARRANTIES AS ARE SET FORTH IN THE GENERAL WARRANTY DEED TO THE UNIT.

34. EXPANSION OF CONDOMINIUM.

A. Expansion of VILLAS ON CLAM SHELL CONDOMINIUM shall be as per the terms of Section 2 of this Declaration and the terms of Section 34 contained herein.

B. The right and option of Declarant described in Paragraph 2 hereof shall terminate on December 31, 2015, and shall be subject to the conditions, restrictions and limitations set forth in Paragraph 2 and this Paragraph 34.

C. The Declarant covenants and agrees that all buildings containing units built on any of the expansion sections of Villas on Clam Shell, and made subject to this Declaration shall be similar to in construction and appearance to the buildings previously constructed in Section 1 and other previous sections, except that the size may vary.

D. If any or all of the units contemplated in the proposed expansion to later Sections, are added to and made subject to this Declaration, the percentages of undivided interest in the common areas and facilities of all units shall be determined by ratios based on the square footage of the new units in relation to the total square footage of all units in the development. Similar size units shall have similar percentages.

E. Declarant makes no statement concerning proposed schedule for commencement of additional sections in VILLAS ON CLAM SHELL CONDOMINIUM. It is expected and projected that construction on expansion sections will commence at, or shortly thereafter, completion and sale of all units in the next preceding section. Not all sections need be built or developed as part of Villas on Clam Shell.

F. Every Unit Owner in VILLAS ON CLAM SHELL CONDOMINIUMS by accepting a deed to a unit, therein, thereby agrees for himself and his heirs, successors and

assigns, to any expansion of the Property subject to this Declaration in accordance with the provisions of this Paragraph 34 and Paragraph 2 of this Declaration.

G. The Developer retains the right to add contiguous, or nearly contiguous, tracts to the project at its sole discretion.

35. FURTHER DEVELOPER RIGHTS

A. The Declarant hereby reserves the right pursuant to the provision of Sections 14 set forth above to annex and subject to these restrictions other real property in order to extend the scheme of this Declaration to other property to be developed and thereby bring such additional properties within the jurisdiction of the Association. Each additional parcel or tract of land, with the improvements thereon, or to be placed thereon, which is subjected to this Declaration shall be designated consecutively as "Section 2", "Section 3", and/or such other similar designations for any additional sections added.

B. The rights reserved by Declarant in Section 1 of the development, and all annexed Sections, include the right to change, alter or re-designate roads, utility and drainage facilities and easements, and to change, alter or re-designate such other present and proposed amenities or facilities as may in the sole judgment of the Declarant, be necessary or desirable, except that the Declarant shall have no right to change, alter or re-designate the character of the use of the units within the development which have already been conveyed to third parties.

C. The Developer reserves the right to subject the real property in this development to a contract with applicable utility companies for the installation of street lighting, which requires a continuing monthly payment to such company by each residential customer.

D. The Developer reserves the absolute right of architectural control for any construction or improvements, interior and exterior, to the property, common area, and units and limited open to public view.

36. STORMWATER RUNOFF FACILITIES and RETENTION/DETENTION PONDS

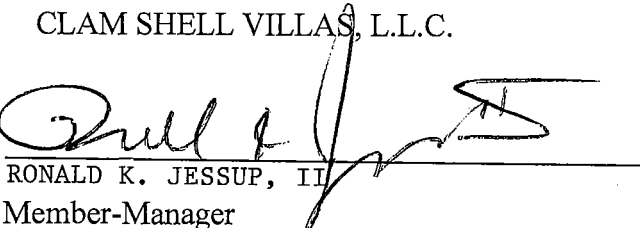
A. Community Retention/Detention Pond The Association shall, after the sale of all units in the project, assume responsibility for any Retention/Detention Pond that serves the VILLAS ON CLAM SHELL Condominium project, if any.

B. Hold Harmless stormwater retention/detention pond(s) and related facilities, if any, constitute Common Elements/Area, and the Association is responsible for costs of operation and maintenance of such. The Association shall indemnify and hold harmless the Declarant, its successors and assigns, from any obligation and costs for operation and maintenance under the stormwater permit after the permit is transferred to the association, as provided for above.

IN WITNESS WHEREOF, the Declarant has caused this document to be executed in its corporate name by its duly authorized officers this the 18 day of May, 2006.

CLAM SHELL VILLAS, L.L.C.

BY:


RONALD K. JESSUP, II

ITS: Member-Manager

EXHIBIT "A"

DECLARATION OF CONDOMINIUM

VILLAS ON CLAM SHELL CONDOMINIUM

DESCRIPTION OF PROPERTY - SECTION 1 AND 2

LOCATED IN THE STATE OF NORTH CAROLINA, COUNTY OF NEW HANOVER, AND
BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING THAT PROPERTY SHOWN AND DESCRIBED AS SECTIONS 1 AND 2 ON
THAT PLAT RECORDED IN CONDOMINIUM MAP BOOK 15 AT PAGE 396
IN THE NEW HANOVER COUNTY REGISTRY.

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

I, Deborah Dobbins Farr a Notary Public of the County and State aforesaid, certify that Ron K. Jessup, II personally appeared before me this day and acknowledged that he is Member-Manager of Clam Shell Villas. L. L. C., that by authority duly given and as the act of the limited liability company, the foregoing instrument was executed in its name.

WITNESS my hand and official seal, this 18 day of May, 2006.



Deborah Dobbins Farr
Notary Public

My Commission Expires: May 24, 2008

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EXHIBIT "A"

DECLARATION OF CONDOMINIUM

VILLAS ON CLAM SHELL CONDOMINIUM

DESCRIPTION OF PROPERTY - SECTION 1 AND 2

LOCATED IN THE STATE OF NORTH CAROLINA, COUNTY OF NEW HANOVER, AND
BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING THAT PROPERTY SHOWN AND DESCRIBED AS SECTIONS 1 AND 2 ON
THAT PLAT RECORDED IN CONDOMINIUM MAP BOOK 15 AT PAGE 396
IN THE NEW HANOVER COUNTY REGISTRY.

"EXHIBIT B"

VILLAS ON CLAM SHELL, A CONDOMINIUM

The Survey, Plat, and Plans as required by N.C.G.S Section 47C are recorded in Condominium Map Book 15 at Page 396 in the New Hanover County Registry.

EXHIBIT "C"

PAGE 1

DECLARATION OF CONDOMINIUM

VILLAS ON CLAM SHELL CONDOMINIUM

Section 1 and 2

Unit 1-100 and 2-100, VILLAS ON CLAM SHELL CONDOMINIUM will have an 16.667% undivided interest in the common elements, and Unit 1-200 and Unit 2-200, VILLAS ON CLAM SHELL CONDOMINIUM will have an 33.333% undivided interest in the common elements. Until January 1 of the year immediately following the conveyance of the first Unit to an Owner, the maximum annual assessment shall be Three Thousand Forty Two Dollars (\$3,042.00) for Unit 1-100 and Unit 2-100 (\$253.50 per month), and Six Thousand Eighty Four Dollars (\$6,084.00) for Unit 1-200 and Unit 2-200 (\$507.00 per month). However, if the pool is not completed at the time of the sale of any unit, annual dues may be reduced by the amount estimated for pool maintenance.

The undivided interest of each unit in Sections 1 and 2 is determined by a ratio formulated based the square footage of units in both Sections. The undivided interest for units added after submission of expansion sections to VILLAS ON CLAM SHELL CONDOMINIUM will be computed in a similar manner. The resulting number from the computation is the percent undivided interest of each unit in VILLAS ON CLAM SHELL CONDOMINIUM. The total of all interests shall be 100%.

If this Condominium project is expanded as per the rights of the Developer, this expansion will be of a maximum additional six (6) units, making the total units in VILLAS ON CLAM SHELL CONDOMINIUM, ten (10). The fewest number of units possible in VILLAS ON CLAM SHELL CONDOMINIUM regime shall be two (2). The Declarant retains the right to have some building contain three units, rather than two.

The maximum initial undivided interest in the common area of any Unit Owner will be 33.333%; the minimum undivided interest in the common area will be approximately 6.77%.

Owners Association dues beyond the first year of operation of the Owners Association shall be as set by the Owners Association and the maximum and minimum dues may vary through time, according to need.

EXHIBIT "C"

PAGE 2

DECLARATION OF CONDOMINIUM
VILLAS ON CLAM SHELL CONDOMINIUM
PERCENT INTEREST IN COMMON AREAS

UNIT 1-100 - 16.667%
INITIAL DUES \$253.50 PER MONTH

UNIT 1-200 - 33.333%
INITIAL DUES \$507.00 PER MONTH

UNIT 2-100 - 16.667%
INITIAL DUES \$253.50 PER MONTH

UNIT 2-200 - 33.333%
INITIAL DUES \$507.00 PER MONTH

EXHIBIT "D"

DECLARATION OF CONDOMINIUM

VILLAS ON CLAM SHELL CONDOMINIUM

SECTION 1 AND 2

ESTIMATED OPERATING EXPENSES
(ANNUAL BASIS)
SHARE FOR SECTION 1 ONLY

	<u>Annually</u>
Ground Maintenance	\$ 1,800.00
Insurance	\$ 10,415.00
Pool Maintenance	\$ 840.00
Regular Maintenance	
Chemicals	
Commences upon Completion of the Pool	
Building Maintenance	\$ 1,400.00
Exterior Cleaning	
Deck Care	
Water/electricity	\$ 1,200.00
Termite Treatment	\$ 600.00
Reserves	\$ 1,800.00
 TOTAL	 \$ 18,055.00

EXHIBIT "D" - CONTINUED

The above estimated expenses are based on the following:

Ground maintenance - Proposal from maintenance contract to maintain common area.

Pool Maintenance- Estimate from service company.

Insurance - Based on bid proposal from insurance company.

All others based on Declarant's estimates.