

Prepared by:  
The Carolina Club Owners Association, Inc.  
Grandy, NC

Amended September 2008

**AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**  
(Also entitled "Modification of Declaration")

**THE CAROLINA CLUB**



PHASES 1, 2, 3, 4A, 4B, and 5A  
Lots 1 through 220  
Poplar Branch Township, Currituck County, Grandy, North Carolina

NORTH CAROLINA  
CURRITUCK COUNTY

KNOW ALL MEN BY THESE PRESENTS, that this Declaration of Covenants, Conditions, and Restrictions (the "Declaration") is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, A.D., 2005, by The Carolina Club Owners Association, Inc., hereinafter referred to as the "Association."

**W I T N E S S E T H**

WHEREAS, with the real property described as The Carolina Club, Phases 1, 2, 3, and 4A, Lots 1 through 198 and other additional real property, the Carolina Club Ltd., L.L.C., a North Carolina limited liability company, hereinafter referred to as the "Declarant", created thereon a residential community together with streets, roads, open spaces, landscaping, entrances, drainage facilities, access easements, site lighting and signage, and any recreation area (s) and other common facilities shown on any recorded plat of the real property or a portion thereof for the benefit of the community;

WHEREAS, The Declarant previously recorded Declarations of Protective Covenants in Deed Book 432, Page 271 regarding Phase 1, Deed Book 440, Page 504 regarding Phase 2, Deed Book 452 Page 817 regarding Phase 3, and Deed Book 456, Page 105 regarding Phase 4A, in order to sell lots in the subdivision described as The Carolina Club subject to certain protective restrictions, reservations, and covenants in order to insure the most beneficial development of said subdivision and to prevent any such

use thereof as might tend to diminish the value or pleasurable enjoyment thereof, and to provide for the preservation of the values and amenities in the Community and for the maintenance of the common facilities and, to this end, has subjected the real property described in said Declarations to the covenants, conditions, restrictions, easements, charges and liens, set forth therein each and all of which is, and are, for the benefit of said real property and each owner of a portion thereof; and,

WHEREAS, the Declarant's intention, stated here for information of intent only and not as a warranty or representation of a future fact, is to develop the community with residential units of Southern style, design, and construction. Additionally, the Declarant reserves the option, at Declarant's sole discretion, to add commercial space to be located only in the reserve utility/amenity area, which may or may not be subjected to the jurisdiction of the Declarant (as hereinafter defined) and the terms of this Declaration; and,

WHEREAS, Declarant had deemed it desirable, for the efficient preservation of the values and amenities in the community, to grant Declarant the powers of maintaining, administering, operating and replacing the community properties and common facilities, administering and enforcing the covenants, conditions and restrictions, and collecting and disbursing the assessment and charges hereinafter created; and,

WHEREAS, Declarant had reserved the right to amend, modify and otherwise restate the covenants, conditions, restrictions, easements, charges and liens, set forth in each of the Declarations of Protective Covenants previously recorded for The Carolina Club, Phases 1, 2, 3 and 4A; and

WHEREAS, the Declarant transferred all rights, duties, and obligations to the Association at the Turnover Meeting held on July 27, 2003. The transition from developer (Declarant) to owners (the Association) was completed and the Declarant conveyed to the Association all of its rights and powers by the deed recorded in Book 603, Page 59; and,

WHEREAS, the Association now desires to amend, modify and otherwise restate said covenants, restrictions, easements, charges and liens, set forth therein;

NOW THEREFORE, the Association declares that the real property described as The Carolina Club; Phase 1 (Lots 1-51), Phase 2 (Lots 52-87), Phase 3 (Lots 103-193), Phase 4A (Lots 194-198), Phase 4B (Lots 199-220), and Phase 5A (Lots 88-102), said Phases comprising the total Lots 1 through 220, being all lots previously conveyed and all lots yet to be conveyed, is and shall be held, transferred, sold, conveyed and occupied subject to the terms, conditions and provisions of the covenants, conditions, restrictions, charges and as hereinafter set forth.

#### ARTICLE ONE: PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Existing Property. The real property which is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration (the "Existing Property") is located in Currituck County, North Carolina, and is commonly known as Phases 1, 2, 3, 4A, 4B, and Phase 5A of The Carolina Club, as depicted on the maps and plats prepared for The Carolina Club Ltd., L.L.C. by William T. Robbins, Registered Land Surveyor.

Section 2: Additions to Existing Property. Real property in addition to the Existing Property may hereafter become subject to this Declaration.

Section 3. Access Easement Reserved. The Declarant reserves unto itself for the benefit of its successors and/or assigns, a perpetual, non-exclusive and alienable easement and right of ingress, egress, and regress over and across all private streets and roads within The Carolina Club Subdivision for access to and from other real property of Declarant or its successors and/or assigns.

## ARTICLE TWO: DEFINITIONS

The following words when used in this Declaration or any amended or Supplemental Declaration (unless the context shall require otherwise) shall have the following meaning:

“Assessments(s)” or “assessment(s)” or “Common Charges” shall mean and refer to the assessment(s) and charges levied by the Association against Members who are the Owners of Lots or Dwelling Units in The Carolina Club Subdivision, as applicable, and words Assessment(s) or assessment(s) shall have the same meaning as Common Charges, unless the context requires otherwise.

“The Carolina Club” as referenced herein shall mean and refer to The Carolina Club Subdivision, being that community consisting of single family lots and residences, recreational and supporting facilities, and a reserve utility/amenity area which may be rezoned for commercial use, on the Currituck County mainland of North Carolina, near the Town of Grandy.

“Common Expenses” shall mean and refer to:

- (a) expenses of administration , operation , maintenance , repair or replacement of the Common Facilities;
- (b) expenses declared Common Expenses by the provisions of the Declaration or the Bylaws;
- (c) expenses agreed upon from time to time as Common Expenses by the Association and lawfully assessed against Members who are Owners of Lots or Dwelling Units in The Carolina Club Subdivision, as applicable, in accordance with the Bylaws or this Declaration; and
- (d) any valid charge against the Common Properties as a whole.

“Common Facilities” shall mean and refer to those areas of land shown on any recorded subdivision plat of The Carolina Club Subdivision (or any other real property described or referred to in any declaration of covenants, conditions and restrictions to which The Carolina Club Subdivision is submitted or subjected) labeled as “Common Properties” or shown as Recreational Facilities, open space (not to be construed as including any golf course property designated now or formerly as “Open Space” on any recorded plat), Marina Access, swimming pools, tennis courts, pool houses, clubhouses, ponds, streets, roads (together with all improvements located thereon) which are a part of The Carolina Club Subdivision, and as such intended to be devoted to the common use and enjoyment of the Members, subject to special rights and limitations, if any, granted to or imposed on Owners of particular Lots and/or Dwelling Units.

“Declarant” shall mean and refer to The Carolina Club Ltd., LLC, a North Carolina limited liability company and any person or entity who is specifically assigned the rights and interest of Declarant hereunder.

“The Association” or “Association” shall mean and refer to The Carolina Club Owners Association, Inc. and any person or entity who is specifically assigned the rights and interest of The Association hereunder.

“The Committee” or “Committee” shall mean and refer to The Architectural Control Committee. The purposes, membership, duties, and responsibilities of this Committee are defined and stated in Article Four of this declaration.

“Dwelling” or “Dwelling Unit” shall mean and refer to any improved property intended for use and occupancy as one (1) single family dwelling, irrespective of the number of Owners thereof (or the form of

ownership) located within The Carolina Club Subdivision and shall, unless otherwise specified, include within its meaning (by way of illustration, but not limitation) single family detached homes.

“Golf Club” shall mean and refer to the eighteen-hole golf course, its related and supporting facilities and the real property on which the course and its related and supporting facilities have been constructed, which adjoins, is adjacent to, and is contiguous with The Carolina Club Subdivision and The Properties, Common Facilities, Lots, and Residential Units constituting The Carolina Club Subdivision. The Golf Club is independently owned and operated by The Carolina Club of North Carolina, L.L.C., for the sole and exclusive benefit of its owners, operators, managers, customers, invitees, guests, successors and assigns. Nothing contained in these covenants, or any prior covenants hereby amended or any future covenants shall restrict or impair any rights of The Carolina Club of North Carolina, L.L.C. to the sole and exclusive use and enjoyment of the golf course or the property and rights appurtenant thereto by The Carolina Club of North Carolina, L.L.C., its owner, operators, managers, customers, invitees, guests, successors and assigns.

“Living Area” shall mean and refer to those heated and/or air-conditioned areas within a Dwelling Unit which shall not include garages, porches, patios, breezeways, terraces, or basements.

“Lot” shall mean and refer to any unimproved parcel of land within The Carolina Club Subdivision which is intended for use as a site for a single family detached dwelling as shown upon any recorded subdivision map of any part of The Carolina Club Subdivision, with the exception of Common Properties or Limited Common Properties. A parcel of land shall be deemed to be unimproved until the improvements being constructed thereon are sufficiently complete to be subject to assessment as improved property, i.e., a Dwelling Unit.

“Marina Access” shall mean an access way to the marina at the extreme western end of The Carolina Club Subdivision composed of a boat ramp and boat slips..

“Member” shall mean and refer to all Owners in The Carolina Club Subdivision.

“Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Dwelling Unit situated upon The Carolina Club Subdivision (which do not include any part of The Carolina Club golf course), as well as the record owner of fee simple title to any Other Lot or Other Residential Unit elsewhere in The Carolina Club, but notwithstanding any applicable theory of any lien or mortgage law, shall not mean or refer to any mortgagee or trust beneficiary unless and until such mortgagee or trust beneficiary has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure. (Note: the words “Member” and “Owner” are meant to describe all The Carolina Club owners interchangeably as semantics dictate throughout this Declaration.)

“The Properties” for the purposes of this Declaration shall be synonymous with “The Carolina Club” as defined hereinabove.

### ARTICLE THREE: GENERAL PROVISIONS

Section 1. Duration. The covenants and restrictions of this Declaration shall run with the land, and shall inure to the benefit of, and be enforced by, the Association or any Owner, its and their respective legal representative, heirs, successors, and assigns, for a term of fifty (50) years from the date this Declaration is recorded. After which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by two-thirds of the membership responding subsequent to a mailing to the entire membership has been recorded, agreeing to change said covenants and restrictions in whole or in part, provided however that no such agreement to change shall be effective unless proper written notice of the proposed is sent to every Member at least fifty (50) days in advance of any action taken.

Section 2. Notices. Any notice required to be sent to any Member or Owner, under the provisions of this Declaration, shall be deemed to have been properly sent when mailed, postage prepaid, registered or

certified mail, return receipt requested, or deposited with an overnight courier (such as, but not limited to, Federal Express) and addressed to the person at the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing. Notice to any one of the Owners and/or Dwelling Unit Owners, if title to a Lot or Dwelling Unit is held by more than one, shall constitute notice to all Owners of a Lot and/or Dwelling Unit.

Section 3. Enforcement. Enforcement of these covenants and restrictions shall be by an appropriate civil proceeding against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, or both, and against the land to enforce any lien created by these covenants and restrictions; and failure by the Association or any Owner to enforce any covenant or restriction herein contained shall not be deemed a waiver of the right to do so thereafter.

#### ARTICLE FOUR: ARCHITECTURAL CONTROL

Section 1. Purposes. The Association desires to provide for the preservation of the values in The Carolina Club Subdivision with respect to any Dwelling Unit to be constructed on any Lot constituting a portion of The Carolina Club Subdivision, and to that end, will establish an Architectural Control Committee in order to provide, enforce and maintain certain standards as to harmony of exterior design and location of the improvements on the Lot in relation to surrounding structures, natural features and topography.

Section 2. Architectural Control. Unless expressly authorized in writing by the Architectural Control Committee (the "Committee"), no Dwelling Unit, fence, wall, driveway, patio, building, or other structure or improvement whatsoever may be constructed, nor any exterior addition or alteration to any Dwelling Unit, fence, wall, driveway, patio, building or other structure or improvement be started, nor any clearing or site work shall be commenced, or maintained upon any Lot in The Carolina Club Subdivision, until plans and specifications thereof showing the shape, dimensions, materials, basic exterior finishes and colors, location on site, driveway, parking, decorative landscape planting, floor plans and elevations therefore (all of which is hereinafter referred to collectively as the "Plans"), shall have been submitted in duplicate to, and approved in writing, as to harmony of external design and location in relation to any surrounding structures, natural features and topography, by the Committee. The Committee shall have the absolute and exclusive right to refuse to approve any such Plans, which are not suitable or desirable in the opinion of the Committee for any reason, including purely aesthetic reasons, which in the sole and uncontrolled discretions of the Committee shall be deemed sufficient. In no event will the Committee approve any Plans in which the Dwelling Unit at the highest point on its roof exceeds forty (40) feet in height measured from the finished grade or original grade, whichever grade is lower. The Committee, in the exercise of its discretion, shall not approve the location of a Dwelling Unit or garage on any Lot intended for use as a site for a single family detached dwelling within twenty-five (25) feet of the front line of such Lot, within fifteen (15) feet of the side lines of such Lot, and within twenty-five (25) feet of the rear line of such Lot. For purposes of this Section 2, a single family detached dwelling does not include a patio home or zero lot line home. Within these setbacks, the Committee shall have complete authority to determine the appropriated building site and location of the Dwelling Unit on each and every Lot.

Anything herein to the contrary notwithstanding, the Committee or Association unilaterally, may vary the building setback lines recited herein, so long as such variance does not cause the revised setback requirement to be less than that set by Currituck County at that time. Any such variance shall be evidenced by a certificate of variance or compliance signed by an officer of the Association, in recordable form and filed in the Office of the Register of Deeds of Currituck County.

Section 3. Architectural Control Committee.

(a) Membership. The Committee shall be composed of a minimum of three (3) persons, appointed by the Association. The Committee may designate a representative to act for it. In the event of death, resignation, or removal by The Association of any member of the Committee, the

Association shall have full authority to designate a successor. Unless otherwise approved by the Association, neither the members of the Committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. The Associations' Board of Directors shall keep, or cause to be kept, a list of the names and addresses of the persons who form the Committee and a list of the names and addresses of any designated representative of the Committee, and such a list shall be available to any Owner. When vacancies on The Architectural Control Committee occur, the Committee and the Board of Directors shall work in cooperation to appoint new members from among interested Owners.

(b) Procedure. At least forty-five (45) days prior to the commencement of any construction, the Plans shall be submitted to the Committee. The Owner shall include with the name of the contractor, a statement as to the classification of the contractor's license held by such contractor and the address and telephone number of the contractor.

Approval shall be subject to such regulations, and architectural standards as may from time to time be promulgated by the Committee. Within thirty (30) days after receipt of the Plans and all other required information, the Committee shall notify the Owner of the Lot or Dwelling Unit in writing as to whether the Plans and the contractor have been approved. Unless a response is given by the Committee within thirty (30) days, the Plans and/or contractor shall be deemed approved. The response of the Committee may be an approval, a denial, an approval with conditions, or a request for additional information. A request for additional information shall be deemed a determination that the information submitted was inadequate, and the thirty (30) day time period for further Committee response shall only commence upon receipt of the requested additional information. If approval with conditions is granted, and construction then begins, the conditions shall be deemed accepted by the Owner of the Lot or Dwelling Unit and the conditions imposed shall become fully a part of the approved Plans.

The Committee, may also from time to time, at its sole discretion, require of any contractor a cash or insurance performance bond to guarantee final site clean up and/or extraordinary road repairs necessitated by the actions of the contractor and his workers and subcontractors during the construction of any improvements on The Carolina Club Subdivision.

Any Owner of any Lot or Dwelling Unit disagreeing with the finding of the Committee may appeal the decision, giving written notice of appeal to the Committee within fifteen (15) days following receipt of notice of denial. The Owner of the Lot or Dwelling Unit or his agent, may present information challenging the findings of the Committee. After review and consideration of the information, the Committee will notify the Owner of its decision. A thirty (30) day time period for Committee response shall commence upon the receipt or presentation of information challenging the findings of the Committee.

All notices required to be given herein shall be given in writing, hand-delivered or mailed postage prepaid, certified or registered mail, return receipt requested or deposited with an overnight courier (such as, but not limited to Federal Express), and the Committee shall be obliged to specify the particular grounds upon which denial of any application is founded. One set of Plans denoted as approved (or approved with specified conditions) shall be retained by the Committee and the other one shall be returned to the applicant.

(c) Application of the Article. This Article Four shall apply to any additions to the Existing Property subsequently made subject to this Declaration and the terms and provisions of any Supplemental Declaration.

#### ARTICLE FIVE: RESTRICTION ON USE AND RIGHTS OF THE ASSOCIATION AND OWNERS

Section 1. Permissible Uses. No Lot shall be used except for single-family residential purposes (with the exception of the Club House). No building of any type shall be erected, altered, placed, or permitted to remain on any Lot other than a Dwelling Unit and its accessory buildings, which shall comply

with any applicable zoning regulations and the requirements of Articles Four and Five of this Declaration. Lots included in this Declaration shall be used exclusively for residential purposes and no more than one single-family residence shall be erected on any Lot.

Section 2. Division of Lots: No Time Sharing.

(a) No Lot shall be further divided, except that any two Owners may divide a Lot between them as a recombination if such Lot is adjacent to the Lots owned by such Owners, and provided further that not more than two (2) Dwelling Units may be constructed on the three (3) combined Lots. In event of such a recombination, the sideline setbacks and sideline easements shall be released as to the old interior common sidelines and become applicable to the new common sideline created with the old shared Lot.

(b) No Lot, unit of ownership or ownership interest may be subdivided to permit time sharing or other devices to effect interval ownership. For purposes of this section "time sharing" or "other devices to effect interval ownership" shall include, but not be limited to, ownership arrangements, including uses of corporations, trusts, partnerships or tenancies in common, in which four or more persons or entities, not members of a single household, have acquired, by means other than will, descent, inheritance or operation of law, an ownership interest (directly or indirectly, equitable or legal) in the same Dwelling Unit and such owners have formal or informal right-to-use or similar agreement.

(c) No Dwelling Unit shall be used for vacation rental as defined in the Vacation Rental Act, Chapter 42A of the North Carolina General Statutes. The rental of any dwelling within the Carolina Club Subdivision shall be for a term of one (1) year or longer.

Section 3. Utilities and Other Easements. All utility lines of every type, including but not limited to water, electricity, gas, telephone, sewage, and television cables, running from the main trunk line or service location to any Dwelling Unit must be underground. The Carolina Club Ltd., L.L.C. reserved unto itself, its successors and assigns, a perpetual alienable and releasable easement and right on, over, and under the ground to erect, maintain and use water, irrigation, electric, gas, telephone, sewage, and television cables, and any other utility lines and conduits for the purpose of bringing public or other services, at this time known or unknown, to the Carolina Club Subdivision on, in, under, and over the streets or roads and over any Lot, shown on any recorded plat of The Carolina Club Subdivision within twenty-five (25) feet of each Lot line fronting on a street, within ten (10) feet along the side lines of each Lot, within twenty-five (25) feet along the rear line of each Lot, and over such other areas as are so identified on any recorded plats of The Carolina Club Subdivision. In addition, The Association and/or its successors and assigns may cut, in the above described easements, as well as anywhere else that such may be required, at its own expense, drain ways for surface water and/or to install underground storm drainage wherever and whenever such action is required by applicable health, sanitation or other state or local authorities, or in order to maintain reasonable standards of health, safety, and appearance. Also reserved in the thirty (30) feet adjoining the golf course on any Lot will be an easement, and the right to locate and service thereon, shallow wells and underground connections thereto for the purposes of irrigation of the Golf Club and landscape features. In the event of any additions to The Carolina Club Subdivision, as provided in Article One, the easements created hereby shall exist on the Lots in such additions to The Carolina Club Subdivision. These easements and right expressly include the right to cut any trees, bushes or shrubbery, take or add any soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation or to maintain reasonable standards of health, safety, and appearance.

There is also reserved for the State of North Carolina, within The Carolina Club Subdivision, a perpetual easement to enter any Lot at reasonable times and hours of the day in order to do necessary groundwater monitoring, to include the installation and pumping of groundwater wells, or for the purposes of remediation of groundwater contaminants.

Section 4. Minimum Square Feet in Dwelling Unit. 1,500 square feet shall be the minimum heated living area for a one-story dwelling and 1,800 square feet shall be the minimum heated living area for a two-story dwelling.

Section 5. Roof Pitch. For all structures on a Lot, the roofs shall be constructed so that the pitch shall not be less than “six to twelve,” or to such other standard as may be adopted by the Association. Such other standards may allow for a different roof pitch on all or portions of the roof of a structure when other characteristics of the structure justify such change.

Section 6. Foundations. The primary structure on a Lot shall be constructed on a masonry crawl space foundation, the nature of which is approved by the Association. The Association may require brick, brick veneer, or such other method as the Association deems appropriate for the finished appearance of the foundation. Stucco-like foundations are not permitted. The use of slab foundations or structures built on piling foundations shall be prohibited, except for use in out buildings, garages or similar structures where approval for such construction has been granted by the Association or its successors and assigns. This will not prohibit the use of slab or piling foundations in portions of a structure where the Association considers the overall design to meet the criteria established in these covenants.

Section 7. Maintenance During Construction. During construction of improvements on a Lot, the Member or builder shall maintain facilities for or arrange for a portable toilet on the premises. In addition, no approval for improvements shall be effective until the Member or builder places, on an area adjacent to the pavement on the respective Lot, a clay, marl, stone or other improved surface or base area so as to avoid damage to the edge of the asphalt paved surface, occurring during access to the Lot during construction. The Member or builder shall maintain a trash bin of a size and type sufficient enough to avoid trash or debris from spreading from the building site and shall keep all areas clean during and after construction. The Member or builder is required to install at Member’s expense a culvert that will allow for crossing of the roadside swale or ditch and such culvert shall meet the Department of Transportation standards for driveway culverts. The culvert shall allow unimpeded water movement along the existing roadway swale. The culvert must remain in place after construction and will be maintained by the Member in such a way that it does not become an eyesore or disturb the desired drainage patterns of the swale system.

Section 8. Temporary Buildings. No trailer, double-wide mobile home, tent, shack or other temporary building shall be erected or placed on a Lot except for the storage of materials or the convenience of workmen during construction. When permitted during construction, such temporary buildings shall be removed from the Lot upon issuance of an occupancy permit for said residence.

Section 9. Temporary Structures. No structure of a temporary character shall be placed upon any portion of The Carolina Club Subdivision at any time, provided, however, that this prohibition shall not apply to shelters or sheds used by contractors during the construction of a Dwelling Unit, or improvements or additions thereto, on any Lot. Temporary shelter, tents, recreational vehicles, trailers (whether attached or unattached to the realty) may not, at any time, be used as temporary or permanent residence or be permitted to remain on any portion of The Carolina Club Subdivision.

Section 10. Committee Approval of Plans and Other Prohibitions.

(a) As provided in Section 2 of Article Four, no Dwelling Unit, fence, structure, patio, building, appurtenance, attachment, improvement or addition shall be built, constructed or maintained nor shall any alteration, rebuilding or reconstruction commence, unless the Plans therefore have been approved in writing by the Architectural Control Committee and such building or construction is completed in strict accordance with said Plans. In addition, any such Dwelling Unit shall comply with all applicable building, plumbing, electrical and other codes.

(b) No detached garage is permitted. No storage shed shall be permitted unless architecturally compatible with the primary Dwelling Unit on the Lot.

(c) Plans for the addition of a swimming pool and accompanying fencing must be submitted and approved by the ACC prior to the beginning of construction. Permanent above-ground pools are prohibited.

(d) No vent or other pipes or appendages may extend from the front of any Dwelling Unit, unless screened from public view by a screening material or shrubbery approved by the Committee.

(e) Any exterior air-conditioning or heating equipment and any natural gas storage facility must be screened from public view by a screening material or shrubbery approved by the Committee.

(f) Downspouts and gutters must be constructed so as not to promote the erosion of the soil of any Lot or Dwelling Unit.

(g) Exterior lighting shall be restrained and subtle and must be directed so as not to shine directly on another Lot or Dwelling Unit or interfere with the quality of the night environment.

Section 11. Garbage and Storage Receptacles. Except as required by any appropriate governmental authority, each Owner shall provide receptacles for garbage (and recyclables, if such a program is in place in Currituck County), and all garbage receptacles, tools and equipment for use on a Lot or Dwelling Unit by any Owner, shall be placed in a screened area in accordance with reasonable standards established by the Committee to shield some from general visibility from roads and neighbors abutting the Lot or Dwelling Unit. No fuel tanks or similar storage receptacles or related storage facilities may be exposed to view. No underground storage tanks for chemicals, petroleum products or any other mineral or toxic product will be allowed anywhere in The Carolina Club Subdivision, except for propane gas tanks.

Section 12. Debris. No leaves, trash, garbage or other similar debris shall be burned except as permitted by the appropriate governmental authority. No garbage, trash, construction debris or other unsightly or offensive materials shall be placed upon any portion of The Carolina Club Subdivision, except as is temporary and incidental to the bona fide improvement of any portion of The Carolina Club Subdivision. Job site debris shall be removed from the Lot (job site) at least semi-weekly.

Section 13. Satellite Dishes. A satellite dish, not to exceed thirty-six (36) inches in diameter, may be installed as long as it placed as inconspicuously as possible.

Section 14. Recreational Equipment, Clotheslines, etc.. Children's playground equipment or other recreational equipment must be restricted to rear yards with visibility from streets, neighboring properties, or golf course minimized. Brightly colored metal play sets are discouraged unless they can be screened from street, neighboring property, or golf course views. Wood play sets that blend with the natural surroundings are preferred. Basketball backboards should be clear or plain white; logos are not permitted. Outdoor clotheslines are prohibited. There will be no nets installed to prevent errant golf shots from hitting a home.

Section 15. Landscape Plan. As part of the Plans package submitted by a Lot Owner to the Committee for approval of such Owner's Plans for building, there shall be included a comprehensive landscape plan comprising of proposed landscaping, to include the sodding of front and side yards, and the screening of all outside units. Shown thereon, in addition to the scheme for decorative plantings, shall be all of the planned site improvements and modifications, including, but not limited to major topographic changes and plans for re-vegetation and re-stabilization thereof, the location and specifications for all terraces, walkways, driveways, paths, fences, bulk heading, walls, pools, outdoor lighting and the specifications for other fixtures and structures envisioned to be constructed as part of the Landscape Plan. The Landscape Plan should seek to unite the Dwelling Unit as well as all other structural aspects of the landscape with its setting.

Section 16. Trees and Foilage. Trees measuring three (3) inches or more in diameter, at a point two (2) feet above ground level, and any flowering trees or shrubs above five (5) feet in height may not be removed from The Carolina Club Subdivision without the written approval of the Committee, unless located within ten (10) feet of a Dwelling Unit, or site for such Dwelling Unit, or in the path of driveways and walkways located or to be located on any Lot. Excepted here from shall be damaged and diseased trees or trees which must be removed because of an emergency.

Section 17. Unightly Conditions. It is the responsibility of each Owner to prevent any unclean, unsightly or unkempt conditions to exist on his Lot, Dwelling Unit, or grounds, which shall tend to decrease the beauty of The Carolina Club Subdivision, specifically or as a whole. During the construction of any improvement to a Lot in The Carolina Club Subdivision, the Lot, roads, landscaping, and Common Areas adjacent thereto shall be kept in a neat and orderly condition so as not to cause an unsightly condition to exist or damage to occur. In the event the Owner or his agent or employee (including, without limitation, any contractor or subcontractor) shall fail to maintain the Lot and adjoining areas as specified herein or allow damage to occur and such failure continues or damage remains un-repaired for seven (7) days following delivery of written notice thereof from the Committee or the Association, the Association shall have the right, exercisable in its sole discretion, to summarily abate any unsightliness, make needed repairs, and to remove any rubbish, refuse, unsightly debris and/or growths from the Lot and adjoining area. In the event that the Association, after such notice, causes the subject work to be done, the costs of such shall be reimbursed by the Owner to the Association and will become a continuing lien on the Lot until paid.

Section 18. No Offensive Activity or Fires. No noxious or offensive activity or excessive noise shall be carried on upon any portion of The Carolina Club Subdivision, nor shall anything be done tending to cause embarrassment, discomfort, annoyance or nuisance to any Owner, or guest thereof, in any portion of The Carolina Club Subdivision. Fires on any Lot or Dwelling Unit or on any portion of the Common Properties are prohibited.

Section 19. Certain Plants, Animals, and Pets. Except as otherwise permitted herein, or in any amended Declaration, no plants, animals, device or thing of any sort whose normal activities or existence is in any way noxious, dangerous, unsightly, unpleasant, or of a nature as may tend to diminish or destroy the enjoyment of any other Lot or Dwelling Unit Owners, or guests thereof, may be maintained on a Lot or in a Dwelling Unit. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any Lot or in any Dwelling Unit except that a reasonable number, but no more than three dogs, cats, or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose. At no time will any household pets be allowed to run free, and at all times when off the Owner's Lot, such household pets will be on a leash.

Section 20. Discharge of Firearms. The discharge of firearms and/or bows and arrows within The Carolina Club Subdivision is prohibited unless required for public safety.

Section 21. Motorized Vehicles, Prohibited Parking. All motorized vehicles operating within The Carolina Club Subdivision must be properly muffled so as to eliminate noise which might be offensive to others. All motorized vehicles and motorized bicycles are prohibited from being used or operated anywhere other than on the roads within The Carolina Club Subdivision. No boat, boat trailer, other trailer, jet skis, camper, recreational vehicle, utility vehicle, truck, or automobile shall be allowed to remain on any street right-of-way or on any Lot, or on any yard, or on any portion of the Common Properties without expressed written consent of the Association. Unlicensed or junk vehicles must be parked in a closed garage. In addition, each Owner shall provide as a part of his Dwelling Unit an enclosed garage for the parking of two full sized automobiles.

Section 22. Signage. No "For Sale" or "For Rent" signs or other signs of any kind shall be displayed in public view on any Lot, Dwelling Unit, facility, appurtenance, short or long term parked vehicle,

accessory building or structure unless approved by the Declarant, who shall also from time to time provide design criteria and color schemes for approved signage. The Declarant shall further have the right to locate a sign or signs indicating the location of any Recreational Facilities and such other informational signs of any type as may be necessary or desirable, in Declarant's sole opinion. No signs or signs shall be permitted on any unimproved lots. The Declarant shall have the right to enter upon the property of violating owners and remove any such sign, advertisement, billboard or structure which is placed on any lot in violation of the Covenants, and in doing so, shall not be liable and is hereby expressly relieved from any liability for trespass or other tort in connection therewith, or arising from such removal.

Section 23. Pavement of Joint Walkways. It is not the intention of the Association to provide any joint walkways or sidewalks throughout the community.

Section 24. Vegetation. No existing vegetation shall be disturbed during construction without the express written consent of the Committee. The Committee shall require written proposals for the re-stabilization of any such disturbed areas. Any vegetation disturbed during construction shall be repaired to the satisfaction of the Committee.

Section 25. Mail and Delivery Boxes. All Owners must display the County-assigned house number on their mail boxes, or other appurtenance, pursuant to the then current regulations of Currituck County.

Section 26. Residential Lot Coverage. In compliance with the Currituck County Unified Development Ordinance limitations, no more than twenty-five percent (25%) of any Lot shall be covered by principal and accessory structure, excluding parking areas and driveways. An additional fifteen percent (15%) of the Lot may be covered by walkways, pools, or uncovered decks or patios. (This covenant also insures continued compliance with storm water runoff rules adopted by the State of North Carolina and thus may be enforced by the State of North Carolina.)

Section 27. Fences. Fences are subject to the complete jurisdiction of the Committee as to location, style, materials, height, and whether or not a fence is allowed at all. As used herein, fences shall include walls, barricades, shrubbery or other impediments to reasonable mobility and visibility. No fence shall be located within twenty five (25) feet of any property line adjacent to the golf course. The Committee shall only approve the construction of a fence upon a determination that the fence is aesthetically pleasing, does not detract from the reasonable value of any Lot or Dwelling Unit and does not unreasonably impede the view of any water course, the golf course, or other attractive feature from any other Lot or Dwelling Unit.

Section 28. Driveways. All driveways, guest parking and turnabouts will be of non-porous materials; and special materials, surface treatments and/or accents will be reviewed by the Committee.

Section 29. Occupancy No residence on a Lot shall be occupied in any manner prior to completion of construction and the connection of permanent utilities.

Section 30. Energy and Water Saver Construction. Every Dwelling Unit or Other Residential Unit should be built to achieve the highest current level of energy and water saving standards as reasonably possible.

Section 31. Windstorm Resistance Standards. The Carolina Club requires all dwellings to be built in accordance with current local, county, state, and federal windstorm building codes.

Section 32. Timely Completion. When construction of any Dwelling Unit, structure, improvement, or addition thereto has once begun, work thereon shall be prosecuted diligently and continuously until the full completion thereof. It is a requirement that Dwelling Units under construction in The Carolina Club Subdivision be "dried-in" with exterior finishes installed (roofing, windows and finish siding and time in place) within one hundred twenty (120) days of starting construction and that all phases of work, including execution of the Landscape Plan, be complete within one year of Committee approval. In the event that

completion should be delayed beyond one year from Committee approval, then in that event, the Committee, may, so long as the Owner is notified within thirty days of the one year period expiring, by way of unanimous vote of its members, rescind the existing approval and require that the Owner reapply and seek new approval.

Section 33. Water and Sewage. All wells and septic systems on the property shall be located and installed in accordance with the rules and regulations of the State of North Carolina and County of Currituck.

Section 34. Roads. The intention of The Carolina Club Ltd., L.L.C. was to dedicate the roads and streets in the development to the County of Currituck or the State of North Carolina, with the further intention that maintenance of the streets shall become the responsibility of the Department of Transportation. Recognizing that acceptance into the county or state system cannot be guaranteed by The Carolina Club Ltd., L.L.C., and until such acceptance may occur, The Carolina Club Ltd., L.L.C. has established herein that the Members shall be responsible for the maintenance and repair of the roads as shown on the plat of the subdivision as a "Common Facility" until such time as the roads are accepted and maintained by the Department of Transportation.

Section 35. Lot Gradient. The existing gradient of each lot shall be maintained at its current slope, except as may be necessitated by home construction, and then shall be altered only in accordance with plans approved by the Architectural Control Committee. In no case shall the slope along any lot line which is adjacent to golf course property be graded to decrease said slope, nor shall the vegetation on such slopes be removed or altered.

Section 36. Reserve Utility Open Space. Pursuant to Article 7, Section 703, of the Currituck County Unified Development Ordinance (hereinafter "the UDO"), which requires the Developer of a subdivision of twenty (20) or more lots to reserve an area "suitable in terms of size, location, soil type, topography, and other relevant factors to accommodate a community sewage treatment facility if one becomes necessary in the future due to septic tank failure or other reasons," The Carolina Club Ltd. L.L.C. hereby reserves the area shown as "Reserve Utility Open Space Area" on that certain map or plat entitled in part "Carolina Club, Ltd., L.L.C., Amenities Areas, Entrance Parcel, Reserve Utilities Open Space Area, property Recombination" (hereinafter "the Recombination Plat"), prepared by William T. Robbins, Professional Land Surveyor, recorded in Plat Cabinet C-2, Slide 248, Currituck County Public Registry as the reserve utility open space area required under the provisions of the UDO. This area has been reserved by the Developer to replace the reserved utility open space areas which were previously shown on plats of record at Plat Cabinet F, Slides 24, 283, 317, 368, and 382. Said plats mis-designated reserved utility open space in areas adjacent to but not the property of the Developer. Said plats thus were ineffective to establish the reserved utility open space required by the UDO. By means of this Declaration, and the recordation of the Recombination Plat, The Carolina Club Ltd., L.L.C. hereby reserves the "Reserve Utility Open Space Area" on said Recombination Plat, in compliance with the provisions of the UDO for the benefit of all lots that are subject to this Declaration.

#### ARTICLE SIX: MEMBERSHIP

Section 1. Membership. Every person or entity who is a record Owner of a fee simple interest in any Lot or Dwelling Unit in The Carolina Club Subdivision is subject by this and any other declarations to all rights, responsibilities, and assessments of the Association and shall be a Member; provided, however, 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. Each Member shall be entitled to one vote for each lot owned for the process of electing the Association's Board of Directors, Architectural Control Committee, or for any other voting situations that may arise in the operations of the Association after the Turnover meeting as established in this Article Six Section 3.

Section 2. Rights and Responsibilities of The Association. Subject to the rights of Owners and the Association as set forth in this Declaration, The Association has exclusive management and control of the Common Properties and all improvements thereon and all furnishings, equipment and other personal property relating thereto.

The Association's duties with respect to such Common Properties include, but are not limited to, the following:

- (a) maintenance of the Common Properties;
- (b) management, operation, maintenance, repair, servicing, replacement and renewal of all landscaping, improvements, equipment and personal property constituting part of the Common Properties or located upon the Common Properties so as to keep all of the foregoing in good, clean, attractive, sanitary, safe and serviceable condition, order and repair;
- (c) all landscaping of the Common Properties;
- (d) maintenance of adequate public liability, property casualty or hazard insurance for the benefit of the Association with respect to the Common Properties;
- (e) payment of all taxes and assessments validly levied, assessed or imposed with respect to the Common Properties;
- (f) management, operation, maintenance, repair servicing, replacement and renewal of all streets and roads within The Carolina Club Subdivision and all improvement therein; provided, however, that following any irrevocable acceptance of the streets and roads for maintenance as public rights of way by applicable governmental entities, the maintenance obligations of the Association for the streets and roads shall only be to the extent such activities are not performed by the applicable governmental entities.

The Association may also provide other services such as, but not limited to security services or devices, including but not limited to operation of an entry guard house and any other security gates, security personnel and overall traffic control as and to the extent the Association deems appropriate.

The Association may obtain and pay for the services of any personnel to manage its affairs to the extent the Association deems advisable, as well as such other personnel as the Association determines is necessary or desirable, whether such personnel are furnished or employed directly by the Association or by any person with whom it contracts. Without limitation, the Association may obtain and pay for legal, accounting, engineering or other professional services necessary or desirable in connection with the Common Properties or the enforcement of this Declaration.

The Association, from time to time, may adopt, alter, amend, rescind and enforce reasonable rules and regulations governing use and operation of the Common Properties, which rules and regulations shall be consistent with the rights and duties established by this Declaration. The validity of the Association's rules and regulations, and their enforcement, shall be determined by a standard of reasonableness for the purpose of protecting the value and desirability of The Carolina Club Subdivision.

The Association may, acting through its Board, contract with other residential Associations or commercial entities, neighborhoods or clubs to provide services or perform services on behalf of the Association and the Members. In addition, the Association may contract with other residential Associations or commercial entities, neighborhoods or clubs within The Carolina Club to provide service in or perform services on behalf of such other Associations, neighborhoods, or clubs.

Section 3. Board of Directors. After the Turnover Meeting, the Association shall be governed by a Board of Directors, which will be elected by the Lot and/or Dwelling Unit Owners at the Turnover Meeting. The Board of Directors shall be comprised of current property owners. As provided in Article Six, Section 1, each Lot owner shall be entitled to one vote for each lot owned for the election of the Board of Directors and for any other voting initiated by the Association.

#### ARTICLE SEVEN: PROPERTY RIGHTS IN THE COMMON FACILITIES

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 3 of this Article Seven, every Member shall have a right and easement of enjoyment in and to all of the Common Facilities and such easement shall be appurtenant to and shall pass with the title to every Lot or Dwelling Unit in The Carolina Club Subdivision.

Section 2. Title to Common Facilities. At the Turnover Meeting, The Carolina Club Ltd., L.L.C. shall convey title to the Common Facilities to the Association by Non-Warranty Deed, at no cost to the Association, free and clear of all liens and encumbrances except this Declaration and any supplements and amendments thereto. The Association covenants that it will accept a conveyance of all of the Common Facilities.

Section 3. Extent of Members' Easements. The rights and easements of enjoyment created herein shall be subject to the following:

(a) the right of the Association, in its sole discretion, to grade, pave or otherwise improve any road or street shown on any recorded plat of The Carolina Club Subdivision and/or The Carolina Club;

(b) the right of the Association to suspend the enjoyment rights of any Member for any period during which any assessment of the Member remains unpaid, and for any period not to exceed thirty (30) days for any infraction of any published rules and regulations adopted by the Association.

(c) the right of the Association or its assignee to charge reasonable admission and other fees for use of any of the facilities situated upon its Common Properties.

Section 4. Driveway Culverts. Each Owner, if required by the Committee as a condition to approval of his Plans, when making a driveway connection to the street or to a cul-de-sac, will provide a suitable drainage culvert so as to allow for unimpeded water movement along the existing roadway swale, and will maintain that culvert at all times in such a way that it does not become an eyesore or disturb the desired drainage patterns in the swale system.

Section 5. Storm-water Management Improvements. The Association will be responsible for maintenance of any storm-water management swales, channels, and check dams and to see that each Owner installs and maintains his driveway culvert in accordance with Section 4 of this Article Seven. Such maintenance shall include removal of sediments within the swales and channels, re-stabilization of the swales and channels at all times in such a way that it does not become an eyesore or disturb the desired drainage patterns in the swale system.

Section 6. Private Roads. In the development of The Carolina Club Subdivision, the Declarant may construct certain private streets or roads within The Carolina Club Subdivision connecting parcels of The Carolina Club Subdivision to public rights of way. The Owners of Lots and Dwelling Units shall have no more than an easement for ingress and egress for themselves, their agents, employees, representatives, invitees, and assigns over such private streets and roads, and there shall be no public rights of any kind therein, unless approved by the Members in accordance with the provisions of Section 3 of Article Seven. The Association reserves the right to name and revise from time to time the names or other designations given to such private streets or roads.

## ARTICLE EIGHT: COVENANT FOR PAYMENT OF ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Assessments. Each Member who is the owner of any Lot and/or Dwelling Unit, by acceptance of a deed therefore, and all other Members, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to and does hereby covenant and agree to pay, as limited below, to the Association

- (a) annual assessments or charges as herein provided;
- (b) special assessments for capital improvement (such annual and special assessments to be fixed, established, and collected from time to time as herein provided); and
- (c) any liquidated damages or summary charges imposed under authority contained herein, together with costs, fees and expenses (including reasonable attorneys' fees) incurred by the Association incidental to the enforcement of any rules and regulations, collection of assessments ( both annual and special) or collection of damages or charges arising herein.

The annual and special assessments of an Owner and any liquidated damages or summary charges as herein provided, together with such interest thereon and costs of collection thereof as herein provided, shall be a charge on the land and shall be a continuing lien upon the Lot and/or Dwelling Unit against which each such assessment is made. Each such assessment, together with such interest thereon and costs of collection thereof as hereinafter provided, shall also be the personal obligation of the person or persons jointly and severally, who is (are) the Owner(s) of such properties at the time when the Assessment fell due.

Section 2. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the recreation, health, access, maintenance of property values, security, safety, and welfare of the residents of The Carolina Club Subdivision and other Members, and in particular for:

- (a) improvement, maintenance, and replacement of any of the Common Properties including, without limitation, the Facilities and payment of the Common Expenses;
- (b) maintenance of exteriors of Dwelling Units and related improvement on Lots in The Carolina Club Subdivision, as well as Other Lots within The Carolina Club, if necessary, subject to reimbursement by the Owner(s) of such property pursuant to Article Nine, Sections 1 and 2 of this Declaration;
- (c) establishment of capital replacement reserves; and
- (d) acquisition of services and facilities devoted to the foregoing purposes or for the use and enjoyment of the Common Properties, including but not limited to, the cost of repairs, replacements, additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes assessed against those Common Properties, the procurement and maintenance of insurance related to those Common Properties, its recreational facilities and use in accordance with the Bylaws, the employment of attorneys to represent the Association as necessary, and such other requirements as are necessary to perform all of the aforesaid functions and purposes.

Section 3. Assessment of Uniform Rates Within Different Categories or Forms of Ownership. Both annual and special assessments shall be fixed at uniform rates for every Lot or Dwelling Unit within The Carolina Club Subdivision. There will be no difference between assessments as to the Lots or between assessments as to Dwelling Units.

Section 4. Application of Minimum and Maximum Assessment. The minimum regular annual assessment, as set forth in the schedule below, shall be levied by the Association unless the Association determines that the important essential functions of the Association may be properly funded only by an

assessment above the minimum but not more than the applicable maximum regular assessment, as set forth in the schedule below. If the Association shall levy the applicable minimum assessment for any assessment year and thereafter, during such assessment year, determine that the important and essential functions of the Association cannot be funded by the minimum assessment, the Association, may levy a supplemental assessment, but in no event shall the sum of the minimum regular and supplemental annual assessment for the year exceed the applicable maximum regular annual assessment. All members of the Association shall have the right to review the budgets setting forth expenditures to be paid through the assessments.

The regular annual assessment minimum and maximum amounts shall be the sums calculated in accordance with the following schedule as may be increased in each instance by an adjustment for inflation as set forth below.

<u>Owner Members</u>	<u>Minimum Regular Annual Assessments</u>	<u>Maximum Regular Annual Assessments</u>
Per Lot and Dwelling Unit	\$350.00	\$500.00

Commencing with the calendar year beginning January 1, 1999, on the first day of each year, the minimum and maximum regular annual assessments shall automatically be increased by five percent (5%) per annum, compounded annually. The Association may, after consideration of current costs and future needs of the Association, fix the regular annual assessment for any year at an amount less than the applicable minimum regular annual assessment, but such action shall not constitute a waive by the Association of its right to revert to the full minimum regular annual assessment in subsequent years.

Section 5. Special Assessments for Capital Improvements. In addition to the regular annual assessments authorized by Section 4 of this Article Eight, the Association may levy in any assessment year, a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of professional or consulting fees, any construction or reconstruction, unexpected repairs or replacement of any capital improvement (including, without limiting the generality thereof, any lake, waterway, or pond) located upon the Association's Common Properties including the necessary fixtures and personal property related thereto. A Special Assessment in no event may be greater than that year's minimum annual assessment as outlined in the assessment schedule in Article Eight, Section 4.

Section 6. Change in Amount of Annual Assessment. Subject to the limitations of Section 4 of this Article Eight and for the periods therein specified, the Association may change the regular annual assessment at the sole discretion of the Association for any such assessment period.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The regular annual assessments provided for herein shall be paid (as determined by the Association) in quarterly, semiannual, or annual installments. The payment of the regular annual assessment by Owners shall commence as to each Lot or Dwelling Unit on the first day of the month following the conveyance of that Property to the Association, but no earlier than January 1, 1999. The first regular annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Association shall fix the amount of the annual assessment at least fifteen (15) days in advance of each regular annual assessment period. Written notice of the regular annual assessment shall be sent to every Member subject thereto. The due dates shall be established by the Association. The Association, upon any qualified demand (as determined by the Board) at any time, shall furnish a certificate in writing signed by an officer of the Association setting forth whether any specific assessment has been paid. Such properly executed certificate of the Association as to the status of the assessment is binding upon the Association as of the date of its issuance. The due date for any special Assessment or any other Assessment, permitted by this Declaration, shall be fixed by the Association.

Section 8. Effect of Non-Payment of an Owner's Assessment: The Personal Obligation of the Owner, The Lien, Remedies of Association. If the assessments of an Owner are not paid within ten (10) days following the date due (being the dates referred to in Section 7 of this Article Eight), then such assessments shall become delinquent and shall, together with such interest thereon and costs of collection thereof as hereinafter provided, thereupon become a continuing lien on the Lots(s) or Dwelling Unit(s), which shall bind such Lot(s), or Dwelling Unit(s) in the hands of the then Owner, his heirs, devisees, personal representatives, successors and assigns. The personal obligation of the then Owner to pay such assessment shall remain his personal obligation for the statutory period; and, in addition, shall pass to his successors in title (as an encumbrance or lien against the Lot and/or Dwelling Unit) unless expressly waived by the Association.

If the assessment(s) is not paid within thirty (30) days after the delinquency date, the assessment(s) shall bear interest from the date of delinquency at the rate of one and one-half (1.5%) percent per month and the Association may authorize its officers to bring appropriate civil action against the Owner personally obligated to pay the same or to foreclose the lien against any such Lot(s) or Dwelling Unit(s), and there shall be added to the amount of such assessment, the costs of such action and reasonable attorneys' fees or other cost incurred by the officers of the Association pursuant to authority of the Association. In the event a judgment is obtained against any Owner for such assessments, such judgment shall include interest on the assessment as above provided and a reasonable attorneys' fee to be fixed by the Court, together with the costs of the action.

Section 9. Subordination of the Lien on an Owner's Property to Mortgages or Deeds of Trust. The lien on an Owner's property of the assessments provided for herein shall be absolutely subordinate to the lien of any first mortgage or deed of trust now and hereafter placed upon any Lot(s) or Dwelling Unit(s), subject to assessment. The subordination shall not relieve any Lot(s) or Dwelling Unit(s) from liability for any assessments now or hereafter due and payable, but the lien thereby created shall be secondary and subordinate to any first mortgage or deed of trust as if said lien were a second mortgage, irrespective of when such first mortgage or deed of trust was executed and recorded.

Section 10. Composite Building Site. Any owner of one or more adjoining lots (or portions thereof) may, with prior written consent of the Association consolidate such lots or portions into one building site which shall be considered one lot for purposes of assessments.

Section 11. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein:

- (a) all Common Properties as defined in Article Two of this Declaration; and
- (b) all properties exempted from taxation by the laws of the State of North Carolina, upon the terms and to the extent of such legal exemption. (Homestead exemptions shall not be considered an exemption.)
- (c) all properties owned by The Carolina Club Ltd., L.L.C. before and after the Turnover to the Association.

Notwithstanding any provisions of this Section 11, no Lot, Dwelling Unit shall be exempt from said assessments, charges or liens.

#### ARTICLE NINE: EXTERIOR MAINTENANCE

Section 1. Exterior Maintenance. After thirty (30) days written notice to an Owner specifying any required maintenance, the Association shall have the right but not the obligation to provide (a) maintenance upon any Lot, and (b) maintenance upon any Dwelling Unit, which is subject to assessment under Article Eight hereof. Such maintenance includes (but is not limited to) painting, grass and weed

mowing, the trimming of shrubs, repairing, replacing and care of roofs, gutters, downspouts, removal of signs in violation of this Declaration, and exterior improvements on any Dwelling Unit. Such maintenance as to a vacant Lot may include the mowing of grass and weeds, the trimming of shrubs, or the removal of trash and litter.

Section 2. Assessment of Cost on Exterior Maintenance. The cost of any such maintenance shall be assessed against the Lot or Dwelling Unit upon which such maintenance is performed, and shall be added to and become part of the regular annual assessment or charge to which such Lot or Dwelling Unit is subject and, as part of such regular annual assessment or charge, it shall be a lien against any such Lot or Dwelling Unit as heretofore defined and limited, and a personal obligation of the Owner and shall become due and payable in all respects as provided herein.

#### ARTICLE TEN: RECREATIONAL FACILITIES

The Carolina Club Ltd., L.L.C. may (but not be obligated to) construct recreational amenities (including without limitation tennis court(s), pool(s), walking trails, bike paths or open space (which shall not be construed to include any of The Carolina Club Golf Course property) in any areas shown as either "Common Area," "Club House" or "Commercial" on any recorded plat of The Carolina Club Subdivision.

#### ARTICLE ELEVEN: GOLF COURSE

Section 1. Risks. The Owner of each Lot or Dwelling Unit acknowledges that owning property adjacent or in close proximity to a golf course involves certain risks, which may have an effect on the use or enjoyment of such Lot or Dwelling Unit. Each Owner acknowledges that such risks may include, for example, errant golf balls hit onto such property potentially causing bodily injury to persons or physical damage to property, and further including golfers entering onto such property to look for and retrieve such errant golf balls. Each Owner hereby expressly assumes such risks and agrees that neither the Association nor any other entity owning or managing the golf course shall be liable to any Owner or anyone claiming any loss or damage, including, without limitation, indirect, special or consequential loss or damage arising from personal injury, destruction of property, trespass or any other alleged wrong or entitlement to remedy based upon, due to, arising from, or otherwise relating to the proximity of any Lot or Dwelling Unit to the golf course; including, without limitation, any claim arising in whole or in part from the alleged negligence of the Association or any other entity owning or managing the golf course. The Owner of each Lot or Dwelling Unit hereby agrees to indemnify and hold harmless the Association or any other entity owning or managing the Golf Club against any and all claims by the Owner and his guests, invitees or licensees with respect to the above. Nothing in this paragraph shall restrict or limit any power of the Association or any other entity owning or managing the Golf Club to change the design of the golf course, and such changes, if any shall not nullify, restrict or impair the covenants and the duties of any Owner herein.

Section 2. Easements. There is hereby declared upon every Lot or Dwelling Unit on behalf of the Golf Club unto the Association, its respective agents, employees, successors, and assigns, the perpetual, non-exclusive easements for the benefit of the Golf Club, for golf course maintenance, retrieval of golf balls and drainage. The area encumbered by these easements shall be limited to the portion of such Lot or Dwelling Unit within twenty-five (25) feet of those boundary lines, which is adjacent to such fairways or greens. However, the entire Lot shall be subject to such easement until the current Lot owner has an approved home construction plan pursuant to Article Five and said home has commenced construction. In no way does this give the Golf Club rights to harm, destroy, remove or in any other way alter any existing or new lot improvements or landscaping outside of the twenty-five (25) foot easement adjacent to the golf course boundary lines.

(a) Golf Course Maintenance. An easement is hereby reserved for the Golf Club over and across each Lot and all unimproved portions of each Dwelling Unit which are adjacent to the fairways and greens of the golf course within twenty-five (25) feet of a golf course boundary line for golf course

maintenance. This reserved right and easement shall permit, but shall not obligate, the Association or the Golf Club to go upon any such Lot or Dwelling Unit to maintain or landscape the area encumbered by such easement. Such maintenance and landscaping shall include the planting of grass, watering, application of fertilizer, mowing, and the removal of underbrush, stumps, trash or debris, and trees of less than (3) inches in diameter at a level of four (4) feet above ground level. The Association also reserves on behalf of the Golf Club the right to use the necessary and usual equipment upon the golf course, and every Owner acknowledges and accepts the potential for all common noises associated with using such equipment as well as the usual and common noise associated with the playing of the game of golf. The Association also reserves on behalf of the Golf Club the right to do all such other common and usual activities associated with and necessary to the operation and maintenance of a golf facility, as well as non-exclusive easement for ingress and egress over, across, and through all streets in The Carolina Club Subdivision or access to and from the golf course property to the Association, its successors and assigns, and the Golf Club, its operators, members and guests. The Association further hereby declares a perpetual, non-exclusive easement upon any portion of The Carolina Club Subdivision immediately adjacent to the golf course that comprises a portion of the Golf Club, in favor of the Golf Club, its successors and assigns, for overspray of water from the irrigation system serving the Golf Club. Under no circumstances shall the Golf Club be held liable for any damage or injury resulting from such overspray or the exercise of this easement.

(b) Ball Retrieval. An easement is hereby reserved for the Golf Club permitting authorized golfers to do every act necessary and reasonably incident to the playing of golf on the golf course adjacent to the Lot or Dwelling Unit, as well as an easement permitting golf balls to enter upon the Lot or Dwelling Unit and for golfers reasonable times and in a reasonable manner to enter upon the exterior portions of the Lot or Dwelling Unit to retrieve errant golf balls within the area of such Lot which is located within twenty (25) feet of any golf course property line. Every Owner of every Lot or Dwelling Unit, by acceptance of delivery of a deed to the Lot or Dwelling Unit assumes all risks associated with errant golf balls, and each such Owner agrees and covenants not to make any claim or institute any action whatsoever against the Association, the golf course designer, the Golf Club operator or any other party relating to the design and utilization of the golf course or to any errant golf ball, any damages caused thereby, or for negligent design of the golf course or the sites of the Lot or Dwelling Unit.

(c) Drainage. An easement is hereby reserved for the Golf Club for drainage to the extent that the slope of drainage ditches constructed by the Golf Club may be constructed partially upon each Lot that shares a boundary line with the golf course.

Section 3. Preservation of Vegetation and Trees. There is hereby declared a restriction upon all Lots by which Owners thereof are prohibited from (a) removing any vegetation and trees within twenty-five (25) feet of a golf course boundary line; (b) disturbing any landscaping, irrigation, or drainage facilities installed or maintained by Golf Club upon any Lot within twenty-five (25) feet of a golf course boundary line; and (c) altering the grade or slope of any Lot within twenty-five (25) feet of a golf course boundary line. All Owners are hereby notified and fully understand, acknowledge and agree that violation of this covenant shall cause immediate and irreparable harm to Golf Club and its golf course and related facilities for which there is no adequate remedy at law and that the Golf Club, its successors and assigns may by court order enjoin any such violation without further notice to Owner and require Owner to restore at Owner's sole cost and expense any vegetation, trees, landscaping, irrigation, drainage, grade or slope removed, disturbed or altered.

Section 4. Phase 3, Lots 103 through 124. An easement in perpetuity is hereby reserved for the Golf Club for preservation and maintenance of existing vegetation and trees, grade, slope, landscaping, irrigation or drainage facilities installed and maintained by the Golf Club over and along the embankment located along the rear portion of each of Lots 103 through 124 inclusive, Phase 3, The Carolina Club, from the rear property line to the top of the slope, up to a maximum of twenty-five (25) feet from the golf course boundary line with the rear property line of said Lots.

Section 5. Distractions. Owners of Lots or Dwelling Units adjacent to the golf course, as well as their families, guests, invitees, and pets, shall be obligated to refrain from any actions which would detract from the playing qualities of the golf course. Such prohibited activities shall include, but not be limited to, maintenance of dogs or other pets under conditions which interfere with golf course play due to their loud barking or other actions, running or walking on the fairways or greens, picking up balls, or like interference with play.

Section 6. Maintenance of Property Adjacent to Golf Course. The Owners of all Lots and Dwellings that are visible from the Golf Club shall maintain the portions of their Lots and Dwellings that are visible from the golf club in an aesthetically pleasing manner, which shall include maintenance and landscaping where appropriate. The Architectural Control Committee shall have the right to set standards for maintenance and landscaping for such Lots and Dwellings and shall have responsibility for and authority to enforce such standards.

#### ARTICLE TWELVE: THE CAROLINA GOLF CLUB MEMBERSHIPS

The Owner of each Lot or Dwelling Unit acknowledges that, by purchasing or paying for such property, the Owner does not acquire any vested right or easement, prescriptive or otherwise to use the Golf Club nor does he acquire any ownership or other equity interest in the Golf Club. Unauthorized use of the golf course (playing without paying) is strictly prohibited.

#### ARTICLE THIRTEEN: CAPTION, INTRODUCTIONS, AND GENDER

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

#### ARTICLE FOURTEEN: AMENDMENT TO DECLARATION

Section 1. Amendments. The Association, shall be allowed to make amendments/modifications to this Declaration, notwithstanding any other provision contained herein and without joinder of any other party, for the purposes of correcting any discovered typographical error contained herein, clarifying an ambiguity contained herein, or adding or deleting any provisions deemed in the sole discretion of the Association to be in the best interest of the Members therein. This right may be exercised, and shall be effective, only upon the recordation of "Amended Declaration" or "Modification of Declaration" in the Office of the Register of Deeds of Currituck County, which Amended Declaration or Modification of Declaration shall specifically reference this document and the provision impacted. Provided, however, the provisions of Article 3 herein requiring a mailing to all Members of the proposed change, alteration or amendment must be made, and a two-thirds affirmative vote of those responding must be had before the proposed amendment may be effected.

Section 2. Modifications. The Association shall have, and solely reserves the right to, include in any declaration, contract or deed thereafter made or entered into, such modifications and additions to these protective covenants, which will, in the sole opinion of the Association, raise the standards or enhance the desirability of the subdivision as a residential area. Such reservation shall not relieve any purchaser of a Lot, in whole or in part, from any of the protective covenants set forth. The Association may allow reasonable variances and adjustments of these covenants in order to overcome practical difficulties and prevent unnecessary hard-ships in the application of the provisions contained herein; provided, however, that such is done in conformity with the intent and purposes hereof and provided also that in every instance such variance or adjustment will not be materially detrimental or injurious to other property or improvements in the subdivision.

Section 3. Amendments or Modifications to Conform to Governmental Laws, Rules and Regulations. The Association without the consent or approval of any other property owner, shall have the right to amend this Declaration to conform to the requirements of any law or governmental agency having legal jurisdiction over the property or to qualify the property or any lots and improvement thereon for mortgage or improvement loans made or insured by a governmental agency or to comply with the requirements of law or regulations of any corporation or agency belonging to, sponsored by, or under the substantial control of, the United States Government or the State of North Carolina, regarding purchase or sale in such lots and improvements or mortgage interest therein, as well as any other law or regulations relating to the control of property, including without limitation; ecological controls, construction standards, aesthetics, matters of public health, safety, and general welfare. A letter from an official of any such corporation or agency, including without limitation; the Veterans Administration, U.S. Department of Housing and urban Development, the Federal Home Loan Mortgage Corporation, Government National Mortgage Association, the Federal National Mortgage Association, requesting or suggesting an amendment necessary to comply with the requirements of such corporation or agency shall be sufficient evidence of the approval of such corporation or agency, provided that the changes made substantially conform to such request or suggestion.

Section 4. Consent of Golf Club. Notwithstanding any provision of this Article Fourteen authorizing Amendment or Modification to these covenants, the Association, its predecessors in title, successors and assigns, shall have no right to amend or to modify any provision, easement, right or other benefit contained herein which is included or granted to or for the benefit of the Golf Club or which inures to the benefit of the Golf Club, without the prior written consent of the Golf Club.

#### ARTICLE FIFTEEN: SEVERABILITY AND GOVERNING LAW

If any provision of this Declaration is found to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof, and for the purposes hereof all covenants as contained herein shall be deemed to be severable each from each other without qualification. This Declaration and the separate provisions thereof shall be construed and enforced in accordance with the laws of the State of North Carolina without regard to principles of conflict of laws.

IN WITNESS WHEREOF, the Association has caused this Declaration to be duly executed under seal as to the date first above written.

IN WITNESS WHEREOF, the Corporation has caused this Declaration to be duly executed under seal as to the date first above written.

The Carolina Club Owners Association, Inc.

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Helen J. Wilson, President  
Board of Directors

NORTH CAROLINA

CURRITUCK COUNTY

ELECTION TO MODIFY DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THE CAROLINA CLUB

PHASES 1, 2, 3, 4A, 4B, and 5A, LOTS 1 THROUGH 220

CURRITUCK COUNTY, NORTH CAROLINA

As shown and delineated on the following plats:

<u>Phases and Lots</u>	<u>Plat Cabinet and Slide</u>
Phase 1, Lots 1 through 51	C-2 / 249-252
Phase 2, Lots 52 through 87	C-2 / 253-258
Phase 3, Lots 103 through 193	C-2 / 250-265
Phase 4A, Lots 194 through 198	C-2 / 266-269
Phase 4B, Lots 199 through 220	H 47
Phase 5A, Lots 88 through 102	C-2 / 326-329