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BALLEW V. BALLEW  
REGISTRAR OF DEEDS

**THIS AGREEMENT CONTAINS A BINDING, IRREVOCABLE AGREEMENT TO ARBITRATE AND IS SUBJECT TO ARBITRATION PURSUANT TO THE SOUTH CAROLINA UNIFORM ARBITRATION ACT (SC CODE ANN. § 15-48-10, ET SEQ., AS AMENDED), AS MODIFIED HEREIN**

STATE OF SOUTH CAROLINA )	DECLARATION OF COVENANTS,
	CONDITIONS, EASEMENTS AND
	RESTRICTIONS FOR SEA MIST
COUNTY OF HORRY )	MASTER HOMEOWNERS' ASSOCIATION

THIS DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR SEA MIST MASTER HOMEOWNERS' ASSOCIATION is made this 5<sup>th</sup> day of April, 2006, by Condo Conversions SM, LLC (hereinafter referred to as "Declarant").

**WITNESSETH:**

WHEREAS, Declarant is the owner of the real property located in Horry County, South Carolina, being more particularly described on Exhibit A attached hereto and incorporated herein by reference; and

WHEREAS, Declarant plans to develop the real property described in Exhibit A (hereinafter referred to as the "Land") in phases as a Development, as hereinafter defined; and

WHEREAS, Declarant desires to subject the Land to the provisions of this Declaration in order to provide a flexible and reasonable method for the administration, assessment and maintenance of the common driveways, parking areas, shared recreational amenities, and other Master Common Areas which may be designated as such hereunder.

NOW, THEREFORE, Declarant hereby declares that this Declaration and the covenants, conditions, restrictions and easements established herein shall be covenants to run with the land and that all the Land (and Additional Property, as hereinafter defined, or portions thereof, when and if submitted to the provisions hereof) are herewith subject and subordinate to the terms, provisions and conditions hereof. Said covenants, conditions, easements and restrictions shall inure to the benefit of and shall be binding upon each and every owner of any portion of the Land subject to this Declaration and his or her respective heirs, representatives, successors, purchasers, lessees, grantees and Mortgagees. By the recording or acceptance of the conveyance of a Parcel or Unit subject to this Declaration or any interest therein, the person or entity to whom such interest is conveyed shall be deemed to accept and agree to be bound by the provisions of this Declaration and the By-Laws of the Association.

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## ARTICLE I

### 1. DEFINITIONS

When used in this Declaration, unless the context shall prohibit or require otherwise, the following words shall have all the following meanings, and all definitions shall be applicable to the singular and plural forms of any such term(s):

- 1.1 "Additional Property" shall mean and refer to any land located within a distance of 1 mile from the Land being submitted herewith.
- 1.2 "Articles" shall mean and refer to the Articles of Incorporation of Sea Mist Master Owners' Association, Inc., a South Carolina eleemosynary corporation, a copy of which is attached hereto as Exhibit D, as it may be constituted or amended from time to time.
- 1.3 "Assessment" shall mean and refer to the Common Expenses or other charges from time to time assessed against a Parcel or a Unit or a Subordinate Association by the Association in the manner herein provided.
- 1.4 "Association" shall mean and refer to Sea Mist Master Homeowners' Association, Inc., a South Carolina eleemosynary corporation.
- 1.5 "Board of Directors" shall mean and refer to the Board of Directors of the Association.
- 1.6 "Building" shall mean any building or other structure located on the Land comprising Master Common Areas or subject, in whole or in part, to a Master Common Easement.
- 1.7 "By-laws" and/or "By-laws of the Association" shall mean and refer to the By-laws duly adopted by Sea Mist Master Owners' Association, Inc., which govern the administration and operation of the Association, as may be amended from time to time, a copy of which are attached hereto as Exhibit E and incorporated herein by reference.
- 1.8 "Master Common Areas" shall mean and refer to those areas of the Land which are described on Exhibit B attached hereto or which may be designated in any supplement or amendment to this Declaration submitting Additional Property, for the common

use and enjoyment by the Owners, Unit Owners and Occupants of the Development. Future Master Common Areas may include but shall not be limited to roads, driveways, walkways, sidewalks, beach access paths, street lighting, signage, pools, pool areas, lazy rivers, water slides, saunas, wooden decks, volleyball courts, parking garages or structures, stairways, hallways, lobbies, ballrooms, game rooms, meeting rooms, exercise rooms, public restrooms, storage areas, elevators, sea walls, irrigation systems, security systems, fire protection and alarm systems, trash systems, landscaped areas, open spaces and exterior lighting or other amenities. The fee simple title to the Master Common Areas will be held, subject to the terms of this Declaration, by Declarant until such times as the same are conveyed to the Association in accordance herewith. THE DESIGNATION OF ANY OF THE LAND OR IMPROVEMENTS THEREON AS MASTER COMMON AREAS SHALL NOT MEAN OR IMPLY THAT THE PUBLIC AT LARGE ACQUIRES ANY EASEMENT OF USE OR ENJOYMENT THEREIN.

- 1.9 “Master Common Easements” shall mean and refer to those areas of the Land or a Building which are described on Exhibit C attached hereto or which may be designated in any supplement or amendment to this Declaration for the purposes of i) submitting Additional Property to this Declaration or, ii) designating or redesignating Master Common Easements within a pre-existing Subordinate Regime on portions of the common elements which are created on the pre-existing Subordinate Regime as part of the submission of an additional phase or phases within or on the common elements of the pre-existing Subordinate Regime. Such future designation or redesignating of additional Master Common Easements on the common elements of a pre-existing Subordinate Regime shall be deemed to be the submission of Additional Property hereunder. All such Master Common Easements shall be for the common use and enjoyment of the Owners, Unit Owners and Occupants of the Development. The fee simple title to the Master Common Easements shall be held by the Owners of the Parcel subject to the Master Common Easement or by the Unit Owners of a Subordinate Regime located on a Parcel, in common with other Unit Owners as a portion of the common elements of such Subordinate Regime. The designation or redesignation of Master Common Easements, including the removal of such designation from certain items, improvements, facilities and amenities, in connection with the submission of portions of the Development to a Subordinate Regime or as an additional phase of a pre-existing phase of a Subordinate Regime are hereby permitted. Future Master Common Easements may include, but shall not be limited to easements over, through, under, across and upon roads, driveways, walkways, sidewalks, beach access paths, street lighting, signage, pools, pool areas, lazy rivers, water slides, saunas, wooden decks, volleyball courts, parking garages or structures, stairways,

hallways, lobbies, ballrooms, game rooms, meeting rooms, exercise rooms, public restrooms, storage areas, elevators, sea walls, irrigation systems, security systems, fire protection and alarm systems, trash systems, landscaped areas, open spaces, exterior lighting, exterior surfaces and non structural components of Buildings, or other components or parts of Buildings which are designated as common elements under the Master Deed creating the Subordinate Regime.

THE DESIGNATION OF ANY EASEMENT AS A MASTER COMMON EASEMENT SHALL NOT MEAN OR IMPLY THAT THE PUBLIC AT LARGE ACQUIRES ANY RIGHTS OF USE AND ENJOYMENT OF THE EASEMENT.

- 1.10 "Common Expenses" shall mean and refer to all liabilities, cost or expenditures made or incurred by or on behalf of the Association in the insuring, administration, repair, replacement or operation of any Master Common Areas or Master Common Easements or in the performance of the Association's duties hereunder all as more particularly set forth herein.
- 1.11 "Declarant" shall mean and refer to Condo Conversions SM, LLC its successors and assigns, provided, however, that this definition shall not include the purchaser, owner, or mortgagee of any Parcel or Unit, but only such party to which such rights are specifically assigned.
- 1.12 "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, Easements and Restrictions for Sea Mist Master Homeowners' Association and all supplements or amendments to it filed for record from time to time in the office of the Register of Deeds for Horry County, South Carolina.
- 1.13 "Development" shall mean and refer to the mixed use residential, resort and commercial community constructed or to be constructed upon the Land or portions thereof.
- 1.14 "Land" shall mean and refer to all the land, and improvements thereon, described in Exhibit A and all or any portion of the Additional Property, and improvements thereon, which are hereafter submitted to the provisions of this Declaration.
- 1.15 "Member" shall mean and refer to a member of the Association as more particularly set forth in Section 6.1.
- 1.16 "Mortgage" shall mean any mortgage, deed of trust, or other security instrument by which a Parcel or Unit or any part thereof is encumbered.

- 1.17 "Mortgagee" shall mean (i) any person or entity named as the mortgagee or beneficiary under any Mortgage by which the interest of any Unit Owner or Owner is encumbered, or (ii) any successor to the interest of such person or entity under such mortgage.
- 1.18 "Occupant" shall mean and refer to any person, including, without limitation, any Unit Owners, Owner or guest, invitee, licensee, lessee, tenant, transient paying guest, exchange guest or family member of an Unit Owner or Owner, lawfully occupying or otherwise using a Unit or all or a portion of a Parcel within the Development.
- 1.19 "Owner" shall mean and refer to one or more persons, including Declarant, who, individually or collectively, if more than one, own fee simple title to a Parcel, as hereinafter defined. Owner shall not refer to any Mortgagee (unless such Mortgagee has acquired title for other than security purposes) or to any person or persons purchasing a Parcel under contract (until title is conveyed of record).
- 1.20 "Parcel" shall mean a separately described subdivision of the Land which may be held as a separate tract or submitted to the provisions of the Horizontal Property Act of South Carolina. Upon submission of additional phases to a Subordinate Regime, the Parcel or Parcels upon which the additional phase or phases is submitted shall be deemed joined with all previously submitted phase or phases in order to constitute one Parcel.
- 1.21 "Person" shall mean and refer to a natural person, corporation, partnership, association, proprietorship, trust or any other legal entity and any combination thereof.
- 1.22 "Prorata Shared Common Expenses" shall have the meaning set forth in Section 5.3.
- 1.23 "Subordinate Association" shall mean an association of Unit owners within a Parcel subject to this Declaration created by a Subordinate Declaration to provide for the orderly control, administration, maintenance, and management of that Parcel or if a Parcel submitted to this Declaration is not submitted to a horizontal property regime, the owner of the Parcel not submitted to the Subordinate Association, shall be considered a Subordinate Association for purposes of this Declaration.
- 1.24 "Subordinate Declaration" shall mean and refer to any master deed recorded with respect to any Parcel subject to this Declaration submitting that Parcel to the provisions of the South Carolina Horizontal Property Act.

- 1.25 "Subordinate Regime" shall mean a Horizontal Property Regime which is established by the recording of a Master Deed submitting a Parcel which is subject to this Declaration to the South Carolina Horizontal Property Act.
- 1.26 "Unit " shall mean an ownership interest in a horizontal property regime established on a Parcel pursuant to the South Carolina Horizontal Property Act. Further, in the event a building or building containing one or more spaces intended to be occupied independent residential or commercial spaces is not submitted to a Subordinate Association within ten (10) days from the date a certificate of occupancy is issued for such spaces or could have been issued for such spaces, each such space shall nevertheless be deemed a Unit for purposes of this Declaration.
- 1.27 "Unit Owner" shall mean an owner of a Unit, as defined herein.

## ARTICLE II

### 2. PLAN OF DEVELOPMENT

#### 2.1 Plan of Development.

Declarant plans for the Land to be owned and used as a mixed use residential and commercial resort. Pursuant to the provisions hereof, Declarant has designated portions of the Development as Master Common Areas and/or Master Common Easements and has reserved the right to designate or redesignate future Master Common Areas and Master Common Easements. Declarant, its successors and assigns, may designate or redesignate other Master Common Areas or Master Common Easements of the Association on any portion of Land which is owned by the Declarant, its successors and assigns, or which is subsequently submitted to a Subordinate Regime or as an additional phase of a Subordinate Regime at any time and from time to time without notice to or approval by the Association by filing an amendment to this Declaration. The Association shall be fully responsible and liable for the operation, maintenance, and repair of all Master Common Areas and Master Common Easements designated herein immediately upon recordation of this Declaration or upon recording any amendment to this Declaration designating any future Master Common Areas and Master Common Easements.

#### NOTICE OF POSSIBLE ADDITIONS

Additions to the Development may include improvements, facilities and amenities such as residential condominiums, water parks, pools, tennis courts, lazy rivers, spas, parks, green spaces and all other items which are more particularly described in that

certain PUD ordinance #2006-25 for the City of Myrtle Beach as said PUD ordinance may be amended from time to time.

- 2.2 Non-Severability of Rights. The rights, liabilities and obligations set forth herein shall attach to and run with the ownership of a Unit or Parcel that is subject to this Declaration as more specifically set forth below, and may not be severed or alienated from such ownership.
- 2.3 Plan of Development of Additional Property. Declarant hereby reserves the option, to be exercised in its sole discretion, to submit at any time, or from time to time, the Additional Property, or any portion or portions thereof, to the provisions of this Declaration and thereby to cause the Additional Property, or a portion or portions thereof, to become part of the Land and/or to submit all or portions as Master Common Areas and/or Master Common Easement, just as fully as if the portion or portions thereof were included within the Land initially submitted to this Declaration on the date hereof. The option to submit the Additional Property or portions thereof to this Declaration and/or to designate or redesignate Master Common Easements and/or Master Common Areas, may be exercised at any time and from time to time during a period of 40 years from the date of recordation of this Declaration ("Option Term"); provided, however, that Declarant reserves the right to terminate this option at any time prior to the expiration of this Option Term by executing and filing a document evidencing such termination in the Office of the Register of Deeds for Horry County, South Carolina, and, except for this termination by Declarant, no other circumstances will cause the termination of this option prior to the expiration of the Option Term.
- 2.4 Order of Submitting Additional Property: All or any portion of the Additional Property may be submitted to this Declaration at any time, and from time to time within the Option Term, and there are no limitations fixing the boundaries of those portions or regulating the order, sequence or location in which any portion of the Additional Property may be added to the Land. The exercise of the option to submit a portion of the Additional Property to the Declaration shall not bar the further exercise, from time to time, of this option as to the remaining portions of the Additional Property.
- 2.5 Effect of Expiration of Option: If the option to add the Additional Property or portions thereof is not exercised within the Option Term or is terminated by Declarant, such option shall in all respects expire and be of no further force or effect. IN THE EVENT THAT SUCH OPTION EXPIRES OR IS TERMINATED, AS AFORESAID,

DECLARANT SHALL NOT BE OBLIGATED TO IMPOSE ON THE ADDITIONAL PROPERTY OR ANY PORTION THEREOF ANY COVENANTS, CONDITIONS OR RESTRICTIONS SIMILAR TO THOSE CONTAINED HEREIN, AND THE ADDITIONAL PROPERTY OR PORTION THEREOF NOT SUBJECTED TO THIS DECLARATION WILL BE FREE FROM ALL COVENANTS AND CONDITIONS HEREUNDER.

- 2.6 No Obligation to Submit Additional Property: The option reserved by Declarant to submit the Additional Property or portions thereof to become part of the Development shall in no way be construed to impose upon Declarant any obligation to submit all or any portion of the Additional Property to the terms of this Declaration or to construct thereon any improvements of any type or kind whatsoever or to restrict or limit its use in any manner. Any such amendment shall expressly submit the Additional Property, or portion thereof, to all the provisions of this Declaration.
- 2.7 Subordinate Associations. In the event that a Parcel is submitted to the South Carolina Horizontal Property Act, there shall be established for each such Parcel, an association of owners within the Parcel in order to promote their health, safety and social welfare, as well as to provide for the maintenance of the Units within that Parcel and other improvements and common elements located within that Parcel. Each Parcel submitted to the South Carolina Horizontal Property Act and subject to this Declaration shall be subject to a Subordinate Declaration. Each Subordinate Declaration and Subordinate Association shall be subject to the provisions of this Declaration, the Association and the By-Laws of the Association, and all rights, covenants, conditions and easements therein shall be in addition to, but not in abrogation or substitution of, those imposed hereby.
- 2.8 Interest Subject to Plan of Development. Every Unit Owner, Owner and Mortgagee of any Parcel or Unit subject to this Declaration shall take title, or hold such security interest with respect thereto, subject to the terms, conditions, covenants and restrictions set forth in this Declaration, and to the rights of Declarant hereunder, specifically including but not limited to the right of Declarant to submit the Additional Property or portions thereof, from time to time, to this Declaration.

### ARTICLE III

#### 3. PROPERTY RIGHTS AND RESERVATIONS

- 3.1 Owner's Right of Enjoyment in Master Common Areas and Master Common Easements. Every Unit Owner, Owner and Occupant of a Parcel or Unit subject to this Declaration shall have the non-exclusive right, privilege and easement to the use and



enjoyment of the Master Common Areas and Master Common Easements, and such easements shall be appurtenant to and shall pass with the title to every such Parcel or Unit subject to the terms and conditions of this Declaration, the By-Laws of the Association, and rules and regulations adopted by the Board of Directors pursuant to said ByLaws.

- 3.2 Changes in Boundaries: Additions to Master Common Areas. Declarant expressly reserves the right and power to add portions of the Land as additions to the Master Common Areas and Master Common Easements and to designate and/or redesignate Master Common Areas or Master Common Easements as provided herein.
- 3.3 Easements for Association. There is hereby reserved the general right and easement for the benefit of the Association, its directors, officers, agents and employees, including, but not limited to, any property manager employed by the Association and any employees of such manager, to enter upon any Master Common Areas or Master Common Easement in the performance of their respective duties.
- 3.4 Easements for Encroachments: There shall exist and Declarant hereby grants to the Owner(s) of Parcels within the Development reciprocal, appurtenant easements as between adjacent Parcels for any encroachments of any nature which are now existing. There shall further exist reciprocal appurtenant easements as between adjacent Parcels for any encroachments hereafter created due to the unwillful placement, settling, or shifting of the improvements constructed, reconstructed, or altered on them, provided such construction, reconstruction, or alteration is in accordance with the terms of this Declaration. No easement shall exist for encroachment as to any encroachment occurring due to the willful conduct of an Owner.
- 3.5 No Partition: There shall be no judicial partition of the Master Common Areas or Master Common Easements, nor shall Owners seek judicial partition of the Master Common Areas.
- 3.6 Title to Master Common Area: Except as provided in Section 3.7 below, the Declarant covenants for itself its successors and assigns, that at its sole election it shall convey by limited warranty deed or quit-claim deed to the Association at no cost to the Association, and the Association shall accept the Master Common Areas, as designated herein or in any supplement amendment hereto, subject to all restrictions and limitations of record and all reservations and limitations set forth in such deed of conveyance. Declarant shall convey all such Master Common Areas to the Association on or before the expiration of the Option Term either in multiple conveyances or in one conveyance.

The Master Common Area shall also be subject to:

- 3.6.1. All encumbrances, easements and restrictive covenants affecting such property at the time of conveyance;
  - 3.6.2 All matters of public record or matters which may be disclosed by a current and accurate survey of such property; and,
  - 3.6.3 Declarant's reserved right to grant easements over, under, across or through such Master Common Areas as deemed necessary by Declarant for the full development of the Development and as more particularly set for in this Declaration.
- 3.7 Extent of Member's Easements: The rights and easements of enjoyment created hereby in the Master Common Areas and Master Common Easements shall be subject to the following:
- 3.7.1. The right of the Declarant and the Association to dedicate any Master Common Area with or without consideration to any governmental body, district agency or authority or to any utility company, provided that, other than as provided elsewhere in this Declaration, no such dedication, transfer or conveyance shall adversely affect the use of the Master Common Area by the Unit Owners, Owners or Occupants;
  - 3.7.2. The right of the Declarant and the Association to grant, reserve and accept easements and rights-of-way through, under, over and across the Master Common Area and Master Common Easements for the installation, maintenance and inspection of lines and appurtenances or public or private water, sewer, drainage, electric, fuel, oil and other utilities and services including street lighting, a cable transmission or reception or community antennae television system, and irrigation or law sprinkler systems and the right of the Declarant to grant and reserve easements and rights-of-way through, over and upon and across the Master Common Area and Master Common Easements and for the operation and maintenance of the Master Common Area and Master Common Easements, including, without limitation, temporary parking, signage, cart paths and/or bicycle paths.

- 3.7.3. The right of the Association to adopt and publish rules and regulations governing the use of Master Common Area and Master Common Easements and the conduct of Unit Owners, Owners and Occupants and to establish penalties for the infraction of such rules and regulations.
  - 3.7.4. The right of the Association, as provided herein, to suspend the rights and easements of enjoyment of any Unit Owner, Owner or Occupant for any period during which the payment of any Assessment remains delinquent.
  - 3.7.5. The right of the Commercial Unit Owner in any Subordinate Regime or the right of any declarant, developer or grantor of any Subordinate Regime to temporarily use portions of the Common Elements (including certain Limited Common Elements) to the exclusion of other Owners, Unit Owners or Occupants, as may be provided in any Subordinate Declaration.
  - 3.7.6. The right of the Declarant to redesignate Master Common Easements located on a Parcel in connection with development and submission of such Parcel to a Subordinate Regime or as an additional phase of a Subordinate Regime.
- 3.8. Declarant's Reserved Rights: Notwithstanding any provisions herein to the contrary, the rights and easements of enjoyment created hereby shall be subject to the following:
- 3.8.1. The Declarant, its successors and assigns, shall have an alienable and transferrable right and easement on, over, through, under and across the Master Common Areas and Master Common Easements for the purpose of the storage of materials, vehicles, tools, equipment which are being utilized in any construction work on or within the Land and for installing, maintaining, repairing and replacing such other improvements to the Land as are contemplated by this Declaration or improvements or changes permitted and described in this Declaration; and for the purpose of doing all things reasonably necessary and proper in connection therewith, provided that in no event shall the Declarant have the obligation to do any of the foregoing.
  - 3.8.2. The Declarant reserves unto itself, its successors and assigns, a perpetual, alienable and releasable easement and right on, over and under the Master Common Areas and Master Common Easements to erect, maintain and use poles, wires, cables, conduit, sewers, water mains, irrigation mains, drainage ways, sprinkler or landscape irrigation systems, pumping stations, tanks and other suitable equipment for the conveyance and use of electricity, telephone equipment, cable television, water, sewage and other utilities. This easement

and right especially includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or take any other similar action reasonable necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance.

- 3.8.3 An easement is hereby reserved for the benefit of the Declarant, its respective successors and assigns, to enter upon, across, over, in and under any portion of the Master Common Areas or Master Common Easements for the purpose of changing, correcting or otherwise modifying the grade or drainage channels so as to improve the drainage of water. In no event shall the Declarant have the obligation to do any of the foregoing.
- 3.8.4 There is hereby reserved for the benefit of the Declarant, its successors and assigns, an alienable, transferrable and perpetual right and easement on, over and across the Master Common Areas or Master Common Easements for the purpose of taking any action necessary to effect compliance with environmental rules, regulations and procedures from time to time promulgated by the Association or by any governmental entity.
- 3.8.5 The omission of any right or reservation in this Article shall not limit any other right or reservation by the Declarant which is expressly stated in or implied from any other provisions in this declaration.

#### ARTICLE IV

#### 4. USE AND OTHER RESTRICTIONS

- 4.1 Temporary Buildings. Except as provided hereinbelow, no outbuilding, basement, tent, shack, garage, trailer, shed, or temporary building of any kind shall be used, erected or maintained, either temporarily or permanently upon the Land. Notwithstanding the foregoing, a Commercial Unit Owner in any Subordinate Regime or the declarant, developer or grantor of any Subordinate Regime shall be entitled to erect any of the above described temporary structures on the Land to the extent permitted in any Subordinate Declaration. Further, the Declarant or other Owner of a Parcel shall be allowed to maintain construction trailers upon the land during the construction of improvements.
- 4.2 Master Common Areas. Except as otherwise provided herein, nothing shall be altered, constructed, or removed from the Master Common Areas except on the written consent of the Association.

- 4.3 Residential Use Restriction Applicable to Subordinate Regimes. With the exception of the Commercial Unit(s) within Subordinate Associations and commercial usage or developer rights reserved unto the Grantor of a Master Deed submitting a Parcel to a Subordinate Regime, the Common Elements (including Common Elements which comprise a Parcel submitted to a Subordinate Declaration) are hereby restricted to residential use by the Unit Owner(s) thereof, their immediate families, guests, licensees and invitees. The foregoing restriction on commercial activities may not be amended without the consent of the Declarant, its successors and assigns, and the unanimous vote of all Owners and Subordinate Associations. Nothing herein shall be construed to limit the commercial or business activities which may be conducted on, through or about any Parcel which has not been submitted to the terms of a Horizontal Property Act, or the Commercial Unit(s) or the Limited Common Elements appurtenant thereto, as designated in any such Master Deed for a Parcel which has been submitted to a Subordinate Regime; the same may be used for all legal commercial purposes.

## ARTICLE V

### 5. Common Expenses

- 5.1 Preliminary Statement. In order to provide for the orderly administration of the Development, the Owners within the Development shall share the cost of the Common Expenses as more fully described herein including the cost and expenses of maintaining, repairing and administering the Master Common Areas and/or Master Common Easements.
- 5.2 Definition of "Common Expenses". For the purpose of this Article, the term "Common Expenses" shall mean (i) the actual costs and expenses arising from the operation, maintenance, use and upkeep of any Master Common Areas and/or Master Common Easements as defined herein or in any supplement or Amendment submitting any Additional Property, (ii) insurance costs which are the responsibility of the Association, as set forth in this Declaration, including but not limited to insurance cost for any Master Common Areas and/or Master Common Easements, (iii) expenses for common services for the Development as a whole including but not limited to janitorial services, trash debris and garbage removal and landscaping services for Master Common Areas and/or Master Common Easements, (iv) electricity and water utility charges for exterior lighting, pools, irrigation, parking facilities, elevators, heating and air conditioning of Master Common Areas or Master Common Easements, and (v) any other costs and expenses which are deemed by the Board of

Directors of the Association to benefit the Land as a whole, whether or not the same have been specifically identified herein, and are not the responsibility of any Subordinate Association or any Owner.

- 5.3 Definition of "Prorata Shared Common Expenses." For the purpose of this Article, the term "Prorata Shared Common Expenses" shall mean that portion of the Common Expenses that is due from and payable by an Owner or Subordinate Association. The Prorata Shared Common Expenses for each Parcel shall be a percentage of the total Common Expenses which is determined by dividing the total interior heated square footage of all Units (both Residential and Commercial) within a Parcel divided by the total interior heated square footage of all Units (both Residential and Commercial) within the Development from time to time. The Prorata Shared Common Expenses attributable to each Subordinate Association or Owner may be increased or decreased in the event of an increase or decrease in the total interior heated square footage of all Units (both Residential and Commercial) within a Parcel or in the event of an increase or decrease of the total interior heated square footage of all Units (both Residential or Commercial) with the Development.
- 5.4 Responsibility for Common Expenses. Each Owner and/or Subordinate Association shall be responsible for payment of its Prorata Shared Common Expenses to the Association as provided for herein. These are due from the Subordinate Association whether or not collected from individual Unit Owners.
- 5.5 Collection of Prorata Shared Common Expenses. Subordinate Associations (for the benefit of their Unit Owners) and Parcel Owners, of Parcels which have not been submitted to the Horizontal Property Regime, shall pay their Prorata Shared Common Expenses. The amounts due from the respective Parcel Owner, or Subordinate Association shall be paid to the Association and the Association shall pay such expenses to the person or entity to which they are owed.

## ARTICLE VI

### 6. THE ASSOCIATION

- 6.1 Membership: Parcels. Each Owner of a Parcel and each Subordinate Association shall be a Member of the Association. Each Member shall have a vote on all matters considered by the Association in accordance with the provisions of the By-Laws.

Each Unit Owner within a Subordinate Regime, by accepting a deed, irrevocably appoints, until termination of the Subordinate Regime, the board of directors of his/her Subordinate Association, or its designee, to represent and exercise the votes of the Subordinate Regime as may be required at any regular or special meeting of the Association. Each Parcel Owner and Unit Owner, by acceptance of a deed or other conveyance of a Unit or Parcel, consents and agrees to the dilution of his/her voting interest or the voting interest of his/her Subordinate Association in the Association by virtue of the establishment of additional Parcels and the submission, if any, from time to time of the Additional Property or any portion thereof to the terms of this Declaration as provided herein.

- 6.2 Board of Directors. The Board of Directors shall consist of not less than three members and not more than the total number of Subordinate Regimes and Parcels as more particularly described in the By-Laws to this Declaration.. The terms of all directors shall be three year staggered terms. The Declarant, its successors or assigns, shall have the power to designate all Directors of the Association for forty (40) years from the date of the initial filing of this Declaration in the public records of Horry County, South Carolina, at which time the procedures for election and administration of the Board of Directors will be as set forth in the By-Laws of the Association. Those By-Laws may be amended, from time to time, only as provided therein. The Board of Directors shall constitute the final administrative authority of the Association, and all decisions of the Board of Directors shall be binding upon the Association and its Members and all Unit Owners, Owners and Occupants of the Development. All rights, titles, privileges and obligations vested in or imposed upon the Association shall be held and performed by the Board of Directors or its duly appointed agents.
- 6.3 By-Laws. Each Member, Unit Owner, Owner and Occupant hereby consents and agrees that it shall be bound, with respect to its relationship with the Association, by the provisions of the By-Laws of the Association, as they may be amended from time to time.
- 6.4 Rules and Regulations. The Board of Directors shall have the authority from time to time to adopt rules and regulations governing the administration and operation of the Land, subject to the terms of this Declaration. Further, the Board of Directors shall have the authority to enter into agreements for the use by owners of pools or other amenities on property located adjacent to or in the vicinity of the Land and to collect the cost therefor as a Common Expenses, and to lease or grant licenses or concessions

with respect to portions of the Land; provided that such grants or leases shall not be inconsistent with the rights of the Unit Owners or Owners or the other provisions of this Declaration. The Board of Directors shall further have the right to grant and accept easements upon the Land which it may deem in the best interest of the Owners or which may be in furtherance of the full development of the Land or any Parcels thereof and as may be more particularly set forth herein. Further, each Owner hereby irrevocably appoints the Board of Directors as its attorney in fact to execute any documents necessary or convenient to effectuate the foregoing said power of attorney being deemed coupled with an interest.

- 6.5 Indemnification of the Board. The members of the Board of Directors, the officers of the Association and the managing agent of the Association, if any, shall not be liable to the Owners, Unit Owners or Subordinate Associations for any mistake in judgment or acts or omissions not made in bad faith, as members, officers or managing agent. All contracts and agreements entered into by the Board of Directors, officers or the managing agent shall be deemed executed by those parties as the case may be as agent for the Owners or the Association.
- 6.6 Board of Director's Determination Binding. In the event a disagreement arises between Members related to the Land or the interpretation and application of this Declaration or the By-Laws of the Association the review and determination thereof by the Board of Directors shall be final and binding upon each and every Member of the Association.
- 6.7 Management. The Board of Directors may retain a professional management company, professional manager, or full time employee or employees to manage the Master Common Areas and Master Common Easements and supervise their maintenance and operation and the operation of the administrative affairs of the Association. The Board of Directors may itself subsequently elect to assume those management responsibilities and in accordance with the terms of any management contract terminate the contract of any professional manager upon a vote of a majority of Directors entitled to cast votes.

Further, the Board of Directors shall enter into management contracts only if such contracts shall permit the termination thereof for cause by the Association upon 60 days prior written notice; and (ii) be for a period of not more than five (5) years. Such contracts may permit renewals thereof for periods not to exceed five (5) years at a time, by mutual consent.



6.8 Insurance.

6.8.1 Statement of Intent: In order to insure proper insurance coverage for the Owners, Unit Owners, Association, and Subordinate Associations, as well as to receive certain economic advantages, it is intended that the Association shall obtain insurance coverages as set forth below for the benefit of all of the Owners, Unit Owners, the Association, and Subordinate Associations. The premiums for such insurance shall be apportioned and payment shall be the responsibility of the Owners and Subordinate Associations as a Common Expense.

6.8.2 Acquisition of Insurance Coverage. The Association shall obtain and maintain casualty insurance for all improvements constituting Master Common Areas or Master Common Easements not covered by a Subordinate Association covering loss or damage by fire or other casualty, as well as comprehensive public liability insurance including liability for injuries or death to persons, and property damage, in such limits as it shall deem desirable, and workman's compensation insurance and other liability insurance as it may deem desirable, insuring each Owner, Unit Owner, Subordinate Association and the Association, their officers, members of the Board of Directors, the Declarant, the manager or managing agent, if any, and their respective employees and agents, if any, from liability in connection with Master Common Areas or Master Common Easements. The insurance shall be for the full insurable value (based upon current replacement cost) of such improvements. Such insurance coverage shall be written in the name of, losses under such policies shall be adjusted by, and the proceeds of such insurance shall be payable to, the Association. The insurance coverage shall, if possible, provide that the insurance as to the interest of the Association shall not be invalidated by any act or neglect of any Owner, Unit Owner, Occupant, or Subordinate Association.

The coverage shall contain an endorsement to the effect that said coverage shall not be terminated for non-payment of premiums without at least thirty (30) days prior written notice to the Association, Owners and Subordinate Associations. The insurance policies shall contain waivers of subrogation with respect to the Board of Directors, its employees and agents, Subordinate Associations and their respective Boards, Owners, members of their household and Mortgagees, and, if available, shall contain a replacement clause endorsement.

- 6.8.3 Appointment of Trustee for Proceeds. The Board of Directors may, at its discretion, retain any bank or trust company to act as Trustee, agent or depository on its behalf for the purpose of receiving or distributing any insurance proceeds. The fee of any trustee shall be a Common Expense.
- 6.8.4 Appraisals. The Board of Directors shall obtain, at least every seven (7) years, an appraisal, for insurance purposes, of the Master Common Areas and Master Common Easements and, upon receipt of any such appraisal, shall readjust, renegotiate, or obtain new insurance consistent with the appraisal as provided.
- 6.8.5 Other Insurance. The Board of Directors shall also obtain comprehensive public liability insurance including liability for injuries or death to persons, and property damage, in such limits as it shall deem desirable, and workman's compensation insurance and other liability insurance as it may deem desirable, insuring each Owner, Unit Owner, Subordinate Association and the Association, their officers, members of the Board of Directors, the Declarant, the manager or managing agent, if any, and their respective employees and agents, if any, from liability in connection with the Master Common Areas and Master Common Easements and insuring the officers of the Association and members of the Board of Directors from liability for good faith actions. The premium for such insurance shall be a Common Expense.

## ARTICLE VII

### 7. ASSESSMENTS AND CHARGES

- 7.1 Assessments. Assessments shall be computed and assessed against all Members of the Association. Assessments shall be computed and assessed as follows:
- 7.1.1 Association Expenses. The Assessments shall be based upon annual estimates of the Association's cash requirements to provide for payment of all estimated Common Expenses. Such estimated expenses may include, without limitation, the following: expenses of management; taxes and special assessments; premiums for all insurance that the Association is required or permitted to maintain hereunder; repairs and maintenance; wages for Association employees, including fees for a Manager (if any); utility charges; legal and accounting fees; any deficit remaining from a previous period; creation of a reasonable contingency reserve, surplus, and/or sinking fund; and any other expenses and liabilities which may be incurred by the Association for the

in any respect of the provisions of this Declaration, or a release of any Member from the obligation to pay such assessment or any other assessment; but the date when the payment shall become due in such case shall be deferred to a date fifteen (15) days after notice of such assessment shall have been given to the Member in the manner provided in this Declaration.

- 7.2 Obligation to Pay Assessments. The Subordinate Associations, Parcel Owner and Unit Owners for each Parcel are responsible to the Association for payment of all Assessments made against its Parcel. The Association may look solely to the Subordinate Associations and Owners for payment of Assessments and not to the individual members of said Subordinate Associations. Collection of all portions of the Assessments from members of the Subordinate Associations by the Subordinate Associations shall not be a precondition of payment by the Subordinate Association of the Assessments or an excuse for nonpayment of those Assessments. Provided, however, that the Unit Owners shall also be responsible for paying their pro rata share, based upon their percentage interest in the common elements of their respective Subordinate Regime, of any Assessments for which their Subordinate Association is responsible. Further, payment by a Unit Owner of his pro rata share of the Assessment to the Subordinate Association shall not be deemed payment to the Association until the Subordinate Association has paid the full amount of the Assessment to the Association. The rights of the Association to enforce its lien against a Unit Owner or the Subordinate Association are cumulative and may be pursued collectively or separately without resort, or necessity of resort, to any remedy prior to any other. All costs incurred by the Association for collection of the Assessments, or any portion thereof, shall also be the obligation and liability of the Owners, Subordinate Associations and Unit Owners.
- 7.3 Creation of Lien and Personal Obligation for Assessments: The Declarant, for each Unit and Parcel owned within the Land, hereby covenants, and each Owner and Unit Owner by acceptance of a deed or other conveyance and each Subordinate Association, is deemed to covenant and agree with each other and with the Association to pay to the Association: (1) Common Expenses as defined herein which shall include reserves deemed necessary or beneficial by the Board of Directors and (2) special assessments for capital improvements, necessary for reserves or for any other purpose adopted by the Board of Directors. The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on each Unit and Parcel and shall be a continuing lien upon each Unit and Parcel in favor of the Association. To evidence a lien for sums assessed pursuant to this Article 7.3, the Association may prepare a written notice of lien setting forth the amount of the unpaid Assessment, the due date, the amount remaining unpaid, the

name of the Owner or Unit Owner, and a description of the Parcel or Unit. Such a notice shall be signed and acknowledged by a duly authorized officer of the Association and may be recorded in the records of Horry County. No notice of lien shall be recorded until there is a delinquency in payment of the Assessment. Such lien may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property may be foreclosed in the State of South Carolina. In any such foreclosure, the Owner or Unit Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees) and such costs and expenses shall be secured by the lien being foreclosed. The Owner or Unit Owner shall also be required to pay to the Association any Assessments against the Unit or Parcel which shall become due during the period of foreclosure, and all such Assessments shall be secured by the lien being foreclosed. The Association shall have the right and power to bid in at any foreclosure sale, and to thereafter hold, lease, mortgage, or convey the subject Unit or Parcel. Each such Assessment, together with such interest, costs and reasonable attorney's fees shall be the personal obligation of the person who was the Owner of such Parcel or Unit Owners of such Unit at the time when the assessment fell due and also of any subsequent Owner or Unit Owner. Assessments shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the Owners and Unit Owners and Occupants and in particular for improvements and maintenance (including the payment of ad valorem taxes and other assessments, if any) of the Master Common Areas, Master Common Easements and the services and facilities devoted to this purpose.

- 7.4 Reserves. Any portion of the Common Expenses collected for a reserve fund or funds, if any, may be placed in an account separate from the general operating account of the Association. Assessments paid into the reserve account shall be the property of the Association and are not refundable. Sellers of Units may treat their outstanding share of the reserve accounts as a separate item in any agreement for the sale of their Units.
- 7.5 Attorneys' Fees and Costs. In any suit or action brought by the Declarant, an Owner, Subordinate Association, Unit Owner, the Association or a first lienholder or their heirs, successors or assigns to enforce any of the terms, provisions, or restrictive covenants of this Declaration, the prevailing party shall be entitled to his Costs and disbursements and reasonable attorneys' fees in such suit or action and any appeal thereof.
- 7.6 Special Assessments for Taxes or Capital Improvements. Without limiting the types or purposes of other special assessments, the Association may levy in any year, a special assessment for the purpose of defraying in whole or in part, the cost, which shall be the amount of the deductible under any insurance policy in the event of an insured loss, of

any taxes or construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Master Common Areas and Master Common Easements, including the necessary fixtures and personal property related thereto, provided that any such assessment other than that attributable to taxes shall have the assent of a majority of the votes of the Board of Directors which are entitled to be cast.

- 7.7 Rate of Assessment. Both annual and special assessments shall be charged to the Members based upon the each Member's Prorata Shared Common Expenses, unless a different allocation is specifically set forth herein.
- 7.8 Effect of Nonpayment of Assessments; Remedies of the Association. Any Assessments which are not paid by an Owner, Unit Owner or Subordinate Association to the Association when due shall be delinquent and the Association may bring an action at law against the Owner, Unit Owner or Subordinate Association for its collection.
- 7.9 Subordination of the Lien: The lien of the Assessments provided for herein shall be subordinate to the lien of any unpaid taxes and any bonafide mortgage or mortgages, but they shall be superior to the assessments levied by any Subordinate Association. Sale or transfer of any Parcel or Unit shall not affect the lien of the Assessments. However, the sale or transfer of any Unit or Parcel which is subject to any mortgage, pursuant to a decree of foreclosure under such mortgage or any proceeding or conveyance in lieu of foreclosure thereof, shall extinguish the lien of the Assessments as to payment thereof, which became due prior to such sale or transfer. No sale or transfer shall relieve the Unit or Parcel from liability for any Assessments thereafter becoming due or from the lien thereof. Notwithstanding anything in this Declaration to the contrary, no amendment, or change or modification of this section shall be effective unless such amendment, change or modification shall be first consented to, in writing, by all mortgagees of record of all Parcels and Units which are subject to the terms of this Declaration.
- 7.10 Mechanic's Liens: The Board of Directors may cause to be discharged any Mechanic's Lien or other encumbrance which in the opinion of the Board of Directors may constitute a lien against the Master Common Areas or Master Common Easements. Where less than all of the Owners, or Subordinate Associations are responsible for the existence of said lien, the Owners or Subordinate Associations responsible shall be jointly and severally liable for the amount necessary to discharge the same, and for all costs and expenses including attorney's fees and court costs incurred by reason of the lien.

ARTICLE VIII

8. MAINTENANCE

- 8.1 Association's Responsibilities: Except as may be herein otherwise specifically provided, the Association shall maintain and keep in good repair all portions of the Master Common Areas and Master Common Easements, as they may be designated from time to time. Provided however, in the event any portion of a Building or other structure which is part of a Subordinate Regime is designated in this Declaration or any Amendment as a Master Common Easement, unless the Declaration provides otherwise, the Association shall be responsible for only non structural repair and maintenance of such items. For purposes of the preceding sentence, non structural repair and maintenance includes routine painting or sealing, cleaning, debris and trash removal but shall not include repair, replacement or rebuilding of any concrete, steel, glass or other similar items or materials.

THE ASSOCIATION SHALL NOT BE LIABLE FOR INJURY OR DAMAGE TO ANY PERSON OR PROPERTY: (I) CAUSED BY THE ELEMENTS OR BY ANY OWNER, OCCUPANT OR OTHER PERSON; (II) RESULTING FROM RAIN OR DRAINAGE OR SURFACE WATER WHICH MAY LEAK OR FLOW FROM ANY PORTION OF THE LAND, MASTER COMMON AREAS, OR PARCELS; (III) CAUSED BY ANY PIPE, PLUMBING, DRAIN, CONDUIT, APPLIANCE, EQUIPMENT, SECURITY SYSTEM, OR UTILITY LINE OR FACILITY, BECOMING OUT OF REPAIR; OR (IV) CAUSED BY THEFT OR OTHERWISE OF ANY PROPERTY OF OWNER, OCCUPANT OR OTHER PERSON WHICH MAY BE STORED OR LEFT IN OR UPON ANY PORTION OF THE MASTER COMMON AREAS, LAND OR Master Common EasementS.

No diminution or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association to take, or omit to take, some action, or to perform, or omit to perform, some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay such Assessments being a separate and independent covenant on the part of each Member.

- 8.2 Members' Responsibilities: Except as may be herein otherwise specifically provided, each Member shall maintain and keep in good repair all portions of their respective Parcels.

- 8.3 Association's Right to Discharge Obligations of Member: In the event that the Board of Directors determines (i) that any Member has failed or refused to discharge properly its obligations with regard to the maintenance, cleaning, repair or replacement of items for which it is responsible hereunder, or (ii) that the need for maintenance, cleaning, repair or replacement which is the responsibility of the Association hereunder is caused through the willful or negligent act of an Owner, Unit Owner or Occupant or Subordinate Association and is not covered or paid for by insurance in whole or in part, then, in either event, the Association, except in the event of an emergency situation, may give such Member for the Parcel on which the Owner or Occupant is or was staying written notice of the Association's intent to provide such necessary maintenance, cleaning, repair or replacement at the sole cost and expense of such Member, as the case may be, and setting forth with reasonable particularity the maintenance, cleaning, repairs or replacement deemed necessary. Except in the event of emergency situations, such Member shall have ten (10) days within which to complete the same in good and workmanlike manner, or if replacement is not capable of completion within said ten (10) day period, to commence said maintenance, cleaning, repair or replacement and diligently proceed to complete the same in a good and workmanlike manner. In the event of emergency situations or the failure of any Member to comply with the provisions hereof after such notice, the Association may provide (but shall not have the obligation to so provide) any such maintenance, cleaning, repair or replacement at the sole cost and expense of such Member, as the case may be, and said cost shall be added to and become a part of the Assessment allocable to that Member. In the event that Declarant undertakes such maintenance, cleaning, repair or replacement, the Association shall promptly reimburse Declarant for Declarant's costs and expenses.

## ARTICLE IX

### 9. CONDEMNATION

- 9.1 Condemnation of Land. Whenever all or any part of the Land shall be taken by any authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof by the owner of the Land, the award or proceeds made or collected for such taking or sale in lieu thereof shall be payable to the owner of the Land so taken and shall be disbursed or held as follows:
- 9.1.1 If the taking or sale in lieu thereof involves a portion of the Master Common Areas, then the portion of the award involving the Master Common Areas shall be payable to the Association. If the portion of the Master Common Areas so taken or conveyed was improved in any way, the fee simple title to which is owned by the Association, then the Association shall repair, rebuild, replace or renovate the improvements so taken, to the extent practicable, on the remaining lands included in the Master Common Areas which are available therefor, in accordance with plans approved by the Board of Directors. If the awards or proceeds are not sufficient to defray the cost of such repair and replacement and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, the Board of Directors may levy a special

assessment against all Members, without the necessity of a vote of Association Members, such special assessment to be in an amount sufficient to provide funds to pay such excess cost of repair or reconstruction. Such special assessments shall be levied against the Members in the same manner and proportion as the Assessments are levied, and additional special assessments may be made at any time during or following the completion of any repair or reconstruction.

- 9.1.2 If the taking or sale in lieu thereof includes all or any part of a Unit or Parcel and also includes any part of the Master Common Areas, then in the absence of an agreement between the parties a court of competent jurisdiction shall apportion such award or proceeds and such award or proceeds shall be disbursed to the Association, the Subordinate Association and the owners of Units so affected so as to give just compensation for the land and/or improvements taken.

## ARTICLE X

### 10. GENERAL PROVISIONS

- 10.1 Amendments by Association. Amendments to this Declaration, other than those authorized by Paragraph 10.2 hereof and/or to submit Additional Property shall be proposed and adopted in the following manner:

- 10.1.1 Notice of the subject matter of the proposed amendment shall be included in the notice of the meeting of the Association at which such proposed amendment is to be considered and shall be given to each Member of the Association as provided in paragraph 10.12 herein.
- 10.1.2 At such meeting, a resolution adopting a proposed amendment may be proposed by either the Board of Directors or by Members of the Association. Such amendment must be approved by Members holding at least Seventy-Five (75%) Percent of the total votes in the Association; provided, however that any amendment which materially and adversely affects the ownership of a Unit or the security interest of any Mortgagee must be approved by such Unit Owner or Mortgagee.
- 10.1.3 The agreement of the required percentage of the Members of the Association shall be evidenced by the sworn statement of the then President of the Association attached to or incorporated in the amendment executed by the Association, which sworn statement shall state unequivocally that the required vote was lawfully obtained. Where required; the consent of an Unit Owner or Mortgagee shall be evidenced by their execution of the amendment. Any such Amendment of this Declaration shall become effective only when recorded or at such later date as may be specified in the amendment itself.



- 10.2 Amendments by Declarant. Notwithstanding any other provision herein, Declarant may amend this Declaration without the consent of any Member or a Unit Owner within a Subordinate Association or Mortgagee (i) if such amendment is necessary to bring any provision hereof or thereof into compliance or conformity with the provisions of any applicable governmental statute, rule or regulation or any judicial determination which shall be in conflict therewith; (ii) if any such amendment is to submit the Additional Property or any portion thereof to the terms and provisions of this Declaration; (iii) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any Parcel or Units subject to this Declaration; (iv) if such amendment is required by a Mortgagee to enable it to make mortgage loans on any Parcel or Unit or other improvements subject to this Declaration; or (v) if any such amendment is necessary to enable any governmental agency or reputable private mortgage insurance company to insure Mortgages on any Parcel or Unit subject to this Declaration.
- 10.3 Enforcement. Each Owner, Unit Owner or Occupant using the Master Common Areas or Master Common Easements shall comply strictly with the By-Laws and the published rules and regulations of the Association adopted pursuant to this Declaration, as they may be lawfully amended from time to time, and with the covenants, conditions and restrictions set forth in this Declaration and in the deed or other instrument of conveyance to his Unit or Parcel, if any. Failure to comply with such rules or regulations shall be grounds for the exercise of all rights available to the Association or, in a proper case, by a Subordinate Association or an aggrieved Owner or Unit Owner. Should Declarant or the Association employ legal counsel to enforce any of the foregoing, all costs incurred in such enforcement, including court costs and reasonable attorneys, fees, shall be paid by the violating party. Inasmuch as the enforcement of the provisions of this Declaration, the By-Laws and the rules and regulations of the Association are essential for the effectuation of the general plan of development contemplated hereby and for the protection of present and future Owners, it is hereby declared that any breach thereof may not adequately be compensated by recovery of damages, and that Declarant, the Association, Subordinate Association or any aggrieved Owner or Unit Owner, in addition to all other remedies, may require and shall be entitled to the equitable remedy of injunction to restrain any such violation or omission. Failure on the part of Declarant, the Association, Subordinate Association, or any aggrieved Owner or Unit Owner in exercising any right, power or remedy herein provided shall not be construed as an acquiescence thereto and shall not be deemed a waiver of the right to enforce such right, power or remedy thereafter as to the same violation or breach, or as to any violation or breach occurring prior or subsequent thereto. No right of action shall accrue in favor of nor shall any action be brought or maintained by anyone whatsoever against Declarant or the Association for or on account of any failure to bring any action on account of any violation or breach, or threatened violation or breach, by any person of the provisions of this Declaration, the By-Laws or any rules and regulations of the Association, however long continued.
- 10.4 Duration. The provisions of this Declaration shall run with the land and be binding upon the title to the Land, shall be binding upon and inure to the benefit of all Owners, Unit Owners and Subordinate Associations, the Declarant, the Association and all

mortgagees, and their respective heirs, executors, legal representatives, successors and assigns, and successors in title, and shall be and remain in effect for a period of thirty (30) years from and after the date of the recording of this Declaration, provided that rights and easements which are stated herein to have a longer duration shall have such longer duration. Upon the expiration of said thirty (30) year period, this Declaration shall be automatically renewed for successive ten (10) year periods. The number of ten (10) year renewal periods shall be unlimited, with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, that there shall be no renewal or extension of this Declaration if, during the last year of an initial thirty (30) year period or the last year of any ten (10) year renewal period, seventy-five percent (75%) of the total votes of the Association are cast in favor of terminating this Declaration at the end of the then current term. In the event that the Association votes to terminate this Declaration, an instrument evidencing such termination shall be filed of record in the records for Horry County, South Carolina, such instrument to contain a certificate wherein the President of the Association swears that such termination was duly adopted by the requisite number of votes. Every purchaser or grantee of any interest in the Development, by acceptance of a deed or other conveyance thereof, thereby agrees that the provisions of this Declaration shall run with the land and be binding upon the title to the land as provided hereby.

- 10.5 Disconnection of Improvements/Termination of Rights of Destroyed Parcel Owner or Subordinate Association: Notwithstanding anything to the contrary contained herein, in the event that the Building(s) upon a Parcel subject hereto are destroyed, substantially damaged or no longer in use or operated (an "Abandoned Parcel") and the Owner or Subordinate Association of such Abandoned Parcel has not commenced rebuilding, repair (which rebuilding or repair must be diligently pursued to completion) or resumed operation for a period of at least six (6) months after written notice from the Association or an Owner, or Subordinate Association of a Parcel, which is not an "Abandoned Parcel" as defined herein (an "Operating Parcel"), is delivered to the Owner or Subordinate Association of the Abandoned Parcel, then the Association or Owner or Subordinate Association of a Operating Parcel may terminate the within rights, including without limitation the easements for use, of the Abandoned Parcel Owner or Subordinate Association as to that Operating Parcel. Such termination shall not terminate the Operating Parcel Owner's or Subordinate Association's rights and easements contained in this Declaration, including without limitation easements for use, as to any Master Common Areas or Master Common Easements located upon the Abandoned Parcel.

Upon such a termination, the Owner or Subordinate Association of the Abandoned Parcel shall remove any debris, trash, or unsightly materials from the Abandoned Parcel and perform any necessary repairs, demolition or alterations necessary to place the Abandoned Parcel in a safe condition within thirty (30) days. If the Owner or Subordinate Association of the Abandoned Parcel does not comply with the provisions hereof, the Association or the Owner or Subordinate Association of the Operating Parcel may, but without obligation to do so, perform said repairs, demolition or alterations at the expense of the Owner or Subordinate Association of the Abandoned

Parcel. The cost of such work performed by the Association or Owner or Subordinate Association of the Operating Parcel shall be assessed against the Owner or Subordinate Association of the Abandoned Parcel in the manner for assessments provided in this Declaration and shall constitute a lien upon the Abandoned Parcel.

- 10.6 Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of George Herbert Walker Bush.
- 10.7 Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of Declarant or the Board of Directors, will best effect the intent of the general plan of development. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication as to make them fully effective. The provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are less restrictive. The effective date of this Declaration shall be the date of its filing for record in the Records of the Register of Deeds for Horry County, South Carolina. The captions of each Article and Paragraph hereof as to the contents of each Article and Paragraph are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular Article or Paragraph to which they refer. This Declaration shall be construed under and in accordance with the laws of the State of South Carolina.
- 10.8 Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other entities or to individuals, men or women, shall in all cases be assumed as though in each case fully expressed.
- 10.9 Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.
- 10.10 Rights of Third Parties. This Declaration shall be recorded for the benefit of Declarant, the Owners, Unit Owners, the Association, the Subordinate Associations, and their Mortgagees as herein provided, and by such recording, no adjoining property owner or third party shall have any right, title or interest whatsoever in the Development, except as provided herein, or in the operation or continuation thereof or in the enforcement of any of the provisions hereof, and subject to the rights of Declarant and Mortgagees herein provided, the Members of the Association shall have the right to extend, modify, amend or otherwise change the provisions of this Declaration without the consent, permission or approval of any adjoining owner or third party.

- 10.11 No Trespass. Whenever the Association is permitted by this Declaration to enter upon or correct, repair, clean, maintain, preserve or do any other action within any portion of the Development, the entering thereon and the taking of such action shall not be deemed to be trespass.
- 10.12 Notices. Notices required hereunder shall be deemed given when in writing and delivered by hand or sent by United States Mail, postage prepaid. All notices to Owners, Unit Owners, Members, Subordinate Associations shall be delivered or sent to such addresses as have been designated in writing to the Association, or if no address has been so designated, at the addresses of such Owners Parcel. All notices to the Association shall be delivered or sent in care of Declarant at Declarant's main office in Myrtle Beach, Horry County, South Carolina, or to such other address as the Association may from time to time notify its Members. All notices to Declarant shall be delivered or sent to Declarant at Declarant's main office in Myrtle Beach, Horry County, South Carolina, or to such other address as Declarant may from time to time notify the Association. Notices to Mortgagees shall be delivered or sent to such addresses as such Mortgagees specify in writing to the Association.
- 10.13 Successors and Assigns. Except where expressly stated to the contrary and without the necessity of separately so stating at every reference herein, all provisions herein shall be binding upon and inure to the benefit of the Declarant, Association, Subordinate Association, Owners, Unit Owners and their respective heirs, successors and assigns and successors in title.

## ARTICLE XI

### 11. WAIVER OF JURY TRIAL

DECLARANT HEREBY DECLARES, ON BEHALF OF ITSELF, THE ASSOCIATION, AND OWNER OR UNIT OWNER, THAT ANY AND ALL RIGHT TO TRIAL BY JURY SHALL BE WAIVED BY DECLARANT, THE ASSOCIATION, OR OWNER OR UNIT OWNER IN ANY DISPUTE, PROCEEDING, CASE OR CONTROVERSY ARISING UNDER OR RELATED TO THE WITHIN DECLARATION.

## ARTICLE XII

### 12 ALTERNATIVE DISPUTE RESOLUTION

#### 12.1. DEFINITIONS APPLICABLE TO THIS ARTICLE XII

12.1.1. Bound Party. Includes: Declarant; all Owners, Unit Owners; the Association and its officers, directors, and committee members, including any corporation or other entity formed to serve as the Association; all persons and entities subject to this Declaration; any person or entity not otherwise subject to this Declaration who agrees to submit to this Article; any person or entity that now has or hereafter acquires any interest in a Unit or Parcel; any person or entity that has previously or hereafter supplies (directly or indirectly) labor, materials, design services, equipment or other things of value in

connection with the construction or maintenance of any Unit, Master Common Areas, Master Common Easements or the Land; any heir, successor, delegatee or assignee of any person or entity listed in this paragraph.

12.1.2. Claim. Refers to any claim, grievance or dispute arising out of or relating to:

(I) the interpretation, application, or enforcement of this Declaration or By-Laws, including all documents attached thereto or incorporated by reference therein; (ii) the rights, obligations, and duties of any Bound Party under the Declaration, including all documents attached thereto or incorporated by reference therein; or (iii) the design or construction of improvement within the Development, except that the following shall not be considered a Claim unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section B of this Article:

(I) any suit by the Association to collect assessments or other amounts due hereunder; (ii) any suit between Unit Owners and/or Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Declaration ; (iii) any suit in which any indispensable part is not a Bound Party; or (iv) any suit by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of this Declaration or the Bylaws.

12.1.3. Claimant. A Bound Party asserting a Claim.

12.1.4. Respondent. A Bound Party against whom a Claim is made.

## 12.2. ARBITRATION

### 12.2.1.

CLAIMANT HEREBY SUBMITS TO IN PERSONAM JURISDICTION OF THE STATE OF SOUTH CAROLINA AND AGREES THAT ITS CLAIM SHALL BE DETERMINED BY AN ARBITRATOR AS PROVIDED HEREIN IN THE STATE OF SOUTH CAROLINA AND HEREBY WAIVES ALL OBJECTIONS TO VENUE. ALL MATTERS ARISING HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH THE LAW AND PRACTICE OF SOUTH CAROLINA AND CLAIMANT AGREES THAT ANY SERVICE OF PROCESS MAY BE ACCOMPLISHED BY CERTIFIED MAIL RETURN RECEIPT REQUESTED AT THE CLAIMANT'S LAST KNOWN HOME ADDRESS OR ANY OTHER METHOD ALLOWED IN THE STATE OF SOUTH CAROLINA OR CLAIMANT'S HOME STATE.

12.2.2. ANY AND ALL CLAIMS, DISPUTES, DEMANDS, ACTIONS AND CAUSES OF ACTION OF EVERY NATURE AND KIND WHICH ARISE OUT OF OR ARE IN ANY MANNER WHATSOEVER RELATED TO THE DEVELOPMENT, DESIGN, SALE, CONSTRUCTION, CONDITION, MERCHANTABILITY, HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER IMPLIED OR EXPRESS WARRANTY FOR THE MASTER COMMON AREAS OR MASTER COMMON EASEMENTS OR ANY PORTION OF THE DEVELOPMENT THAT ARE ASSERTED AGAINST SELLER, THE ARCHITECT OR

CONTRACTOR FOR THE DEVELOPMENT, AND THEIR RESPECTIVE AGENTS, EMPLOYEES, OWNERS, OFFICERS, SUBCONTRACTORS, CONSULTANTS, SUCCESSORS OR ASSIGNS BY ANY ENTITY FORMED TO SERVE AS THE ASSOCIATION OR BY ANY PERSON OR ENTITY WHICH NOW HAS OR HEREAFTER ACQUIRES ANY INTEREST IN THE DEVELOPMENT SHALL BE SUBJECT TO AND RESOLVED BY FINAL AND BINDING ARBITRATION CONDUCTED IN HORRY COUNTY, SOUTH CAROLINA PURSUANT TO THE TERMS OF THE SOUTH CAROLINA ARBITRATION ACT FOUND AT SOUTH CAROLINA CODE SECTION 15-48-10, ET. SEQ. ALL SUCH CLAIMS, DISPUTES, DEMANDS, ACTIONS AND CAUSES OF ACTION SHALL BE ASSERTED IN A SINGLE ARBITRATION PROCEEDING AND ALL PERSONS AND ENTITIES WHICH ARE SUBJECT TO THIS ARBITRATION PROVISION MAY BE JOINED IN SAID PROCEEDING SO THAT ALL ISSUES MAY BE RESOLVED IN ONE FORUM.

12.2.3. ANY ARBITRATION PROCEEDING CONDUCTED PURSUANT HERETO SHALL BE ENTITLED TO WRITTEN DISCOVERY AND DOCUMENT PRODUCTION IN ACCORDANCE WITH THE SOUTH CAROLINA RULES OF CIVIL PROCEDURE. DEPOSITIONS MAY BE TAKEN AS ALLOWED BY THE ARBITRATOR(S), WHO SHALL REASONABLY LIMIT THE NUMBER AND DURATION OF SAID DEPOSITIONS IN ORDER TO AVOID EXCESSIVE EXPENSE AND DELAY.

12.2.4. THE ARBITRATOR(S) SHALL ISSUE A WRITTEN DECISION IDENTIFYING WITH SPECIFICITY EACH CLAIM OR A CAUSE OF ACTION ASSERTED IN AND RESOLVED BY THE ARBITRATION AND THE PRINCIPLES OF RES JUDICATA AND COLLATERAL ESTOPPEL SHALL BE APPLICABLE TO ANY ARBITRATION AWARD. THE WRITTEN DECISION OF THE ARBITRATOR(S) MAY BE CONFIRMED AND ENFORCED IN ANY COURT OF COMPETENT JURISDICTION. THE ARBITRATOR(S) SHALL AWARD THE COSTS AND EXPENSES OF THE ARBITRATION, INCLUDING REASONABLE ATTORNEY'S FEES, DISBURSEMENTS, ARBITRATION EXPENSES AND ARBITRATOR(S)' FEES TO THE PREVAILING PARTY AS SHALL BE DETERMINED BY THE ARBITRATOR(S).

12.2.5. IN THE EVENT THIS ARBITRATION PROVISION IS DEEMED INVALID OR UNENFORCEABLE, THE PARTIES LISTED AS BEING BOUND HEREBY EXPRESSLY WAIVE THEIR RIGHT TO A TRIAL BY JURY AND AGREE THAT ANY AND ALL CLAIMS, DISPUTES, DEMANDS, ACTIONS AND CAUSES OF ACTION OF EVERY NATURE AND KIND WHICH ARISE OUT OF OR ARE IN ANY MANNER WHATSOEVER RELATED TO THE DEVELOPMENT, DESIGN, CONSTRUCTION, CONDITION, MERCHANTABILITY, HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER IMPLIED OR EXPRESS WARRANTY FOR THE MASTER COMMON AREAS, MASTER COMMON EASEMENTS OR ANY OTHER PORTION OF THE DEVELOPMENT SHALL BE TRIED NON-JURY.

12.2.6. IN THE EVENT THE PROVISIONS OF THIS HEREOF SHALL CAUSE AN INSURANCE PROVIDER OF THE ASSOCIATION TO DENY OR CALL INTO QUESTION THE AVAILABILITY OF INSURANCE COVERAGES, ANY AND ALL SUCH PROVISIONS OR SUBPARTS HEREOF SHALL BE DEEMED INVALID.

12.2.7. THIS ARBITRATION PROVISION IS EXPRESSLY INTENDED TO BENEFIT AND BE ENFORCEABLE BY EACH BOUND PARTY WHETHER OR NOT SUCH PERSON OR ENTITY IS BOUND BY THIS ARBITRATION PROVISION. ANY ATTEMPT BY ANY SUCH PERSON OR ENTITY TO ENFORCE THIS ARBITRATION PROVISION SHALL CONSTITUTE CONCLUSIVE CONSENT TO BE BOUND HEREBY

IN WITNESS WHEREOF, the duly authorized officers of the undersigned Declarant have executed this Declaration this 5<sup>th</sup> day of April, 2006.

In the Presence of:	Condo Conversions SM, LLC By: Strand Capital Group, LLC, its Manager
<u>Dawn M. Falbie</u>	By: <u>[Signature]</u> J. Patrick Lowe, Member
<u>Ashley Proctor Morrison</u>	

STATE OF SOUTH CAROLINA )	ACKNOWLEDGMENT
)	
COUNTY OF HORRY )	

I, Ashley Proctor Morrison, a notary public duly commissioned, qualified and acting within and for said County and State, do hereby certify that Condo Conversions SM, LLC, by Strand Capital Group, LLC, its Manager, by J. Patrick Lowe, its duly authorized Member, appeared before me this day and acknowledged the due execution of the foregoing instrument

Witness my hand and official seal this the 5<sup>th</sup> day of April, 2006.

Ashley Proctor Morrison (L.S.)  
Notary Public for South Carolina  
My Commission Expires: 12/16/14

**EXHIBIT A**

**THE LAND**

ALL AND SINGULAR, those certain pieces, parcels, or lots of land, together with the improvements thereon, situate, lying and being in Horry County, South Carolina, in the City of Myrtle Beach and designated as Lots 1, 1A, 2, and 2A of Block 3 Withers Heights Section, as shown on that certain plat prepared by Associated Land Surveyors, dated September 14, 2005, and recorded in the office of the Register of Deeds for Horry County in Plat Book 213 at Page 10, reference to which is craved as forming a part of these presents.

This being property conveyed to Condo Conversions SM, LLC by Deed from Sea Mist Associates, LLC, recorded simultaneously herewith in the records of Horry County, South Carolina.



**EXHIBIT B**

**MASTER COMMON AREAS**

**There shall be no master Master Common Area at the time of the initial filing of the Declaration.**

## EXHIBIT C

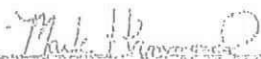
### MASTER COMMON EASEMENTS

The Master Common Easements at the time of filing of this Declaration shall consist of the deck areas on the ground floor that are Limited Common Elements to Commercial Unit CU-1 of the Tides/Driftwood/Oasis Horizontal Property Regime formed upon the Land, subject to the rights of the owner of said Commercial Unit CU-1 as set forth in the Master Deed for the Tides/Driftwood/Oasis Horizontal Property Regime, as well as the beach area of the Land that form a part of the Common Elements for said Regime.

EXHIBIT D  
ARTICLES OF INCORPORATION

CERTIFIED TO BE A TRUE AND CORRECT COPY  
AS TAKEN FROM AND COMPARED WITH THE  
ORIGINAL FILED IN THE OFFICE

MAR 30 2006

  
SECRETARY OF STATE OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA  
SECRETARY OF STATE

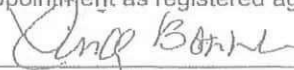
NONPROFIT CORPORATION  
ARTICLES OF INCORPORATION

TYPE OR PRINT CLEARLY IN BLACK INK

1. The name of the proposed corporation is **Sea Mist Master Homeowners' Association, Inc.**
2. The initial registered office of the nonprofit corporation is **Rainbow Harbor Complex,  
5001 N. Kings Highway, Suite 210, Myrtle Beach, Horry County, South Carolina 29572**
3. The name of the registered agent of the nonprofit corporation at that office is:

**Cindy Bonner**

I hereby consent to the appointment as registered agent of the corporation.

  
Agent's Signature

3. Check "a", "b" or "c", whichever is applicable. Check only one box:
  - a.  The nonprofit corporation is a public benefit corporation.
  - b.  The nonprofit corporation is a religious corporation.
  - c.  The nonprofit corporation is a mutual benefit corporation.
4. Check "a" or "b", whichever is applicable:
  - a.  This corporation will have members.
  - b.  This corporation will not have members.
5. The address of the principal office of the nonprofit corporation is **\_Rainbow Harbor Complex,  
5001 N. Kings Highway, Suite 210, Myrtle Beach, Horry County, South Carolina 29572**
6. If this nonprofit corporation is either a public benefit or religious corporation (when box "a" or "b" of paragraph #3 is checked), complete either "a" or "b", whichever is applicable to describe how the remaining assets of the corporation will be distributed upon dissolution of the corporation. **N/A**
  - a.  Upon dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code or the corresponding section of any future federal tax code, or shall be distributed to the Federal government, or to a state or local government, for a public purpose. Any such asset not so disposed of shall be disposed of by the Court of Common Pleas of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said court shall determine, which are organized and operated exclusively for such purposes.

060330-0131 FILED: 03/30/2006  
SEA MIST MASTER HOMEOWNERS' ASSOCIATION, INC.  
Filing Fee: \$25.00 ORIG



Mark Hammond

South Carolina Secretary of State

b.  Upon dissolution of the corporation, consistent with the law, the remaining assets of the corporation shall be distributed to:

\_\_\_\_\_

7. If the corporation is a mutual benefit corporation (when box "c" of paragraph 3 is checked), complete either "a" or "b", whichever is applicable, to describe how the (remaining) assets of the corporation will be distributed upon dissolution of the corporation.

a.  Upon dissolution of the mutual benefit corporation, the (remaining) assets shall be distributed to its members, or if it has no members, to those persons to whom the corporation holds itself out as benefitting or serving.

b.  Upon dissolution of the mutual benefit corporation, the (remaining) assets, consistent with the law, shall be distributed to: \_\_\_\_\_

8. The optional provisions which the nonprofit corporation elects to include in the articles of incorporation are as follows (See Section 33-31-202(c) of the 1976 South Carolina Code of Laws, as amended, the applicable comments thereto, and the instruction to this form).

\_\_\_\_\_  
\_\_\_\_\_

9. The name and address of each incorporator is as follows (only one is required)

**J. Patrick Lowe, 1000 2<sup>nd</sup> Avenue South, Suite 120, North Myrtle Beach, Horry County, South Carolina 29582.**

10. Each original director of the nonprofit corporation must sign the articles but only if the directors are named in these articles:

\_\_\_\_\_  
Name (Only if named in articles)

\_\_\_\_\_  
Signature of director

11. Each incorporator must sign the articles.

\_\_\_\_\_  
Signature of Incorporator - J. Patrick Lowe



# *The State of South Carolina*



*Office of Secretary of State Mark Hammond*

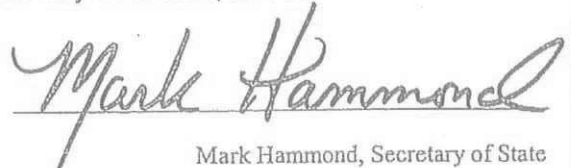
## **Certificate of Incorporation, Nonprofit Corporation**

**I, Mark Hammond, Secretary of State of South Carolina Hereby certify that:**

SEA MIST MASTER HOMEOWNERS' ASSOCIATION, INC.,  
a nonprofit corporation duly organized under the laws of the State of South Carolina on March 30th, 2006, and having a perpetual duration unless otherwise indicated below, has as of the date hereof filed a Declaration and Petition for Incorporation of a nonprofit corporation for Religious, Educational, Social, Fraternal, Charitable, or other eleemosynary purpose.

Now, therefore, I Mark Hammond, Secretary of State, by virtue of the authority in me vested by Chapter 31, Title 33, Code of 1976 and Acts amendatory thereto, do hereby declare the organization to be a body politic and corporate, with all the rights, powers, privileges and immunities, and subject to all the limitations and liabilities, conferred by Chapter 31, Title 33, Code of 1976 and Acts amendatory thereto.

Given under my Hand and the Great  
Seal of the State of South Carolina this  
30th day of March, 2006.

  
Mark Hammond, Secretary of State

**EXHIBIT E  
BY-LAWS**

**OF**

**SEA MIST MASTER HOMEOWNERS' ASSOCIATION, INC.**

Article I

Name, Principal Office and Definitions

Section 1. Name. The name of the Association shall be Sea Mist Master Homeowners' Association, Inc. (hereinafter sometimes referred to as the "Association").

Section 2. Principal Office. The principal office of the Association in the State of South Carolina shall be located in Myrtle Beach, County of Horry. The Association may have such other offices, either within or without the State of South Carolina, as the Board of Directors may determine or as the affairs of the Association may require.

Section 3. Definitions. The words used in these By-Laws shall have the same meaning as set forth in the Declaration of Covenants, Conditions, Easements and Restrictions for Sea Mist Master Homeowners' Association, as amended, renewed or extended from time to time, as hereinafter sometimes referred to as the "Master Declaration", unless the context shall prohibit.

Section 4. Purpose. The purpose of the Association is to manage the affairs of the Development, as defined in the Master Declaration.

The Association is not organized for profit and no part of the net earnings, if any, shall inure to the benefit of any member or individual person, firm or corporation.

The Association shall have all of the common law and statutory powers of a nonprofit corporation. The Association shall also have all of the powers necessary to implement the purposes of the Association and to provide for the general health and welfare of its membership.

Article II

Association: Membership, Meetings, Quorum, Voting, Proxies

Section 1. Membership. Every person or entity who is an Owner of a Parcel or a Subordinate Association, as defined in the Master Declaration, shall be a member of the Association, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member.

Section 2. Voting Rights. Members shall be all those Members as defined in Article VI, Section 6.1 of the Master Declaration. Each Member shall be entitled to one (1) vote on all matters considered by the Association. When more than one person is an Owner of a Parcel which has not been

submitted to a Subordinate Regime, all such persons shall be Members; however, they shall select one (1) Owner to vote all votes of that Parcel, which such Owner shall be designated as the "Voting Member" and shall be so designated in writing to the Secretary of the Association.

Section 3. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Voting Members as may be designated by the Board of Directors either within the properties or as convenient thereto as possible and practical.

Section 4. Annual Meetings. The first meeting of the membership, whether a regular or special meeting, shall be held within ninety (90) days after the expiration of one (1) year from the date of incorporation of the Association. Thereafter, annual meetings shall be held at least once a year. Subsequent regular annual meetings of the membership shall be held within thirty (30) days of the same day of the same month of each year thereafter at an hour set by the Board. Subject to the foregoing, the annual meeting shall be held at a date and time as set by the Board of Directors.

Section 5. Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by resolution of a majority of a quorum of the Board of Directors or upon a petition signed by Voting Members representing at least ten (10%) percent of the total votes of the Association. The notice of any special meeting shall state the date, time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 6. Notice of Meetings. Written or printed notice stating the place, day and hour of any meeting of the Members shall be delivered either personally or by mail, to each Voting Member entitled to vote at such meeting, not less than ten (10) nor more than fifty (50) days before the date of such meeting, by or at the direction of the President or the Secretary.

In the case of a special meeting or when required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Voting Member at his address as it appears on the records of the Association, with postage thereon prepaid.

Section 7. Waiver of Notice. Waiver of notice of a meeting of the Voting Members shall be deemed the equivalent of proper notice. Any Voting Member may, in writing, waive notice of any meeting of the Voting Members, either before or after such meeting. Attendance at a meeting by a Voting Member or alternate shall be deemed waiver by such Voting Member of notice of the time, date and place thereof, unless such Voting Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted thereat unless objection to the calling or convening of the meeting, of which proper notice was not given, is raised before the business is put to a vote.



Section 8. Adjournment of Meetings. If any meetings of the Association cannot be held because a quorum is not present, a majority of the Voting Members who are present at such meeting, either in person or by alternate, may adjourn the meeting to a time not more than thirty (30) days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted.

Section 9. Proxies. Voting Members may vote in person or by Proxy.

Section 10. Majority. As used in these By-Laws, the term "majority" shall mean those votes, Members, Owners or other group as the context may indicate, totaling more than fifty (50%) percent of the total number.

Section 11. Quorum. Except as otherwise provided in these By-Laws or in the Master Declaration or Articles of Incorporation, the presence in person or by alternate of the Voting Members representing fifty-one (51%) percent of the total vote of the Association shall constitute a quorum at all meetings of the Association. Any provision in the Master Declaration concerning quorums is specifically incorporated herein. So long as a quorum is present at the opening of the meeting, business may be transacted until adjournment notwithstanding the withdrawal of enough Members to leave less than a quorum in attendance. Further, at any adjourned meeting at which a quorum is present at the reconvening of such meeting, any business may be transacted which might have been transacted at the original meeting notwithstanding the withdrawal of enough Members to leave less than a quorum in attendance.

Section 12. Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring thereat.

Section 13. Action Without a Meeting. Any action required by law to be taken at a meeting of the Voting Members, or any action which may be taken at a meeting of the Voting Members, 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 entitled to vote with respect to the subject matter thereof, and such consent shall have the same force and effect as a unanimous vote of the Voting Members.

### Article III

#### Board of Directors. Number. Powers. Meetings

##### A. Composition and Selection.

Section 1. Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors each of whom shall have one (1) vote. Except for Directors appointed by Declarant as provided in Section 3 of this Article, the Directors shall be Owners or Unit Owners and Officers within a Subordinate Association. In the case of an Owner or Unit Owner which is a corporation or partnership, the person designated in writing to the secretary of the Association as the representative of such corporation or partnership shall be eligible to serve as a Director. The initial Board of Directors shall consist of three (3) persons. The names and addresses of the first Board of

Directors of the Association, who shall hold office until the first annual meeting of members and until qualified successors are duly elected and have taken office, shall be as follows:

Leigh Meese  
David Meese

Section 2. Number of Directors. The number of Directors in the Association shall not be less than three (3) nor more than the total number of Parcels or Subordinate Regimes within the Development, as provided below. The initial Board shall consist of three (3) members as identified herein.

Section 3. Election of Directors. The Declarant, acting in its sole discretion, shall select the Directors until Forty (40) years from the date of the filing the Declaration in the Public records of Horry County, South Carolina. Any Director so selected by Declarant shall serve at Declarant's pleasure and may be replaced by Declarant. The number of Directors shall remain at three (3) until such time as the number of Parcels and Subordinate Regimes exceeds three (3), upon which the Declarant shall appoint one (1) additional Director for each Parcel or Subordinate Regime within the Development. Upon the expiration of the time period set forth above, or earlier if the Declarant so chooses, Directors shall be elected as follows:

a. At the first annual meeting after termination of the Declarant's right to select Directors, one Director shall be appointed by each Member of the Association. Further, upon creation of any new Members by the addition of a new Parcel or Subordinate Regime, such new Member and each additional Member, shall have the right to appoint one (1) Director. All such Directors shall serve at the pleasure of the Member who appointed them for terms prescribed by such Member. Provided, however, in the event the number of Members is one (1) at the time Declarant's right to select Directors expires, the Member shall select three (3) Directors. In the event the number of Members is two (2) at the time Declarant's right to select Directors expires or in the event the number of Members is increased from one to two, each of the two (2) Members shall appoint a Director, and each of those two (2) Directors shall appoint a third director.

#### B. Meetings.

Section 4. Organizational Meetings. The first meeting of the Board of Directors following each annual meeting of the membership shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Board.

Section 5. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors, but at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter. Notice of the time and place of the meeting shall be communicated to Directors not less than four (4) days prior to the meeting; provided, however, notice of a meeting need not be given to any Director who has signed a waiver of notice or a written consent to holding of the meeting.

Section 6. Special Meetings. Special meetings of the Board of Directors shall be held when called by written notice signed by the President or by a majority of Directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each Director by one of the following methods: (a) by personal delivery; (b) by first class mail, postage prepaid; c) by telephone communication, either directly to the Director or to a person at the Director's office or home who would reasonably be expected to communicate such notice promptly to the Director; or (d) by telegram, charges prepaid. All such notices shall be given by use of the Director's telephone number or shall be sent to the Director's address as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone, or telegraph shall be delivered, telephoned, or given to the telegraph company at least three (3) days before the time set for the meeting.

Section 7. Waiver of Notice. The transactions of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the Directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any Director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

Section 8. Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a majority of the Directors who are present at such meeting may adjourn the meeting until such time and place as they may determine. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 9. Compensation. No Director shall receive any compensation from the Association for acting as such unless approved by Members holding a majority of the total vote of the Association at a regular or special meeting of the Association; provided any Director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other Directors.

Section 10. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors, and the Secretary shall keep a minute book of meetings of the Board of Directors, recording therein all resolutions adopted by the Board of Directors and all transactions and proceedings occurring at such meetings.

Section 11. Open Meetings. Subject to the provisions of this Article, all meetings of the Board shall be open to all Voting Members, but Voting Members other than Directors may not participate in

any discussion or deliberation unless permission to speak is requested on his or her behalf by a Director. In such case, the President may limit the time any Voting Member may speak.

Section 12. Action Without a Formal Meeting. Any action to be taken at a meeting of the Directors or any action that may be taken at a meeting of the Directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Directors, and such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties.

Section 13. Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do all acts and things as are not by the Master Declaration, Articles, or these By-Laws directed to be done and exercised exclusively by the Voting Members or the membership generally.

The Board of Directors shall delegate to one of its members the authority to act on behalf of the Board of Directors on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board of Directors.

In addition to the duties imposed by these By-Laws or by any resolution of the Association that may be hereafter adopted, the Board of Directors shall have the power to and shall be responsible for the following, in way of explanation, but not limitation:

(a) preparation and adoption of an annual budget in which there shall be established the contribution of each Owner and Subordinate Association to the Common Expenses;

(b) making assessments to defray the Common Expenses, establishing the means and methods of collecting such assessments, and establishing the period of the installment payments of the annual assessment; provided, unless otherwise determined by the Board of Directors, the annual assessment for the Common Expenses shall be payable in equal monthly installments, or as determined by the Board of Directors;

(c) providing for the operation, care, upkeep, and maintenance of all of the Master Common Areas and Master Common Easements;

(d) designating, hiring, and dismissing the personnel necessary for the maintenance, operation, repair, and replacement of the Association, its property, and the Master Common Areas and Master Common Easements and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(e) collecting the assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association; provided, any reserve fund may be deposited, in the Directors' best business judgment, in depositories other than banks;

(f) making and amending rules and regulations;

(g) opening of bank accounts on behalf of the Association and designating the signatories required;

(h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Master Common Areas or Master Common Easements in accordance with the other provisions of the Master Declaration and these By-Laws after damage or destruction by fire or other casualty;

(i) enforcing by legal means the provisions of the Master Declaration, these By-Laws, and the rules and regulations adopted by it and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;

(j) obtaining and carrying insurance against casualties and liabilities, as provided in the Master Declaration, and paying the premium cost thereof;

(k) paying the cost of all services rendered to the Association or its Members and not chargeable to Owners and/or Subordinate Associations;

(l) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair Expense and any other Expense incurred. The said books and vouchers accrediting the entries thereupon shall be available for examination by the Owners, Unit Owners, Subordinate Associations and mortgagees, their duly authorized agents, accountants, or attorneys, during general business hours on working days at the time and in a manner that shall be set and announced by the Board of Directors for the general knowledge of the Owners, Unit Owners and Subordinate Associations. All books and records shall be kept in accordance with generally accepted accounting principles;

(m) making available to any prospective purchaser of a Unit, any Unit Owner, any first Mortgagee, and the holders, insurers, and guarantors of a first Mortgage on any Unit, current copies of the Master Declaration, the Articles of Incorporation, the By-Laws, rules governing the Unit, and all other books, records, and financial statements of the Association; and

(n) permitting utility suppliers and other service providers to use portions of the Master Common Areas and Master Common Easements reasonably necessary to the ongoing development or operation of the properties.

#### Section 14. Management Agent.

(a) The Board of Directors may employ for the Association a professional management agent or agents at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. The Board of Directors may delegate to the managing agent or manager, subject to the Board's supervision, all of the powers granted to the Board of Directors by these By-Laws, other than the powers set forth in subparagraphs (a), (b), (f), (g), and (l) of Section 16 of this Article. The GRANTOR, or an affiliate of the GRANTOR, may be employed as managing agent or manager.

Section 15. Accounts and Reports. The following management standards of performance will be followed unless the Board by resolution specifically determines otherwise:

(a) accrual accounting, as defined by generally accepted accounting principles, shall be employed;

(b) accounting and controls shall conform to generally accepted accounting principles;

(c) cash accounts of the Association shall not be commingled with any other accounts;

(d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise unless it benefits the Association;

(e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors;

(f) commencing at the end of the month in which the first Unit is sold and closed, financial reports shall be prepared for the Association at least quarterly containing:

(i) an income statement reflecting all income and expense activity for the preceding period on an accrual basis;

(ii) a variance report reflecting the status of all Association ledger accounts in an "actual" versus "approved" budget format;

(iii) a balance sheet as of the last day of the preceding period; and

(iv) a delinquency report listing all Owners, Unit Owners and/or Subordinate Associations who are delinquent in paying the assessments at the time of the report and describing the status of any action to collect such installments which remain delinquent (A monthly installment of the assessment shall be considered to be delinquent on the fifteenth (15th) day of each month unless otherwise determined by the Board of Directors); and

(g) an annual report as of the end of the fiscal year consisting of at least the following shall be distributed to all Members within one hundred twenty (120) days after the close of the fiscal year: (1) a balance sheet; (2) an operating (income) statement; and (3) a statement of changes in financial position for the fiscal year. The annual report referred to above shall be prepared on an audited basis, by an independent certified public accountant for each fiscal year.

Section 16. Borrowing. The Board of Directors shall have the power to borrow money for the purpose of repair or restoration of the Master Common Areas or Master Common Easements or for the purpose of funding budgetary shortfalls, without the approval of the membership; provided, however, the Board shall obtain Voting Member approval by majority vote for special assessments in the event that the proposed borrowing is for the purpose of modifying, improving, or adding amenities, and the total amount of such borrowing exceeds or would exceed five (5%) percent of the budgeted gross Expense of the Association for that fiscal year.

Section 17. Rights of the Association. With respect to the Master Common Areas and Master Common Easements, and in accordance with the Articles of Incorporation and By-Laws of the Association, the Association shall have the right to contract with any person for the performance of various duties and functions. Without limiting the foregoing, this right shall entitle the Association to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or neighborhood and other owners or residents associations, including Subordinate Associations, both within and without the Development. Such agreements shall require the consent of two-thirds (2/3) of all Directors of the Association.

Notwithstanding anything to the contrary contained herein, the Association, through its Board of Directors, shall have the right to enter into a declaration of easement and covenant to share costs or similar arrangement whereby the Association assumes maintenance responsibility for property which it does not own, or grant easements or licenses to entities which are not Members, in consideration for payment by the owner of such property or such nonmembers of all or a portion of the costs associated with such maintenance or use. Further, the Association may enter into agreement entitling Owners, Unit Owners and/or Occupants to use amenities and/or facilities which are not part of the Development upon terms and conditions which the Association determines to be fair and reasonable, which may include payment of a portion of the cost and expenses of such amenities and/or facilities.

Section 18. Enforcement. The Board shall have the power to impose reasonable fines, which shall constitute a lien upon the property of the violating Owner, Unit Owner, and Subordinate Association, and to suspend an Owner's or Subordinate Association's right to vote or to use the Master Common Areas or Master Common Easements for violation of any duty imposed under the Master Declaration, these By-Laws, or any rules and regulations adopted hereunder; provided, however, nothing herein shall authorize the Association or the Board of Directors to limit ingress and egress to or from a Unit. In the event that any Occupant of a Unit violates the Master Declaration, By-Laws, or a rule or regulation and a fine is imposed, the fine shall first be assessed against the Occupant; provided, however, if the fine is not paid by the Occupant within the time period set by the Board, the Unit Owner shall pay the fine upon notice from the Association. The failure of the Board to enforce any provision of the Master Declaration, By-Laws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

(a) Notice. Prior to imposition of any sanction hereunder, except the suspension of voting rights for nonpayment of assessments, the Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than ten (10) days within which the alleged violator may present a written request to the Covenants Committee, if any, or Board of Directors for a hearing; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within ten (10) days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed.

(b) Hearing. If a hearing is requested in a timely manner, the hearing before the Covenants Committee shall be held in executive session affording the Owner or Unit Owners reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the

officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

©) Appeal. Following a hearing before the Covenants Committee, the violator shall have the right to appeal the decision to the Board of Directors. To perfect this right, a written notice of appeal must be received by the manager, President, or Secretary of the Association within thirty (30) days after the hearing date.

(d) Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Association, acting through the Board of Directors, may elect to enforce any provision of the Master Declaration, these By-Laws, or the rules and regulations of the Association by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner, Unit Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

#### Article IV Officers

Section 1. Officers. The officers of the Association shall be a President, Vice President, Secretary, and Treasurer, to be elected from among the members of the Board. The Board of Directors may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board of Directors. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary.

Section 2. Election, Term of Office, and Vacancies. The officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors following each annual meeting of the membership, as herein set forth in Article III. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term. The names and addresses of the first officers of the Association, who shall hold office until the first annual meeting of directors and until successors are duly elected and have taken office, shall be as follows:

<u>Office</u>	<u>Name</u>	<u>Address</u>
President	Leigh Meese	PO Box 2548 Myrtle Beach, SC 29578
Vice President	David Meese	PO Box 2548 Myrtle Beach, SC 29578
Secretary/ Treasurer	J. Patrick Lowe	1000 2 <sup>nd</sup> Avenue South, Suite 120 North Myrtle Beach, SC 29582



Section 3. Removal. Any officer may be removed by the Board of Directors whenever in its judgment the best interests of the Association will be served thereby.

Section 4. Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may from time to time be specifically conferred or imposed by the Board of Directors. The President shall be the chief executive officer of the Association. The Treasurer shall have the responsibility for the preparation of the budget as provided for in the Master Declaration.

Section 5. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two (2) officers or by such other person or persons as may be designated by resolution of the Board of Directors. Provided however, agreements, contracts and checks may be executed by the Management Agent.

#### Article V Committees

Section 1. General. Committees are hereby authorized to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present. Each committee shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

Section 2. Covenants Committee. In addition to any other committees which may be established by the Board pursuant to Section 1 of this Article, the Board of Directors may appoint a Covenants Committee consisting of at least five (5) and no more than seven (7) members. Acting in accordance with the provisions of the Master Declaration, these By-Laws, and resolutions the Board may adopt, the Covenants Committee, if established, shall be the hearing tribunal of the Association and conduct all hearings held pursuant to Article III, Section 21 of these By-Laws.

#### Article VI Miscellaneous

Section 1. Fiscal Year. The fiscal year of the Association shall be set by resolution of the Board of Directors.

Section 2. Parliamentary Rules. Except as may be modified by Board resolution, Robert's Rules of Order (current edition) shall govern the conduct of Association proceedings when not in

conflict with South Carolina law, the Articles of Incorporation, the Master Declaration, or these By-Laws.

Section 3. Conflicts. If there are conflicts or inconsistencies between the provisions of South Carolina law, the Articles of Incorporation, the Master Declaration, and these By-Laws, the provisions of South Carolina law, the Master Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

Section 4. Books and Records.

(a) Inspection by Members and Mortgagees. The Master Declaration and By-Laws, membership register, books of account, and minutes of meetings of the Members, the Board, and committees shall be made available for inspection and copying by any Mortgagee, Member of the Association, or by his or her duly appointed representative at any reasonable time and for a purpose reasonably related to his or her interest as a Member at the office of the Association or at such other place within the Properties as the Board shall prescribe.

(b) Rules for Inspection. The Board shall establish reasonable rules with respect to:

- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when such an inspection may be made; and
- (iii) payment of the cost of reproducing copies of documents requested.

(c) Inspection by Directors. Every Director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extracts and a copy of relevant documents at the expense of the Association.

Section 5. Notices. Unless otherwise provided in these By-Laws, all notices, demands, bills, statements, or other communications under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States Mail, first class postage prepaid:

(a) if to a Member or Voting Member, at the address which the Member or Voting Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Parcel or Unit of such Member or Voting Member; or

(b) if to the Association, the Board of Directors, or the managing agent, at the principal office of the Association or the managing agent, if any, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

Section 6. Amendment. These By-Laws may be unilaterally amended by the Declarant until October 31, 2030. Thereafter, these By-Laws may be amended only by the affirmative vote (in person

or by alternate) or written consent of Voting Members representing Seventy-Five (75%) percent of the total votes of the Association. However, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Further, no amendment of any provision reserving a right specifically in favor of the Declarant may be amended without the Declarant's express consent. No amendment shall be effective until recorded in the public records of Horry County, South Carolina.

Section 6. Severability. If any of the provisions of this Declaration shall be deemed invalid by a court of competent jurisdiction, said judicial determination shall in no way affect any of the other provisions hereof, which shall remain in full force and effect, and any provisions of this Declaration deemed invalid by a court of competent jurisdiction by virtue of the term or scope thereof shall be deemed limited to the maximum term and scope permitted by law. If any court hereafter determines that any provision of this Declaration is in violation of the rule of property known as the "rule against perpetuities" or any other rule of law because of the duration of a time period, such provision shall not thereby become invalid, but instead the duration of such time period shall be reduced to the maximum period allowed under such rule of law, and if the determination of the duration of such time period requires measuring lives, such measuring life shall be that of the incorporator of the Association.

#### Article VII

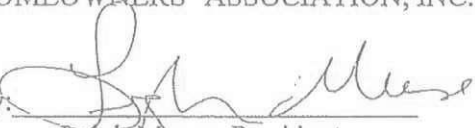
#### INDEMNIFICATION

The Association shall indemnify any person who is made a party or is threatened to be made a party to any claim, suit, proceeding or liability by reason of the fact that he is or was a director, officer, employee, agent or representative of the Association to the fullest extent permitted by law, and the Association may advance Expense to any such person to the fullest extent permitted by law. The Association shall also have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, agent or representative of the Association against any liability asserted against him in any such capacity.

IN WITNESS WHEREOF, Sea Mist Master Homeowners' Association, Inc., a South Carolina Corporation has caused these presents to be executed this 5th day of April, 2006.

SEA MIST MASTER  
HOMEOWNERS' ASSOCIATION, INC.

By:

  
Leigh Meese, President

