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**AMENDED AND RESTATED
DECLARATION OF CONVENANTS, CONDITIONS
AND RESTRICTIONS
OF
BIAS SHORES**

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NORTH CAROLINA
DARE COUNTY

WITNESSETH:

WHEREAS BIAS, INC., a North Carolina Corporation, John C. Bias and wife, Carolyn S. Bias; Bernice B. Brandon and husband, Donald G. Brandon; Elizabeth B. Cofield and husband, James E. Cofield; and Lillian B. Abron, widow, hereinafter jointly referred to as "**Developer**", caused to be recorded a Declaration of Covenants, Conditions and Restrictions of Bias Shores, Phase One as recorded in Deed Book 589, Page 137, Dare County Public Registry and further a Supplemental Declaration, as recorded in Deed Book 615, Page 439, Dare County Public Registry;; and

WHEREAS, by a two-thirds (2/3) or greater vote of the Membership, the members approved various amendments and modifications to the Covenants including, but not limited to, voting to adopt the provisions of Chapter 47F, The North Carolina Planned Community Act and to provide that the North Carolina Planned Community Act shall apply to the Bias Shores Subdivision, the lots therein and the owners thereof; and

WHEREAS, after receiving the greater than 67% vote of the Membership approving these changes, this Amended and Restated Declaration of Covenants, Conditions and Restrictions of Bias Shores, has been executed by the duly authorized officers of the Bias Shores Homeowners Association, Inc.

NOW, THEREFORE, the Bias Shores Homeowners Association, Inc. declares that the real property described in Article One is and shall be held, transferred, sold, conveyed and occupied subject to the terms and provisions of this Amended and Restated Covenants, Conditions and Restrictions (sometimes referred to herein in "Covenants and Restrictions" or "this Declaration") hereinafter set forth.

ARTICLE ONE

PROPERTY

Section 1.1. Existing Property. The real property which is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration is located in Dare County, North Carolina, and is more particularly described as follows:

Lots 1 through 17, Bias Shores, Phase One, as recorded in Plat Cabinet C, Slides 57E and 57F and the lots 18 through 49 contained in Phase Two, as recorded in Plat Cabinet C, Slides 69A and 69B, in the Office of the Register of Deeds in Dare County, North Carolina.

ARTICLE TWO

DEFINITIONS

Section 2.1. The following words when used in this Declaration or any supplemental Declaration unless the context -shall require otherwise, shall have the following meaning:

(a) **"Association"** shall mean and refer to the Bias Shores Homeowners Association, Inc.; and "By-Laws" shall mean and refer to the By-Laws of the Association.

(b) **"Board"** shall mean and refer to the Board of Directors of the Bias Shores Homeowners Association, Inc.

(c) **"Common Areas"** shall mean and refer to those areas of land shown on any recorded subdivision plat of The properties labeled as "RECREATION AREAS" or shown as streets or roads and as such intended to be devoted to the common use and enjoyment of the Owners of the Lots, subject to special rights, if any, granted Owners of particular Lots, which are a part of The Properties.

(d) **"Easements"** shall mean areas burdened by specified rights accruing to the Association.

(e) **"Living Area"** shall mean and refer to those heated and/or air-conditioned areas within a Living Unit which shall not include garages, carports, porches, patios, or storage areas.

(f) **"Living Unit"** shall mean and refer to any building or portion of a building, situated upon any Lot, which is a part of the properties, designed and intended for use and occupancy as a residence by a single family.

(g) **"Mobile Home"** shall mean and refer to any mobile or modular unit, including double wide and triple wide units, built on a chassis, designated to be used as a dwelling, with or without a permanent foundation, whether defined as a mobile home pursuant to North Carolina Statutes or a modular home, as defined by North Carolina Statutes.

(h) **"Lot"** shall mean and refer to any plot of land within the properties shown upon any recorded subdivision map of the properties, or any portion thereof, with the exception of Common properties as heretofore defined.

(i) **"Member"** shall mean and refer to all those Owners who are members of the Association as provided in Article Five, Section 5.1, hereof.

(j) **"Owner"** shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot situated upon The Properties, but notwithstanding

any applicable theory of any lien or mortgage law, shall not mean or refer to any mortgagee or trust beneficiary unless and until such mortgagee or trust beneficiary has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

(k) **"The Properties"** shall mean and refer to the Property as set forth in Article One, above.

(l) **The "Developer"** shall mean and refer to Bias, Inc. and other names, and any person or entity who was specifically assigned the rights and interest of Bias, Inc.

(m) **"Common Expense"** shall mean and refer to:

(i) Expense of administration, maintenance, repair or replacement of the Common Properties, or easement areas.

(ii) Expense declared Common Expense by the provisions of this Declaration or the By-Laws.

(iii) Expense agreed upon as Common Expense by the Association and lawfully assessed against Owners of Lots in accordance with the By-Laws.

(iv) Any valid charge against the Association or against the Common Properties as a whole.

ARTICLE THREE

GENERAL PROVISIONS

Section 3.1. Duration. All covenants, restrictions and affirmative obligations set forth in this Amended and Restated Declaration shall run with the land and shall be binding on all parties and persons claiming under them for a period of twenty (20) years from the date of this Declaration, after which time, all said covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by a two-thirds majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part, provided, however, that no such agreement to change shall be effective unless written notice of the proposed agreement is sent to the Owners at least ninety (90) days in advance of any action taken.

Section 3.2. Notices. All notices, demands, bills, statements or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally, sent by electronic communication (e-mail) or by facsimile or sent by U.S. Mail, postage prepaid to an Owner, at the address which the Owner shall designate in writing and file with the Secretary or to the last known address of the Owner if the address has not been filed with the Secretary. Notice to any one of the Owners, if title is held by more than one, shall constitute notice to all Owners of a lot.

Section 3.3 Enforceability.

Section 3.3.1. Actions at Law or Suits in Equity. The provisions of this Declaration shall bind the Property, shall run with the land and shall inure to the benefit of and be enforceable by the Association (being hereby deemed the agent for all Members), and by any Member or Owner, their respective legal representatives, heirs, successors and assigns, by actions at law or by suits in equity. As it may be impossible to measure monetarily the damages that may accrue to the beneficiaries hereof by reason of a violation of the Declaration, any beneficiary hereof shall be entitled to relief by way of injunction or specific performance, as well as any other relief available at law or in equity, to enforce the provisions hereof.

Section 3.3.2. Penalties and Fines. The procedures for the imposition of fines or suspension of privileges or services shall be in accordance with and shall be subject to the provisions of North Carolina General Statute Section 47F-3-107.1. Monetary fines or penalties imposed against an Owner or occupant shall be deemed a Special Assessment against the Lot of such Owner or against the Lot occupied by such occupant and, as such, shall be a charge and continuing lien upon such Lot, shall constitute a personal obligation of the Owner of such Lot, and shall be collectible in the same manner as Assessments.

Section 3.3.3 No Waiver by Failure to Enforce. The failure of any beneficiary hereof to enforce any provision of this Declaration shall in no event be construed as a waiver of the right by that beneficiary or any other to do so thereafter, as to the same or a similar violation, occurring prior or subsequent thereto. No liability shall attach to the Association (or any officer, director, employee, Member, agent, committee or committee member) or to any other Person or organization for failure to enforce the provisions of this Declaration.

Section 3.3.4 Obligation and Lien for Cost of Enforcement by Association. If the Association or any other party successfully brings an action to extinguish a violation or otherwise enforce the provisions of this Declaration, or the rules and regulations promulgated pursuant hereto, the costs of such action, including legal fees, shall become a binding, personal obligation of the violator. If such violator is (1) an Owner, or (2) any family member, tenant, guest or invitee of an Owner, or (3) a family member or guest or invitee of the tenant of an Owner, or (4) a guest or invitee of (i) any member of such Owner's family; or (ii) any family member of the tenant of such Owner, such costs shall also be a lien upon the Lot.

Section 3.3.5 Inspection and Entry Rights. Any agent of the Association (or the Architectural Standards Committee) may at any reasonable time or times, upon not less than 24 hours notice to the Owner thereof, enter upon a Lot to inspect the improvements thereon for the purpose of ascertaining whether the maintenance, construction or alteration of structures or other improvements thereon comply with this Declaration, or with rules and regulations issued pursuant hereto. Neither the Association nor any such agent shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

In addition to the above, if the Architectural Standards Committee determines that it is necessary to trim, cut or prune any tree, hedge or other planting because its location or the height to which or the manner in which it has been permitted to grow is unsightly, detrimental or potentially detrimental to persons or property or obscures the view of street traffic or is otherwise in violation of this Declaration, the Association shall notify the Owner of the Lot who shall be obliged to remedy the violation. If the Owner fails to remedy the violation within thirty (30) days after such notice is given, then the Association may take such remedial action at the expense of the Owner.

Section 3.4 Owner Responsible for Tenants. Any lease of a Lot shall provide that the tenant shall comply in all respects with the terms of this Declaration, the By-laws and rules and regulations, if any, of the Association. If a tenant is in violation of this Declaration, the By-laws or rules and regulations, the Board of Directors shall so notify the Owner of the Lot which such tenant occupies in writing by certified mail, return receipt requested. If the violation is not cured within ten (10) days after the Owner has received notice of such violation, the Association may pursue any or all remedies which it may have under this Declaration.

Section 3.5 Governing Law. This Declaration shall be subject to, governed by and construed in accordance with the North Carolina Planned Community Act, Sections 47F-1-101, et seq, of the North Carolina General Statutes, as amended (the "Act"). To the extent any provision of this Declaration is determined to violate the Act, such provision shall be deemed to be modified to the extent necessary to comply with the Act. To the extent not expressly set forth herein, the Association shall have all other rights of an association under the Act and such duties as are required by the Act.

ARTICLE FOUR

RESTRICTIONS ON USE AND RIGHTS OF THE ASSOCIATION AND OWNERS

Section 4.1 Permissible Uses. No Lot shall be used except for residential purposes, and no building of any type shall be erected, altered, placed, or permitted to remain on any Lot other than one detached single-family dwelling, garage, swimming pool, or tennis court, for the private use of the Owner or guests of said Owner, which shall comply with all applicable zoning regulations. The dwelling shall be constructed prior to or simultaneously with any garage, swimming pool or tennis court. Other than the ocean access easement located on Lots 6 & 7, no Lot shall be used for access to any adjoining lot or other property. When an owner acquires two or more adjoining lots then, and in that event, the adjoining one or more lots may be used as one building site and the side lot lines and easements referred to herein shall apply to the outside perimeter line of the combined lots. Each building erected upon said lot shall have the exterior completed within six months after construction shall have commenced and failure to complete the exterior of such building within the six months period shall operate as a forfeiture of architectural approval granted, at the option of the Association or its successors and thereafter the Association or its agents shall have the right and privilege to go upon the premises with such labor and materials as are necessary and complete the same and shall operate as a primary lien against the structure and lot upon which it is located. No business or business activity may be



carried on or upon any Lot at any time.

Section 4.2 Utilities and Easements. All utility lines of every type, including but not limited to water, electricity, telephone, sewage and televisions cables, must be underground. The Association reserves unto itself, its successors and assigns, a perpetual alienable and releasable easement and right on, over and under the ground to erect, maintain and use electric and telephone systems, cable television service, and conduits for the purpose of bringing public services to the Properties, on, in or over an area within 10 feet of each Lot line fronting on a street or where a Lot Line abuts a right of way of boundary line, five feet along the side lines of each Lot, and 10 feet along the rear line of Lot, and such other areas as are shown on any recorded plats of the Properties. In addition, the Association reserves for the benefit of the Homeowners Association, an easement of five feet along the lines of any lots that abut the perimeter of this subdivision, for the purpose of installing a fence, wall or other security device. The Association reserves unto itself, its successors and assigns, perpetual, alienable and releasable easements within the development and the right on, over and under the ground to cut drainways for surface water and make any grading of the soil whenever and wherever such action may appear to the developing corporation to be necessary to maintain reasonable standards of health, safety, and appearance. In addition, the Association reserves an easement over and under the following portions of certain lots:

Lots No.1 and No.17 - the areas situated between the boundaries of said lots which abut N.C. State Road 12 (Duck Road) and the 25' Minimum Building Line as shown on the plat of Phase One.

Lot No.4 - all areas east of a line running north to south, which line intersects the point where the Minimum Building Line, as shown on plat of phase One, abuts the northern of the subdivision.

Lot No.5 - all areas west of a line running north to south, which line intersects the point where the Minimum Building Line, as shown on plat of parcel One, abuts the northern boundary of the subdivision.

Lot No.8 - all areas to the west of a line running north to south, which line intersects the point where the Minimum Building Line, as shown on plat of parcel one, abuts the southern boundary of the subdivision.

Lot No.9 - all areas to the east of a line running north to south, which line intersects the point where the Minimum Building Line, as shown on plat of Parcel one, abuts the southern boundary of the subdivision.

The purpose of the easement on Lots No. 4, 5, 8, and 9 is to allow the Association to construct and maintain buffer devices; including but not limited to, fences, berms, and landscaping. The purpose of the easements on Lots No.1 and No.17 is to allow the Association to construct and maintain an entrance sign and accompanying vegetation, landscaping, and lighting. These easements and rights expressly include the right to cut or plant any trees, bushes, or shrubbery, take or add any soil, or to take any other similar action reasonably necessary to

provide economical and safe utility installation or to maintain reasonable standards of health, safety, and appearance.

There is reserved unto the Association along the entire northern line of Lot No. 7 and along the entire southern line of Lot No. 6 abutting easements of feet width each, the purpose of which is to allow members of the Association and their invited overnight guests access to the beaches and ocean, and to allow the Association to construct and maintain thereon a gazebo or similar beach house, not exceeding 8' in width at the ground level with an additional roof overhang easement onto Lots No. 6 and 7 not to exceed two feet more than the access easement herein described.

Section 4.3 Minimum Square Footage and Setback Requirements. In no event shall any residential building in Phase One contain less than 1,700 square feet of "Living Area" for any two story dwelling. No building, including porches, eaves, steps and similar fixtures shall be located on any lot within 25 feet of the front line or closer than 10 feet from the sidelines thereof, nor closer than 25 feet from the rear property line or 20% of the lot depth. In the case of a side property line which abuts a street, the minimum setback shall be 20 feet.

Section 4.4 Temporary Structures and Limitations on Use. No structure or a temporary nature may be placed upon any portion of the properties at any time. Temporary shelters, tents, travel trailers, campers or self-propelled mobile homes may not at any time be used as temporary or permanent residence. Campers, travel trailers, boat trailers, self-propelled mobile homes and other vehicles of that nature may be stored on a lot, provided that they do not constitute a visual nuisance and are stored in compliance with the setback requirements of subparagraph (c) above. No mobile homes shall be permitted to remain on any portion of The Properties, either temporarily or permanently. No home may be used as a dormitory. No house that is a relocation of a used housing structure may be placed on any of the lots in the Bias Shores Subdivision.

Section 4.5 Driveways. Prior to the commencement of construction of improvements or clearing of any lot, other than by hand, the Owner shall place a temporary clay or permanent clay and gravel or concrete driveway to provide entry to the lot from the road.

Section 4.6 Parking. With the exception of Association maintained parking along the right-of-way abutting perimeter of Lots No. 7, 8, 9, and 10, which parking shall be designed so as to allow the owners of said lots reasonable access to their property, parking on the traveled street within the development shall be prohibited at all times. Each lot owner shall provide off-street parking space for his family's use and the use of their guests. This would constitute a turnabout large enough to park two cars, in addition to the driveway. All construction vehicles are to be parked off of the traveled streets and on the shoulder of the road or in the driveway of the lot at all times during construction.

Section 4.7 Debris. No leaves, trash, garbage or other similar debris shall be burned, except as permitted by the appropriate governmental authority. No garbage, trash, construction debris or other unsightly or offensive material shall be placed upon any portion of the properties, except as is temporarily and incidental to the bona fide improvement of any of the properties.



Section 4.8 Garbage, Mail and Delivery Boxes. Each Owner shall provide receptacle for garbage as according to the standards established by The Architectural Control Committee, described in Article Eight, shall determine the standards and issue guidelines for the implementation thereof for the location, material, color and design of all mail and newspaper boxes and the manner in which they shall be identified.

Each owner shall provide receptacles for garbage in accordance with the standards established by the Architectural Control Committee.

Section 4.9 Screening. Each lot owner shall provide screening from public view, approved in writing by the Architectural Control Committee, for fuel tanks, air-conditioning units, water tanks, or for any other permanent facility which the Architectural Control Committee, in its sole opinion, shall require to preserve the beauty and harmony of the development.

Section 4.10 Antennas. In the event a master antenna system is installed at The Properties, no television antenna, radio receiver or sender or similar device shall be attached to or installed on the exterior portion of any structure or any lot or Common properties within The properties, provided, however, that the provision of this paragraph shall not apply to the installation by the association of equipment necessary for a CATV and mobile radio systems within The properties.

Section 4.11 Unsightly Conditions. Each lot owner within the development shall maintain and preserve his lot or lots in a clean, orderly and attractive appearance within the spirit of this development. Failure on the part of a lot owner to adhere to such proper, clean, orderly and attractive maintenance to his property, upon ten days written notice given him by the Association, or its successors or assigns, shall subject the lot owner to a suit for specific performance.

Section 4.12 Nuisances. It shall be the responsibility of each lot owner to maintain the exterior of his residence and the surrounding grounds of his lot in a clean, tidy safe manner. No lot shall be used in whole or in part for the storage of anything which might cause such lot to appear cluttered, unclean or obnoxious to the eye, no shall any substance, thing or material be kept on any lot which might emit foul or obnoxious odors, noises or other conditions that will or may disturb the serenity, safety or comfort of the occupants of surrounding property. No noxious or offensive activity shall be carried on upon any lot or shall anything be done thereon tending to create a nuisance to the neighborhood.

Section 4.13 Entry. Each lot owner shall keep his lot cleared of unsightly underbrush, weeds or debris and if said lot owner shall permit same to exist on his property and fail to remove the same within thirty days after being requested to do so by the Association, its successors or assigns, it reserves for itself and its agents the right to enter upon the lot for the purpose of cleaning, clearing or cutting the grass, underbrush or debris, which, in the Association's opinion, distracts from the overall beauty and natural character of the neighborhood or adversely affects the safety or health of the residents and such entrance shall not



be deemed a trespass. The expenses of entry and removal shall be the personal debt of the lot owner(s) and shall also constitute a lien upon the land until paid. The provisions of this section shall not be construed as an obligation of the Association, its successors or assigns, to provide such services.

Section 4.14 Trees, Vegetation and Dunes. Any lot owner shall not remove, reduce, cut down or otherwise change or cause to be removed, reduced, cut down or changed, the elevation of any sand dunes or ridges or both in the development, or trees more than three inches in diameter at a point two feet above the ground, or any flowering trees or shrubs above five feet in height, without the express written consent of the Architectural Control Committee, which shall require proposals for the re-stabilization of any such disturbed areas.

Section 4.15 Animals and Pets. Animals, livestock or poultry of any kind shall not be raised, bred or kept on any lot except dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose and provided that they are under the control of their owner at all times.

Section 4.16 Discharge of Firearms. Hunting and trapping of wild animals, fowl and game and the discharge of firearms and/or bows and arrows within the properties is prohibited, unless required for public safety.

Section 4.17 Vehicles. All motorized vehicles operating within the properties must be properly muffled so as to eliminate noise which might be offensive to others. Two and three wheel motorized vehicles, as well as four wheeled go-cart or beach buggy type vehicles are prohibited from being used or operated on or within the Common Properties or frontal dune system or sand dunes.

Section 4.18 Wells. The drilling of private wells for irrigation purposes is expressly prohibited unless the plans and specifications are approved in advance, in writing, by the Homeowners Association through its duly authorized representative.

Section 4.19 Signs. No sign of any kind or advertising device shall be displayed to the public view on a lot except one sign of not more than six square feet advertising the property for sale on improved lots, said sign shall be affixed to the house situated thereon. On unimproved properties, one "for sale" sign not more than six square feet shall be allowed if located no less than ten feet from the front lot line. During construction, a builder's sign may be displayed as set forth above but it may not be more than six square feet and must be removed upon granting an occupancy permit by the applicable governing body. All for rent signs shall be subject to a maximum size of 432 square inches, and said signs must be attached to the dwelling unit. The developer shall not be prevented from erecting such signs as may be deemed necessary to the operation of the subdivision or the normal conduct of its business, provided that any sign so erected shall be within the acceptable limits as defined by the guidelines applicable to all other lot owners in the subdivision.



ARTICLE FIVE

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION AND BOARD OF DIRECTORS

Section 5.1. Membership. Every person or entity who is a record owner of a fee simple interest in any Lot covered by these restrictive covenants is subject by this Declaration to assessment by the Association and shall be a Member of the Association; provided, however, that any such person or entity to hold such interest merely as a security for the performance of an obligation shall not be Member. The requirement of membership shall not apply to any mortgagee or trust beneficiary acquiring title by foreclosure or otherwise, pursuant to the mortgage or deed of trust instrument.

Section 5.2 Voting Rights. The Association shall have one class of voting membership, and Members shall be entitled to one vote for each Lot in which they hold an interest.

ARTICLE SIX

PROPERTY RIGHTS IN THE COMMON AREAS

Section 6.1 Right and Easement of Enjoyment in Association Property. Every Member (and such Member's guests, licensees, tenants and invitees) shall have a right and non-exclusive easement of enjoyment, in common with all other Members, in and to all Association Property, subject to the rights of the Association as set forth in Section 6.2. Such easements shall be appurtenant to and shall pass with the interests of each Owner.

Every Member shall also have a non-exclusive easement for ingress and egress, in common with all other Members, as described in Section 6.4 hereof and the common utility and conduit easements described in Section 6.3. These easements will be subject to the rights of the Association as set forth in Section 6.2.

Section 6.2 Rights of Association. With respect to the Association Property, the Association shall have the right to:

Section 6.2.1 Rules. Promulgate rules and regulations relating to (i) the use, operation and maintenance of the Association Property, (ii) the safety and convenience of the users thereof, (iii) the enhancement or preservation of the Association Property and (iv) the promotion of the best interests of the Members in the discretion of the Association.

Section 6.2.2 Easements. Grant easements, licenses and rights of way to any public or private utility corporation, governmental agency or political subdivision with or without consideration.



Section 6.2.3 Conveyances. Dedicate, sell, transfer, abandon, partition, or encumber (except for any transfer or encumbrance to a public utility or for other public purposes consistent with the intended use of such land by or for the benefit of all of the Members) all or any part of the land which it owns for such purposes and subject to such conditions as may be agreed to by the Association and the transferee. Such a conveyance shall require the affirmative vote or written consent of at least eighty percent (80%) of the total votes of all Members voting after notice which shall be sent to all Members whose names appear on the records of the Association not less than ten (10) days nor more than sixty (60) days in advance of the date set for voting thereon.

Section 6.2.4 Shared Facilities. Enter into agreements, reciprocal or otherwise, with other homeowners' and residents' associations, associations and cooperatives for the use of or sharing of facilities. Such agreements shall require the affirmative vote or written consent of at least two-thirds (2/3) of the total votes of all Members voting after notice which shall be sent to every Member not less than ten (10) days nor more than sixty (60) days in advance of the date or initial date set for voting thereon.

Section 6.2.5 Other Rights. Exercise all other rights of the Association set forth in this Declaration or permitted under the laws of the State of North Carolina.

Section 6.3 Common Utility and Conduit Easement. Every Owner shall have a non-exclusive easement, in common with all other Owners, to maintain and use all pipes, wires, conduits, drainage areas and public utility lines servicing such Owner's Lot and located on other Lots or on Association Property. Each Lot shall be subject to an easement in favor of the Owners of other Lots to maintain and use the pipes, wires, conduits, drainage areas and public utility lines servicing, but not located on, such other Lots. The Association shall have the right of access to each Lot for maintenance, repair or replacement of any pipes, wires, conduits, drainage areas or public utility lines located on any Lot and servicing the Association Property or any other Lot. The cost of such repair, maintenance or replacement shall be a common expense funded from the Maintenance Assessment, except that, if occasioned by a negligent or willful act or omission of a specific Owner or Owners, such cost shall be considered a special expense allocable to the specific Owner or Owners responsible and such cost shall be added to the Maintenance Assessment of such Owner or Owners and, as part of that Maintenance Assessment, shall constitute a lien on the Lot or Lots of such Owner or Owners to secure the payment thereof.

Section 6.4 Common Access Easement. All Owners and their guests, mortgagees, licensees and invitees shall have a non-exclusive easement for vehicular and pedestrian (as appropriate) ingress and egress, in common with one another, over all walkways, driveways, and roadways located on the Association Property, and the Association shall have an easement of access over each Lot for the maintenance, repair and replacement of walkways, driveways and roadways or any property or facilities located on such Lot which are owned by the Association or which exist for the common benefit of all Owners.

Section 6.5 Maintenance of Association Facilities. In order to preserve and enhance the property values and amenities of the Property, the Association shall at all times maintain the



facilities of the Association in good repair and condition and shall operate such facilities in accordance with high standards.

Section 6.6 Right of Association to Contract Duties and Functions. The Association may contract with any person for the performance of its various duties and functions. Without limiting the foregoing, this right shall entitle the Association to enter into common management agreements with other associations and cooperatives.

Section 6.7 Environmental Considerations. In carrying out its responsibilities in enforcing the provisions of this Declaration, the Association and the Architectural Standards Committee shall consider the environmental impact of any existing or proposed activities on the Property or any portion thereof and may, in its discretion, establish standards or guidelines aimed at reducing or eliminating any adverse environmental impact of its activities or take affirmative action to improve the quality of the environment.

Section 6.9 Easements and Rights Binding. The easements, rights-of-way and other rights reserved in this Article Six shall be permanent, shall run with the land and shall be binding upon and for the benefit of the Association, the Owners and their respective successors and assigns.

ARTICLE SEVEN

ASSESSMENTS AND RIGHT OF ASSOCIATION TO BORROW

Section 7.1. Imposition, Personal Obligation, Lien. Each Owner, by becoming an Owner by the acceptance of a deed or otherwise, whether or not such deed or any other instrument pursuant to which title was obtained so provides, shall be deemed to covenant and agree to pay to the Association:

Section 7.1.1 Annual Assessments. Annual assessments or charges for the maintenance and operation of Association Property ("Maintenance Assessments").

Section 7.1.2 Special Assessments. Special assessments for capital improvements to Association Property ("Special Assessments").

Maintenance Assessments and Special Assessments together are hereinafter referred to as "Assessments".

The Assessments shall be fixed, established and collected from time to time as hereinafter provided. Each Assessment (or installment payment thereof) together with such late charges, interest thereon and costs of collection as hereinafter provided, shall be a charge and continuing lien upon the Lot against which the Assessment is made and shall also be the personal obligation of the Owner of such Lot at the time the Assessment falls due.

Section 7.2. Purpose of Maintenance Assessment. The purpose of the Maintenance Assessment shall be to fund the maintenance, preservation, operation and improvement of the

Association Property and the promotion of the recreation, safety and welfare of the Members, including but not limited to, the payment of taxes on Association Property, any utility services to the Property which are commonly metered or billed, all casualty, liability and other insurance covering the Association Property, any Property or Lots which the Association has the responsibility to maintain and the Association's officers, directors, Members and employees obtained pursuant to Article VIII of this Declaration, for the maintenance, repair and replacement of all facilities commonly servicing the Members, such as roadways and landscaped areas, the cost of labor, equipment, materials, management and supervision thereof, and for all other similar needs as may arise. The amount of any reserves shall be not less than the reasonable requirements of existing or proposed lenders, holders and insurers of first mortgages of the Lots or, if less, the requirements under the laws of the State of North Carolina.

Section 7.3. Date of Commencement and Notice of Assessments and Changes in Annual Assessments. The amount of the Assessment against each Lot shall be fixed at least thirty (30) days in advance of the beginning of each fiscal year. The Assessments shall be due and payable annually unless the Board of Directors establishes other periods for payment. The procedure for adoption of each annual budget, including the Assessments, shall comply with the requirements of the North Carolina Planned Community Act.

Section 7.4. Basis for Maintenance Assessment. The annual Maintenance Assessment shall be the same for all Lots subject to this Declaration so that the number of assessed Lots divided into the total amount which the Board of Directors shall deem to be necessary to fully fund the current budget of estimated expenses and reserves (and any operating deficits previously sustained) shall determine the annual Maintenance Assessment for each Lot.

Section 7.5. Change in Basis of Assessments. The Association may change the basis of determining the Maintenance Assessment by obtaining the affirmative vote or written consent of at least two-thirds (2/3) of the total votes of all Members voting after notice which shall be sent to all Members whose names appear on the records of the Association not less than ten (10) days nor more than sixty (60) days in advance of the date set for voting thereon.

Section 7.6. Special Assessments for Capital Improvements. In addition to the annual Maintenance Assessment, the Association may levy in any assessment year a Special Assessment, payable in that year and/or the following years, for the purpose of defraying in whole or in part, the cost of any capital improvements, including without limitation, the construction, reconstruction or replacement of, or repair of a capital nature to, the Association Property or to any Property or Lots which the Association has the responsibility to maintain, including the necessary fixtures and personal property related thereto, provided that for any Special Assessment for the construction (rather than the reconstruction or replacement of any capital improvement, and for any Special Assessment amounting to more than 20% of the then current amount of annual Maintenance Assessments, the affirmative vote or written consent is obtained of at least two-thirds (2/3) of the total votes of all Members voting after notice which shall be sent to all Members whose names appear on the records of the Association not less than ten (10) days nor more than sixty (60) days in advance of the date set for voting thereon. The Association shall establish one or more due dates for each payment or partial payment of each Special Assessment and shall notify each Owner in writing at least thirty (30) days prior to the

first such due date.

Section 7.7. Non-Payment of Assessment. If an annual Assessment, or installment thereof, is not paid by any Owner on the due date established pursuant to Section 7.3 hereof, then the balance of the annual Assessment shall be deemed delinquent. Any delinquent Assessment payment, together with such interest thereon, accelerated future installments, if any, and cost of collection thereof as herein provided, shall thereupon become a continuing lien on such Owner's Lot which shall bind such Lot and the then Owner of such Lot and such Owner's heirs, devisees, personal representatives, successors and assigns. In addition to the lien rights provided herein, the personal obligation of the then Owner to pay such assessment shall remain such Owner's personal obligation and shall not become the personal obligation of such Owner's successors in title unless expressly assumed by them.

If the Assessment or any installment thereof is not paid within ten (10) days after the due date, the Association may impose a late charge or charges in such amount or amounts as the Board of Directors deems reasonable, not to exceed the limit imposed by the laws of the State of North Carolina, provided such late charges are equitably and uniformly applied.

If the Assessment or any installment thereof is not paid within thirty (30) days after the due date, (i) the Assessment shall bear interest from the due date at such rate as may be fixed by the Board of Directors from time to time, such rate not to exceed the maximum rate of interest then permitted by law; (ii) the Association may accelerate the remaining installments, if any, of such annual Assessment upon notice thereof to the Owner, (iii) the Association may suspend privileges of, or services provided by the Association to, any delinquent Member during any period that such Member's account remains delinquent, (iv) the Member/Owner shall not be entitled to vote at any meeting while the Owner/Member is delinquent and (v) the Association may bring legal action against the Owner personally obligated to pay the same or foreclose the lien against the Lot, and the cost of such proceedings, including reasonable attorneys' fees, shall be added to the amount of such Assessments, accelerated installments, if any, late charges and interest.

Once an Assessment is deemed delinquent as described above, any payments received from the Owner shall be applied in the following order: attorney's fees, other costs of collection, late charges, interest, and then the delinquent Assessment or installments thereof beginning with the amounts past due for the longest period.

Under no circumstances shall dissatisfaction with the quantity or quality of maintenance services furnished by the Association entitle any Owner to withhold or fail to pay the Assessments due to the Association for the Lot or Lots owned by such Owner.

There is hereby created a lien, with power of sale, on each and every Lot to secure payment to the Association of any and all Assessments levied against any and all Lots under this Declaration, together with attorney's fees, other costs of collection, late charges and interest. If any Assessment remains delinquent for thirty (30) days, the Association may elect to file a claim of lien in the Office of the Clerk of Superior Court of the County on behalf of the Association against the Lot of the delinquent Owner. Such a claim of lien shall be executed by any officer or



managing agent of the Association and shall contain substantially the following information:

Section 7.7.1 Name. The name of the delinquent Owner and the name and address of the Association;

Section 7.7.2 Description. A brief legal description or the street address of the Lot against which the claim of lien is made;

Section 7.7.3 Amount Due. The total amount claimed to be due and owing for the amount of the delinquency and all accrued and accruing interest thereon, collection costs and reasonable attorney's fees (with any proper offset thereof);

Section 7.7.4 Lien Per Declaration. That the claim of lien is made by the Association pursuant to this Declaration; and

Section 7.7.5 Lien. That a lien is claimed against said Lot in an amount equal to the amount stated.

Upon recordation of a duly executed original or copy of such a claim of lien, and mailing a copy thereof to said Owner at the address of the Lot or such other address as may appear on the records of the Association, the lien claimed therein shall immediately attach and become effective in favor of the Association as a lien upon the Lot against which such Assessment was levied. Such a lien shall have priority over all liens, encumbrances and claims except (i) liens and encumbrances recorded prior to the recordation of the claim of lien thereof, and (ii) tax liens for real property taxes on any Lot, assessments on any Lot in favor of any municipal, county or other governmental body assessing the Lot, and the liens, which are specifically described hereinafter. Any such lien may be foreclosed by appropriate court action or in a like manner as a mortgage on real estate under power of sale under Article 2(A) of Chapter 45 of the North Carolina General Statutes, as amended, or in any manner provided by the laws of the State of North Carolina, as the same may be changed or amended. The lien provided for herein shall be in favor of the Association and shall be for the benefit of all other Owners. The Association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage, and convey such Lot. In the event of foreclosure, reasonable attorney's fees, court costs, title search fees, interest, and all other costs and expenses shall be subject to recovery by the Association to the extent permitted by law. Each Owner, by becoming an Owner, hereby expressly waives any objection to the enforcement and foreclosure of this lien in the manner provided herein.

Section 7.8. Notice of Default. The Board of Directors, when giving notice to the Owner(s) of a default in paying Assessments, may, at its option, or shall, at the written request of a mortgagee, send a copy of such notice to each holder of a mortgage covering such Lot whose name and address appears on the Board's records. The mortgagee shall have the right to cure the Owner's default with respect to the payment of said Assessments.

Section 7.9. Right to Maintain Surplus. The Association shall not be obligated in any calendar year to spend all the sums collected in such year by way of Assessments or otherwise,

and may carry forward as surplus any balances remaining, nor shall the Association be obligated to apply any such surpluses to the reduction of the amount of the Maintenance assessments in the succeeding year, but may carry forward from year to year such surplus as the Board of Directors in its absolute discretion may determine to be desirable for the greater financial security and the effectuation of the purposes of the Association.

Section 7.10. Assessment Certificates. Upon written demand of an Owner or lessee with respect to a Lot which he or she owns or leases, or any prospective purchaser, lessee, occupant, mortgagee or title insurer of such Lot, the Association shall, within the time required by law, or if no such requirement, within a reasonable period of time, issue and furnish a certificate in writing signed by an officer or designee of the Association setting forth with respect to each Lot as of the date of such certificate, (i) whether the Assessments, if any, have been paid; (ii) the amount of such Assessments, including interest and costs, if any, due and payable as of such date; and (iii) whether any other amounts or charges are owing to the Association, e.g. for the cost of extinguishing a violation of this Declaration. A reasonable charge, as determined by the Board of Directors, may be made for the issuance of such certificates. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Association and any bona fide purchaser, lessee or title insurer of, or lender on the Lot or Lot on which such certificate has been furnished.

Section 7.11. Subordination of Assessment Lien to Mortgages. The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage of record now or hereafter placed upon any Lot (unless a claim of lien has been filed pursuant to Section 7.7 prior to the filing of such first mortgage), provided, however, that such subordination shall apply only to the Assessments which have become due and payable prior to a sale or transfer of such Lot or Lot pursuant to a decree or deed of foreclosure. Such sale or transfer shall not relieve such property from liability for any Assessments thereafter becoming due, nor from the lien of any such subsequent Assessment.

Section 7.12. Right to Borrow and Mortgage. In order to fulfill the purposes set forth herein, the Association may borrow funds from any recognized lending institution, and in conjunction therewith, and subject to the provisions of NCGS Section 47F-3-112, mortgage any Association Property. The proposed amount, terms, rate or rates of all borrowing and the provisions of all agreements with noteholders shall be subject solely to the discretion of the Board of Directors.

Section 7.13. Repayment of Monies Borrowed. In order to secure the repayment of any and all sums borrowed from time to time, the Association is hereby granted the right and power to:

Section 7.13.1 Pledge. Assign and pledge all revenues received and to be received by it under any provision of this Declaration including, but not limited to, the proceeds of the maintenance assessments hereunder;

Section 7.13.2 Agreements. Enter into agreements with noteholders with respect to the collection and disbursements of funds, including, but not limited to, agreements wherein the



(a) Assess the maintenance assessments on a given day in each year and, subject to the limitation on amount specified in Section 7.04, to assess the same at a particular rate or rates;

- (b) Establish sinking funds and/or other security deposits;
- (c) Apply all funds received by it first to the payment of all principal and interest on such when due, or to apply the same to such purpose after providing for costs of collection;
- (d) Establish such collection, payment and lien enforcement procedures as may be required by the noteholders; and/or
- (e) Provide for the custody and safeguarding of all funds received by it.

ARCHITECTURAL CONTROL

Section 8.1. Purposes. The Association desires (1) to insure the best use of and the most appropriate development improvement of each building site thereof to protect the owners of building sites against such improper use of surrounding building sites as will depreciate the value of their property, (2) to preserve, so far as practicable, the natural beauty of said property, (3) to guard against the erection thereon of poorly designed or proportioned structures and structures built of improper or unsuitable materials, (4) to insure the highest and best development of said property, (5) to encourage and secure the erection of attractive homes thereon with appropriate locations thereof on building sites, (6) to prevent haphazard and inharmonious Improvement of building sites, (7) to secure and maintain proper setbacks from property lines and adequate free spaces between structures, and (8) in general, to provide adequately for a high type and quality of improvement of said property, both enhancing the values of investments made by purchasers of building sites therein, and preserving as fully as possible the natural beauty of both the Common Areas and individual building sites. To that end the Association hereby establishes an Architectural Control Committee in order to provide and maintain standards which will insure this harmony of exterior design and location in relating to surrounding structures and/or topography.

Section 8.2. Approval of Plans. No building, wall, driveway, swimming pool, tennis court, or other structure, site work or clearing preparatory to construction shall be begun, altered, added to, maintained or reconstructed on any Lot until the plans and specifications for such work have been reviewed and approved by the Architectural Control Committee (The Committee). Before commencing such review, a Lot Owner shall submit to the Committee three (3) completed sets of plans and specifications, including, but not limited to, foundation plan, floor plan or plans, the four directional elevations, a schedule of proposed exterior colors and materials, shingle colors, grade and weight, plan showing driveway, parking, septic tank and

drainfield, and expected completion of improvement. The Committee shall have the absolute and exclusive right to refuse to approve any such plans and specifications which are not suitable or desirable in the opinion of The Committee for any reason, including purely aesthetic reasons which, in the sole and uncontrolled discretion of The Committee, shall be deemed sufficient, provided The Committee shall not refuse to approve any plans and specifications which are substantially similar to any other plans and specifications which previously have been approved for or constructed on any lot. If construction of any improvement required to be approved shall not have been begun before the expiration of six months following approval, said approval shall be void and of no effect. The plans of such improvement shall be resubmitted to The Committee for reconsideration and The Committee may, in its discretion either confirm its earlier approval of plans or disapprove. The Association shall have the power to charge a reasonable fee for this review.

Section 8.3. Architectural Control Committee. (a) Membership; The Committee shall be composed of five (5) people who need not be members of the Association, appointed by the Board. A majority of The Committee may designate a representative to act for it. In the event of death, resignation or removal by the Board of any member of The Committee, the Board shall have fully authority to designate the successor otherwise approved by the Association. The Association shall keep or cause to be kept a list of the names of the persons who form The Committee and a list of the names of any designated representatives of The Committee and such list shall be available to any Owner. (b) Procedure; At least thirty (30) days prior to the commencement of any construction the plans shall be submitted to the Committee. The Committee's approval, disapproval, or waiver as required in these covenants shall be in writing and the decision of a majority of the Committee in case of any disagreement among Committee members as to the approval, disapproval, or waiver by The Committee shall be controlling. In the event The Committee or its designated representatives fail to approve or disapprove within thirty (30) days after plans have been received by it, approval of The Committee will not be required, and the related covenants and conditions of this Declaration shall be deemed to have been fully complied with. Further, in the event any construction is commenced on any Lot without submission to The Committee of the plans with respect thereto, and no action or suit is instituted against the Owner of such Lot by the Association or any Owner of any other Lot such Lot by the Association or any Owner of any other Lot constituting a portion of the Properties within ninety (90) days after the foundation of any building being constructed on any such Lot is completed, then, and in any such event, approval by the Committee will not be required and the related covenants and conditions of this Declaration shall be deemed to have been fully complied with.

ARTICLE NINE

AMENDMENT OF DECLARATION

Section 9.1 Amendment. This Declaration may be amended by a two-thirds vote of the then current Association Members. If any amendment or modification to the Declaration creates an inconsistency in the By-Laws to the extent such inconsistency exists, the Declaration shall control. No amendment to this Declaration shall be effective until recorded in the Office of the Register of Deeds of Dare County, North Carolina.

ARTICLE TEN

CAPTIONS, INTRODUCTIONS AND GENDER

Section 10.1 Captions. The captions and introductory material herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration nor the intent of any provision hereof. The use of masculine gender in this declaration shall be deemed to refer to the feminine and neuter genders, and the use of the plural shall be deemed to include the singular, whenever the context so requires.

ARTICLE ELEVEN

VARIANCE

Section 11.1 Variance. The Board of Directors of the Association may from time to time grant to the Owner or Owners of a lot within the subdivision a waiver or variance from the provisions of this Declaration. The conditions under which such a waiver or variance may be granted shall be in the total discretion of the Board of Directors of the Association. It is understood that the existence of this power does not create a right in any homeowner or lot owner to such action by the Board and the decision of the Board on request for waiver or variance shall be final. The expressed purpose of the power as described in this paragraph is to enable the Board of Directors to alleviate hardships created by the terms of this declaration under circumstances which are beyond control or fault of the parties, would create irreparable harm or unnecessary hardship within such action, or under conditions where title to the property in question is clouded, encumbered or detrimentally effected by the existence of conditions which cannot otherwise be corrected. Even when conditions as described herein exist so that waiver or variance appears appropriate, granting such waiver or variance shall remain completely within the discretion of the Board of Directors.

IN WITNESS WHEREOF, the Association has caused this instrument to be executed by its President, by the authority duly given, the day and year first above written.

BIAS SHORES HOMEOWNERS ASSOCIATION, INC.

By: _____

Joseph Abron, President

STATE OF NC
CITY/COUNTY OF Wake County

I, Christopher D. Sizemore, a Notary Public of the City/County and State aforesaid, certify that Joseph Abron, of Bias Shores Homeowners Association, Inc., a North Carolina corporation, personally came before me this day and acknowledged that he is President of Bias Shores Homeowners Association, Inc., and that he, as President, being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official stamp or seal, this the 22 day of May, 2013.

Christopher D. Sizemore
Notary Public

SEAL/STAMP

My Commission Expires: May 9, 2015

