

**PUBLIC OFFERING
STATEMENT**

**MONTERAY PINES
CONDOMINIUMS**

INDEX

MONTERAY PINES CONDOMINIUMS

ARTICLE ONE	The Declarant	5
ARTICLE TWO	General Description	6
ARTICLE THREE	Number of Units	7
ARTICLE FOUR	Declaration	10
	Property Description – EXIBIT A	36
	By Laws – EXIBIT B	37
	Articles of Incorporation – EXIBIT C	54
	Percentage of Interest – EXIBIT D	59
	Liens, Defects and Encumbrances – EXIBIT E	62
	Rules and Regulations – EXIBIT F	64
	Articles of Incorporation	67
ARTICLE FIVE	Miscellaneous Considerations	72
	Budget Sheet	74
	Balance Sheet	75
ARTICLE SIX	Declarant Services	76
ARTICLE SEVEN	Special Fees	77
ARTICLE EIGHT	Liens, Encumbrances and Defects	78
	Easement & Agreement to Share Costs	80
	Deed of Trust and Security Agreement	106
ARTICLE NINE	Terms & Limitations of Declarant Warranties	114
ARTICLE TEN	Statement of Public Offering Receipt	115

ARTICLE ELEVEN	Judgments or Pending Suits	116
ARTICLE TWELVE	Escrow Deposit	117
	Escrow Agreement	118
ARTICLE THIRTEEN	Restraints on Alienation	119
ARTICLE FOURTEEN	Insurance Coverage	121
ARTICLE FIFTEEN	Future Fees or Charges	123
ARTICLE SIXTEEN	"Must be Build" Provisions	124
ARTICLE SEVENTEEN	Existing Zoning and Land use	125
ARTICLE EIGHTEEN	Common Element Alienation	126
ARTICLE NINETEEN	Method of Rescission	127
ARTICLE TWENTY	Development Rights	128
ARTICLE TWENTYONE	Timeshare Rights	129

PUBLIC OFFERING STATEMENT

Name of Condominium: Monterey Pines Condominium

Location: Village of Corolla
Currituck County, NC

Name of Declarant: Southpaw BVI, LLC; a North Carolina Limited
Liability Company.
Date of Company Formation; 10/31/00
Managing Member: Robert R. DeGabrielle
Mr. DeGabrielle is the only member of
Southpaw BVI, LLC.

Address of Declarant: 824 Malia Drive
Corolla, NC 27927

Date of Disclosure: _____

ARTICLE ONE

THE DECLARANT

1.01 The Declarant, Southpaw BVI, LLC is a North Carolina Limited Liability Company and the Manager of said Company is Robert R. DeGabrielle who has been associated with the development of several properties in Currituck County, including Monteray Shores PUD and Pine Island. The Condominium property is located off NC 12 on Caroline Court in Corolla, Currituck County, North Carolina.

ARTICLE TWO

GENERAL DESCRIPTION - THE CONDOMINIUM

2.01 The Condominium consists of four buildings, each building having three floors. Each building consists of twelve condominium units. Each unit has two bedrooms and is approximately 1,040 square feet. Declarant commenced the project on September 30, 2000. The project consists of buildings which were completed in stages during the timeframe of April 1, 2000 through May 25, 2001. The Declarant has provided as amenities a volleyball court, three basketball goals, and two horseshoe pits. The Declarant anticipates no further amenities for the project.

2.02 Legal Description

All that property described on that plat captioned "Monteray Pines Condominiums" dated August 17, 2001 prepared by Coastal Engineering, Inc. and recorded in Condominium Book 1 at Pages 133 and 134 in the Office of the Public Registry of Currituck County, North Carolina. Upon written request to the Declarant, the purchaser of any unit will be provided with a photocopy of the above referenced plate.

ARTICLE THREE

NUMBER OF UNITS

3.01 There shall be forty-eight units in the Condominium, with each unit having an undivided 2.08% interest in the Common Elements and same percentage liability of common expenses. Currituck County has currently restricted the Declarant's sale of these Condominium units limiting sales to a total of 24 units. The Declarant will retain ownership of 24 units until such time as approval is granted by the county for the sale of these remaining units.

Percentage of Interest

The allocations to each Unit of a percentage of undivided interest in the common elements, the percentage of the common expenses, and of votes in the Association are as hereinafter set forth.

<u>Unit Number</u>	<u>Percentage of Undivided Interest In Common Elements And of Common Expenses</u>	<u>Votes in the Association</u>
1	2.08	1
2	2.08	1
3	2.08	1
4	2.08	1
5	2.08	1
6	2.08	1
7	2.08	1
8	2.08	1
9	2.08	1
10	2.08	1
11	2.08	1
12	2.08	1
13	2.08	1

14	2.08	1
15	2.08	1
16	2.08	1
17	2.08	1
18	2.08	1
19	2.08	1
20	2.08	1
21	2.08	1
22	2.08	1
23	2.08	1
24	2.08	1
25	2.08	1
26	2.08	1
27	2.08	1
28	2.08	1
29	2.08	1
30	2.08	1
31	2.08	1
32	2.08	1
33	2.08	1
34	2.08	1
35	2.08	1
36	2.08	1

37	2.08	1
38	2.08	1
39	2.08	1
40	2.08	1
41	2.08	1
42	2.08	1
43	2.08	1
44	2.08	1
45	2.08	1
46	2.08	1
47	2.08	1
48	2.08	1

TOTAL VOTES: 48

ARTICLE FOUR

DECLARATION

4.01 Declaration of Monterey Pines Condominium

INDEX

To Declaration of Monterey Pines Condominium

ARTICLE I Definitions.....1

1.1 Act.....1

1.2 Articles of Incorporation.....2

1.3 Assessment.....2

1.4 Association.....2

1.5 Board.....2

1.6 Building.....2

1.7 Bylaws.....2

1.8 Common Elements.....2

1.9 Common Expenses.....2

1.10 Common Expenses Liability.....2

1.11 Condominium.....2

1.12 Declarant.....2

1.13 Declarant Control Period.....2

1.14 First Mortgage and First Mortgagee.....2

1.15 Limited Common Elements.....3

1.16 Member.....3

1.17 Occupant.....3

1.18 Person.....3

1.19 Plans.....3

1.20 Plat.....3

1.21 Property.....3

1.22 Rules and Regulations.....4

1.23 Special Declarant Rights.....4

1.24 Unit.....4

1.25 Unit Boundaries.....4

1.26 Unit Owner.....4

ARTICLE II Submission of Property to the Act.....4

2.1 Submission.....4

2.2 Name.....4

2.3 Division of Property into Forty Eight Separately Owned Units.....4

2.4 Alterations of Units.....5

2.5 Limited Common Elements.....5

2.6 Unit Allocations.....5

2.7	<u>Encumbrances</u>	5
2.8	<u>Condominium Ordinances</u>	5
2.9	<u>Reservation of Special Declarant Rights</u>	5
ARTICLE III	<u>Easements</u>	5
3.1	<u>Encroachments</u>	5
3.2	<u>Easements Through Walls</u>	5
3.3	<u>Easements of Owners and Association With Respect to Common Elements</u>	6
3.4	<u>Easements to Repair, Maintain, Restore, and Reconstruct</u>	6
3.5	<u>Easements for Utilities</u>	6
3.6	<u>Declarant's Easement</u>	6
3.7	<u>Granting of Easements by the Executive Board</u>	7
3.8	<u>Easements to Run With Land</u>	7
ARTICLE IV	<u>Restrictions, Conditions and Covenants</u>	7
4.1	<u>Compliance with Declaration, Bylaws and Rules and Regulations</u>	7
4.2	<u>Administration of Condominium</u>	7
4.3	<u>Use Restrictions</u>	7
4.4	<u>Prohibited Uses</u>	7
4.5	<u>Prohibitions and Use of Common Elements</u>	8
4.6	<u>Hazardous Use and Waste</u>	8
4.7	<u>Alterations of Common Elements</u>	8
4.8	<u>Leases</u>	8
4.9	<u>Rules and Regulations</u>	8
4.10	<u>Restrictions, Conditions and Covenants To Run With Land</u>	9
4.11	<u>Shrubbery</u>	9
4.12	<u>Signs</u>	9
ARTICLE V	<u>Assessments</u>	9
5.1	<u>Assessment Liens</u>	9
5.2	<u>Personal Liability of Transferees; Statements, Liability of First Mortgagee</u>	9
5.3	<u>Prohibition of Exemption from Liability for Contribution Toward Common Expenses</u>	10
ARTICLE VI	<u>Management, Maintenance, Repairs, Replacements, Alterations and Improvements</u>	10
6.1	<u>Common Elements</u>	10
6.2	<u>Common Expenses Associated with Limited Elements or Benefiting Less Than All Units</u>	10
6.3	<u>Units</u>	11
6.4	<u>Right of Entry</u>	11

6.5	<u>Partitioning</u>	12
6.6	<u>Conveyance of or Lien Against Common Elements</u>	12
6.7	<u>Nature of Interest in Unit</u>	12
Article VII	<u>Insurance</u>	13
7.1	<u>Casualty Insurance</u>	13
7.2	<u>Public Liability Insurance</u>	13
7.3	<u>Insurance Unavailable</u>	13
7.4	<u>Individual Policy for Unit Owners</u>	13
ARTICLE VII	<u>Casualty Damage</u>	14
8.1	<u>Casualty Damage</u>	14
ARTICLE IX	<u>Condemnation</u>	14
9.1	<u>Condemnation</u>	14
ARTICLE X	<u>Termination</u>	14
10.1	<u>Termination</u>	14
ARTICLE XI	<u>Amendment</u>	14
11.1	<u>Amendment</u>	14
ARTICLE XI	<u>Rights of First Mortgagees</u>	14
12.1	<u>Availability of Condominium Documents, Books Records, and Financial Statements</u>	14
12.2	<u>Successors' Personal Obligation for Delinquent Assessments</u>	15
12.3	<u>Rights of Action</u>	15
12.4	<u>Rights to Notice</u>	15
12.5	<u>Assessments</u>	15
12.6	<u>Rights of First Mortgagee: Insurance Proceeds or Condemnation Awards</u>	15
ARTICLE XIII	<u>Notices</u>	16
13.1	<u>Notices</u>	16
ARTICLE XVI	<u>General Provisions</u>	16
14.1	<u>Conflict with the Act: Severability</u>	16
14.2	<u>Interpretation of Declaration</u>	16
14.3	<u>Captions</u>	16
14.4	<u>Exhibits</u>	16
14.5	<u>Invalidity</u>	17
14.6	<u>Waiver</u>	17
14.7	<u>Law Controlling</u>	17

In compliance with the North Carolina Condominium Act (the "Act") there has been created for the Unit Owners an Association to govern the Condominium. The Unit Owners' Association will be known as Monterey Pines Association, Inc. (the "Association"). The Association will become functional once a Unit has been sold and conveyed to a purchaser. Each Unit Owner will have one vote in the affairs of the Association. The Board of Directors of the Association will elect officers who will make various decisions regarding the governance of the Condominium, as is more specifically set out in the Declaration of Condominium and By-Laws. The operating expenses of the Association will be paid by the unit owners based upon an annual budget. The Association will bill each unit owner quarterly in advance for his pro-rata share of the Common Expenses. Each unit owner has an interest in the Common Elements of the Condominium which is appurtenant to and part of his fee simple interest ownership of his respective unit. Liability for the Common Expenses and other assessments of the Condominium will be borne by each unit in proportion to the percentage of his interest in the Common Elements. That percentage is 2.08% per unit with each unit having one vote in the Condominium.

If a unit owner fails to pay an assessment when due, the Association will have a lien against that unit and may file a Claim of Lien in the Office of the Currituck County Clerk of Court.

During the Period of Declarant Control or until the Association makes a Common Expense Assessment, whichever occurs first, the Declarant is responsible for all Common Expenses of the Association. Thereafter, the Declarant must pay assessments on unsold units which have been completed and submitted to the Declaration of Condominium.

The projected budget for the first year of operation for the Association has been prepared by the Declarant and is attached hereto as Attachment II. The projected budget includes amounts to be allocated as reserves for repairs and replacements and other reserve accounts established in the Condominium. Documents, as well as projected common expense assessments by category of expenditures for the Association with an estimate of the amount that will be charged in excess annually for each unit.

The Association shall have all powers and responsibilities in regard to maintenance, repair, renovation, restoration and replacement of the Common Elements of the Condominium which shall be borne pro-rata by all unit owners according to the percentage of interest in the Common Elements. Common Elements will include the parking areas within the Condominium Property and all other improvements designated as Common Elements on the plans of the Condominium Property. The Common Elements are to be maintained by the Association for the benefit and use of its owners.

The following is The Declaration of Monterey Pines Condominium:

**DECLARATION OF
MONTERAY PINES CONDOMINIUM**

THIS DECLARATION, made this _____ day of June, 2001 by Southpaw BVI, LLC, a North Carolina Limited Liability Company (hereinafter referred to as "Declarant"), pursuant to the North Carolina Condominium Act, Chapter 47C, North Carolina General Statutes (the "Act") of 2400 North Croatan Highway, Suite D, Kill Devil Hills, NC 27948.

W I T N E S S E T H

WHEREAS, Declarant is the owner in fee simple of certain real estate situated in Corolla, Currituck County, State of North Carolina, as more particularly described on Exhibit "A", together with all buildings and improvements now or hereafter constructed or located thereon, and all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate (hereinafter referred to as "the Property"), and

WHEREAS, Declarant has previously built on the Property four (4) buildings known as: Building 814 Carolina Court, consisting of twelve (12) apartment units, Building 815 Carolina Court, Consisting of twelve (12) apartment units, Building 816 Carolina Court, consisting of twelve (12) apartment units and buildings and Building 817 Carolina Court, consisting of twelve (12) apartment units (the "Apartments"); and

WHEREAS, Declarant wishes to convert the Apartments to Condominiums, pursuant to the Act; and

WHEREAS, Declarant has developed the property into forty-eight (48) Condominium Units of residential use and Declarant wishes to submit said property as a Condominium as hereinafter provided;

NOW, THEREFORE, Declarant, as the owner of said property, hereby declares as follows:

ARTICLE I
Definitions

As used herein, the following words and terms shall have the following meaning:

- 1.1 Act. The North Carolina Condominium Act, Chapter 47C, North Carolina General Statutes.
- 1.2 Articles of Incorporation. The articles of incorporation of the Association filed with the Office of the Secretary of State of North Carolina which are incorporated herein and made a part hereof by this reference, and attached as Exhibit C.

- 1.3 Assessment. The owner's share of the common expenses assessed against such owner and their unit from time to time by Monterey Pines Association, in the manner hereinafter provided.
- 1.4 Association. Monterey Pines Association, (the "Association"), a non profit corporation organized under Section 47C-3-101 of the Act.
- 1.5 Board. The Executive Board of the Association.
- 1.6 Building. The single improved structure containing the Units and which comprises a portion of the Property and is more particularly described in the Plans.
- 1.7 Bylaws. The Bylaws of the Association which are hereby incorporated herein and made a part hereof by this reference, and attached as Exhibit B.
- 1.8 Common Elements. All portions of the condominium except the Units. Limited Common Elements are Common Elements. The Common Elements include all portions of the Condominium that are not part of the Units, including, without limitation: the land, improvements that are not part of the Units, including all foundations, columns, load bearing walls, girders, beams, supports, walls, roof, exterior stairs, any common decking, and balconies.
- 1.9 Common Expenses. Expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.
- 1.10 Common Expenses Liability. Common expenses allocated to each unit pursuant to § 47C-2-107.
- 1.11 Condominium. The condominium created by this Declaration.
- 1.12 Declarant. The parties who have executed this Declaration or who hereafter executes an amendment to this Declaration except First Mortgagees.
- 1.13 Declarant Control Period. The period commencing on the date hereof and continuing until the earlier of (i) the date five years after the date of the first conveyance of a unit to a unit owner other than the Declarant, or (ii) the date upon which the Declarant surrenders control of the condominium, or (iii) the date one hundred twenty (120) days after the Declarant has conveyed

seventy-five percent (75%) of the units to unit owners other than the Declarant.

- 1.14 First Mortgage and First Mortgagee. A First Mortgage is a mortgage or deed of trust which has been recorded so as to give constructive notice thereof, and which is a first lien on the Units described therein. A First Mortgagee is the holder, from time to time, of a First Mortgage as shown by the records of the Currituck County Registry in which the First Mortgage is recorded, including a purchaser at foreclosure sale upon foreclosure of a First Mortgage until expiration of the mortgagor's period of redemption. If there be more than one holder of a First Mortgage, they shall be considered as, and act as, one First Mortgagee for all purposes under this Declaration and the Bylaws.
- 1.15 Limited Common Elements. Those portions of the Common Elements allocated by this Declaration, the Plans or by operation of Section 47C-2-101(2) or (4) of the Act for the exclusive use of one or more but fewer than all of the Units, to the exclusion of all other Units. The Limited Common Elements shall include, but shall not be limited to, the following:
- (1) Those portions of any duct, wire, conduit, bearing wall, bearing column, or any other fixture lying partially within and partially without the designated boundaries of a Unit serving exclusively that Unit shall be Limited Common Elements allocated exclusively to that Unit; and
 - (2) Any porches, decks, balconies, or exterior walls designed to serve a single Unit but located outside the Unit's boundaries, shall be Limited Common Elements allocated exclusively to that Unit; and
 - (3) Any portions of the heating, ventilating and air conditioning systems, including fans, compressors, return air grills and thermostats, whether located inside or located outside the designated boundaries of a Unit, including individual electricity, shall be Limited Common Elements allocated exclusively to the Unit or Units that they serve.
- 1.16 Member. Means a Unit Owner.
- 1.17 Occupant. Any person or persons in possession of a Unit, including Unit Owners, lessees, guests and invitees of such person or persons, and guests and invitees of such lessees.

- 1.18 Person. A natural person, corporation, partnership, trust or other legal or commercial entity, or any combination thereof.
- 1.19 Plans. The plans of the Condominium prepared by Glenn Yates, Jr., Registered Architect, recorded with, and by the Act made a part of this Declaration, in Unit Ownership File _____ at Slides _____ in the Currituck County Public Registry.
- 1.20 Plat. That site plan of the Property prepared by Coastal Engineering & Surveying, Inc., dated September 21, 2001, recorded with, and by the Act made a part of this Declaration, in Unit Ownership File **G** at Slide **175** in the Currituck County Public Registry.
- 1.21 Property. The real estate described on Exhibit A, together with the Building and all other improvements now or hereinafter constructed or located thereon, and all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate.
- 1.22 Rules and Regulations. Any rules and regulations of the Condominium promulgated by the Executive Board from time to time, a copy of the current Rules and Regulations is being attached hereto as Exhibit F.
- 1.23 Special Declarant Rights. Those rights reserved for the benefit of the Declarant to complete improvements indicated on the plats and plans filed with the Declaration and to exercise developmental rights of maintaining sales offices, management offices, and signs advertising Monterey Pines; to operate a model unit if necessary, to use easements through common elements for the purpose of making improvements within the condominium; and to appoint or remove any officer of the Association or any Board Member during any period of the Declarant Control Period.
- 1.24 Unit. That physical portion of the Condominium, whether or not contained solely or partially within the Building, together with its percentage of undivided interest in the Common Elements as set forth on Exhibit D, the boundaries of which are described pursuant to Section 47C-2-105 of the Act.
- 1.25 Unit Boundaries. The boundaries of each Unit, both as to vertical and horizontal planes, as shown on the Plans, are the undecorated surfaces of the perimeter walls, exterior doors and exterior windows facing the interior of the Unit, the undecorated surfaces of the ceiling facing the interior of the Unit, and the topmost

surfaces of the subflooring, and include the decoration on all such interior and topmost surfaces, including, without limitation, all paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the decorated surfaces thereof, and also includes all spaces, interior partitions and other fixtures and improvements, within such boundaries. Also included as a part of the unit shall be all portions of the heating and air conditioning system for the Unit whether the same are located within or without the perimeter walls of the Unit.

- 1.26 Unit Owner. The person or persons, owning a Unit in fee simple but does not include any person having an interest in a Unit solely as security for an obligation.

ARTICLE II

Submission of Property to the Act

- 2.1 Submission. Declarant hereby submits that Property described in Exhibit A to the Act.
- 2.2 Name. The Property shall hereafter be known as Monterey Pines Condominium.
- 2.3 Division of Property into Forty-Eight Separately Owned Units. Declarant, pursuant to the Act, and to establish a plan of condominium ownership for the Condominium, does hereby divide the Property into forty-eight (48) Units and does hereby designate the Units for separate ownership, subject however, to the provisions of Section 2.4 hereof.
- 2.4 Alterations of Units. Subject to the provisions of the Declaration and the Bylaws, a Unit may be altered pursuant to the provisions of Sections 47C-2-111 and 47C-2-112, but a Unit may not be subdivided into two (2) or more Units.
- 2.5 Limited Common Elements. The Limited Common Elements serving or designed to serve each Unit are hereby allocated solely and exclusively to each such Unit.
- 2.6 Unit Allocations. The allocation to each Unit of a percentage of undivided interest in the Common Elements and of a percentage of the Common Expenses, is as stated on Exhibit D. The allocation of undivided interests in the Common Elements and of the Common Expenses has been determined in relation to the votes per Unit in the Association which is equal with each Unit having one vote and

each Unit sharing one-forty-eighth (2.08%) of the Common Elements and Common Expenses.

- 2.7 Encumbrances. The liens, defects and encumbrances affecting the Property to which the rights of Unit Owners and Occupants are hereby made subject are set out on Exhibit E.
- 2.8 Condominium Ordinances. The Condominium is not subject to any code, real estate use law, ordinance, charter provision, or regulation (i) prohibiting the condominium form of ownership, or (ii) imposing conditions or requirements upon a condominium which are not imposed upon physically similar developments under a different form of ownership. This statement is made pursuant to Section 47C-1-1066 of the Act for the purpose of providing marketable title to the Units in the Condominium.
- 2.9 Reservation of Declarant Rights. Declarant hereby reserves all Special Declarant Rights.

ARTICLE III **Easements**

- 3.1 Encroachments. In the event that, by reason of the construction, reconstruction, rehabilitation, alteration or improvement of the Building or other improvements comprising a part of the Property, any part of the Common Elements now or hereafter encroaches upon any part of any Unit, or any part of the Common Elements, or upon any part of another Unit, an easement for the continued existence and maintenance of each such encroachment is hereby declared and granted and shall continue for so long as each such encroachment exists; provided that in no event shall an easement for such encroachment be created if such encroachment is detrimental to or interferes with the reasonable use and enjoyment of the Common Elements or Units so encroached upon.
- 3.2 Easements Through Walls. Easements are hereby declared and granted to the Association and to such persons as are authorized by the Association, to install, lay maintain, repair and replace any ducts, vents, pipes, wires, conduits and other utility installations, and structural components running through the walls of the Units, where or not such walls lie in whole or in part within the boundaries of any Unit.
- 3.3 Easements of Owners and Association With Respect To Common Elements. Each Unit Owner shall have a perpetual, non-exclusive

easement in common with all other Unit Owners to use all pipes, wires, ducts, cables, conduits, public utility lines, and other Common Elements located in any of the other Units and serving his Unit. Each Unit shall be subject to a perpetual non-exclusive easement in favor of all other Unit Owners to use the pipes, wires, ducts, cables, conduits, public utility lines, and other Common Elements serving such other Units and located in such Units. The Association, or any person authorized by it, shall have the right of access to each Unit and to the Limited Common Elements upon reasonable advanced notice to the Unit Owner (except in cases of emergencies, in which cases no advanced notice shall be required) to the extent necessary for performance by the Association of its obligations of maintenance, repair, or replacement of the Common Elements. Such person shall use good faith efforts to conduct such maintenance, repair and replacement operations at such times and in such a manner as to minimize to the extent reasonably possible any intrusion on or interference with the activities of the Unit Owner.

- 3.4 Easements To Repair, Maintain, Restore and Reconstruct. Wherever in, and whenever by, this Declaration, the Bylaws or the Act, a Unit Owner, the Association, the Board, or any other person, is authorized to enter upon a Unit or the Common Elements to inspect, repair, maintain, restore or reconstruct all or any part of a Unit or the Common Elements, such easements as are necessary for such entry and such repair, maintenance, restoration or reconstruction are hereby declared and granted.
- 3.5 Easements for Utilities. The Units and Common Elements shall be, are hereby, made subject to easements in favor of the Association, appropriate utility and service companies and governmental agencies or authorities for such utility and service lines and equipment as may be necessary or desirable to serve any portion of the Property. The easements provided for by this Section 3.5 shall include, without limitation, rights of the Association, any providing utility, any service company, and any governmental agency or authority and any of them to install, lay, maintain, repair, relocate and replace gas lines, pipes and conduits, water mains and pipes, sewer and drain lines, telephone wires and equipment, television equipment and facilities (cable or otherwise), electrical wires, conduits and equipment and ducts and vents and any other appropriate equipment and facilities over, under, through, along and on the Units and Common Elements. Notwithstanding the foregoing provisions of this Section 3.5, unless approved in writing by the Unit Owner of Unit Owners affected thereby, any such easement through a Unit shall be

located either in substantially the same location as such facilities or similar facilities existed at the time of first conveyance of the Unit by the Declarant to a grantee other than the Declarant, or so as not to materially interfere with the use or occupancy of the Unit by its Occupants.

- 3.6 Declarant's Easement. Declarant hereby reserves such easements through the Common Elements as may be reasonably necessary for the purposes of discharging its obligations, which easements shall exist as long as reasonably necessary for such purpose.
- 3.7 Granting of Easements by the Executive Board. The Executive Board may hereafter grant easements encumbering the Common Elements for utility purposes for the benefit of the Property, including the right to install, lay, maintain, repair and replace water lines, sewer lines, pipes, ducts, gas mains, telephone, and television or cable television wires, cables, and equipment, electrical conduits, and wires over, under and along and upon any portion of the Common Elements, and may grant such other easements encumbering the Common Elements as the Executive Board deems in its discretion necessary for the benefit of the Condominium; and each Unit Owner hereby grants the Executive Board an irrevocable power of attorney to execute, acknowledge, and record for and in the name of each Unit Owners such instruments as may be necessary to effectuate the foregoing.
- 3.8 Easements To Run With Land. All easements and rights described in this Article III are appurtenant easements running with the land, and except as otherwise expressly provided in this Article III shall be non-exclusive and perpetually in full force and effect, and shall inure to the benefit of and be binding upon Declarant, the Association, Unit Owners, Occupants, First Mortgagees and any other person having any interest in the Condominium or any part thereof. The condominium and every part thereof shall be conveyed and encumbered subject to and together with all easements and rights described in this Article III, whether or not specifically mentioned in any such conveyance or encumbrance.

ARTICLE IV

Restrictions, Conditions and Covenants

- 4.1 Compliance with Declaration, Bylaws and Rules and Regulations. Each Unit Owner and Occupant shall comply with all applicable provisions of the Act, this Declaration, the Bylaws, the Articles of Incorporation of the Association, and rules and regulations promulgated by the Board or the Association, as amended. Failure

to comply shall be grounds for an action by the Association, an aggrieved Unit Owner, or any person adversely affected, for recovery of damages, injunction or other relief.

- 4.2 Administration of Condominium. The Condominium shall be administered in accordance with the provisions of the Act, this Declaration and Bylaws.
- 4.3 Use Restrictions. The Units shall be occupied and used by Unit Owners for residential purposes only.
- 4.4 Prohibited Uses. No obnoxious, offensive, or unlawful activity shall be conducted within any Unit or on or about the Common Elements, nor shall anything be done thereon or therein which may be or which may become an annoyance or a nuisance to the other Unit Owners. Further, and without limiting the generality of the foregoing, each Unit Owner shall use his Unit and the Common Elements in such a manner as to comply with all laws, ordinances, orders, regulations and zoning classifications of any governmental authority, agency or other public or private regulatory authority (including insurance underwriters and rating bureaus) having jurisdiction over the Property. In addition, no Unit may be used for the treatment, storage, use or disposal of toxic or hazardous waste or substances or any other substance that is prohibited, limited, or regulated by any governmental or quasi-governmental authority or that, even if not so regulated does pose a hazard to health and safety of the occupants and patrons of the Units or of surrounding property; provided, however, any Unit may be used for the treatment, storage, use or disposal of toxic or hazardous substances provided that such treatment, storage, use or disposal is incident to a lawful and permitted activity being conducted within such Unit and is conducted in compliance with all necessary permits and authorizations and in accordance with all applicable laws, ordinances, orders, rules and regulations. Each Unit Owners shall indemnify and save every other Unit Owner and the Association harmless from and against any claims, liabilities, penalties, fines, costs, expenses or damages resulting from any violations of the provisions of this Section 4.4.
- 4.5 Prohibitions and Use of Common Elements. The Common Elements shall not be used for storage of supplies, personal property or trash or refuse of any kind, except that common trash receptacles may be placed at various locations on the Common Elements at the discretion of the Board. Stairs, entrances, sidewalks, and yards shall not be obstructed in any way. In general, no activity shall be carried on or conditions maintained by any

Unit Owner either in his Unit or upon the Common Elements which despoils the appearance of the Property. Gas grills, charcoal grills and any other method of cooking is strictly prohibited on any of the Limited Common Elements.

- 4.6 Hazardous Use and Waste. Nothing shall be done to or kept in any Unit or the Common Elements that will increase any rate of insurance maintained with respect to the Condominium without the prior written consent of the Board. No Unit Owner or Occupant shall permit anything to be done or kept in his Unit or the Common Elements that will result in the cancellation of insurance maintained with respect to the Condominium, or that would be in violation of any law, or that will result in the commitment of waste (damage, abuse or destruction) to or in his Unit or the Common Elements.
- 4.7 Alterations of Common Elements. No Unit Owner or Occupant shall alter, construct anything upon, or remove anything from, the Common Elements, or paint, decorate, landscape or adorn any portion of the Common Elements, without the prior written consent of the Board.
- 4.8 Leases. Any lease of a Unit or a portion of a Unit shall be in writing, and shall be subject to this Declaration, the Bylaws and the current rules and regulations adopted by the Board and any failure of the lessee to comply with the terms of such documents shall be a default under the lease.
- 4.9 Rules and Regulations. In addition to the foregoing restrictions, reasonable rules and regulations not in conflict therewith and supplementary thereto may be promulgated and amended from time to time by the Board or the Association, as more fully provided in the Bylaws, a copy of the current rules and regulations being attached hereto as Exhibit F.
- 4.10 Restrictions, Conditions and Covenants To Run With Land. Each Unit Owner and Occupant shall be subject to all restrictions, conditions and covenants of this Declaration, and all such restrictions, conditions and covenants shall be deemed to be covenants running with the land, and shall bind every person having any interest in the Property, and shall inure to the benefit of every Unit Owner.
- 4.11 Shrubbery. No Unit Owner shall plant or permit to remain on the Property any type of hedge, shrubbery or other plantings, except with the prior written permission of the Board.

- 4.12 Signs. No "For Sale" or "For Rent" signs or other window displays or advertising shall be maintained or permitted by any Unit Owner or Occupant on any part of the Condominium without the prior written consent of the Board. This restriction shall not apply to the Declarant during the Declarant Control Period.

ARTICLE V
Assessments

- 5.1 Assessment Liens. The Board has the power to levy assessments against the Units for Common Expenses. Such assessments shall be a lien on the Units against which they are assessed, and if any payment thereof becomes delinquent, the lien may be foreclosed and the Unit sold, or a money judgment obtained against the persons liable therefore, all as set forth in the Bylaws.
- 5.2 Personal Liability of Transferees; Statement; Liability of First Mortgagee.
- (1) The personal obligation for assessments which are delinquent at the time of transfer of a Unit shall not pass to the transferee of said Unit unless said delinquent assessments are expressly assumed by said transferee.
 - (2) Any transferee referred to in (a) above shall be entitled to a statement from the Board, pursuant to Section 7 of the Bylaws, and such transferee's Unit shall not be subject to a lien for any unpaid assessments against such Unit in excess of the amount therein set forth.
 - (3) Where a First Mortgagee, or other person claiming through such First Mortgagee, pursuant to the remedies provided in a deed of trust, or by foreclosure or by deed, or assignment, in lieu of foreclosure, obtains title to a Unit, the liability of such First Mortgagee or such other person for assessments shall be only for the assessments, or installments thereof, that would become delinquent, if not paid, after acquisition of title. For purposes hereof, title to a Unit shall be deemed acquired by foreclosure upon expiration of the applicable period of redemption.
 - (4) Without releasing the transferor from any liability therefore, any unpaid portion of assessments which is not a lien under (b) above or, resulting, as provided in (c) above, from the exercise of remedies in a deed of trust, or by

foreclosure thereof or by deed, or assignment, in lieu of such foreclosure, shall be a Common Expense collectible from all Unit Owners, including the transferee under (b) above and the First Mortgagee or such other person under (c) above who acquires ownership by foreclosure or by deed, or assignment, in lieu of foreclosure.

- 5.3 Prohibition of Exemption from Liability for Contribution Toward Common Expenses. No Unit Owner may be exempt from liability for their share of the Common Expenses assessed by the Association by waiver of the use or enjoyment of any of the Common Elements or by abandonment of their Unit or otherwise.

ARTICLE VI
Management, Maintenance, Repairs Replacements,
Alterations and Improvements

- 6.1 Common Elements.
- (1) By the Association. The management, replacement, maintenance, repair, alteration, and improvement of the Common Elements shall be the responsibility of the Board, and subject to the provisions of Section 6.2 hereof, the cost thereof shall be a Common Expense to the extent not paid by Unit Owners pursuant to Section 6.1(b) hereof. All damage caused to a Unit by any work on or to the Common Elements done by or for the Association shall be repaired by the Association, and the cost thereof shall be a Common Expense.
 - (2) By Unit Owners. Each Unit Owner shall pay all costs to repair and replace all portions of the Common Elements that may become damaged or destroyed by reason of his intentional acts or the intentional acts of any Occupant, guest or invitee of their Unit. Such payment shall be made upon demand made by the Board.
- 6.2 Common Expenses Associated with Limited Common Elements or Benefiting Less Than All Units.
- (1) Any Common Expense associated with the maintenance, repair, or replacement of a Limited Common Element shall be assessed against the Unit, or in equal shares to the Units, to which such Limited Common Element was allocated at the time the expense was incurred.

- (2) In addition, the Association may assess any Common Expense benefiting less than all of the Units against the Units benefited in proportion to their Common Expense liability.
- (3) The cleanliness and orderliness of the Limited Common Elements shall be the responsibility of the individual Unit Owner or Unit Owners having the right to the use and enjoyment of such Limited Common Elements, but the responsibility for maintenance, painting, repair and replacement, together with control over the exterior decoration of the Limited Common Elements visible from any other Unit or from the Common Elements, shall remain with the Association. Notwithstanding any other provisions of this Declaration, or any provision of the Bylaws or the Act, the obligation for maintenance, repair, or replacement of any portions of the heating, ventilating, and air conditioning systems that are Limited Common Elements shall be the sole responsibility of the Unit Owners to which such Limited Common Elements are allocated. Electricity and any other utility service to each Unit shall be individually metered and each Unit Owner shall pay all charges assessed against his Unit for the use of such services.

6.3 Units. Each Unit Owner shall maintain their Unit at all times in a good and clean condition, and repair and replace, at their expense, all portions of their Unit. All doors within the walls enclosing a Unit shall be a part of that Unit; however, responsibility for maintenance and replacement of any exterior doors shall be the responsibility of the Association and not the Unit Owner. Replacement of any broken glass in a window that is part of a Unit shall be the sole responsibility and expense of the Unit Owner of that Unit. Each Unit Owner shall perform his responsibilities in such manner as not to unreasonably disturb other Occupants; shall promptly report to the Board, or its agents, any defect or need for repairs the responsibility for which is that of the Association; and, to the extent that such expense is not covered by the proceeds of insurance carried by the Association, shall pay all costs to repair and replace any portion of another Unit that has become damaged or destroyed by reason of his own acts or omissions, or the acts or omissions of any Occupant of his Unit. Such payment shall be made upon demand by the Unit Owners of such other Unit. Nothing herein contained shall modify any waiver by insurance companies of rights of subrogation.

6.4 Right of Entry.

- (1) By the Association. The Association, and any person authorized by the Association, may enter any Unit or any of the Limited Common Elements in case of any emergency or dangerous conditions or situation originating in or threatening that Unit or any of the Limited Common Elements. The Association, and any person authorized by the Association, after reasonable notice to a Unit Owner or Occupant, may enter that Unit or any of the Limited Common Elements for the purposes of performing any of the Association's powers under the Act, this Declaration or the Bylaws with respect to that or any other Unit, any Limited Common Elements, or the Common Elements. The Association shall be responsible for the repair of any damage caused by the Association or its authorized person to the entered Unit, and the cost thereof shall be a Common Expense. All such entries shall be made and done so as to cause as little inconvenience as possible to the Unit Owner and Occupant of the entered Unit or any portion of the Limited Common Elements allocated to the Unit Owner.

- (b) By Unit Owners. Each Unit Owner and Occupant shall allow other Unit Owners and Occupants, and their representatives, to enter their Unit or Limited Common Elements allocated to his Unit, when reasonably necessary for the purpose of altering, maintaining, repairing or replacing the Unit or performing the duties and obligations under the act, this Declaration or the Bylaws, of the Unit Owner or Occupant making such entry, provided that requests for entry are made in advance and that such entry is at a time convenient to the Unit Owner or Occupant whose Unit or Limited Common Element is to be entered. In case of an emergency or dangerous condition or situation, such right of entry shall be immediate. The person making such entry shall be responsible for repair of any damage caused by such person to the entered Unit or Limited Common Element.

- 6.5 Partitioning. The interest in the Common Elements allocated to each Unit shall not be conveyed, devised, encumbered, partitioned, or otherwise included with the Unit even though such interest are not expressly mentioned or described in the instrument conveying, devising, encumbering or otherwise dealing with such Unit. Any conveyance, mortgage, or other instrument which purports to grant any right, interest, or lien in, to or upon the Unit, shall be null,

void, and of no effect insofar as the same purports to affect any interest in a Unit's allocated interest in the Common Elements unless the same purports to convey, devise, encumber or otherwise deal with the entire Unit. Any instrument conveying, devising, encumbering or otherwise dealing with any Unit, which describes said Unit by the identifying number assigned thereto in the Plans and herein without limitation or exception shall be deemed and construed to affect the entire Unit and its allocated interest in the Common Elements. Nothing herein contained shall be construed as limiting or preventing ownership of any Unit and its allocated interest in the Common Elements by more than one person or entity as tenants in common, joint tenants, or as tenants by the entirety or any other form by law permitted.

- 6.6 Conveyance of or Lien Against Common Elements. For such time as the Property remains subject to this Declaration and to the provisions of the Act, no conveyances of or security interests or liens of any nature shall arise or be created against the Common Elements unless the Unit Owners holding at least eighty percent (80%) of the total allocated interests in the Common Elements agree to that action; provided, however, all the owners of Units to which any Limited Common Element is allocated must agree in order to convey that Limited Common Element or subject it to a security interest or lien. Every agreement for the performance of labor or the furnishing of materials to the Common Elements, whether oral or in writing, must provide that it is subject to the provisions of this declaration and that the right to file a mechanics' lien or other similar lien by reason of labor performed or material furnished is subordinated to this Declaration and to the lien of assessments for Common Expenses provided for in Article V of this Declaration. Provided, however, nothing in this Section shall be construed to limit the right of any Unit Owner to convey or to encumber his allocated interest in the Common Elements as an appurtenance to and in connection with the conveyance or mortgaging of his Unit.
- 6.7 Nature of Interest in Unit. Every Unit, together with its allocated interest in the Common Elements, shall for all purposes be, and it is hereby declared to be, and to constitute a separate parcel of real property, and the Unit Owner thereof shall be entitled to the exclusive fee simple ownership and possession of his Unit, subject only to the covenants, conditions, restrictions, easements, uses, limitations, obligations, rules, regulations, resolutions and decisions adopted pursuant hereto and as may be contained herein and in the accompanying Bylaws and in the minutes of the Executive Board of the Association.

ARTICLE VII
Insurance

- 7.1 Casualty Insurance. The Association shall maintain, to the extent available, casualty insurance upon the Property in the name of, and the proceeds thereof shall be payable to, the Association, as trustee for all Unit Owners and First Mortgagees as their interests may appear, and be disbursed pursuant to the Act. Such insurance shall be in an amount equal to not less than eighty percent (80%) full insurable value of the Property on a replacement cost basis exclusive of land, excavations, foundations and other items normally excluded from property policies, and shall insure against such risks and contain such provisions as the Board from time to time shall determine, but at a minimum shall conform in all respects to the requirements of the Act, and shall provide that, notwithstanding any provision thereof that gives the insurer an election to restore damage in lieu of making a cash settlement, such option shall not be exercisable if such restoration is prohibited pursuant to Section 47C-3-113(h) of the Act.
- 7.2 Public Liability Insurance. The Association shall maintain public liability insurance for the benefit of the Unit Owners, Occupants, the Association, the Board, the managing agent, if any, the Declarant, and their respective officers, directors, agents and employees, in such amounts and with such coverage as shall be determined by the Board; provided that the public liability insurance shall be for at least Five Hundred Thousand Dollars (\$500,000.00) per person and One Million Dollars (\$1,000,000.00) per occurrence for death, bodily injury and property damage. Such insurance shall comply in all respects to the requirements of the Act and shall contain a severability-of-interest endorsement precluding the insurer from denying liability because of negligent acts of any insured; insure all of such benefited parties against such liability arising out of or in connection with the use, ownership or maintenance of the Common Elements, and the streets, sidewalks, and public spaces adjoining the Condominium; and insure the Association, the Board, the manager, if any, and their respective officers, directors, agents and employees against such liability arising out of or in connection with the use or maintenance of the Units.
- 7.3 Insurance Unavailable. If the insurance described in Section 7.1 or 7.2 is not reasonably available, the Association shall promptly cause notice of such fact to be hand-delivered or sent prepaid by United States mail to all Unit Owners and First Mortgagees.

- 7.4 Individual Policy for Unit Owners. Each Unit Owner shall obtain insurance, at their own expense affording personal property, personal liability, and any other coverage obtainable, to the extent and in the amounts such Unit Owner deems necessary to protect their own interests. If a casualty loss is sustained and there is a reduction in the amount of the proceeds that would otherwise be payable on the insurance purchased by the Association due to the proration of insurance purchased by a Unit Owner under this Section, such Unit Owner shall be liable to the Association to the extent of such reduction and shall pay the amount of such reduction to the Association upon demand, and assigns the proceeds of their insurance, to the extent of such reduction, to the Association.

ARTICLE VIII
Casualty Damage

- 8.1 Casualty Damage. If all or any part of the Property shall be damaged or destroyed, the same shall be repaired or replaced unless: (1) the Condominium is terminated, (2) repair or replacement would be illegal under any State or local health or safety statute or ordinance, or (3) the Unit Owners elect not to rebuild or replace by an eighty percent (80%) vote. All proceeds of insurance shall be used and applied in accordance with the provisions of Section 47C-3-113(e) and (h) of the Act.

ARTICLE IX
Condemnation

- 9.1 Condemnation. In the event of a taking by eminent domain, or by a conveyance in lieu thereof, of all or any part of the Property, the awards paid on account thereof shall be applied in accordance with Section 47C-1-107 of the Act.

ARTICLE X
Termination

- 10.1 Termination. The Condominium may be terminated only in strict compliance with Section 47C-2-118 of the Act.

ARTICLE XI
Amendment

- 11.1 Amendment. This Declaration in compliance with the Act, including without limitation, Sections 47C-2-108 and 47C-2-117 of

the Act, except that no Amendment altering Special Declarant Rights may be made without the written consent of Declarant.

ARTICLE XII
Rights of First Mortgagees

The following provisions shall take precedence over all other provisions of this Declaration and the Bylaws:

- 12.1 Availability of Condominium Documents, Books, Records and Financial Statements. The Association shall, upon request, make available for inspection by Unit Owners and the First Mortgagees, current copies of the Declaration, the Bylaws, other rules and regulations governing the Condominium and the books, records and financial statements of the Association. The Association shall provide a financial statement for the preceding fiscal year if requested in writing by a First Mortgagee. The Association shall, upon request, make available for inspection by prospective purchasers of Units, current copies of the Declaration, Bylaws, the Rules and Regulations governing the Condominium, and the most recent annual financial statement.
- 12.2 Successors' Personal Obligation for Delinquent Assessments. The personal obligation for assessments which are delinquent at the time of transfer of a Unit shall not pass to the successors in title or interest to said Unit unless said delinquent assessments are expressly assumed by them.
- 12.3 Rights of Action. The Association and any aggrieved Unit Owner shall have the right of action against Unit Owners and any aggrieved Unit Owners shall have a right of action against the Association for failure to comply with the provisions of this Declaration, the Bylaws and the Rules and Regulations, and decisions of the Association made pursuant to authority granted to the Association in this Declaration and the Bylaws.
- 12.4 Rights to Notice. If any First Mortgagee has served written notice upon the Association of its desire to receive notices under this section by certified mail, return receipt requested, addressed to the Association and sent to its current address, identifying the First Mortgage that it holds, which notice designates the place to which notices are to be given by the Association to such party, then such party shall have the right to receive from the Association prompt written notice of the following:

Default under any of the terms and provisions of the Declaration and the Bylaws by any Unit Owner owning a Unit encumbered by a First Mortgage held by such party.

Any loss or damage to or condemnation or taking of the Common Elements or any loss or damage to or condemnation or taking of a Unit encumbered by a First Mortgage held by such First Mortgagee.

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

Any proposed action by the Association, the Board, or the Unit Owners, which under the terms of the Declaration or Bylaws requires the consent of all or any portion of the First Mortgagees.

12.5 Assessments. Assessments shall be due and payable in installments as determined by the Board. As provided in Article IX of the Bylaws and as legally required by Section 47C-3-115 of the Act, Declarant shall pay all accrued expenses of the Condominium until assessments are levied against the Units. An assessment shall be deemed levied against a Unit upon the giving of notice by the Board to a member of the Association who is a Unit Owner of that Unit. Unit Owners shall have no obligation to pay assessments until an assessment is levied. Assessments will begin at such time as the Board elects.

12.6 Rights of First Mortgagee: Insurance Proceeds or Condemnation Awards. With respect to First Mortgages held by or for the benefit of First Mortgagees, no provision of this Declaration or the Bylaws shall be deemed to give a Unit Owner, or any other party, priority over any rights of a First Mortgagee pursuant to its First Mortgage on said Unit Owner's Unit, in the case of a distribution to said Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of Units and/or Common Elements.

ARTICLE XIII

Notices

13.1 Notices. Whenever notices are required to be sent under this Declaration, the same may be delivered to Unit Owners by mail at their place of residence. Notices to the Association shall be mailed to:

Robert R. DeGabrielle
824 Malia Drive
Corolla, NC 27927

ARTICLE XIV

General Provisions

- 14.1 Conflict with the Act; Severability. Should any of the terms, conditions, provisions, paragraphs, or clauses of this Declaration conflict with any provisions of the Act, the provisions of the Act shall control unless the Act permits the Declaration to override the Act, in which event the Declaration shall control. The invalidity of any covenant, restriction, condition, limitation, provision, paragraph or clause of this Declaration, or of any part of the same, or the application thereof to any person or circumstance, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration, or the application of any such covenant, restriction, condition, limitation, provision, paragraph or clause to any other person or circumstances.
- 14.2 Interpretation of Declaration. Whenever appropriate singular may be read as plural, plural may be read as singular, and the masculine gender may be read as the feminine or neuter gender. Compound words beginning with the prefix "here" shall refer to this entire Declaration and not merely to the part in which they appear.
- 14.3 Captions. The captions herein are only for convenience and reference and do not define, limit or describe the scope of this Declaration, or the intent of any provision.
- 14.4 Exhibits. Exhibits A, B, C, D, E, and F attached hereto are hereby made a part hereof.
- 14.5 Invalidity. The invalidity of any provision of this Declaration shall not be deemed to impair or affect in any manner the validity or enforceability or effect 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 herein.
- 14.6 Non-Waiver. The failure of the Declarant, Board of Directors, or any Unit Owner, or their respective legal representatives, heirs, successors and assigns, to enforce any restriction contained in this Declaration shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such violation or breach occurring prior or subsequent thereto.
- 14.7 Law Controlling. This Declaration and the Bylaws attached hereto shall be construed and controlled by and under the laws of the State of North Carolina, provided, however, that if there are conflicts or inconsistencies between the Act and this Declaration

(in that order), the Act shall prevail and the Unit Owners covenant to vote in favor of such amendments as will remove such conflict or inconsistencies, except that where the Act, the Declaration, or the Bylaws conflict and the provisions of the Act are merely enabling and not mandatory, the provisions of the Declaration or the Bylaws shall control.

- 14.8 Covenants Running With The Land. All provisions of this Declaration shall be construed to be covenants running with the land, and with every part thereof and interest therein including, but not limited to, every unit and the appurtenances thereto; and each and every provision of this Declaration shall bind and inure to the benefit of all Unit Owners and claimants of the land or any part thereof or interest therein and their heirs, executors, administrators, successors and assigns, including the Declarant herein.

IN WITNESS WHEREOF, the undersigned have executed this Declaration as of the day and year first above written.

DECLARANT:

SOUTHPAW BVI, LLC
a North Carolina Limited Liability
Company

BY: *Robert R. DeGabrielle* (SEAL)
Robert R. DeGabrielle, Manager

STATE OF NORTH CAROLINA
COUNTY OF DARE

I, the undersigned Notary Public of the City/County and State aforesaid, certify that Robert R. DeGabrielle, personally came before me this day and acknowledged that he is Manager of Southpaw BVI, LLC, a North Carolina Limited Liability Company and that by authority duly given and as the act and deed of the Company he executed the foregoing Declaration.

Witness my hand and official seal this the 17th day of August, 2001.

(stamp/seal)

Maureen M. Mauney
Notary Public

My commission expires: 09-15-2002



EXHIBIT A
To Declaration

PROPERTY DESCRIPTION

All that property described on that plat captioned "Monteray Pines Condominiums" dated August 17, 2001 prepared by Coastal Engineering, Inc. and recorded in Condominium Book 1, Pages 133 and 134 in the Office of the Public Registry of Currituck County, North Carolina.

EXHIBIT B
To Declaration

BYLAWS
OF
MONTERAY PINES ASSOCIATION, INC.

ARTICLE I
NAME, PURPOSE AND APPLICABILITY

1.1 Name. The name of this non-profit, non-stock membership corporation shall be MONTERAY PINES ASSOCIATION, INC., hereinafter referred to as "the Association."

1.2 Purpose. The purpose of the Association shall be to administer, manager, and operate the condominium property, in accordance with the Unit Ownership Act, the Non-profit Corporation Act of North Carolina, this Declaration, and the Articles of Incorporation and these Bylaws, as may be amended from time to time. The Association shall not engage in any activities other than those directly related to administration of the condominium property and the Unit Owners' responsibility with respect to the same.

1.3 Applicability. These Bylaws are applicable to the property known as MONTERAY PINES CONDOMINIUM; as such property is described on Exhibit A attached to that certain Declaration of the MONTERAY PINES CONDOMINIUM. These Bylaws are binding on all present and future Owners, tenants, guests, residents, or other persons occupying or using the facilities of such condominium property. The mere acquisition, rental, or act of occupancy of any part of the condominium property will signify that these Bylaws are accepted, ratified, and will be complied with. The provisions of the Declaration of Condominium for the MONTERAY PINES CONDOMINIUM regarding the governing and administration of the Association are incorporated herein by reference.

The acceptance of a deed of conveyance or the entering into of a lease or the act of occupancy of a Unit shall constitute an agreement that these Bylaws (and any rules and regulations made pursuant hereto) and the provisions of the Declaration, as they may be amended from time to time, are accepted, ratified and will be complied with.

ARTICLE II
DEFINITIONS

2.1 Definitions. The definition of words contained in the Declaration, Article I shall apply to those words and terms as used in these Bylaws.

ARTICLE III
OFFICES, REGISTERED AGENT, SEAL, FISCAL YEAR

3.1 Principal Office, Registered Office. The principal office of the Association shall be located at 824 Malia Drive, Corolla, NC 27927, or such other places as the Board of Directors may designate from time to time.

3.2 Registered Agent. The initial Registered Agent for the Unit Owners for matters incident to the condominium property and the initial Registered Agent for the Association is Robert R. DeGabrielle, whose address is 824 Malia Drive, Corolla, NC 27927. The Registered Agent for the Association shall also be the Registered Agent for the Unit Owners. The individual serving as Registered Agent may be removed from office and replaced at any time by vote of the Board of Directors of the Association.

3.3 Seal. The seal of the Association shall contain the name of the Association, the word "Seal", and such other words and figures as desired by the Executive Board. When obtained, the seal shall be impressed in the margin of the minutes of the initial meeting of the Board of Directors.

3.4 Fiscal Year. The fiscal year of the Association shall be January 1 through December 31.

ARTICLE IV MEMBERSHIP

4.1 Qualification. Membership in the Association shall be confined to and consist of the Unit Owners. Membership shall be appurtenant to and inseparable from Unit Ownership. No Unit Owners shall be required to pay any consideration whatsoever for his membership. Membership in the Association shall inure automatically to Unit Owners upon acquisition of the fee simple title, whether encumbered or not, to any one or more units. The date of registration of the conveyance in the Currituck County Registry of the unit in question shall govern the date of ownership of each particular unit. However, in the case of death, the transfer of ownership shall occur on the date of death in the case of intestacy, or date of probate of the will in the case of testacy. Until a decedent's will is probated, the Association may rely on the presumption that a deceased Owner died intestate.

4.2 Annual Meeting. There shall be a regular annual meeting of the Unit Owners held each year during the same month of each succeeding year, for the purpose of electing members of the Board and for the transaction of such other business as may be properly brought before the meeting. A meeting so called shall be designated and treated for all purposes as the annual meeting.

4.3 Place of Meetings. Meetings of the Association shall be held in Corolla, North Carolina, the location of which shall be designated by the Executive Board.

4.4 Special Meetings. Special meetings of the Association may be called at any time by the President or by the Board, and shall be called and held within thirty (30) days after written request therefore signed by members of the Association entitled to cast at least fifty-one percent (51%) of the total votes in the Association is delivered to the Secretary of the

Association. No business shall be transacted at a special meeting except that which is stated in the notice thereof.

4.5 Notice of Meetings. Notice of all meetings of the members, stating the time and place, and accompanied by each member. Such notice shall be in writing, and shall be hand delivered, sent by United States mail or an electronic form of notification to the members at the addresses of their respective Units and to other addresses as any member may have designated to the President or Secretary, at least twenty-one (21) days in advance of any annual or regularly scheduled meeting and at least seven (7) days in advance of any other meeting.

Notice given to any one tenant-in-common, tenant by the entirety or other joint owner of a Unit shall be deemed valid notice to all joint owners of such Unit.

The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or these Bylaws, and budget changes, and any proposal to remove Board members or officers.

When a meeting is adjourned for less than thirty (30) days in any one adjournment, it is not necessary to give any notice of the adjourned meeting, other than by announcement at the meeting at which the adjournment is effective.

4.6 Quorum: Adjournment if No Quorum. The presence in person, by proxy or by teleconference moderated by the Board of Directors at any meeting of the Voting Members (as defined in Section 4.7 of this Article) having at least thirty percent (30%) of the Votes of the Association shall constitute a quorum. If there is no quorum at the opening of the meeting of Unit Owners, such meeting may be adjourned from time to time by the vote of a majority of the Voting Members present, either in person or by proxy; and at any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the original meeting.

The Voting Members at a meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Voting Members to leave less than a quorum.

4.7 Voting.

(A) The total votes in the Association are forty-eight (48) with each Unit having one vote. The votes allocated to the unit may be cast by the Unit Owner of that unit. When there is more than one Unit Owner of a unit, the vote for that Unit shall be cast as they shall determine. The vote allocated to a unit shall not be split but shall be voted as a single whole. If there is more than one Unit Owner of a unit and said Unit Owners cannot agree on how to vote for that unit, such vote shall be cast, and the dispute shall be resolved by arbitration.

(B) Except where a greater number is required by the Condominium Act, the Declaration or these Bylaws, a Majority of the Unit Owners is required to adopt decisions at any meeting of the Association.

(C) No Unit Owner may vote at any meeting of the Association or be elected to or serve on the Executive Board if payment of the assessment on his unit is delinquent more than thirty days and the amount necessary to bring his account current has not been paid at the time of such meeting or election.

4.8 Proxies. A vote may be cast in person, by proxy or by teleconference moderated by the Board of Directors during any lawful meeting of the Voting Members of the Association.

4.9 Prohibition of Cumulative Voting. There shall be no cumulative voting.

4.10 Waiver of Notice. Any Voting Member may, at any time, waive notice of any meeting of the Association in writing, and such waiver shall be deemed to be equivalent to the giving of such notice. Attendance by a Voting Member at any meeting of the Association shall constitute a waiver of notice by him of the time and place thereof, except where a Voting Member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all of the Voting Members are present at any meeting of the Unit Owners, no notice shall be required, and any business may be transacted at said meeting.

4.11 Informal Action by Unit Owners. Any Action which may be taken at a meeting of the Association may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Voting Members and filed with Secretary of the Association to be kept in the Association's minute book.

ARTICLE V EXECUTIVE BOARD

5.1 Number. The business and property of the Condominium shall be managed and directed by the Executive Board (the "Board"), composed of three (3) persons; provided, however, that the Board may not act on behalf of the Association to amend the Declaration, to terminate the Condominium, to exercise the Association's right of first refusal under the Declaration, to elect members of the Executive Board, or to determine the qualifications, powers, duties or terms of office of Board members. The Board may, however, fill vacancies in its membership for the unexpired portion of any term.

5.2 Initial Members. The initial members of the Board (referred to as "Directors" herein) shall be selected by the Declarant and shall serve at the election of the Declarant from the date upon which the Declaration is recorded in the Currituck County Public Registry, until such time as their successors are duly elected and qualified.

5.3 Election. Except as provided herein, the directors shall be elected at the annual meeting of the Association, and those persons who receive the highest number of votes shall be deemed to have been elected. The members shall elect a Chairman, a Secretary and a Treasurer (the "Officers") and those Officers shall be the Board.

5.4 Term and Qualification. Each director shall hold office for the term for which he was elected, or until his death, resignation, retirement, removal, disqualification or until his successor is elected and qualified.

5.5 Removal. Any Director may be removed, with or without cause, by a vote of the members entitled to cast at least sixty-six percent (66%) of the total votes in the Association, at a special meeting called for such purpose, and a successor may then be elected by the members to serve for the balance of the removed Director's term.

5.6 Vacancies. A vacancy occurring in the Board may be filled by a majority of the remaining directors, though less than a quorum, or by the sole remaining director. The Voting Members may elect a director at any time to fill any vacancy not filled by the Board.

5.7 Compensation. The Board shall receive no compensation for their services but may be reimbursed for out-of-pocket expenses for duties as Directors, as approved by the Board.

5.8 Powers and Duties of the Board. The Board shall have the powers and duties necessary for the administration of the affairs of the Condominium, and may do all such acts and things, except such acts as by law of the Declaration or by these Bylaws may not be delegated to the Board. Such powers and duties of the Board shall include, but shall not be limited to, the following:

- (A) Determining the Common Expenses required for the affairs of the Condominium, including, without limitation, the operation and maintenance of the Property.
- (B) Collecting the Common Expenses from the Unit Owners.
- (C) Supervising the operation, care, upkeep and maintenance of the Common Elements.
- (D) Employing and dismissing the personnel necessary for the maintenance and operation of the Common Elements.
- (E) Adopting and amending such reasonable rules and regulations as it may deem advisable for the maintenance, conservation and beautification of the Property, and for the health, comfort, safety and general welfare of the owners and occupants of the Property. Written notice of such rules and regulations shall be given to all Unit Owners and occupants, and the entire Property shall at all times be maintained subject to such rules and regulations.
- (F) Opening bank accounts on behalf of the Condominium and designating the signatories required therefore.

- (G) Entering any Unit when necessary in connection with any maintenance or construction for which the Board is responsible; provided that, except in the event of emergencies, such entry shall be made during reasonable hours with as little inconvenience to the Unit Owner as practical, and any damage caused thereby shall be repaired by the Board, with such expenses being treated as a Common Expense.
- (H) Signing all agreements, contracts, deeds, easement agreements, and vouchers for the payment of expenditures and other instruments.
- (I) Obtaining insurance for the Property pursuant to the applicable provisions of the Declaration.
- (J) Making or contracting for repairs, additions and improvements to or alterations or restorations of the Property in accordance with the other provisions of these Bylaws and the Declaration, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceeding.
- (K) Contracting for all goods, services and insurance, payment for which is to be made from the Common Expense fund.
- (L) Instituting, defending, or intervening in litigation or administrative proceedings in the name of or on behalf of the Association or two or more Unit Owners on matters affecting the Condominium.
- (M) Imposing charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration, the Bylaws, or rules and regulations established by the Association, all in accordance with Sections 47C-3-107 and 47C-3-107A of the Act.
- (N) Exercising (i) all powers specifically set forth in the Declaration, the Articles of Incorporation, these Bylaws and in the Act, (ii) all powers incidental thereto, and (iii) all other powers of a non-profit North Carolina corporation.

5.9 Powers and Duties of the Officers.

- (A) Chairman of the Board. The Chairman of the Board shall be the chief executive officer of the Association; shall have all of the powers and duties incident to the office of a chairman of a corporation, including, but not limited to, the duty to preside at all

meetings of the Board and of the members, and the general supervision of officers in the management of the business and affairs of the Association; and shall see that all actions and resolutions of the Board are carried into effect.

- (B) Secretary. The Secretary shall keep the minutes of all meetings and actions of the Board and of the members; shall give all required notices to the Directors and members; shall keep the records of the Association, except those kept by the Treasurer; shall perform all other duties incident to the office of a secretary of a corporation; and shall perform such other duties required by the Board or the Chairman.
- (C) Treasurer. The Treasurer shall have custody of all intangible property of the Association, including funds, securities, and evidences of indebtedness; shall keep the books of the Association in accordance with good accounting practices and principles, and, upon request, shall submit them, together with all vouchers, receipts, records, and other papers to the Board for examination and approval; shall deposit all moneys and other valuable effects in depositories designated by the Board; shall disburse funds of the Association as directed by the Board; and shall perform all other duties incident to the office of a treasurer of a corporation.

5.10 Declarant Control Period. The Declarant, its successors and assigns, shall have the right to appoint and designate the entire Board of Directors of the Association during the Declarant Control Period. Beginning with the next annual meeting of the membership of the Association after expiration of the Declarant Control Period, the Board of Directors shall be elected as set forth in Section 5.3 herein.

ARTICLE VI INDEMNIFICATION OF EXECUTIVE BOARD AND OFFICERS

6.1 Indemnification. The Association shall indemnify such persons, for such expenses and liabilities, in such manner, under such circumstances, and to such extent, as permitted by the appropriate sections of the North Carolina General Statutes, as now enacted or hereafter amended.

ARTICLE VII OPERATION OF THE PROPERTY

7.1 Assessment and Determination of Common Expenses. The Board shall from time to time, and at least annually, prepare a budget for the Condominium, for the purpose of determining the amount of the Assessments to be collected from the Unit Owners in order to provide for the Common Expenses of the Condominium, and allocate and assess such Common Expenses among the Unit Owners, according to their percentage of interest in the Common

Elements as set forth in the Declaration, taking into consideration any expected income and any surplus from the prior year's operation. The Common Expense shall include, without limitation the expenses, costs and charges incurred in connection with the administration, operation and management of the Condominium Property; the cost of maintenance, repair, replacement and restoration of the Common Elements, or any part thereof; the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Board pursuant to the provisions of the Declaration; such amounts as the Board may deem proper for the convenience, comfort and well-being of the Unit Owners, and for the operation, management and maintenance of the Property, including, without limitation, an amount for working capital of the Condominium, for a general operating reserve, for a reserve fund for replacements, and to make up any deficit in the Common Expenses for any prior year; in proper cases, the cost of administration and of maintenance and repair of the Common Expenses shall include, without limitation, the expenses, costs and charges incurred in connection with the Limited Common Elements; and any other expenses lawfully agreed upon.

In establishing a reserve fund for replacements, the Board shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall then set the required capital contribution in an amount sufficient to permit meeting the projected capital needs of the Association with respect to both amount and timing by equal annual installments over the applicable period. Within thirty (30) days after adoption by the Board, the Board shall provide a summary of the budget to all Unit Owners.

7.2 Payment of Assessments. The Unit Owners shall be obligated to pay (1) General Assessments for Common Expenses assessed by the Board from time to time, and at least semi-annually in accordance with the percentage interest allocations set forth in the Declaration; (2) special assessments to be established and collected as provided herein, and (3) specific assessments against any Unit which are established pursuant to the terms of these Bylaws. A late payment charge in an amount to be determined by the Board shall be assessed for any assessment installment not paid within fifteen (15) days of its due date. Any installment not paid within fifteen (15) days of its due date shall be subject to the late payment charge of \$ 25.00 (twenty five dollars) and shall accrue interest as provided in Section 7.5, and shall constitute a lien on the Unit as provided in Section 7.6 of this Article VII.

A purchaser of a Unit shall be jointly and severally liable with the seller for the payment of Assessments assessed against such Unit prior to the acquisition by the purchaser of such Unit only if the purchaser expressly assumes such obligation in writing; provided, however, the lien assessed against such Unit shall remain in full force and effect. Any such purchaser shall be entitled to a statement from the Board setting forth the amount of the unpaid Assessments against the seller, and the Unit conveyed shall not be subject to a lien for any unpaid assessments in excess of the amount shown on the statement. Provided, however, that a First Mortgagee who takes a deed in lieu of foreclosure shall not be liable for, and such Unit shall not be subject to, a lien for the payment of Common Expense assessed prior to the foreclosure sale or deed in lieu of foreclosure, and such unpaid Common Expenses shall be deemed to be common Expenses collectible from all of the Unit Owners, including such purchaser, his successors and assigns.

7.3 Special Assessments. The Association may levy Special Assessments for Common Expenses not covered by the General 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 Common Elements, including fixtures and personal property related thereto, provided that any such Assessment must be approved by the vote of Owners of Units to which at least four (4) of the votes in the Association are allocated cast in person or proxy at a meeting duly called for this purpose. Such Special Assessments shall be charged to the Units according to their percentage interests in the Common Elements. In addition, the Board may levy Special Assessments against one or more, but less than all, of the Units to cover repairs or maintenance for which such Unit Owner or Owners are responsible and which they have failed to make, or for repairs or maintenance required of a Unit Owner or Unit Owners which impair the value of the Common Elements or the Unit or Units, or expenses which are incurred in the abatement of or as a result of a violation by a Unit Owner or Owners of the provisions of the Declaration, the Bylaws or the rules, regulations, or for fines levied for said violations, or where the Board has purchased a Unit on behalf of one or more Unit Owners. The period of assessment and manner of payment of such assessment shall be determined by the Board.

7.4 Collection of Assessments. The Board shall determine Common Expenses against the Unit Owner, and as the Board shall determine, take prompt action to collect any Assessments due from any Unit Owner which remain unpaid for more than fifteen (15) days from their due date.

7.5 Default in Payment of Assessment. In the event of default by any Unit Owner in paying to the Board any amounts assessed by the Board, such Unit Owner shall be obligated to pay a late payment charge as established by the Board from time to time, and interest at the rate of twelve percent (12%) on such amounts from their due date; together with all expenses, including reasonable attorneys' fees (if permitted by law), incurred by the Board in collecting such unpaid sums.

7.6 Lien and Personal Obligation. Each Assessment provided for in this Article, together with late payment charges, interest and expenses, including reasonable attorneys' fees, shall be a charge on and a continuing lien upon the Unit against which the Assessment is made when a notice of such lien has been filed of record in the office of the Clerk of Superior Court of Currituck County, North Carolina, in the manner provided by Article 8, Chapter 44, of the North Carolina General statutes, provided such notice of lien shall not be recorded until such sums assessed remain unpaid for a period of fifteen (15) days after the same shall become due. Said notice of lien shall also secure all Assessments against the Unit becoming due thereafter until the lien has been satisfied. Said lien may be foreclosed in the manner as a deed of trust on real property. In addition, each Unit Owner shall be personally liable for any Assessment against his Unit becoming due and payable while he is the Owner of such Unit.

7.7 Priority of Assessment Lien. The lien of the Assessments provided for in this Article shall be prior and superior to all other liens except (a) ad valorem taxes, and (b) all sums unpaid on deeds of trust, mortgages or other encumbrances against the Unit prior to the docketing of the Assessment lien. The sale or transfer of any Unit shall not affect the Assessment

lien against such Unit. Provided, however, the sale of a Unit pursuant to the foreclosure sale or execution sale instituted by a superior lien holder or conveyance to a First Mortgagee by deed in lieu of foreclosure shall extinguish the inferior Assessment lien against the subject Unit but no such sale or transfer shall relieve each Unit from liability for any Assessments thereafter becoming due or for any future lien in connection therewith. The Association shall share in the excess, if any, realized by the sale of any Unit pursuant to a foreclosure or action instituted by a superior lien holder, to the extent of its lien.

7.8 Owner's Non-Use. No Unit Owner may exempt themselves from liability for Assessments and their other obligations to the Association by waiver of the use or enjoyment of any portion of the Common Elements or by the abandonment or sale of his Unit.

7.9 Foreclosure of Liens for Unpaid Assessments. Following the institution of any action by the Board to foreclose on a Unit because of unpaid Assessments, the Unit Owner shall pay a reasonable rental for the use of their Unit, and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the rental. The Board, acting on behalf of the Association, or on behalf of any one or more individual Unit Owners, if so instructed, shall have the power to purchase such Unit at the foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant to, convey or otherwise deal with the same, subject, however, to applicable restrictions of record. A suit to recover a money judgment for unpaid Assessments shall be maintainable without foreclosing or waiver of the Assessment lien. Where a First Mortgagee or the purchaser of a Unit obtains title to the Unit as a result of foreclosure of the First Mortgage, such purchaser, its successors and assigns, shall not be liable for the share of the Common Expenses or Assessments by the Board chargeable to such Unit which became due prior to the acquisition of title to such Unit by such purchaser. Such unpaid share of Common Expenses or Assessments shall be deemed to be a Common Expense collectible from all Unit Owners, including such purchaser, its successors and assigns.

7.10 Statement of Common Expenses. The Board shall promptly provide any Unit Owner so requesting the same in writing with a written statement of all unpaid charges due from such Unit Owner.

7.11 Abatement and Enjoinment of Violations by Unit Owners. The violation of any rule or regulation adopted by the Board or the breach of any bylaw contained herein, or the breach of any provision of the Declaration, shall give the Board the right, in addition to any other rights set forth in these Bylaws: (a) to enter the Unit in which, or as to which, such violation or breach exists, and to make any repairs, and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition which may exist therein contrary to the intent and meaning of the provisions hereof, and the Board shall not thereby be deemed guilty in any manner of trespass, or, (b) to enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach at the expense of the defaulting Unit Owner; (c) in any case of flagrant or repeated violation by a Unit Owner, to require such Unit Owner to give sufficient sureties for his future compliance with such Condominium documents; or (d) after notice and an opportunity to be heard, to levy reasonable assessments and fines in accordance with Sections 47C-3-107 and 47C-3-107A of the Act for such violations. The failure of the Board to so act with respect to any such violation or breach

shall not be deemed a waiver of the Board's right to act with respect to the same or any other breach or violation.

7.12 Remedies Cumulative. All rights, remedies and privileges granted to the Association or the Owner or Owners of a Unit pursuant to any terms, provision, covenants, or condition of the Declaration or other above-mentioned documents, shall be cumulative, and the exercise of any one or more shall not constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other additional rights, remedies or privileges as may be available to such party at law or in equity.

7.13 Non-Waiver of Remedies.

- (A) The failure of the Association or any Unit Owner to enforce any right, provision, covenant or condition which may be granted by the Declaration or the other above-mentioned documents shall not constitute a waiver of the right of the Association or the Unit Owner to enforce such right, provision, covenant or condition in the future.
- (B) The failure of a First Mortgagee to enforce any right, provision, privilege, covenant or condition which may be granted to it or them by the Declaration or other above-mentioned documents, shall not constitute a waiver of the right of said party or parties to thereafter enforce such right, privilege, covenant or condition in the future.

ARTICLE VIII FINANCIAL RECORDS AND STATEMENTS

8.1 Reports. The Board shall keep records of the actions of the Board, minutes of the meetings of the Board, minutes of the meetings of the Association, and financing records and books of account of the Condominium, including a chronological listing of receipts and expenditures for each Unit, which, among other things, shall contain the amount of each Assessment against each Unit, the date when due, the amounts paid and the balance remaining unpaid. The financial records and books of account shall be available for examination by all Unit Owners, their duly authorized agents or attorneys, and all lien holders, their attorneys and authorized agents, upon reasonable request. A written annual summary of all receipts and expenditures of the Condominium shall be rendered by the Board to all Unit Owners on or before the 15th day of March of each fiscal year.

8.2 Operating Expense Funds. All sums collected by the Association may be commingled in a single account, but they shall be held for the Owners for the purposes for which they are paid, and shall include the following funds:

- (A) General Common Expense Fund - to which shall be credited collection of that portion of the Common Expense Assessments

received for defraying the costs of operating the Condominium on a day-to-day basis, including normal maintenance and repairs, insurance and related charges; and

- (B) Capital Reserve Fund -to which shall be credited, all sums collected which are to be allocated for capital expenditures for the reconstruction, repair and replacement of Common Elements at a future date.

8.3 Records. All books of account and financial records shall be kept in accordance with good and acceptable accounting practices. The Board shall prepare an annual financial statement for all Unit Owners on or before the 15th day of March following the close of each fiscal year.

ARTICLE IX COMPLIANCE, ENFORCEMENT, FINES AND PENALTIES

9.1 Default and Remedies. A default in or failure to comply with any of the terms, conditions, obligations, and provisions of the Act, the Declaration, these Bylaws, the Articles, or the rules and regulations, as the same may be amended from time to time, by any Unit Owner or occupant, shall be grounds for relief that may include, without intending to limit the same or to constitute an election of remedies, an action to recover fines and penalties as determined by the Board, sums due for damages, an injunction, or any combination thereof, and which relief may be sought by the Association, an aggrieved Unit Owner, or by any person or class of persons adversely affected. Also, if any member fails to perform any obligation under the Act, the Declaration, these Bylaws, the Articles or such rules and regulations, then the Association may, but is not obligated to perform the same for the member's account, and for such purpose may enter upon his unit, may make necessary repairs, advance expenses or other sums necessary to cure the default, and for such expenses and costs may levy a special assessment against the unit owned by such defaulting member. The Association also shall be entitled to suspend the right of a defaulting Unit Owner to vote as a member of the Association until the default is cured.

9.2 Notice of Default and Failure to Cure. In the event of any such default or failure, the Board shall serve upon or mail to the defaulting member, and to each first mortgagee of that member's unit if required under the Declaration, a written notice specifying the nature of the default, the cure thereof, and the time within which the cure shall be effected. Within the time lime specified in the notice, the defaulting member may cure the default specified, or serve upon or mail a written notice to the Board requesting a hearing before the Board. If a hearing is so requested, the Board shall thereafter serve upon or mail the defaulting member, and to each such first mortgagee which was entitled to notice of the default as above provided, a notice specifying the time and place for such hearing. AT the hearing, the Board shall take such evidence and hear such testimony as it deems necessary or desirable. The Board shall not exercise any remedies to obtain relief from the default until the hearing is over and the Board has made its determination and served upon or mailed the same to the defaulting member and each such first mortgagee. The hearing may be continued from time as determine by the Board. Upon taking such evidence and

hearing such testimony, the Board, at the hearing or at such later time, shall determine in writing, and at its sole option, to waive the default in whole or in part, to extend the time within which the default may be cured, or to proceed immediately to levy a fine or penalty, or to exercise any one or more of the remedies available to the Board due to such default. The Board shall serve upon or mail to the defaulting member, and to each such first mortgagee which was entitled to notice of the default as above provided, a copy of its determination. If the defaulting member (i) does not cure the default or request a hearing within the time limit specified in the original notice of default given pursuant to this Section, or (ii) so requests a hearing, but fails to cure the default (to the extent not waived by the Board) within the extended time, if any, granted by the Board after hearing, then the Board shall serve upon or mail to the defaulting member, and to each such first mortgagee which was entitled to notice, of the default as above provided, a written notice of such member's failure to effect a cure, and the Board may then proceed to take such action as it deems necessary to obtain relief.

9.3 Remedy of Abatement In Addition To Other Remedies. In the event a member fails to effect the cure specified by the Board within the time period set out in (i) or (ii) of Section 9.2 hereof, whichever is applicable, where the default is a structure, thing, or condition existing in or on the premises of the member's unit, the Board, or its duly authorized representative, shall have the right to enter upon the premises of the member's unit in which, on which, or as to which, such default exists, and summarily to abate and remove, at the defaulting member's expense (and levy an assessment therefore as provided in Section 94.1 hereof), the structure, thing or condition constituting the default, and the Board, the Association, and their agents, employees and representatives shall not thereby be deemed guilty of any manner or trespass.

9.4 Injunction. Any person or class of persons entitled to seek relief for any such default or failure may obtain a temporary restraining order, injunction or similar relief, without first using the procedure established by Section 9.2 hereof, if such default or failure creates an emergency or a situation dangerous to persons or property.

9.5 Recovery of Attorneys' Fees and Costs. In any proceeding arising because of an alleged default by a member, the prevailing party shall be entitled to recover the costs of such proceeding and such reasonable attorneys' fees as may be allowed by the court, with interest thereof at the highest rate allowed by law at the time the costs are incurred until paid.

9.6 Non-waiver of Covenants. The failure of the Association or of any member thereof to enforce any term, provision, right, covenant, or condition that may be granted by the Declaration, these Bylaws, the Articles, the rules and regulations of the Act, as the same may from time to time be amended, shall not constitute a waiver or abrogation of the right of the Association or a member to enforce such term, provision, right, covenant, or condition in the future, irrespective of the number of violations or breaches thereof that may have occurred.

9.7 Assessment Liens. Assessment liens shall be enforced pursuant to Article VII hereof and not pursuant to this Article.

ARTICLE X
AMENDMENTS TO BYLAWS

10.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of a meeting at which a proposed amendment is to be considered.

10.2 Adoption. Any amendment to these Bylaws shall be made and approved in the manner, and shall be subject to the same restrictions as provided in Article XI of the Declaration, and once made, shall become effective when recorded in the same manner and place as an amendment to the Declaration.

10.3 Limitation. No amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to the First Mortgagees without the consent of said First Mortgagees in each instance. No amendment shall be made that is in conflict with the Articles of Incorporation of the Association or Declaration without satisfaction of the requirements therein contained. No amendment to this Section shall be valid.

10.4 Execution. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted as an amendment to the Declaration or Bylaws, which certificate shall be executed by the Chairman and attested by the Secretary.

**ARTICLE XI
MISCELLANEOUS**

11.1 Ad Valorem Taxes. Each Unit shall be deemed to be a separate parcel and shall be separately assessed and taxed. Each Unit Owner shall be liable solely for the amount of tax assessed against their Unit and shall be affected by the consequences resulting from the tax delinquency of other Unit Owners. All tangible personal property owned by the Association in connection with the maintenance, upkeep and repair of the Common Elements shall be listed for said taxes in the name of and paid by the Association. Each Unit Owner is also responsible for their pro rata share of taxes assessed on their portion of the Common Elements, if any.

11.2 Severability. Invalidation of any covenant, condition, restriction or other provision of the Declaration or these Bylaws shall not affect the validity of the remaining portions thereof which shall remain in full force and effect.

11.3 Successors Bound. The rights, privileges, duties and responsibilities set forth in the Declaration or these Bylaws, as amended from time to time, shall run with the ownership of the Condominium Property and shall be binding upon all persons who own or hereafter acquire any interest in the Condominium Property.

11.4 Rules and Regulations.

- (A) By the Board. The Board, including the first Board, may promulgate from time to time such rules and regulations as it deems reasonable and necessary governing the administration, management, operation, and use of the Common Elements so as to promote the common use and enjoyment thereof by Unit Owners and Occupants and for the protection and preservation thereof. In addition, the Board may adopt such rules and regulations as it deems reasonable and necessary with respect to Units to provide for the common good and enjoyment, non-disturbance, privacy and security of all Unit Owners and Occupants, including, without limitation, the right to adopt such rules and regulations with reference to tenants and leases.
- (B) By the Association. Any such rule or regulation adopted by the Board may be amended, modified, or revoked, and new and additional rules and regulations may be adopted, by members at an annual or special meeting of the members. Any such act of the members shall control over any contrary rule or regulation then or thereafter adopted by the Board.
- (C) Uniform Application. All rules and regulations shall be equally and uniformly applicable to all Unit Owners, Occupants and Units, but need not be equally and uniformly applicable if it is determined that such unequal or non-uniform application is in the best interest

of the Association or if equal and uniform application is not practicable.

- (D) Copies Furnished. Copies of all such rules and regulations and any amendments thereto shall be furnished to all members, and a copy shall be posted or otherwise made available to members at the office of the Association. However, failure to furnish, or post, or make available, such rules or regulations shall not affect in any way their validity or enforceability.

CERTIFICATION

I, the undersigned, do hereby certify:

THAT I am the duly appointed and acting secretary of the Monterey Pines Condominium Association, Inc., a North Carolina Corporation, and

THAT the foregoing Bylaws constitute the original Bylaws of said Association.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association, by authority duly given, this ____ day of August, 2001.

MONTERAY PINES ASSOCIATION, INC.

BY: *Robert R. [Signature]*
Secretary

EXHIBIT C
To Declaration

ARTICLES OF INCORPORATION

OF

MONTERAY PINESASSOCIATION, INC.

I, the undersigned, being a natural person of full age, make these Articles of Incorporation for the purpose of forming a nonprofit corporation pursuant to the provisions of Chapter 55A of the North Carolina General Statutes.

ARTICLE I
NAME

The name of the corporation is Monteray Pines Association, Inc.

ARTICLE II
DURATION

The period of duration of the corporation shall be perpetual.

ARTICLE III
PURPOSES

The purposes for which the corporation is organized are:

- a) To provide for the management, maintenance, preservation, administration and operation of Monteray Pines Condominium, a Condominium organized pursuant to Chapter 47C of the North Carolina General Statutes, the North Carolina Condominium Act, as set forth in that certain Declaration of Condominium to be recorded in the Office of the Register of Deeds of Currituck County, North Carolina (the "Declaration").
- b) To promote health, safety and welfare of the "Unit Owners" (as defined in the Declaration) and residents within the jurisdiction of this corporation.

- c) To engage in any and all lawful activities incidental to the foregoing and imposed upon it by the Declaration of Monterey Pines Condominium, and as such Declaration may hereafter be amended.
- d) To conduct such services, duties and functions strictly on a non-profit basis for the mutual benefit of all unit owners of Monterey Pines Condominium.

ARTICLE IV NO PECUNIARY GAIN

This corporation is a nonprofit corporation, and no part of the net earnings (if any) of the corporation shall inure to the pecuniary benefit of its Members (as defined hereinbelow), officers, or directors.

ARTICLE V MEMBERSHIP AND VOTING RIGHTS

Membership in the corporation ("Membership") shall be limited to the Owners of Units (as defined in the Declaration) in Monterey Pines Condominium, and every Owner of a Unit shall automatically be a member (a "Member") of the corporation. Members shall not include persons or entities who hold an interest in a Unit merely as security for the payment of performance of an obligation. Membership in the corporation shall be appurtenant to and may not be separated from Unit Ownership.

The total number of votes of the Membership of the corporation shall be forty-eight (48). Each Member shall be entitled to cast one vote for each Unit owned by such Member equal to the percentage interest in the Common Elements allocated to such Unit by the Declaration. In the event fee simple title to a Unit is owned of record by more than one person or entity, all such persons or entities shall be Members, but the votes with respect to any such jointly owned Unit shall be cast as hereinafter provided.

If the fee simple title to any Unit is owned of record by two or more persons or entities (whether individually or in a fiduciary capacity), the votes with respect to any one of the joint Owners in person or by proxy,

except that the holder or holders of a life estate in a Unit shall have the sole right to cast the votes allocated to the Unit.

In no event may the vote which may be cast with respect to any Unit be divided among joint Owners of the Unit or cast in any manner other than as a whole, it being the intention that there be no "splitting" of votes that may be cast by any Member or Members.

ARTICLE VI
REGISTERED AGENT AND OFFICE

The principal office address and the address of the initial registered office in the State of North Carolina is 824 Malia Drive, Corolla, NC 27927, and the name of the initial registered agent at such address is Robert R. DeGabrielle.

The physical location of the office is 824 Malia Drive, Corolla, NC 27927.

ARTICLE VII
EXECUTIVE BOARD OF DIRECTORS

The affairs of the corporation shall be managed by an Executive Board of no less than three (3) members. The number of members of the Executive Board may be changed from time to time in accordance with the Bylaws of the corporation. The number of persons constituting the initial Executive Board is three (3), and the names and addresses of the persons who are to act as initial directors of the Executive Board until the first annual meeting of the Members or until their successors are elected and qualified are.

<u>Name</u>	<u>Address</u>
Robert R. DeGabrielle	824 Malia Drive Corolla, NC 27927
Laurie DeGabrielle	824 Malia Drive Corolla, NC 27927

Ralph Hayes

824 Malia Drive
Corolla, NC 27927

The Members of the corporation shall elect Members to serve on the Executive Board at the annual meeting, such members of the Executive Board to serve for a term or the terms as set forth in the Bylaws. Members of the Executive Board may succeed themselves in office.

ARTICLE VIII INCORPORATOR

The name and address of the incorporator is: John A. Mauney, Esquire, 2224 S. Croatan Highway, Suite 9, Nags Head, North Carolina, 27959.

ARTICLE IX TAX STATUS

The Corporation shall have all the powers granted non-profit corporations under the laws of the State of North Carolina. Notwithstanding any other provision of these Articles, this Corporation hereby elects tax-exempt status under Section 528 of the Internal Revenue Code of 1986. This Corporation shall not carry on any activities prohibited by a Corporation electing tax-exempt status under Section 528, or any corresponding sections or provisions of any future United States Internal Revenue law. It is further provided that no distributions of income of the Corporation are to be made to members, directors or officers of the corporation; provided, however, that members of the Corporation may receive a rebate of any excess dues and assessments previously paid.

ARTICLE X DISSOLUTION

In the event of dissolution of this corporation, all of its then assets shall be distributed as follows:

The dissolution shall be conducted in compliance with North Carolina General Statutes § 55A-14-01. et.seq., as then amended or supplemented and the assets of the corporation shall be distributed to members of the

corporation pro rata in accordance with their respective interest in the common elements of the condominium property.

IN WITNESS WHEREOF, I, the undersigned incorporator, have hereunto set my hand and seal, this ____ day of August, 2001.

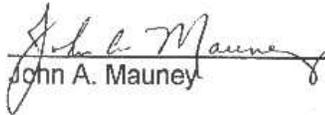
 (SEAL)
John A. Mauney

EXHIBIT D
To Declaration

PERCENTAGE OF INTEREST

The allocations to each Unit of a percentage of undivided interest in the Common Elements, the percentage of the Common Expenses, and of votes in the Association are as hereinafter set forth.

<u>Unit Number</u>	<u>Percentage of Undivided Interest in Common Elements And of Common Expenses</u>	<u>Votes in the Association</u>
1	2.08	1
2	2.08	1
3	2.08	1
4	2.08	1
5	2.08	1
6	2.08	1
7	2.08	1
8	2.08	1
9	2.08	1
10	2.08	1
11	2.08	1
12	2.08	1
13	2.08	1
14	2.08	1
15	2.08	1
16	2.08	1

17	2.08	1
18	2.08	1
19	2.08	1
20	2.08	1
21	2.08	1
22	2.08	1
23	2.08	1
24	2.08	1
25	2.08	1
26	2.08	1
27	2.08	1
28	2.08	1
29	2.08	1
30	2.08	1
31	2.08	1
32	2.08	1
33	2.08	1
34	2.08	1
35	2.08	1
37	2.08	1
38	2.08	1
39	2.08	1
40	2.08	1

41	2.08	1
42	2.08	1
43	2.08	1
44	2.08	1
45	2.08	1
46	2.08	1
47	2.08	1
48	2.08	1

TOTAL VOTES: 48

EXHIBIT E
To Declaration

Liens, Defects and Encumbrances

1. Terms, conditions and restrictions of this Declaration, the Bylaws, the Plans and the Rules and Regulations, as each may be amended from time to time.
2. Unrecorded easements, discrepancies or conflicts in boundary lines, shortages in area and encroachments which an accurate and complete survey would disclose, including easements and encroachments, if any, shown on the Plat and Plans.
3. Easements and restrictions described in Articles II and IV of this Declaration including, but not limited to,
4. Easements in favor of the appropriate utility companies to serve the Property and all appurtenances thereto;
 - (1) easements in favor of the Association and to such persons as authorized by the Association for utility installations within the walls of the Units;
 - (2) an easement in favor of the Declarant, the Association, appropriate utility, sewage disposal and service companies and governmental agencies and authorities for such service lines and equipment as may be necessary or desirable over the Units and Common Elements to serve any portion of the Property;
 - (3) easements reserved by the Declarant through the Common Elements as reasonably for discharging its obligations under this Declaration and completion of construction of the improvements in the Condominium;
 - (4) an easement in favor of the Association, a Unit Owner, the Executive Board or any other person as permitted under the Declaration and Bylaws to inspect, maintain, repair and replace the Common Elements;
 - (5) an easement for the encroachment of improvements upon any Unit or the Common Elements; and
 - (6) the right of the Executive Board of the Association to grant easements encumbering the Common Elements for utility purposes and other purposes the Board deems for the benefit of the Condominium.
5. All general service and utility easements.
6. Restrictions, conditions and covenants set forth in Article IV of the Declaration.

7. Easements, setback lines, and other facts shown on the plat recorded in plat Cabinet G at Slide 175 of the Currituck County Registry, including drainage and utility easements along the rear and side property lines of the Condominium and fifteen (15) foot drainage and utility easement along the front property line of the Condominium property.

8. Terms and conditions of that certain Easement and Agreement to share costs between Ship's Watch, Inc. and Monterey Shores, Inc. recorded in Book 264 at Page 147 of the Currituck County Registry. (See copy of easements and agreement to share costs as set forth below).

EXHIBIT F
To Declaration

MONTERAY PINES CONDOMINIUM
RULES AND REGULATIONS

Updated 5/29/12

In an attempt to provide you with the answers to most of the questions you may have, we have established the Rules and Regulations for Monterey Pines Condominiums. They will help you in keeping Monterey Pines Condominiums an attractive community, along with insuring quite the enjoyment of your condominium. These Rules and Regulations have been designed for the comfort and convenience of our residents. Please be aware that a violation of the Rules and Regulations by tenants/occupants may constitute Non-Compliance and could result in an assessment approved by the board.

1. The grounds, shrubbery and trees are an important part of the community. We ask that you assist us in keeping them attractive by;
 - A. Keeping off the grass in the common areas, as we have an underground sprinkler system and walking on the sprinkler heads will cause them to break.
 - B. Not allowing your children to damage the shrubbery or trees.
 - C. Not throwing paper, debris including cigarettes on the ground.
 - D. Not allowing children's toys, bicycles, etc. to be left outside when not in use.
2. Tenants - No contact paper or wallpaper can be used in your condominium, nor can the condominium be painted a different color. Adhesive shelf paper cannot be put in the cabinets, a charge for removing this will be \$50.00 per hour labor and deducted from your security deposit.
3. You are responsible for the actions of your children, friends and guests at all times. Please conduct your activities so as not to disturb your neighbors with loud noise, music or parties. This rule is in effect at all times but will be strictly enforced between the hours of 11:00 pm and 7:00 am. Unit owners will be notified on noncompliance of the noise ordinance if the police issue a citation or if the security service contracted by Monterey Pines Association, Inc. has documented the incident in their log. There will be one warning given and then further incidents will be subject to a fine of (\$100.00) one hundred dollars per occurrence at the discretion of the board. The security Company completes a security incident report to MPA within 48 hours. The board of directors votes on the action to be taken on the incident report within 48 hours. The management Company responds to the owner within 7 days from the date of the incident for violations pertaining to final warnings or fines.
4. Satellite Dishes are acceptable at this time with the following rules: owners/tenants. Must obtain written approval from Monterey Pines Association, Inc. prior to installation; no holes for wiring to be drilled into the structure of the building. The satellite company must meet with the property manager to

- determine installation and placement of the dish. Repairs to the property will be assessed to the homeowner.
5. A dumpster is provided for trash. It is required by the management that you **BAG YOUR TRASH IN PLASTIC TRASH BAGS, SECURE THE TOP OF THE BAG AND DEPOSIT IT INTO THE DUMPSTER.** This helps eliminate odor and diseases carrying rodents and flies. Flatten your boxes prior to deposit in the dumpster. Trash on the ground will cost you \$100.00 per bag, no exceptions.
 6. Storing **GASOLINE** or other **DANGEROUS MATERIALS** in your condominium or on the premises is **STRICLTY PROHIBITED.**
 7. **ALL TOYS, BICYCLES, SURFBOARDS, RAFTS, BOOGIE BOARDS, ETC.,** must be taken into your condominium and not left on the ground or in the hallways or entranceways. All items left unattended will be disposed of at the discretion of the management company.
 8. **RENTERS INSURANCE** is required. You must obtain a personal property policy and suggest a liability policy. The policy should provide a limit of at least \$100,000 personal liability. In the event a building is damaged by fire, natural disaster or flooding, your personal effects **ARE NOT** covered by the insurance on the building structure. Specific coverage's and higher liability should be purchased to satisfy the resident's individual's needs and requirements.
 9. Kerosene and electric heaters are **STRICTLY PROHIBITED.**
 10. Additional locks or chain locks **CANNOT** be installed on your condominium door. The doors are fiberglass solid core doors and are equipped with a deadbolt lock and peephole.
 11. If a **FIRE** should occur in your condominium, immediately call 911, and then notify the management. Should you have to leave your condominium, leave your door **UNLOCKED (NOT STANDING OPEN)** in order to assist the **FIRE DEPARTMENT** to enter.
 12. No personal or portable **BBQ grills** (neither charcoal nor propane) are allowed on the property anywhere. **NO EXCEPTIONS.**
 13. The hallway in the building is the entrance to your home therefore; you are required to help keep it clean. While we clean the floor and paint the walls, it is up to you to see that it remains clean by:
 - A. Picking up your debris or cleaning up your spills, including your children's or your guest.
 - B. Not putting bags of garbage, trash or boxes in the hall.
 - C. Being careful that furniture, bicycles, toys, etc. do not mar floors or walls.
 - D. Keeping the door to your condominium clean.
 14. The parking lot is for the exclusive use of owners, tenants and guests. Vehicles that are disabled, inoperable have expired plates or inspection stickers, trailers, boats, RV's and commercial vehicles that have not moved for three months will be tagged with a 72 hour parking violation notice and towed at the owners expense if necessary. Neither Monterey Pines Association, Inc. or the property

- management company will be liable for the disposal or damages of the vehicles after they have been towed.
15. Management has the right to enter any condominium during normal business hours without occupant's permission to perform an inspection of the condominium. This may be done any time there is suspected damage or if unsanitary conditions exist.
 16. Tenants & Occupants are responsible for keeping the premises in clean and good condition. For any violation of the following items the tenant/occupant will be charged accordingly. Items to be charged:
 - A. Interior windows must be cleaned
 - B. Kitchen Appliances must be cleaned periodically, inside and floor underneath
 - C. Improper articles must not be flushed down toilets or sinks.
 - D. Shower Curtains / Doors are necessary to contain the water
 - E. Water beds are not permitted
 - F. Tenant / Occupant is responsible for replacement of burned out bulbs
 - G. Tenant / Occupant is responsible for the replacement of fire detector batteries
 - H. Tenant / Occupant may hang curtains / drapes. Sheets, blankets, towels are not acceptable
 - I. Tenants – Only pictures, mirrors, or other items that require a small picture hook may be hung on the walls
 17. The Monterey Pines Condominium speed limit is 5MP
 18. No Pets of any kind are permitted to reside on the property without the express written consent of Monterey Pines Association, Inc. The association has agreed to the following guidelines: that with consent there will be no more than (2) two pets per unit with a size limit not to exceed (25) pounds per pet or (1) pet not to exceed (50) fifty pounds. Exceptions to the guidelines will be made by the sole discretion of the board. Upon consent of the board the homeowner and/or tenant will agree to sign a Pet Exception Contract or consent will be withdrawn. Upon notification from the property manager via e-mail, phone or certified mail to the owner that there is an unauthorized pet on the premises, they have (15) fifteen days to remove the unauthorized pet from the property. Failure to remove such pets will result in a fine of (\$50.00) fifty dollars per day to the owner of the unit. Service Animals for the impaired are the exception.
 19. For safety concerns limit the number of individuals on the balcony to no more than 6 (six).
 20. The restrictions of clothes lines, anything hanging on the railings, and/or any obstruction across the walkways are prohibited.

The following are the Articles of Incorporation of the Association of Monterey Pines Association, Inc.:

ARTICLES OF INCORPORATION

OF

MONTERAY PINES ASSOCIATION, INC.

I, the undersigned, being a natural person of full age, make these Articles of Incorporation for the purpose of forming a nonprofit corporation pursuant to the provisions of Chapter 55A of the North Carolina General Statutes.

ARTICLE I
NAME

The name of the corporation is Monterey Pines Association, Inc.

ARTICLE II
DURATION

The period of duration of the corporation shall be perpetual.

ARTICLE III
PURPOSES

The purposes for which the corporation is organized are:

- e) To provide for the management, maintenance, preservation, administration and operation of Monterey Pines Condominium, a Condominium organized pursuant to Chapter 47C of the North Carolina General Statutes, the North Carolina Condominium Act, as set forth in that certain Declaration of Condominium to be recorded in the Office of the Register of Deeds of Currituck County, North Carolina (the "Declaration").
- f) To promote health, safety and welfare of the "Unit Owners" (as defined in the Declaration) and residents within the jurisdiction of this corporation.

- g) To engage in any and all lawful activities incidental to the foregoing and imposed upon it by the Declaration of Monterey Pines Condominium, and as such Declaration may hereafter be amended.
- h) To conduct such services, duties and functions strictly on a non-profit basis for the mutual benefit of all unit owners of Monterey Pines Condominium.

ARTICLE IV NO PECUNIARY GAIN

This corporation is a nonprofit corporation, and no part of the net earnings (if any) of the corporation shall inure to the pecuniary benefit of its Members (as defined hereinbelow), officers, or directors.

ARTICLE V MEMBERSHIP AND VOTING RIGHTS

Membership in the corporation ("Membership") shall be limited to the Owners of Units (as defined in the Declaration) in Monterey Pines Condominium, and every Owner of a Unit shall automatically be a member (a "Member") of the corporation. Members shall not include persons or entities who hold an interest in a Unit merely as security for the payment of performance of an obligation. Membership in the corporation shall be appurtenant to and may not be separated from Unit Ownership.

The total number of votes of the Membership of the corporation shall be forty-eight (48). Each Member shall be entitled to cast one vote for each Unit owned by such Member equal to the percentage interest in the Common Elements allocated to such Unit by the Declaration. In the event fee simple title to a Unit is owed of record by more than one person or entity, all such persons or entities shall be Members, but the votes with respect to any such jointly owned Unit shall be cast as hereinafter provided.

If the fee simple title to any Unit is owned of record by two or more persons or entities (whether individually or in a fiduciary capacity), the votes with respect to any one of the joint Owners in person or by proxy,

except that the holder or holders of a life estate in a Unit shall have the sole right to cast the votes allocated to the Unit.

In no event may the vote which may be cast with respect to any Unit be divided among joint Owners of the Unit or cast in any manner other than as a whole, it being the intention that there be no "splitting" of votes that may be cast by any Member or Members.

ARTICLE VI
REGISTERED AGENT AND OFFICE

The principal office address and the address of the initial registered office in the State of North Carolina is 824 Malia Drive, Corolla, NC 27927, and the name of the initial registered agent at such address is Robert R. DeGabrielle.

The physical location of the office is 824 Malia Drive, Corolla, NC 27927.

ARTICLE VII
EXECUTIVE BOARD OF DIRECTORS

The affairs of the corporation shall be managed by an Executive Board of no less than three (3) members. The number of members of the Executive Board may be changed from time to time in accordance with the Bylaws of the corporation. The number of persons constituting the initial Executive Board is three (3), and the names and addresses of the persons who are to act as initial directors of the Executive Board until the first annual meeting of the Members or until their successors are elected and qualified are.

<u>Name</u>	<u>Address</u>
Robert R. DeGabrielle	824 Malia Drive Corolla, NC 27927
Laurie DeGabrielle	824 Malia Drive Corolla, NC 27927

Ralph Hayes

824 Malia Drive
Corolla, NC 27927

The Members of the corporation shall elect Members to serve on the Executive Board at the annual meeting, such members of the Executive Board to serve for a term or the terms as set forth in the Bylaws. Members of the Executive Board may succeed themselves in office.

ARTICLE VIII INCORPORATOR

The name and address of the incorporator is: John A. Mauney, Esquire, 2224 S. Croatan Highway, Suite 9, Nags Head, North Carolina, 27959.

ARTICLE IX TAX STATUS

The Corporation shall have all the powers granted non-profit corporations under the laws of the State of North Carolina. Notwithstanding any other provision of these Articles, this Corporation hereby elects tax-exempt status under Section 528 of the Internal Revenue Code of 1986. This Corporation shall not carry on any activities prohibited by a Corporation electing tax-exempt status under Section 528, or any corresponding sections or provisions of any future United States Internal Revenue law. It is further provided that no distributions of income of the Corporation are to be made to members, directors or officers of the corporation; provided, however, that members of the Corporation may receive a rebate of any excess dues and assessments previously paid.

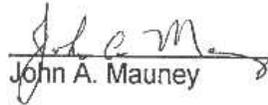
ARTICLE X DISSOLUTION

In the event of dissolution of this corporation, all of its then assets shall be distributed as follows:

The dissolution shall be conducted in compliance with North Carolina General Statutes § 55A-14-01. et.seq., as then amended or supplemented and the assets of the corporation shall be distributed to members of the

corporation pro rata in accordance with their respective interest in the common elements of the condominium property.

IN WITNESS WHEREOF, I, the undersigned incorporator, have hereunto set my hand and seal, this _____ day of August, 2001.

 _____ (SEAL)
John A. Mauney

4.02 Contracts or Leases. There are no copies of contracts or leases that will or may be subject to cancellation by the Association under GS 47C-3-105.

ARTICLE FIVE

MISCELLANEOUS CONSIDERATIONS

- 5.01 Special Closing Costs. At closing, each purchaser of a Unit will not be required to pay additional sums, in order to provide initial operating funds for the Association. There is not a special assessment in addition to other closing costs and assessments.
- 5.02 Liens and Encumbrances. All liens and encumbrances are shown on Exhibit E to the Declaration which is included in Attachment 1 hereto. There is currently an outstanding lien on the Condominium Property with Centura Bank. The Declarant has established release provisions with the bank. The Declarant will obtain a Release Deed releasing the lien of Centura Bank from the Unit at the time of closing on the unit.
- 5.03 Warranties. The Declarant makes no other warranties other than those required specifically by Sections 47C-4-115 and 47C-4-115A of the North Carolina Condominium Act.
- 5.04 Deposits. Any amounts deposited with the Declarant or its agent upon execution of a contract of sale will be placed in an escrow accounts for seven (7) calendar days pursuant to Section 47C-4-108 of the Act, during which time the purchaser has an absolute right to cancel the contract of sale. The escrow agent is: John A. Mauney whose address is: 2224 S. Croatan Highway, Suite 9, Nags Head, NC 27959. Thereafter, amounts deposited will be held in escrow or disbursed pursuant to the terms of the contract of sale for each unit executed by a purchaser.
- 5.05 Insurance. The Association will maintain property and casualty insurance on the buildings which contain the Condominium units and the Common Elements against all risk of direct physical loss, commonly insured against, including fire and extended coverage perils. The property insurance the Association shall maintain will not be less than 80% of replacement cost of the insured property at the time the insurance is purchased. The Association will also maintain liability insurance in reasonable amounts, covering all occurrences commonly insured against, including, but not limited to, death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements. A more particular description of the insurance coverage is as set forth in Article VII of the Declaration.
- 5.06 Land Use and Use Regulations. The Condominium is located in the County of Currituck, North Carolina, which is zoned pursuant to the Unified Development Ordinance of Currituck County.
- 5.07 Alienation of Common Elements. The Common Elements of the condominium may be alienated or conveyed in accordance with Section 47C-3-112 of the North

Carolina Condominium Act, which also allows the Association to borrow funds secured by a lien on the Common Elements or other property owned by the Association.

- 5.08 Warranty Deed. The purchaser of a unit will be given a general warranty deed with the usual and customary covenants of title. Such deed will vest in the owner an undivided fee simple interest in the Common Elements of the Condominium, subject to the terms and provisions of the Declaration, Bylaws of the Association, and easements of record in the office of the Currituck County Register of Deeds affecting the property.
- 5.09 Taxes. From and after closing, all real property taxes assessed by the County of Currituck will be individually assessed to the Unit Owner. The Declarant will be liable for any such taxes accruing during the taxable year before closing occurs. The Declarant and the Unit Owner will prorate the payment of real property taxes.

MONTERAY PINES CONDOMINIUM ASSOCIATION BUDGET

	Annual	Monthly
Administrative Expenses		
Legal	\$ 900	75
Audit	1,400	117
Office Payroll	2,400	200
Telephone	420	35
Misc. Administrative	360	30
Postage	240	20
Office Equipment, Repairs, Maintenance	600	50
Bank Charges	<u>120</u>	<u>10</u>
Total Administrative Expenses:	\$6,440	\$537
Operating Expenses		
Electricity	\$ 4,500	375
Exterminating	1,200	100
Workmen's Compensation	1,150	96
Trash Removal	5,400	450
Grounds Maintenance	1,800	150
Misc. Operating	<u>700</u>	<u>58</u>
Total Operating Expenses:	\$14,750	\$1,229
Maintenance Expenses		
Grounds Upkeep	\$ 8,400	700
Miscellaneous Maintenance Supplies	780	65
Painting and Decorating	1,800	150
Repair Maintenance and Labor	1,200	100
Electrical Maintenance	320	27
Plumbing Maintenance	340	28
Other Maintenance	625	52
Super Payroll	10,000	833
Miscellaneous Expenses	<u>900</u>	<u>75</u>
Total Maintenance Expenses:	\$24,365	\$2,030
Operating Expenses		
Real Estate Taxes Common Area	\$ 2,000	167
Payroll Expenses	3,100	258
Property Insurance	21,376	1,781
Replacement Reserve	12,515	1,043
Capital Expenditures	1,200	100
Miscellaneous Expenses	1,500	125

Employee Benefits	<u>1,200</u>	<u>100</u>
Total Other Expenses:	\$42,891	\$3,574
TOTAL EXPENSES	\$88,446	\$7,370
COST PER ASSOCIATION MEMBER	\$ 1,843	\$ 154

MONTERAY PINES CONDOMINIUM

BALANCE SHEET

Assets:

Real Property Including Improvements	\$4,500,000.00

Total Assets	\$4,500,000.00

Liabilities:

Mortgage Payable (Centura Bank)	\$3,200,000.00

Total Liabilities	\$3,200,000.00
Net Worth (Equity)	\$1,300,000.00

ARTICLE SIX

DECLARANT SERVICES

- 6.01 Declarant Services. There are no services that Declarant provides or expenses that Declarant pays which are not reflected in the budget or which may be expected to become a common expense of the Association. There is therefore no projected common expense assessment attributable to such services.

ARTICLE SEVEN

SPECIAL FEES

- 7.01 Special Closing Costs. At closing, each purchaser of a Unit will not be required to pay additional sums, in order to provide initial operating funds for the Association. There is not a special assessment in addition to other closing costs and assessments.

ARTICLE EIGHT

LIENS ENCUMBRANCES AND DEFECTS

8.01 Liens, Defects, and Encumbrances.

1. Terms, conditions, and restrictions of this Declaration, the Bylaws, the Plans and the Rules and Regulations, as each may be amended from time to time.
2. Unrecorded easements, discrepancies or conflicts in boundary lines, shortages in area and encroachments which an accurate and complete survey would disclose, including easements and encroachments, if any, shown on the Plat and Plans.
3. Easements and restrictions described in Articles III and IV of this Declaration including, but not limited to,
4. Easements in favor of the appropriate utility companies to serve the Property and all appurtenances thereto;
 - (1) easements in favor of the Association and to such persons as authorized by the Association for utility installations within the walls of the Units;
 - (2) an easement in favor of the Declarant, the Association, appropriate utility, sewage disposal and service companies and governmental agencies and authorities for such service lines and equipment as may be necessary or desirable over the Units and Common Elements to serve any portion of the Property;
 - (3) easements reserved by the Declarant through the Common Elements as reasonably necessary for discharging its obligations under this Declaration and completion of construction of the improvements in the Condominium;
 - (4) an easement in favor of the Association, a Unit Owner, the Executive Board or any other person as permitted under the Declaration and Bylaws to inspect, maintain, repair and replace the Common Elements;
 - (5) an easement for the encroachment of improvements upon any Unit or the Common Elements; and
 - (6) the right of the Executive Board of the Association to grant easements encumbering the Common Elements for utility purposes and other purposes the Board deems for the benefit of the Condominium.
5. All general service and utility easements.
6. Restrictions, conditions and covenants set forth in Article IV of the Declaration.

7. Easements, setback lines, and other facts shown on the plat recorded in plat Cabinet G at Slide 175 of the Currituck County Registry, including drainage and utility easements along the rear and side property lines of the Condominium and fifteen (15) foot drainage and utility easement along the front property line of the Condominium property.

8. Terms and conditions of that certain Easement and Agreement to share costs between Ship's Watch, Inc. and Monterey Shores, Inc. recorded in Book 264 at Page 147 of the Currituck County Registry. (See copy of easements and agreement to share costs as set forth below).

300

EASEMENT AND AGREEMENT TO SHARE COSTS

SHIPS WATCH, INC. and MONTERAY SHORES, INC.

THIS AGREEMENT is made and entered into this 21st day of August, 1989, by and between SHIPS WATCH, INC., a North Carolina corporation, 200 North Water Street, Elizabeth City, North Carolina 27909, hereinafter "Ships Watch" and MONTERAY SHORES, INC., a North Carolina corporation, Duck Village Shoppes, Duck Road, Suite 8, Duck, North Carolina 27949, hereinafter "Monteray Shore" (hereinafter the parties may be collectively referred to as "Developers").

RECITALS

1. The parties are owners of or are duly authorized to act on behalf of the owners of certain real estate known as Monteray Shores and Ships Watch subdivisions located in Currituck County, North Carolina (hereinafter referred to as "Service Area") and more fully described in Exhibit 1 attached; and

2. The parties are in the process of developing the Service Area in phases over a period of years into mixed use communities, a proposed description of which is described in Exhibit 2; and

3. The parties have constructed and installed a central water supply, storage and distribution system and a central wastewater collection and treatment system within the initial phases of their respective developments which may require future expansion in order to provide service to dwelling units and commercial spaces to be constructed within the Service Area (said system and expansions hereinafter collectively referred to as "Facilities"); and

4. Based on projections by professional engineers as set out in Exhibit 2, it has been determined that the Monteray Shores subdivision will need approximately seventy-eight

percent (78%) of the wastewater treatment capacity and water supply capacity and the Ships Watch subdivision will need approximately twenty-two percent (22%) of the wastewater treatment capacity and water supply capacity; and

5. The parties have agreed that it would be beneficial to each and to their respective subdivisions to share in the construction and use of the Facilities and to enter into the Water and Sewer System Purchase Agreement attached hereto as Exhibit 3 with Carolina Water Service, Inc., a North Carolina public utility ("Utility"), for said utility to acquire and operate the Facilities as they are completed by the parties; and

6. It is the purpose of this Agreement to set out the terms and conditions agreed to by and between the parties for the mutual construction and use of said Facilities.

For the reasons recited above, and in consideration of the mutual covenants contained herein, the parties agree as follows:

Section I
Scope and Description of Facilities

The Facilities shall be classified as "Joint" facilities and "Separate" facilities, "Joint" facilities being those facilities which will be jointly constructed and utilized by the parties and their respective subdivisions within the Service Area and "Separate" facilities being those facilities which will be separately constructed and utilized by each party in its separate subdivision within the Service Area. The Facilities are shown on Exhibit 4 attached hereto and made a part hereof and shall include and be limited to the following:

(a) Joint Facilities.

(i) Water Supply and Treatment. Developers have constructed and installed twelve (12) wells to have a total capacity of three hundred eighty-one (381) gallons per minute and shall cause to be constructed and installed such additional wells as may be legally and practically feasible in areas

designated on Exhibit 4 as "Well Fields" within the Service Area and facilities to treat water from such wells incorporating chlorine and polyphosphate liquid feed systems and future manganese greensand filtration, if needed, to provide adequate water of suitable quality to meet all current health and environmental standards to all customers within the Service Area in accordance with requirements of the North Carolina Department of Human Resources and all other applicable regulatory authorities.

(ii) Wastewater Treatment and Disposal. Developers have constructed and installed a wastewater treatment plant with a design capacity of one hundred eighty thousand (180,000) gallons per day, as approved by the Department of Natural Resources and Community Development, Division of Environmental Management. At such time as said plant reaches an actual capacity of eighty percent (80%) of design capacity, Developers shall construct and install for future use by the Service Area an addition to the wastewater treatment plant with a design capacity of an additional one hundred eighty thousand (180,000) gallons per day, as approved by the Department of Natural Resources and Community Development, Division of Environmental Management. At any point in time, the capacity of the wastewater treatment facilities shall be sufficient to meet all treatment and effluent limits and criteria for which it was designed as required by the North Carolina Department of Natural Resources and Community Development and all other applicable Federal, state and local authorities and Developers, their successors and assigns, will use their best efforts to insure that such capacity is available. Developers will also provide certain land for disposal of treated effluent which land is more particularly described in Exhibit 4. Ownership of said land will be retained by Developers, and leased by Utility while it is providing wastewater treatment service within the Service Area. A copy of said lease is attached hereto as Exhibit 5 and reference is made to said exhibit for the terms and

conditions contained therein.

(iii) Water Storage Facilities. Developers have constructed and installed, and shall cause to be constructed and installed for future development phases within the Service Area, sufficient water storage facilities to provide adequate water service (in accordance with all applicable governmental standards) to all dwelling units and commercial spaces to be constructed within the Service Area. Developers shall further construct and install, if reasonably necessary, an elevated storage tank to meet the requirements of the North Carolina Department of Human Resources, Division of Health Services.

(iv) Joint Water Distribution Facilities. Developers have constructed and installed, and shall cause to be constructed and installed as needed, raw water lines from the wells located in the Ships Watch subdivision and the Monterey Shores subdivision properties to the water treatment plant and a treated water distribution main from the treatment Plant to the Ships Watch subdivision property. These mains shall meet all requirements of the North Carolina Department of Human Resources, Division of Health Services.

(v) Joint Wastewater Collection Facilities. Developers have constructed and installed, and shall cause to be constructed and installed, a wastewater collection main from the wastewater treatment plant to the boundary line between the Ships Watch subdivision and the Monterey Shores subdivision Properties. This main shall be of sufficient size to service both subdivisions and shall meet all requirements of the North Carolina Department of Natural Resources and Community Development Division of Environmental Management.

(b) Separate Facilities.

(1) Separate Water Distribution Facilities. Each Developer has constructed and installed, and shall cause to be constructed and installed for future development phases in its respective subdivision within the Service Area, all necessary water distribution facilities, including water mains, valves,

service lines and hydrants required to distribute adequate water service (in accordance with North Carolina Department of Human Resources, Division of Health Services) to all dwelling units and commercial spaces to be constructed in each subdivision within the Service Area. Water distribution mains will have a minimum diameter of six inches (6"), except in cul-de-sacs, where two inch (2") mains may be installed.

(ii) Separate Wastewater Collection Facilities. Each Developer has constructed and installed, and shall cause to be constructed and installed for future development phases in its respective subdivision within the Service Area, all necessary wastewater collection facilities, including conventional gravity and force mains, valves, service lines, lift stations and manholes required to provide adequate wastewater service (in accordance with North Carolina Department of Natural Resources and Community Development standards) to all dwelling units and commercial space to be constructed in each subdivision within the Service Area.

Section II
Conduct of Agreement

The parties shall be responsible only for the construction and installation of the Joint and Separate Facilities located within their respective subdivisions. All construction of and expansions to the Facilities will be in conformity with the design and specifications of the Facilities currently constructed and installed and shall be in conformance with all applicable governmental standards. The parties agree to submit all plans and specifications for Joint Facilities to the other party for review prior to starting construction of said expansions and no construction will start on said expansions without the written consent of both parties. In the event such mutual written consent cannot be obtained within a reasonable time after plans and specifications are submitted for approval, the parties shall submit the dispute to arbitration as provided in Section XII hereof.

All materials shall be new and suitable for the uses made thereof and conform to all governmental standards. All construction will be in conformance with the approved plans and specifications and each party shall guarantee to the other the construction, materials, and workmanship of the Facilities such party is responsible for constructing within its subdivision for six (6) months after completion of each phase or section, reasonable wear and tear excepted.

Failure by either party, its successors or assigns, to construct and install Facilities in the manner set forth herein shall entitle the other party, its successors or assigns, to act in accordance with Section VII hereof to insure the construction and completion of said Facilities.

Section III
Sharing of Costs

According to projections by professional engineers as more particularly described in Exhibit 2, the Monterey Shores subdivision will ultimately need seventy-eight percent (78%) of the wastewater treatment and water capacity while the Ships Watch subdivision will ultimately need twenty-two percent (22%) of said wastewater treatment capacity and water capacity. The parties have therefore agreed that Ships Watch shall contribute twenty-two percent (22%) of the estimated construction costs of each phase for the Joint Facilities and Monterey Shores shall contribute seventy-eight percent (78%) of the estimated construction costs of each phase for the Joint Facilities subject to modification of said percentages in accordance with Section IV hereof. The parties further agree that each will contribute the same 22/78 percentage to the operating costs of the Joint Facilities, if any, with said percentages of the operating costs to be adjusted on a monthly basis according to the actual metered water usage by each party and its respective subdivision.

"Construction costs," as used herein, shall include, but not be limited to, the following items as they specifically

relate to the construction and installation of the Joint Facilities and the preparation of pertinent agreements therefor: building costs; legal, financial and accounting fees during construction and installation; well drilling costs; engineering and surveying fees; water or environmental studies and reports; and equipment costs.

"Operating costs," as used herein, shall include, but not be limited to, the following as they specifically relate to the operation of the Joint Facilities and the preparation of pertinent agreements therefor: utilities; licensing or permit fees; administrative costs; taxes; chemicals; labor; insurance; legal, financial, and accounting fees during operation; supplies; and any other costs incurred in the normal and usual operation of said facilities necessary for the continued proper functioning of said facilities on an ongoing basis.

Section IV
Adjustment of Sharing of Costs

The Joint Facilities will be constructed in two (2) general phases, Phase I of which is completed and consists of water supply and treatment facilities to provide one hundred eighty thousand (180,000) gallons of water per day and wastewater treatment facilities to properly handle one hundred eighty thousand (180,000) gallons of effluent per day. Phase II shall be constructed in the future and shall consist of water supply and treatment facilities (including, but not limited to, wells, storage tanks, and water lines from wells to the water treatment facilities) to provide an additional one hundred eighty-thousand (180,000) gallons of water per day and wastewater treatment facilities to properly handle an additional one hundred eighty thousand (180,000) gallons of effluent per day. Upon the completion of Phase II by the parties, engineering studies will determine the Joint Facilities' usage requirements for the subdivision of each party. Should said studies indicate a percentage allocation different from the 22%/78% cost allocation, the parties agree to correct and

settle the differences between themselves by payments from one party to the other as necessary in accordance with the terms and conditions of Section V herein.

However, in no event shall either party be entitled to increase or decrease its percentage of allocation above or below the 22%/78% split unless the other party has agreed to same in writing.

Section V
Records and Accountings

Each party shall maintain or cause to be maintained a complete set of records and statement of accounts concerning the construction, installation and operation of the Joint Facilities for which such party is responsible within its subdivision, together with all legal and accounting records and statements associated therewith, in which books shall be entered, fully and accurately, each transaction pertaining to the Joint Facilities for which such party is responsible. Each Party shall report to the other party its costs as hereinbefore defined in Section III hereof for the construction, installation and operation of the Joint Facilities in its subdivision within the Service Area on a monthly basis on or before August 20, 1989, and on the first day of each month thereafter. The parties shall then pay or collect, as the case may be, on or before the 20th of each month beginning August 20, 1989, from the other party any costs owing to or payable by it according to Section III hereof as same may be adjusted in accordance with Section IV. Any party which fails to pay to the other party any payment on or before the 20th of the month in which such payment becomes due shall incur an interest penalty in the amount of 1% per month accruing from the 20th day of the month in which such payment becomes due, said interest to be paid to the party who is owed said payment. All books of each party will be inspected and examined, if so desired, on a monthly basis by the other party or its agents.

Section VI
Bond to Secure Construction and Development of Facilities

The parties agree that concurrent with the execution of this Agreement, each will post bond or Letter of Credit, in a form acceptable to the other party, in favor of the other party, in an amount equal to each party's prorata share of the total projected costs of construction, installation and development of Phase II of the Joint Facilities which are \$1,666,667.00 as of the date of this agreement, as may be more fully described on Exhibit 6) to ensure the faithful performance of each party under this Agreement. If a property bond is submitted by either Party, the property must be unencumbered, the value of said property bond must be mutually agreed upon by both parties, and the property bond shall be in an amount equal to or greater than one hundred percent (100%) of that party's prorata share of the total projected costs of the construction, installation and development of the Joint Facilities. Said bonds or portions thereof may be released as phases are completed by the mutual written agreement of the Parties.

Section VII

Default

In the event of default by either party, its successors or assigns, under any of the terms and conditions contained herein, and upon the failure of the defaulting party to cure said default after ten (10) days written notice from the non-defaulting party, the non-defaulting party, its successors or assigns, shall have the right to call on the defaulting party's bond or other security and to use said funds or security to complete the defaulting party's duties and obligations under this Agreement.

In addition to the above, and not in the alternative, the non-defaulting party may perform the defaulting party's duties hereunder and charge all costs incurred by the non-defaulting party against the defaulting party, which costs may then be recovered by suit at law or in equity, as

necessary, by the non-defaulting party.

In the event of said default, the non-defaulting party shall have the right to enter upon the property of the defaulting party pursuant to Section X hereof and to perform said defaulting party's obligations and shall further be entitled to defaulting party's manuals, as built drawings, and all other information reasonably required with respect to the construction, operation, maintenance and repair of the Joint Facilities as to allow non-defaulting party to perform defaulting party's obligations.

The remedies provided for in this Section VII shall be in addition to, and not in limitation of, any other remedies, including, but not limited to, specific performance or damages, any non-defaulting party may have. In any action at law or in equity between the parties occasioned by a default hereunder, the prevailing party shall be entitled to collect its reasonable attorney's fees actually incurred in the action from the non-prevailing party.

"Default" shall include any unexcused delay in performance or nonperformance by any party hereto of any duty or obligation hereunder and shall also specifically include, without limitation, the following:

(a) Should either party make a general assignment for the benefit of creditors, or admit in writing its inability to pay its debts as they become due, or file a petition in bankruptcy, or be adjudicated a bankrupt or insolvent, or file a petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, or file an answer admitting or not contesting the material allegations of a petition against it in any such proceeding, or seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of such party or any material part of its properties; or

(b) Within sixty (60) days after the commencement of

any proceeding against either party seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, such proceeding shall not have been dismissed, or if, within sixty (60) days after the appointment without the consent or acquiescence of such party, of any trustee, receiver or liquidator of such party or of any material part of its properties, such appointment shall not have been vacated.

Section VIII
Indemnifications

To the fullest extent permitted by law, Ships Watch shall indemnify and hold harmless Monterey Shores, its officers, directors, shareholders and agents from and against all claims, damages, losses, and expenses, including, but not limited to, attorney's fees, arising out of, resulting from, or in any way related to any misrepresentation or breach of any representation, warranty or agreement by Ships Watch or related to the performance of any construction and installation of the Joint Facilities by Ships Watch, its agents, employees, or others acting under Ships Watch's supervision and control. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Section.

To the fullest extent permitted by law, Monterey Shores shall indemnify and hold harmless Ships Watch, its officers, directors, shareholders and agents from and against all claims, damages, losses, and expenses, including, but not limited to, attorney's fees, arising out of, resulting from, or in any way related to any misrepresentation or breach of any representation, warranty or agreement by Monterey Shores or related to the performance of any construction and installation of the Joint Facilities by Monterey Shores, its agents, employees, or others acting under Monterey Shores' supervision

and control. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Section.

Section IX
Damage or Destruction of Joint Facilities

Immediately after damage or destruction by fire or other casualty to all or any part of any of the Joint Facilities to which either party hereto has title, the party having such title shall proceed with the filing, adjustment and negotiation of all claims arising under any applicable insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Joint Facilities. "Repair or reconstruction," as used in this Section, means repairing or restoring the Joint Facilities to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

Any damage or destruction to such Joint Facilities shall be repaired or reconstructed as soon as practicable after the occurrence of the damage or destruction, but in any event such repair or reconstruction shall commence within sixty (60) days after the occurrence of the damage or destruction; provided, however, if for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available within said period, then the period for commencement of repair and reconstruction shall be extended until such information shall be made available, but such extension shall not exceed sixty (60) additional days.

If insurance proceeds are not sufficient to defray the cost of repair or reconstruction of any Joint Facilities, such repair or reconstruction shall be completed and the parties hereto shall share the cost to complete said repair or

reconstruction in the same ratio as set forth in Section III hereof.

Section X
Easements and Rights of Way

Each party, on behalf of itself, its successors and assigns, hereby grants to the other party, its successors, assigns and employees, an easement or right of way for ingress, egress and regress over that portion of such party's subdivision within the Service Area described in Exhibit 1 which is necessary for the purpose of constructing, inspecting and maintaining the Joint Facilities planned, constructed and installed by the other party and for the purpose of carrying out any necessary action permitted under Section VII hereof.

Section XI
Assignments and Transfers

Neither party shall assign or transfer his rights or duties under this Agreement without the express written consent of the other party except as to any assignment by a party of its rights hereunder to the designated owners association for its respective subdivision within the Service Area. Any transfer or assignment however, including one to such owners association, made without the consent of the other party shall not relieve the transferrer or assignor of its duties or obligations under this Agreement. Any transfer or assignment made with the consent of the other party shall relieve the transferrer or assignor of its duties and obligations hereunder.

Section XII
Arbitration

The parties declare that the terms of this Agreement are controlling as to each of them. Any matter in dispute or any matter which is not provided for in this Agreement, shall, if the parties cannot agree otherwise, be decided by a judicial arbitration proceeding in accordance with the Order labeled Exhibit 7 attached hereto and made a part hereof. Such arbitration shall be the exclusive method of resolving

differences and disputes between the parties, except as to defaults hereunder, which are governed by Section VII hereof. The decision or award rendered in any arbitration proceeding shall be final and binding upon the parties without benefit of appeal even as to matters of law, and may, if necessary, be enforced by any court of competent jurisdiction.

Section XIII
Governing Law

This Agreement shall be governed by and constructed in accordance with the laws of the State of North Carolina.

Section XIV
General

(a) Entire Agreement. This Agreement embodies the entire agreement between the parties and cannot be waived or amended except by written instrument executed by all parties hereto. Neither party has been induced by or relied upon any information, representation, warranties or statements, whether oral or written, express or implied, made by the other party or any other person representing or purporting to represent such other party which are not expressly set forth or provided for in this Agreement.

(b) Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be an original, and such counterparts shall together constitute but one and the same instrument.

(c) No Waiver. Failure of either party to insist upon compliance with any provision hereof shall not constitute a waiver of the rights of such party to subsequently insist upon compliance with that provision or any other provision of this Agreement.

(d) Captions. Titles or captions of sections contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of

any provision hereof.

(e) Construction of Agreement. Both Ships Watch and Monterey Shores acknowledge that they have read, understand and have had the opportunity to be advised by legal counsel as to each and every one of the terms, conditions, restrictions, and the effect of all the provisions of this Agreement and each Party hereto agrees to the enforcement of any and all of these provisions and executes this Agreement with full knowledge of these. Should any provision of this Agreement require judicial interpretation, it is agreed that the court interpreting or construing the provisions shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent prepared the document. Typewritten or handwritten provisions inserted in this Agreement which are initialed by the parties shall control over all printed provisions of this Agreement in conflict therewith.

(f) Time of Essence. Time is of the essence for this Agreement.

(g) Force Majeure. Either party hereto shall be excused for the period of delay in the performance of any obligations hereunder when such delay is occasioned by cause or causes beyond the control of the party whose performance is so delayed and the time for performance shall be automatically extended for a like period. Such causes shall include, without limitation: all labor disputes; civil commotion; war; warlike operations; sabotage; governmental or judicial regulations, legislation, or controls; inability to obtain any necessary materials or services; or acts of God.

(h) No Joint Venture. It is hereby acknowledged by both Ships Watch and Monterey Shores that the relationship between them created hereby is not intended to be and shall not in any way be construed to be that of a partnership, joint venture, or principal and agent. It is hereby further

acknowledged that any control exercised by either party with respect to any property within the Service Area or any documents or matters related thereto is solely for the purpose of protecting the party taking such control. Any approval or consent granted by either party pursuant to this Agreement is solely for the benefit of the party giving such approval or consent and no person or entity may rely upon such approval or consent for any other purpose.

Section XV
Term

The initial term of this Agreement shall be for twenty (20) years from the date first shown above. This Agreement may be extended thereafter for successive periods of five (5) years by instrument in writing signed by the parties hereto, their successors or assigns, agreeing to such extension (and to any modification of the terms hereof such parties may desire, if any) and such instrument shall be recorded in the public records of Currituck County, North Carolina. This Agreement also may be terminated by the mutual written consent of the Parties hereto. Should this Agreement terminate or be terminated in any manner permitted hereunder, an instrument in writing signed by the parties hereto effecting such termination shall be recorded in the public records of Currituck County, North Carolina.

[CONTINUED]

IN WITNESS WHEREOF, each of the parties hereto have executed or caused its duly authorized officer or representatives to execute this Agreement, as of the date and Year first above written.

-Corporate Seal-
Attest:
Cassie Coburn
Secretary - Assistant

SHIPS WATCH, INC.
By: [Signature]
President

-Corporate Seal-
Attest:
[Signature]
Secretary
STATE OF NORTH CAROLINA
COUNTY OF ROBERTSON

MONTERAY SHORES, INC.
By: [Signature]
President

I, a Notary Public of the County and State aforesaid, certify that Cassie Coburn personally came before me this day and acknowledged that (s)he is Secretary of Ships Watch, Inc., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by [Signature] as its Secretary. (Coast)

Witness my hand and official stamp or seal, this 18th day of August, 1989.

My commission expires: December 6, 1992

[Signature]
Notary Public

STATE OF NORTH CAROLINA
COUNTY OF

I, a Notary Public of the County and State aforesaid, certify that MIKE PERKINS Personally came before me this day and acknowledged that (s)he is Secretary of Monteray Shores, Inc., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by [Signature] as its Secretary.

Witness my hand and official stamp or seal, this 21st day of August, 1989.

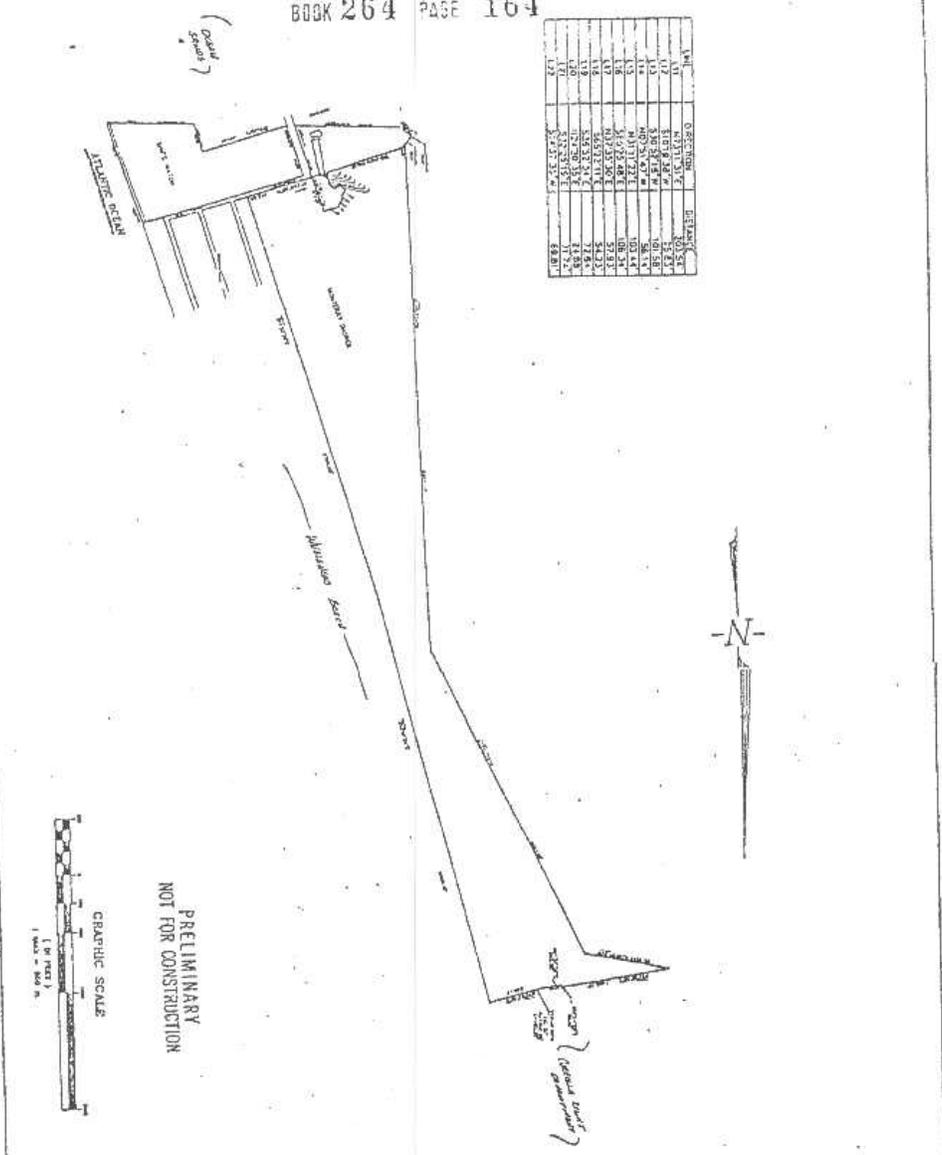
My commission expires: 11/19/89

[Signature]
Notary Public

sharecos.seh

CAROL L. DORSCH
NOTARY
PUBLIC
DARE COUNTY, N.C.

LINE	BEARING	DISTANCE	AREA
1	N 89° 58' 00" W	100.00	100.00
2	S 89° 58' 00" E	100.00	100.00
3	S 89° 58' 00" E	100.00	100.00
4	N 89° 58' 00" W	100.00	100.00
5	N 89° 58' 00" W	100.00	100.00
6	S 89° 58' 00" E	100.00	100.00
7	S 89° 58' 00" E	100.00	100.00
8	N 89° 58' 00" W	100.00	100.00
9	N 89° 58' 00" W	100.00	100.00
10	S 89° 58' 00" E	100.00	100.00
11	S 89° 58' 00" E	100.00	100.00
12	N 89° 58' 00" W	100.00	100.00
13	N 89° 58' 00" W	100.00	100.00
14	S 89° 58' 00" E	100.00	100.00
15	S 89° 58' 00" E	100.00	100.00
16	N 89° 58' 00" W	100.00	100.00
17	N 89° 58' 00" W	100.00	100.00
18	S 89° 58' 00" E	100.00	100.00
19	S 89° 58' 00" E	100.00	100.00
20	N 89° 58' 00" W	100.00	100.00
21	N 89° 58' 00" W	100.00	100.00
22	S 89° 58' 00" E	100.00	100.00
23	S 89° 58' 00" E	100.00	100.00
24	N 89° 58' 00" W	100.00	100.00
25	N 89° 58' 00" W	100.00	100.00
26	S 89° 58' 00" E	100.00	100.00
27	S 89° 58' 00" E	100.00	100.00
28	N 89° 58' 00" W	100.00	100.00
29	N 89° 58' 00" W	100.00	100.00
30	S 89° 58' 00" E	100.00	100.00
31	S 89° 58' 00" E	100.00	100.00
32	N 89° 58' 00" W	100.00	100.00
33	N 89° 58' 00" W	100.00	100.00
34	S 89° 58' 00" E	100.00	100.00
35	S 89° 58' 00" E	100.00	100.00
36	N 89° 58' 00" W	100.00	100.00
37	N 89° 58' 00" W	100.00	100.00
38	S 89° 58' 00" E	100.00	100.00
39	S 89° 58' 00" E	100.00	100.00
40	N 89° 58' 00" W	100.00	100.00
41	N 89° 58' 00" W	100.00	100.00
42	S 89° 58' 00" E	100.00	100.00
43	S 89° 58' 00" E	100.00	100.00
44	N 89° 58' 00" W	100.00	100.00
45	N 89° 58' 00" W	100.00	100.00
46	S 89° 58' 00" E	100.00	100.00
47	S 89° 58' 00" E	100.00	100.00
48	N 89° 58' 00" W	100.00	100.00
49	N 89° 58' 00" W	100.00	100.00
50	S 89° 58' 00" E	100.00	100.00
51	S 89° 58' 00" E	100.00	100.00
52	N 89° 58' 00" W	100.00	100.00
53	N 89° 58' 00" W	100.00	100.00
54	S 89° 58' 00" E	100.00	100.00
55	S 89° 58' 00" E	100.00	100.00
56	N 89° 58' 00" W	100.00	100.00
57	N 89° 58' 00" W	100.00	100.00
58	S 89° 58' 00" E	100.00	100.00
59	S 89° 58' 00" E	100.00	100.00
60	N 89° 58' 00" W	100.00	100.00
61	N 89° 58' 00" W	100.00	100.00
62	S 89° 58' 00" E	100.00	100.00
63	S 89° 58' 00" E	100.00	100.00
64	N 89° 58' 00" W	100.00	100.00
65	N 89° 58' 00" W	100.00	100.00
66	S 89° 58' 00" E	100.00	100.00
67	S 89° 58' 00" E	100.00	100.00
68	N 89° 58' 00" W	100.00	100.00
69	N 89° 58' 00" W	100.00	100.00
70	S 89° 58' 00" E	100.00	100.00
71	S 89° 58' 00" E	100.00	100.00
72	N 89° 58' 00" W	100.00	100.00
73	N 89° 58' 00" W	100.00	100.00
74	S 89° 58' 00" E	100.00	100.00
75	S 89° 58' 00" E	100.00	100.00
76	N 89° 58' 00" W	100.00	100.00
77	N 89° 58' 00" W	100.00	100.00
78	S 89° 58' 00" E	100.00	100.00
79	S 89° 58' 00" E	100.00	100.00
80	N 89° 58' 00" W	100.00	100.00
81	N 89° 58' 00" W	100.00	100.00
82	S 89° 58' 00" E	100.00	100.00
83	S 89° 58' 00" E	100.00	100.00
84	N 89° 58' 00" W	100.00	100.00
85	N 89° 58' 00" W	100.00	100.00
86	S 89° 58' 00" E	100.00	100.00
87	S 89° 58' 00" E	100.00	100.00
88	N 89° 58' 00" W	100.00	100.00
89	N 89° 58' 00" W	100.00	100.00
90	S 89° 58' 00" E	100.00	100.00
91	S 89° 58' 00" E	100.00	100.00
92	N 89° 58' 00" W	100.00	100.00
93	N 89° 58' 00" W	100.00	100.00
94	S 89° 58' 00" E	100.00	100.00
95	S 89° 58' 00" E	100.00	100.00
96	N 89° 58' 00" W	100.00	100.00
97	N 89° 58' 00" W	100.00	100.00
98	S 89° 58' 00" E	100.00	100.00
99	S 89° 58' 00" E	100.00	100.00
100	N 89° 58' 00" W	100.00	100.00



PRELIMINARY
NOT FOR CONSTRUCTION



BA BISSSELL ASSOCIATES ENGINEERS, ARCHITECTS & SURVEYORS KILL DEVIL HILLS, N.C. RALEIGH, N.C.	MONTERAY SHORES EXHIBIT NO. _____ POPPAX BIKANHOI CONSTRUCTION CO. NORTH CAROLINA SERVICE AREA
	REVISIONS NO. DATE BY _____ _____ _____

Ba

OUR NO. 1 TRAC 270
BISSELL ASSOCIATES

1-1754

ENGINEERS, PLANNERS & SURVEYORS

April 19, 1988

"Exhibit 2"

Mr. J. Timothy Thornton
Ships Watch, Inc.
P.O. Box 217
Elizabeth City, North Carolina 27909

RE: Currituck Water and Sewer Corporation
Estimate of Wastewater Requirements

Dear Mr. Thornton:

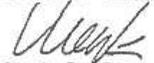
We have analysed projected needs of the Ships Watch Currituck development, and allocated a total of 72,000 gallons per day to Ships Watch from the 360,000 gallon combined wastewater treatment facility. This wastewater treatment capacity was allocated as follows:

140 Residential Connections:	56,000 gpd
150 Seat Restaurant:	6,000 gpd
Sports Complex, including Snack Bar:	5,000 gpd
25,000 Square Feet of Retail Space:	3,000 gpd
Misc. Food Services (50 seats):	2,000 gpd
Total Allocated Usage:	72,000 gpd

We realize that your plans for the commercial portion of this project are still in the formation stage, and there is some room to juggle capacity between the various uses. Please let me know if you feel that the proposed development plan will be significantly different than that outlined above, so that we can make adjustments as necessary.

We look forward to continuing to work with you towards completion of these joint water and sewer facilities.

Very truly yours,
BISSELL ASSOCIATES


Mark S. Bissell, P.E.

Kitty Dunes Professional Center
4 1/2 Milepost - 158 Bypass
P.O. Box 1334, Hill Devil Hills, N.C. 27948
(919) 261-3266

Bm

ENGINEERS, PLANNERS & SURVEYORS

April 19, 1988

"exhibit 2"

Mr. Bob DeGabrielle
Monteray Shores, Inc.
Suite B, Duck Village Shoppes
Duck, North Carolina 27949

RE: Currituck Water and Sewer Corporation
Estimate of Wastewater Requirements

Dear Mr. DeGabrielle:

We have analysed projected needs of the Monteray Shores development, and allocated a total of 288,000 gallons per day to Monteray Shores from the 360,000 gallon combined wastewater treatment facility. This wastewater treatment capacity was allocated as follows:

608 Residential Connections:	243,200 gpd
Recreation Center:	3,000 gpd
2 Restaurants @ 200 Seats Each:	16,000 gpd
Misc. Food Services (100 seats):	4,000 gpd
120,000 S.F. Retail Space:	14,400 gpd
37,000 S.F. Office/Bank/Misc.:	7,400 gpd
Total Allocated Usage:	288,000 gpd

We realize that your plans for the commercial portion of this project are still in the formation stage, and there is some room to juggle capacity between the various uses. Also, the residential allocation is based on a standard 400 gallons per day per dwelling, the North Carolina standard. A high concentration of unusually large homes could increase the per unit allocation.

Please let me know if you feel that the proposed development plan will be significantly different than that outlined above, so that we can make adjustments as necessary.

We look forward to continuing to work with you toward completion of these joint water and sewer facilities.

Very truly yours,
BISSELL ASSOCIATES

Mark S. Bissell, P.E.

Agreed on 78%/22% ownership

Hitty Dunes Professional Center
4 1/2 Milepost - 158 Bypass
P.O. Box 1334, Hill Devil Hills, N.C. 27948
(919) 261-3200

Exhibit 3

Water and Sewer System Purchase Agreement

Main Facilities Purchase Agreement/Utility System Operation Agreement between Monterey Shores, Inc. and Ships Watch, Inc. (Developers) and Carolina Water Service, Inc. of North Carolina, a North Carolina corporation (Utility) and Utilities, Inc., a Delaware corporation (Guarantor) dated November 15, 1988 wherein certain facilities and the right to use certain facilities located in Monterey Shores Subdivision and Ships Watch Subdivision located in Currituck County, North Carolina, are granted by Developers to Utility, which agreement is made a part hereof by reference.

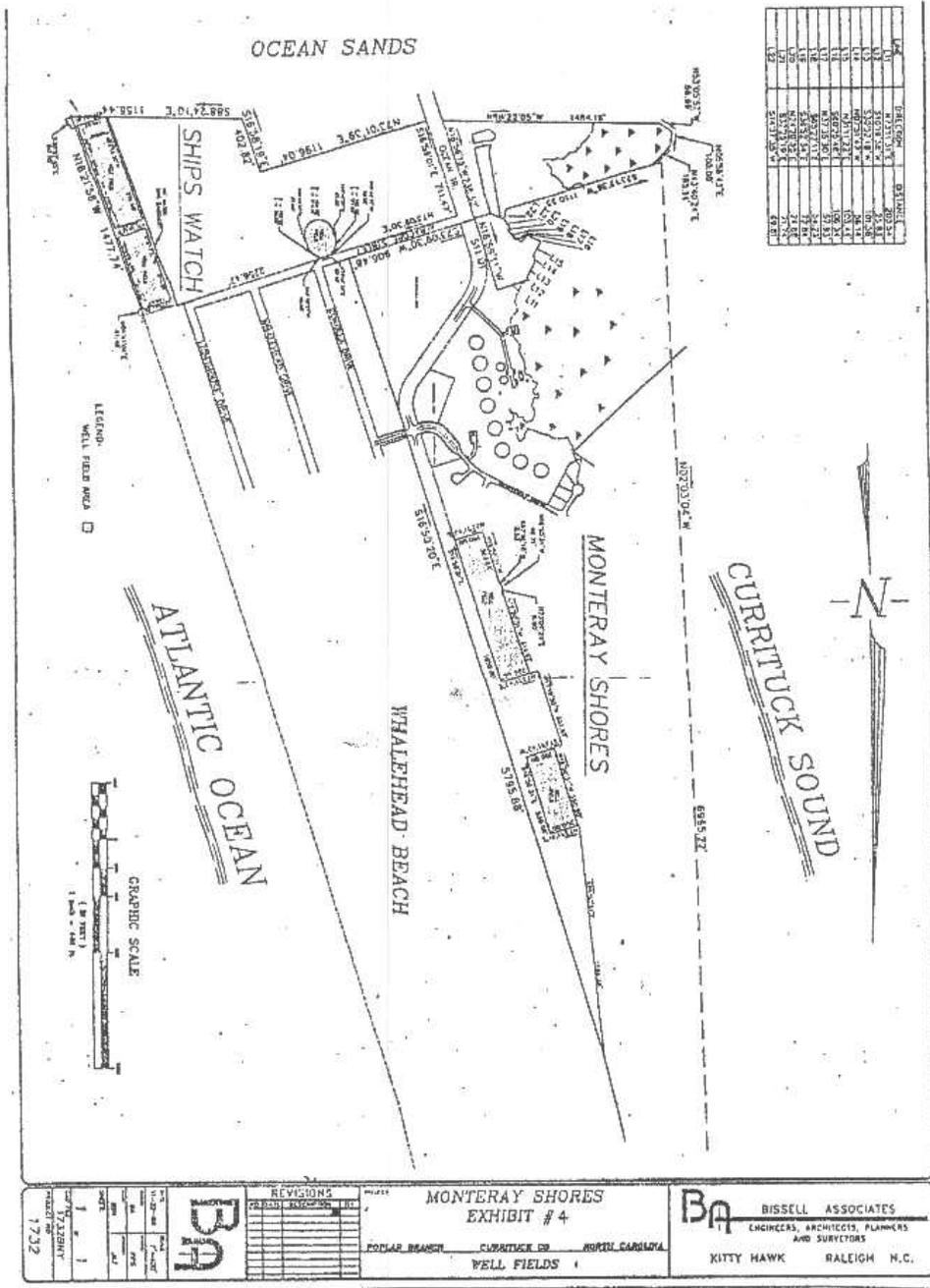


Exhibit 5

Ground Lease

Lease Agreement dated November 15, 1988, by and between Monterey Shores, Inc. and Ships Watch, Inc. (Landlord) and Carolina Water Service, Inc. of North Carolina, a North Carolina corporation (Tenant), which agreement sets out the terms and conditions of the lease of certain properties situate in subdivisions of Landlord and on which property are located a central water supply, storage and distribution system and a central wastewater collection and treatment system (said systems and expansions thereof collectively referred to as "Facilities"), which lease agreement is made a part hereof by reference thereto.



August 18, 1989

Mr. Bob DeGabrielle
Mr. Mike Beacham
Monteray Shores
c/o Duck Village Shops, Suite 8
Duck, NC 27949

RE: Cost for Construction of Phase II of
Joint Water and Waste Water Treatment
Facilities'

Dear Bob and Mike:

Thank you for your letter of August 18, 1989 discussing the cost for the construction of these facilities. It's my understanding that the estimated cost to complete phase II of the joint water and sewer facilities are as follows. You have estimated that based on information at your disposal at this time that the completion of the water treatment plant and facilities will cost approximately \$991,320.00. This includes expansion of the existing facilities as well as all supply wells, electrical work, miscellaneous piping, the elevated water storage tank, and all miscellaneous items involved in testing and start up of the facilities. The estimate of the cost to complete the waste water treatment plant and related facilities comes to \$712,870.00. This includes the main plant facilities, electrical work, hook-ups, rotary distributors, and testing and start up. We have agreed that these numbers are close to reality however, they are subject to final design specifications of the actual equipment to be erected and installed.

Since there are a number of variables remaining in the cost projection process, we have agreed that \$1,666,667.00 is a realistic projection for the construction of the facilities outlined in the above paragraph. Based on our agreement of the \$1,666,667.00 projected cost, we have further agreed to provide



August 18, 1989
Page 2

property bonds in our respective proportions to total that amount to insure funds are available to complete the construction of phase II per our agreement. If there is any misunderstanding concerning this communication, please do not hesitate to contact me.

Best regards,



Tim Thornton, President
Ships Watch, Inc.

TT/lc

9. That Deed of Trust from Southpaw BVI, LLC to CB Services Corp., Trustee for Centura Bank recorded in Book 508 at Page 304 of the Currituck County Registry, for which provisions have been made for a Release from said Deed of Trust upon the sale of any Condominium Unit. (See Deed of Trust set forth below).

Prepared By: Daniel D. Khoury, Attorney Mail To: Vandeventer Black, LLP

STATE OF NORTH CAROLINA

COUNTY OF Currituck

FILED

2010

Asym
508/304

DEED OF TRUST AND SECURITY AGREEMENT
(FUTURE ADVANCES)

NOV 12 PM 3 04

CHARLENE Y. DOWDY
DEED RECORDS
CURRITUCK COUNTY N.C.

THIS DEED OF TRUST AND SECURITY AGREEMENT (the "Deed of Trust") is made and entered into as of this COUNTY N.C.

10th day of November, 2000, by and between

Southpaw BVI, LLC, a North Carolina Limited Liability Company

whose address is 7020 Currituck Road, Kitty Hawk, NC 27949

hereinafter called the "Grantor" whether one or more in number, a corporation, partnership, or an individual), and CB Services Corp, as Trustee (hereinafter called the "Trustee"), and CENTURA BANK, a North Carolina banking corporation, whose principal office address is 134 North Church Street, Rocky Mount, North Carolina, 27804 (hereinafter called the "Beneficiary");

WITNESSETH, WHEREAS, the Beneficiary has agreed pursuant to a Building Loan Agreement; Loan Agreement; Credit Agreement; Other, by and between the Beneficiary and the Grantor, dated November 10, 2000 (hereinafter called the "Agreement"), to lend to or for the benefit of the Grantor up to the principal sum of THREE MILLION TWO HUNDRED THOUSAND ZERO HUNDRED AND NO/100 Dollars (\$ 3,200,000.00), being the maximum principal amount of present and future obligations which may be incurred under the Agreement and secured by this Deed of Trust, all such future obligations to be incurred on or before the 10th day of November, 2001, unless the time for incurring such obligations is extended to a date which in no event will be later than fifteen (15) years after the date hereof;

AND WHEREAS, the amount of present obligations secured by this Deed of Trust is 0 Dollars (\$ 0);

AND WHEREAS, all principal sums to be advanced to or for the benefit of the Grantor and secured by this Deed of Trust shall be evidenced by one or more promissory notes of Grantor which, together with all present and future obligations evidenced thereby and secured by this Deed of Trust, are referred to herein as the "Note", whether one or more, and which Note may contain provisions for the adjustment of the interest rate, adjustments in the payments, extension or renewal of the term, among other things, the terms of which are incorporated herein by reference and the final payment date for which if not sooner paid and if payment thereof is not extended, is November 10, 2001;

AND WHEREAS, the Grantor is thereby, or shall hereafter become, indebted to the Beneficiary in an amount equal to the sum of all outstanding advances made under the Note, as provided in the Agreement and as may now or hereafter be evidenced by the Note together with and payable with interest as, and at the rate or rates, specified in the Note and the Agreement;

AND WHEREAS, subject to the terms of the Agreement, the maximum amount available under the Agreement may be borrowed and repaid or reduced by partial payment and from time to time reborrowed, provided the unpaid balance of the principal outstanding under the Agreement shall never exceed the maximum principal amount of present and future obligations stated above;

AND WHEREAS, the Grantor desires to secure the payment of the Note with interest and any extensions, renewals, modifications or amendments thereof, or substitutions or replacements therefor, in whole or in part, the payment of all other sums, with interest thereon, advanced in accordance with the Note, the Agreement, or herewith to protect the security of this Deed of Trust, or advanced to protect the rights of the Beneficiary hereunder or under the Note or the Agreement, and to secure the performance of the covenants and agreements of the Grantor contained herein, by a conveyance of the lands and a grant of the security interests hereinafter described;

NOW, THEREFORE, in consideration of the premises and in further consideration of the sum of One Dollar (\$1) paid to the Grantor by the Trustee, receipt of which is hereby acknowledged, the Grantor has given, granted, bargained, and sold, and by these presents does give, grant, bargain, sell and convey unto the Trustee, his heirs, successors, and assigns the following described parcel of land and all improvements now or hereafter located thereon, lying and being in Poplar Branch Township, County of Currituck, State of North Carolina, and more particularly described as follows:

Being Commercial Parcel 5 as shown on that map or plat captioned "Monteray Shores P.U.D. Bob DeCabrille Poplar Branch Township Currituck County, North Carolina" dated September 14, 2000 prepared by Coastal Engineering & Surveying, Inc. and recorded in Plat Cabinet C at Slide 175 in the office of the Public Registry of Currituck County, North Carolina.

NORTH CAROLINA, County of Dare
I, NANA WILLIAMS, a Notary Public, do hereby
certify that Robert R. DeGabrielle, as Manager of Southpaw BVI, LLC, a Limited Liability Company
personally appeared before me this day and acknowledged the due execution of the foregoing instrument, and as the act
of the LLC.
WITNESS my hand and official seal or stamp, this 13 day of November, 2000, XS
My Commission expires: 5/18/2005
Nana Williams
Notary Public



NORTH CAROLINA, County of _____
I, _____, a Notary Public, do hereby
certify that _____
personally appeared before me this day and acknowledged the due execution of the foregoing instrument.
WITNESS my hand and official seal or stamp, this _____ day of _____, 19 _____.
My Commission expires: _____
Notary Public

NORTH CAROLINA, County of _____
I, _____, a Notary Public, do certify that
_____ personally appeared before me
and acknowledged that he is the _____ Secretary of _____
a Corporation, and that by authority duly given and as the act of the Corporation, the foregoing instrument was signed in its
name by its _____ President, _____, sealed with its Corporate
Seal, and attested by himself as its _____ Secretary.
WITNESS my hand and official seal or stamp, this _____ day of _____, 19 _____.
My Commission expires: _____
Notary Public

NORTH CAROLINA, County of _____
I, _____, a Notary Public, do certify that
_____ personally appeared before me
and acknowledged that he is the General Partner of _____
a Partnership, and that by authority duly given and as the act of the Partnership, the foregoing instrument was signed and sealed
in its name by him as its General Partner.
WITNESS my hand and official seal or stamp, this _____ day of _____, 19 _____.
My Commission expires: _____
Notary Public

NORTH CAROLINA, County of Currituck
The foregoing or annexed certificate of Nana Williams, Notary of Dare Co., NC

Notary(ies) Public is (are) certified to be correct. This instrument was presented for registration and recorded in this office at
Book 508, Page 304
This 13 day of Nov., 2000, At 3:04 o'clock P. M

Charlene J. Insody, Register of Deeds
BY: Emily H. Cartelaw
Deputy Register of Deeds

CLASGM
5/18/79

 Centura.

Assignment of Leases, Rents and Profits

827

NOV 12 PM 2 04

STATE OF NORTH CAROLINA
COUNTY OF Dare

CHARLENE F. DOWDY
REGISTER OF DEEDS
CURRITUCK COUNTY N.C.

Prepared by and return to:
Daniel D. Khoury, Attorney at Law
Vandevanter Black
Box 1042, Kitty Hawk, N.C. 27949

THIS ASSIGNMENT OF LEASES, RENTS AND PROFITS ("Assignment") is made this 10th day of November,
A.D. 2000, by and between Scourpaw BYL, LLC a North Carolina Limited Liability Company

(which, together with any successors and assigns, is hereinafter referred to as the "Assignor") to CENTURA BANK, a banking corporation with its principal office and place of business in Rocky Mount, North Carolina (which, together with any successors and assigns, is hereinafter referred to as the "Assignee").

WITNESSETH:

For value received and as additional security for the loan hereinafter mentioned. The Assignor hereby sells, transfers and assigns unto the Assignee all the rights, title and interest of the Assignor in and to the rents, issues, profits, revenues, royalties, rights and benefits (the "Rents and Other Benefits") from the following described real property and any improvements now or at any time hereafter erected thereon (the "Property"):

LEGAL DESCRIPTION

(Insert below description of real estate appearing in the Deed of Trust)

All improvements now or hereafter located thereon, lying and being in Poplar Branch Township, County of Currituck, State of North Carolina, and more particularly described as follows:

Being Commercial Parcel 5 as shown on that map or plat captioned "Monterary Shores P.U.D. Bob DeGabrielle Poplar Branch Township Currituck County, North Carolina" dated September 14, 2000 prepared by Coastal Engineering & Surveying, Inc. and recorded in Plat Cabinet C at Slide 175 in the office of the Public Registry of Currituck County, North Carolina.

And in that end, the Assignor hereby assigns and sets over unto the Assignee all leases of the Property now or hereafter made, executed or delivered (whether written or verbal) (the "Leases") as the Leases may have been (or may from time to time be hereafter) modified, extended or renewed, with all Rents and Other Benefits due and becoming due thereon and all security deposits held in connection therewith, including specifically, without limiting the generality hereof, the Leases and such leases as may be specified below:

1. Assignment Given as Security. This Assignment is given as additional security for the performance of the obligations and covenants of the certain promissory note(s) in the principal amount of _____ dated _____, 19 _____,

executed and delivered by the Assignor to the Assignee (the "Note") and that certain deed of trust dated _____, 19 _____, executed and delivered by the Assignor for the benefit of the Assignee as security for the Note (the "Deed of Trust") (including any extension or renewal thereof). The amounts collected hereunder, less any expenses of collection, shall be applied first to the costs and expenses of collecting or receiving Rents and other Benefits and then in reduction of the indebtedness from time to time outstanding and secured by the Deed of Trust. The term of this Assignment shall be until the Note and the Deed of Trust (or any extension or renewal thereof) shall have been fully paid and satisfied, and the cancellation or releasing of the Deed of Trust shall constitute a release hereof.

2. Collection of Rents and Other Benefits. The Assignor hereby authorizes and empowers the Assignee to collect the Rents and Other Benefits, as they shall become due, and hereby directs each and all of the tenants of the Property to pay the Rents and Other Benefits (as may now be due or shall hereafter become due) to the Assignee, upon demand for payment thereof by the Assignee. The Assignee shall make no such demand unless there shall have been (1) a default in the payment of the indebtedness evidenced by the Note and secured by the Deed of Trust, (2) a default in the payment of any other sums secured by the Deed of Trust, or (3) an Event of Default, as defined in the Deed of Trust. Until such demand is made, the Assignor is authorized to collect or continue collecting the Rents and Other Benefits received in connection with the Property. The Assignor shall not collect any installment of rent more than two months in advance without the prior written consent of the Assignee. Anything to the contrary notwithstanding, the Assignor hereby assigns to the Assignee any award made hereafter in any court procedure involving any of the Leases in any bankruptcy, insolvency or reorganization proceedings in any state or federal court, and any payments made by lessees in lieu of rent. The Assignor hereby appoints the Assignee as its irrevocable attorney in fact to appear in any action and/or to collect any such award or payments. In the event of a default in the payment of the indebtedness evidenced by the Note or an Event of Default as defined in the Deed of Trust, and if there is any case law, statute or regulation requiring Assignee to take actual possession of the Property (or some action equivalent thereto, such as securing the appointment of a receiver) in order for Assignee to perfect or activate its rights and remedies as set forth herein, then Assignee waives the benefits of such law and agrees that such requirement of law may be satisfied solely by (1) Assignee sending Assignor written notice that Assignee intends to enforce, and is enforcing, its rights in and to the Property and the Rents and Other Benefits assigned herein and (2) Assignee sending written notice to any or all tenants on the Property to commence making payments under the Leases directly to Assignee or its designee as provided herein.

3. Terms and Covenants Regarding Leases. The Assignor covenants and represents that: (a) it has full right and title to assign the Leases and the Rents and Other Benefits due or to become due thereunder; (b) the terms of the Leases have not been changed from the terms in the copies of the Leases submitted to the Assignee for approval; (c) no other assignment of any interest in the Leases has been made; (d) there are no existing defaults under the provisions of the Leases; (e) there has been no anticipation or prepayment of any rents by any tenants occupying the Property or by any of the lessees in any of the Leases; (f) the Assignor will not hereafter cancel, surrender, or terminate any of the Leases, exercise any option which might lead to such termination, or change, amend, alter or modify them, or consent to the release of any party liable thereunder or to the assignment or subletting of the leases' interest in them, without the prior written consent of the Assignee.

The Assignor hereby authorizes the Assignee at any time to give notice in writing of this Assignment to any tenant under any of the Leases.

Default by the Assignor under any of the terms of the Leases shall be deemed a default hereunder. Any expenditures made by the Assignee in curing such a default on the Assignor's behalf (including, without limitation, reasonable attorney's fees), with interest thereon at the rate provided for in the Note, shall become part of the debt secured by this Agreement.

4. Right to Enter and Manage the Property and Improvements. In the event of default in performance of any of the terms and conditions of the Note, the Deed of Trust or this Assignment, the Assignor hereby authorizes the Assignee, at its option, to enter and take possession of the Property and to manage and operate the same, to collect all or any Rents and Other Benefits therefrom and from the Leases, to let or relet the Property or any part thereof, to cancel and modify the Leases, to grant rent concessions and other inducements, to evict tenants, to bring or defend any suits in connection with possession of the Property in its own name or the Assignor's name, to make repairs as the Assignee deems appropriate, and to perform such other acts in connection with the management and operation of the Property as the Assignee, in its discretion, may deem proper.

5. Security Deposits. In the event of default in performance or observance of any of the terms, covenants, conditions or agreements of the Note, the Deed of Trust or this Assignment, upon demand by the Assignee, the Assignor shall turn over to the Assignee or its designee the security deposits held pursuant to the Leases by the Assignor, its agents or employees. The Assignee or its designee shall hold and apply the security deposits received in connection with the Leases to the purposes specified in the Leases, in accordance with the terms and conditions thereof. Except to the extent required by law or the Leases, the Assignee shall not be obligated for the payment of interest on security deposits delivered to it. The Assignor shall maintain the security deposits made or to be made with respect to Leases of the Property in a separate bank account maintained by the Assignor and designated as the account for the deposit of security deposits. The Assignor shall provide to the Assignee within 30 days of the end of each of the Assignor's fiscal years a written verification of the amount of security deposits maintained in the account together with a list of the Leases with respect to which the deposits are maintained.

6. Limitation on Accountability of Assignee. The Assignee shall not be liable for losses or the failure to collect the Rents and Other Benefits. The Assignee is obligated to account only for such sums as are actually collected and shall not be obligated to perform or discharge any obligation to be performed or discharged by the Assignor under any of the Leases. The Assignor hereby agrees to indemnify the Assignee for, and to save it harmless from, any and all liability arising from the Leases or from this Assignment. This Assignment shall not place responsibility for the control, care, management or repair of the Property or Improvements upon the Assignee, or make the Assignee responsible or liable for any negligence in the management, operation, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee or stranger.

7. Consequences of Receipt of Rents and Other Benefits. The receipt by the Assignee of any Rents and Other Benefits pursuant to this Agreement after the institution of foreclosure proceedings under the Deed of Trust shall not cure such default nor affect such proceedings or any sale pursuant thereto. Neither the existence of this Assignment nor the exercise of its privilege to collect the Rents and Other Benefits, shall be construed as a waiver by the Assignee, of the right to enforce payment of the debt hereby secured in strict accordance with the terms and provisions of the Note and the Deed of Trust.

This Assignment applies to and binds the parties hereto and their respective heirs, administrators, executors, successors and assigns, as well as any subsequent owner of the Property and any assignee of the Deed of Trust.

IN WITNESS WHEREOF, this Assignment is executed (i) if by individuals, by hereunto setting their hands and seals, (ii) if by a corporation, by the duly authorized officers of the corporation on its behalf under seal by adoption of the facsimile seal printed hereon for such purpose or, if an impression seal appears hereon, by affixing such impression seal, or (iii) if by a partnership, by the duly authorized partners of the partnership on its behalf under seal by adoption of the word "SEAL" appearing next to the name of the partnership and/or the signatures of the partners, on the day and year first above written.

Attest:

Secretary



Southpaw, BVI, LLC (SEAL)
(NAME OF CORPORATION OR PARTNERSHIP)

By: *Robert R. Gabrielle* (SEAL)
Robert R. Gabrielle, Manager (TITLE)

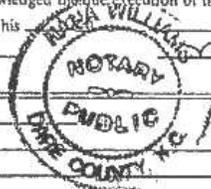
(SEAL)

(SEAL)

(SEAL)

(SEAL)

NORTH CAROLINA, County of Dare
 I, NANA WILLIAMS, a Notary Public, do hereby
 certify that Robert R. DeGabriella, as Manager of Southpaw RVL, LLC, a Limited Liability Company
 personally appeared before me this day and acknowledged the due execution of the foregoing instrument, and as the act of
 the LLC
 WITNESS my hand and official seal or stamp, this 13 day of November, 192000.
 My Commission expires: 5/18/2005
Nana Williams
 Notary Public



NORTH CAROLINA, County of _____
 I, _____, a Notary Public, do hereby
 certify that _____
 personally appeared before me this day and acknowledged the due execution of the foregoing instrument.
 WITNESS my hand and official seal or stamp, this _____ day of _____, 19____.
 My Commission expires: _____

 Notary Public

NORTH CAROLINA, County of _____
 I, _____, a Notary Public, do certify that
 _____ personally appeared before me
 and acknowledged that he is the _____ Secretary of _____
 a Corporation, and that by authority duly given and as the act of the Corporation, the foregoing instrument was signed in its name by
 its _____ President, _____, sealed with its Corporate
 Seal, and attested by himself as its _____ Secretary.
 WITNESS my hand and official seal or stamp, this _____ day of _____, 19____.
 My Commission expires: _____

 Notary Public

NORTH CAROLINA, County of _____
 I, _____, a Notary Public, do certify that
 _____ personally appeared before me
 and acknowledged that he is the General Partner of _____
 a Partnership, and that by authority duly given and as the act of the Partnership, the foregoing instrument was signed and sealed
 in its name by him as its General Partner.
 WITNESS my hand and official seal or stamp, this _____ day of _____, 19____.
 My Commission expires: _____

 Notary Public

NORTH CAROLINA, County of Currituck
 The foregoing or annexed certificate of Nana Williams-Notary of Dare Co., NC

Notary(ies) Public is (are) certified to be correct. This instrument was presented for registration and recorded in this office at
 Book 508, Page 308.
 This 13 day of Nov., 192000, At 3:04 o'clock P. M.
Charlene J. Dawdy, Register of Deeds
 BY: Natalie R. Swiddy
 Ass't. Register of Deeds

ARTICLE NINE

TERMS AND LIMITATIONS OF DECLARANT WARRANTIES

9.01 Warranties. The Declarant makes no other warranties other than those required specifically by Sections 47C-4-114, 115, and 116 of the North Carolina Condominium Act. These Statutes state as follows:

§47C-4-114 Implied warranties of quality. The law relating to implied warranties, including but not limited to, implied warranties that the premises are free from defective materials, constructed in a workmanlike manner, constructed according to sound engineering and construction standards and that the premises may be used for a particular purpose, is applicable to the sale of a condominium unit and supplements the provisions of this chapter.

§47C-4-115 Exclusion of modification of implied warranties of quality.

(a) Except as limited by subsection (b) with respect to a purchaser of a unit that may be used for residential use, implied warranties of quality.

(1) May be excluded or modified by agreement of the parties;
and

(2) Are excluded by expression of disclaimer, such as "as is", "with all faults", or other language which in common understanding calls the buyer's attention to the exclusion of warranties.

(b) With respect to a purchaser of a unit that may be occupied for residential use, no general disclaimer of implied warranties of quality is effective, but a Declarant and any person in the business of selling real estate for his own account may disclaim liability in an instrument signed by the purchaser for a specified defect or specified failure to comply with applicable law, if the defect or failure entered into and became a part of the basis of the bargain.

§47C-4-116 Statute of limitations for warranties.

(a) A judicial proceeding for breach of any obligation arising under G.S.47C-4-113 or 47C-4-114 must be commenced within the applicable period of limitations set out in Chapter 1 of the North Carolina General Statutes.

(b) If a warranty of quality explicitly extends to a future performance or duration of any improvement or component of the condominium, the cause of action accrues at the time the breach is discovered or at the end of the period for which the warranty explicitly extends, whichever is earlier.

ARTICLE TEN

STATEMENT OF PUBLIC OFFERING RECEIPT

10.01 Receipt of Public Offering Statement. A PURCHASER OF A UNIT MUST RECEIVE THIS PUBLIC OFFERING STATEMENT BEFORE SIGNING A CONTRACT OF SALE AND NO CONVEYANCE OR CLOSING MAY LAWFULLY OCCUR UNTIL SEVEN (7) CALENDAR DAYS AFTER THE CONTRACT OF SALE IS EXECUTED. PURCHASER HAS AN ABSOLUTE RIGHT TO CANCEL THE CONTRACT OF SALE WITHIN SEVEN (7) CALENDAR DAYS AFTER EXECUTION THEREOF.

THE EXECUTION OF A CONTRACT OF SALE BY A PURCHASER CONSTITUTES AN ACKNOWLEDGEMENT BY THE PURCHASER THAT HE HAS BEEN GIVEN A COPY OF THIS PUBLIC OFFERING STATEMENT.

10.02 Amendments to Public Offering Statement. A Declarant promptly shall amend the Public Offering statement to report any material change in the information required by this section and provide a copy of any such material changes to any purchaser who has executed a contract. If any material change is made in a proposed declaration after a contract for purchase of a unit has been signed but before conveyance, the purchaser may rescind the contract within seven days after receipt of the notice of the change.

ARTICLE ELEVEN

JUDGMENTS OR PENDING SUITS

- 11.01 Judgment or Litigation. The Declarant has no actual or constructive knowledge of any judgments or pending Civil Suits, recorded or otherwise against the condominium properties. Therefore there is no status of pending Litigation material to the condominium properties.
- 11.02 Warranty Deed. The purchaser of a unit will be given a general warranty deed with the usual and customary covenants of title. Such deed will vest in the owner an undivided fee simple interest in the Common Elements of the Condominium, subject to the terms and provisions of the Declaration, Bylaws of the Association, and easements of record in the office of the Currituck County Register of Deeds affecting the property.

ARTICLE TWELVE

ESCROW DEPOSIT

- 12.01 Deposits. Any amounts deposited with the Declarant or its agent upon execution of a contract of sale will be placed in an escrow account for seven (7) calendar days pursuant to Section 47C-4-108 of the Act, during which time the purchaser has an absolute right to cancel the contract of sales. The escrow agent is: Attorney John A. Mauney whose address is: 2224 S. Croatan Hwy., Suite 9, Nags Head, NC 27959. Thereafter, amounts deposited will be held in escrow or disbursed pursuant to the terms of the contract of sale for each unit executed by a purchaser.

Escrow Agreement

To Southpaw BVI, LLC

Nags Head
Dare County, North Carolina
August 1, 2001

I, the undersigned, hereby agree to serve as escrow agent for the receipt of earnest money deposits directed towards the purchase of Condominium units in Monterey Pines Condominium located in the Village of Corolla, Currituck County, North Carolina under the following terms and conditions:

- First: All monies received for earnest money deposits for the purchase of unit(s) for Monterey Pines Condominium shall be held in a non-interest bearing trust account for Attorney John A. Mauney in compliance with the terms and conditions set forth in any Offer to Purchase and Contract and agree to hold such funds received subject to the terms and conditions set forth herein.
- Second: Such earnest money deposits shall remain in trust until such time as said funds are credited to the ultimate purchase price set forth in the Offer to Purchase and Contract or until such time as it is determined that the anticipated Real Estate closing and conveyance by General Warranty Deed from Southpaw BVI, LLC to the designated offeror shall not be consummated, at which time said funds shall be refunded to the offeror in full.
- Third: After a Contract of Sale is signed, no conveyance or closing may lawfully occur until seven (7) calendar days after the contract of sale is executed. Purchaser has an absolute right to cancel the Contract of Sale within seven (7) calendar days after execution thereof. Purchaser has an un-equivocate right to have such escrow funds refunded to him along with cancellation of contract.

The acknowledgement receipt of earnest money deposits shall be reflected on each contract, a copy of which shall be submitted to all parties.

John A. Mauney, Escrow Agent
2224 S. Croatan Hwy., Suite 9
Nags Head, NC 27959

ARTICLE THIRTEEN

RESTRAINTS ON ALIENATION

13.01 Alienation of Common Elements. The Common Elements of the condominium may be alienated or conveyed in accordance with Section 47C-3-112 of the North Carolina Condominium Act, which also allows the Association to borrow funds secured by a lien on the Common Elements or other property owned by the Association.

13.02 The Statute reads as follows:

§47C-3-112. Conveyance or encumbrance of Common Elements.

(a) Portions of the Common Elements may be conveyed or subjected to a security interest by the Association if persons entitled to cast at least eight percent (80%) of the votes in the Association, including eight percent (80%) of the votes allocated to units not owned by a Declarant, or any larger percentage the declaration specified, agree to that action; provided, that all the owners of units to which any limited Common Element is allocated must agree in order to convey that limited Common Element or subject it to a security interest. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential uses. Distribution of the proceeds of the sale of a limited Common Element shall be as provided by agreement between the Unit Owners to which it is allocated and the Association. Proceeds of the sale or financing of a Common Element (other than a limited Common Element) shall be an asset of the Association.

(b) An agreement to convey Common Elements or subject them to a security interest must be evidenced by the execution of an agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of Unit Owners. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in every county in which a portion of the condominium is situated, and is effective only upon recordation.

(c) The Association, on behalf of the Unit Owners, may contract to convey Common Elements, or subject them to a security interest, but the contract is not enforceable against the Association until approved pursuant to subsections (a) and (b). Thereafter, the Association has all powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instruments.

(d) Any purported conveyance, encumbrance, judicial sale or other voluntary transfer of Common Elements, unless made pursuant to this section, is void.

(e) A conveyance or encumbrance of Common Elements pursuant to this section shall not deprive any unit of its rights of access and support.

ARTICLE FOURTEEN

INSURANCE COVERAGE

- 14.01 Coverage for benefit of Unit Owners. The Association will maintain property and casualty insurance of the buildings which contain the Condominium units and the Common Elements against all risk of direct physical loss, commonly insured against, including fire and extended coverage perils. The property insurance the Association shall maintain will not be less than 80% of replacement cost of the insured property at the time the insurance is purchased. The Association will also maintain liability insurance in reasonable amounts, covering all occurrences commonly insured against, including, but not limited to, death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements. A more particular description of the insurance coverage is as set forth in Article VII of the Declaration.
- 14.02 Description of Insurance. The Association shall maintain, to the extent available, casualty insurance upon the Property in the name of, and the proceeds thereof shall be payable to, the Association, as trustee for all Unit Owners and First Mortgagees as their interests may appear, and be disbursed pursuant to the Act. Such insurance shall be in an amount equal to not less than eight percent (80%) full insurable value of the Property on a replacement cost basis exclusive of land, excavations, foundations and other items normally excluded from property policies, and shall insure against such risks and contain such provisions as the Board from time to time shall determine, but at a minimum shall conform in all respects to the requirements of the Act, and shall provide that, notwithstanding any provision thereof that gives the insurer an election to restore damage in lieu of making a cash settlement, such option shall not be exercisable if such restoration is prohibited pursuant to Section 47C-3-113(h) of the Act.
- 14.03 Public Liability Insurance. The Association shall maintain public liability insurance for the benefit of the Unit Owners, Occupants, the Association, the Board, the managing agent, if any, the Declarant, and their respective officers, directors, agents and employees, in such amounts and with such coverage as shall be determined by the Board; provided that the public liability insurance shall be for at least Five Hundred Thousand Dollars (\$500,000.00) per person and One Million Dollars (\$1,000,000.00) per occurrence for death, bodily injury and property damage. Such insurance shall comply in all respects to the requirements of the Act and shall contain a severability-of-interest endorsement precluding the insurer from denying liability because of negligent acts of any insured; insure all of such benefited parties against such liability arising out of or in connection with the use, ownership or maintenance of the common Elements, and the streets, sidewalks, and public spaces adjoining the Condominium; and insure the Association, the Board, the manager, if any, and their respective officers, directors, agents and employees against such liability arising out of or in connection with the use or maintenance of the Units.

- 14.04 Insurance Unavailable. If the insurance described in Section 7.1 or 7.2 is not reasonably available, the Association shall promptly cause notice of such fact to be hand-delivered or sent prepaid by United States mail to all Unit Owners and First Mortgagees.
- 14.05 Individual Policy for Unit Owners. Each Unit Owner shall obtain insurance, at their own expense affording personal property, personal liability, and any other coverage obtainable, to the extent and in the amounts such Unit Owner deems necessary to protect their own interests. If a casualty loss is sustained and there is a reduction in the amount of the proceeds that would otherwise be payable on the insurance purchased by the Association due to the proration of insurance purchased by a Unit Owner under this Section, such Unit Owner shall be liable to the Association to the extent of such reduction and shall pay the amount of such reduction to the Association upon demand, and assigns the proceeds of their insurance, to the extent of such reduction, to the Association.

ARTICLE FIFTEEN

FUTURE FEES OR CHARGES

- 15.01 Known future fees or charges. There are no known future fees or charges to be paid by Unit Owners for the use of the Common Elements and other facilities related to the condominium properties.

ARTICLE SIXTEEN

"MUST BE BUILT" PROVISIONS

- 16.01 No future improvements required. There are no improvements represented in any of the documents nor assertions that any improvements must be constructed.

ARTICLE SEVENTEEN

EXISTING ZONING AND LAND USE

- 17.01 Description of Zoning/Land use requirements. The condominium project is located in Currituck County, North Carolina. Currituck County has adopted the Unified Development Ordinance, (UDO), promulgated by the State of North Carolina. Such ordinance encompasses zoning and all land use regulations. Zoning of this project is established as General Business as defined by the UDO of Currituck County.

ARTICLE EIGHTEEN

COMMON ELEMENT ALIENATION

18.01 Common Element Alienation. No Common Elements of the project shall be alienated, conveyed, or encumbered under certain sections of the General Statutes of North Carolina. (See NCGS 47C-3-112 as set forth below).

§47C-3-112. Conveyance or encumbrance of Common Elements.

(a) Portions of the Common Elements may be conveyed or subjected to a security interest by the Association if persons entitled to cast at least eight percent (80%) of the votes in the Association, including eight percent (80%) of the votes allocated to units not owned by a Declarant, or any larger percentage the declaration specifies, agree to that action; provided, that all the owners of units to which any limited Common Element is allocated must agree in order to convey that limited Common Element or subject it to a security interest. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential uses. Distribution of the proceeds of the sale of a limited Common Element shall be as provided by agreement between the Unit Owners to which it is allocated and the Association. Proceeds of the sale or financing of a Common Element (other than a limited Common Element) shall be an asset of the Association.

(b) An agreement to convey Common Elements or subject them to a security interest must be evidenced by the execution of an agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of Unit Owners. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in every county in which a portion of the condominium is situated, and is effective only upon recordation.

(c) The Association, on behalf of the Unit Owners, may contract to convey Common Elements, or subject them to a security interest, but the contract is not enforceable against the Association until approved pursuant to subsections (a) and (b). Thereafter, the Association has all powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instruments.

(d) Any purported conveyance, encumbrance, judicial sale or other voluntary transfer of Common Elements, unless made pursuant to this section, is void.

(e) A conveyance or encumbrance of Common Elements pursuant to this section shall not deprive any unit of its rights of access and support.

ARTICLE NINETEEN

METHOD OF RECISSION

- 19.01 Method of Recission. If a purchaser elects to cancel a contract pursuant to the cancellation provisions he may do so by hand delivering notice thereof to the Offeror/Declarant or by mailing notice thereof by prepaid United States mail to the Offeror/Declarant at the address set forth on page one of this Offering Statement. Such notice may also be mailed to the designated agent for service of process of the Offeror/Declarant.

ARTICLE TWENTY

DEVELOPMENT RIGHTS

20.01 No Development rights. The Declaration does not provide that the condominium project is subject to any development rights reserved by the Declarant.

ARTICLE TWENTY-ONE

TIMESHARE RIGHTS

21.01 No Timeshare rights. The Declaration does not provide that the ownership or occupancy of any unit is or may be owned in Timeshares.

A PURCHASER OF A UNIT MUST RECEIVE THIS PUBLIC OFFERING STATEMENT BEFORE SIGNING A CONTRACT OF SALE AND NO CONVEYANCE OR CLOSING MAY LAWFULLY OCCUR UNTIL SEVEN (7) CALENDAR DAYS AFTER THE CONTRACT OF SALE IS EXECUTED. PURCHASER HAS AN ABSOLUTE RIGHT TO CANCEL THE CONTRACT OF SALE WITHIN SEVEN (7) CALENDAR DAYS AFTER EXECUTION THEREOF.

THE EXECUTION OF A CONTRACT OF SALE BY A PURCHASER CONSTITUTES AN ACKNOWLEDGEMENT BY THE PURCHASER THAT HE HAS BEEN GIVEN A COPY OF THIS PUBLIC OFFERING STATEMENT.

SOUTHPAW BVI, LLC
A North Carolina Limited Liability Company

By: _____
Robert R. DeGabrielle, Manager