



Prepared by and return after recording to:
EDSALL & EPP, ATTORNEYS AT LAW, P.C.
P.O. Box 70, Harbinger, NC 27941

NORTH CAROLINA
DARE COUNTY

UNOFFICIAL COPY

**FOURTH AMENDMENT TO THE
DECLARATION OF CONDOMINIUM
of
SHALLOWBAG BAY CLUB CONDOMINIUM
Adding PHASE 5
Clubhouse Unit C1
and
Confirming Fence Maintenance by Association**

RECORDED CONDOMINIUM PLATS AND PLANS OF PHASE 5:
UNIT OWNERSHIP FILE 15, PAGES 388 THRU 392
DARE COUNTY REGISTRY (the "Condominium Plans")

9th THIS FOURTH AMENDMENT TO DECLARATION OF CONDOMINIUM, made this the
day of October, 2003 by SHALLOWBAG BAY CLUB, L.L.C., a North Carolina Limited
Liability Company (the "Declarant"), pursuant to the provisions of the North Carolina Condominium
Act, Chapter 47C, General Statutes of North Carolina.

WITNESSETH:

WHEREAS, on August 27, 2001, Declarant filed in the Dare County Public Registry a
Declaration of Condominium for Shallowbag Bay Club Condominium, Phase 1 (the "Declaration")
in Book 1388, Page 365, submitting the Property to the North Carolina Condominium Act, Chapter
47C of the North Carolina General Statutes, and subjecting said Property to certain restrictions and
conditions embodied in the Declaration; and

WHEREAS, Declarant has subsequently filed a First Amendment to said Declaration in the
Dare County Public Registry in Deed Book 1401, Page 215, a Second Amendment in Deed Book
1420, Page 128, said Second Amendment being subsequently amended in Book 1441, Page 174, and
a Third Amendment in Deed Book 1513, Page 465; and

WHEREAS, pursuant to the provisions of Article Two, Section 2.6 of the Declaration,
Declarant has reserved the right to create additional condominium units in the Property under the
provisions of the North Carolina Condominium Act; and

NOW THEREFORE, pursuant to the aforementioned special Declarant rights, Declarant
hereby declares as follows:



ARTICLE 1
ESTABLISHMENT OF ADDITIONAL UNITS

- 1.1 Declarant does hereby establish within the Property one (1) Commercial Unit, being the Unit C1 designated in the Clubhouse on the attached Exhibit A, and Declarant does hereby designate such Unit for separate Ownership. Notwithstanding anything contained to the contrary in the Declaration and as previously amended, Declarant reserves the future right to further subdivide Unit C1 to establish an additional commercial unit if Declarant in its sole discretion deems appropriate.
- 1.2 Boundaries of the Commercial Unit created by this Amendment are shown on the Plat and Plans of the Condominium as a numbered Unit with its identifying number (C1). The Upper Boundary, Lower Boundary, Vertical Perimeter Boundaries, Inclusions, Exclusions, and Non-Contiguous Portions are the same as defined in the Declaration. If this definition is inconsistent with the Plans, then this definition will control.
- 1.3 There are no Limited Common Elements being allocated to Clubhouse Unit C1. The Limited Common Elements remain unchanged from those set forth in the Third Amendment and are set forth again here in Exhibit B.

ARTICLE 2
PROPERTY RIGHTS AND ALLOCATED INTERESTS

- 2.1 Ownership of a Unit shall vest fee simple title to such Unit in the Owner.
- 2.2 Every Owner shall own an undivided interest in the Common Elements and shall have a right and easement of enjoyment in the Common Elements which shall be appurtenant to and shall pass with the title to every Unit. Each undivided interest in the Common Elements and the right and easement of enjoyment in such Common Elements are subject to the right of the Association to adopt such rules and regulations as may be needed to regulate the use and enjoyment of the Common Elements.
- 2.3 Any Owner may delegate his right of enjoyment to the Common Elements to members of his family, guests, employees, invitees and licensees.
- 2.4 The table showing Unit numbers and their allocated undivided interests in the Common Elements, the common expense liability, and votes in the Association, is attached as Exhibit A.
- 2.5 The interests allocated to each Unit herein created or to be created by recorded amendment in the Common Elements and of the Common Expenses are as follows: Assuming that the maximum of 84 Building Units are created, 67% of the total undivided interests in the Common Elements and of the share of the Common Expenses are allocated to the Building Units, divided between each Building Unit per capita without regard to the size of each Building Unit. Assuming that the maximum of 84 Marina Units are created, 33% of the total undivided interests in the Common Elements and of the share of the Common Expenses are allocated to the Marina Units, divided between each Marina Unit per capita without regard to the size of each Marina Unit.

ARTICLE 3
MAINTENANCE OF PROPERTY FENCE

- 3.1 The maintenance, repair, and if necessary, the replacement of the fence which is located to the north of the buildings in Phase 1, together with present and future extensions thereof running to and along the western boundary of the property are and shall be an obligation of the Owners Association to be covered by the assessments; said obligation having already been accounted for in the Association's budget.



ARTICLE 4
MISCELLANEOUS PROVISIONS

- 4.1 This Amendment to the Declaration, the Declaration and the Condominium Plats and Plans may be amended as provided for previously in the Declaration.
- 4.2 All of the provisions contained in this Fourth Amendment shall encumber the Property in addition to those contained in the Declaration, and to the extent applicable those contained in the First Amendment, Second Amendment and the amendment to the Second Amendment, and the Third Amendment. Wherever a provision of this Amendment conflicts with specific provisions of the Declaration, the First Amendment, the Second Amendment, the amendment to the Second Amendment, or the Third Amendment, the provisions of this Amendment shall control. Except as herein amended, the Declaration, the First Amendment, Second Amendment, the amendment to the Second Amendment and the Third Amendment shall remain in full force and effect.
- 4.3 This Fourth Amendment to the Declaration, the Declaration, the First Amendment, the Second Amendment, the amendment to the Second Amendment, and the Third Amendment shall run with the land and shall be binding on all parties owning any portion of the Property, their heirs, successors and assigns, for the same period of time as the Declaration including extensions thereof.

IN WITNESS WHEREOF, the undersigned has executed this Fourth Amendment to the Declaration as of the day and year first above written.

[Signature and Acknowledgment Page Follows]



SHALLOWBAG BAY CLUB, L.L.C.

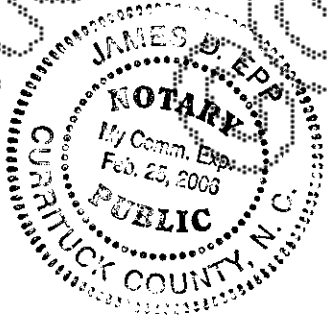
By: [Signature] (SEAL)
James M. Rose, Jr., Member-Manager

NORTH CAROLINA
CURRITUCK COUNTY

I, a Notary Public of the state and county aforesaid, do hereby certify that JAMES M. ROSE, JR., MEMBER-MANAGER of SHALLOWBAG BAY CLUB, L.L.C., personally appeared before me on behalf of said company this day and signed or acknowledged the execution of the foregoing instrument. Witness my hand and official seal or stamp, this the 9 day of ~~September~~ October, 2003.

(Affix Notary Seal)

My Commission Expires: _____



[Signature]
Notary Public

NORTH CAROLINA
DARE COUNTY

The foregoing or annexed certificate(s) of James D. Epp, Notary Public is/are certified to be correct. This 9 day of Oct, 2003.

[Signature]
Register of Deeds

BY: _____
Deputy/Assistant



EXHIBIT A
TO
FOURTH AMENDMENT TO DECLARATION OF CONDOMINIUM
OF
SHALLOWBAG BAY CLUB CONDOMINIUM

TABLE OF INTERESTS
PHASE 1: BUILDINGS 1, 2, 3, 4 and 5
PHASE 2: BUILDING 6
PHASE 3: BUILDING 7
PHASE 4: BUILDING 8
PHASE 5: CLUBHOUSE UNIT C1

This Table of Interests sets forth percentages of Unit interests in the Common Elements based on the thirty (30) Units previously declared in Phase 1, the six (6) Units previously declared in Phase 2, the six (6) Units previously declared in Phase 3, the six (6) Units declared in Phase 4, and the one (1) Unit declared in Phase 5. Unit percentages shown will decrease as future Units are completed and declared.

KEY:
RU designates Residential Unit
CU designates Commercial Unit
MU designates Marina Unit

UNITS IN MEMBERSHIP CLASS A, PHASES 1, 2, 3 & 4 AND CLASS C, PHASE 5:

UNOFFICIAL COPY



Unit No.	Bldg.	Phase	Unit Type	Member-ship Class	Fractional Share of Common Elements	Fractional Share of Common Expense	Fractional Share of Class A Limited Common Elements	Fractional Share of Class A Limited Common Expense	Number of Votes in the Association
101	1	1	RU	A	2.041%	2.041%	2.083%	2.083%	2
102	1	1	RU	A	2.041	2.041	2.083	2.083	2
103	1	1	RU	A	2.041	2.041	2.083	2.083	2
104	1	1	RU	A	2.041	2.041	2.083	2.083	2
105	1	1	RU	A	2.041	2.041	2.083	2.083	2
106	1	1	RU	A	2.041	2.041	2.083	2.083	2
201	2	1	RU	A	2.041	2.041	2.083	2.083	2
202	2	1	RU	A	2.041	2.041	2.083	2.083	2
203	2	1	RU	A	2.041	2.041	2.083	2.083	2
204	2	1	RU	A	2.041	2.041	2.083	2.083	2
205	2	1	RU	A	2.041	2.041	2.083	2.083	2
206	2	1	RU	A	2.041	2.041	2.083	2.083	2
301	3	1	RU	A	2.041	2.041	2.083	2.083	2
302	3	1	RU	A	2.041	2.041	2.083	2.083	2
303	3	1	RU	A	2.041	2.041	2.083	2.083	2
304	3	1	RU	A	2.041	2.041	2.083	2.083	2



Unit No.	Bldg.	Phase	Unit Type	Member-ship Class	Fractional Share of Common Elements	Fractional Share of Common Expense	Fractional Share of Class A Limited Common Elements	Fractional Share of Class A Limited Common Expense	Number of Votes in the Association
305	3	1	RU	A	2.041	2.041	2.083	2.083	2
306	3	1	RU	A	2.041	2.041	2.083	2.083	2
401	4	1	RU	A	2.041	2.041	2.083	2.083	2
402	4	1	RU	A	2.041	2.041	2.083	2.083	2
403	4	1	RU	A	2.041	2.041	2.083	2.083	2
404	4	1	RU	A	2.041	2.041	2.083	2.083	2
405	4	1	RU	A	2.041	2.041	2.083	2.083	2
406	4	1	RU	A	2.041	2.041	2.083	2.083	2
501	5	1	RU	A	2.041	2.041	2.083	2.083	2
502	5	1	RU	A	2.041	2.041	2.083	2.083	2
503	5	1	RU	A	2.041	2.041	2.083	2.083	2
504	5	1	RU	A	2.041	2.041	2.083	2.083	2
505	5	1	RU	A	2.041	2.041	2.083	2.083	2
506	5	1	RU	A	2.041	2.041	2.083	2.083	2
601	6	2	RU	A	2.041	2.041	2.083	2.083	2
602	6	2	RU	A	2.041	2.041	2.083	2.083	2



Unit No.	Bldg.	Phase	Unit Type	Member-ship Class	Fractional Share of Common Elements	Fractional Share of Common Expense	Fractional Share of Class A Limited Common Elements	Fractional Share of Class A Limited Common Expense	Number of Votes in the Association
603	6	2	RU	A	2.041	2.041	2.083	2.083	2
604	6	2	RU	A	2.041	2.041	2.083	2.083	2
605	6	2	RU	A	2.041	2.041	2.083	2.083	2
606	6	2	RU	A	2.041	2.041	2.083	2.083	2
701	7	3	RU	A	2.041	2.041	2.083	2.083	2
702	7	3	RU	A	2.041	2.041	2.083	2.083	2
703	7	3	RU	A	2.041	2.041	2.083	2.083	2
704	7	3	RU	A	2.041	2.041	2.083	2.083	2
705	7	3	RU	A	2.041	2.041	2.083	2.083	2
706	7	3	RU	A	2.041	2.041	2.083	2.083	2
801	8	4	RU	A	2.041	2.041	2.083	2.083	2
802	8	4	RU	A	2.041	2.041	2.083	2.083	2
803	8	4	RU	A	2.041	2.041	2.083	2.083	2
804	8	4	RU	A	2.041	2.041	2.083	2.083	2
805	8	4	RU	A	2.041	2.041	2.083	2.083	2
806	8	4	RU	A	2.041	2.041	2.083	2.083	2



6113522

Page: 9 of 11
10/09/2003 04:18PM

Unit No.	Bldg.	Phase	Unit Type	Member-ship Class	Fractional Share of Common Elements	Fractional Share of Common Expense	Fractional Share of Class A Limited Common Elements	Fractional Share of Class A Limited Common Expense	Number of Votes in the Association
C1	Clubhouse	5	CU	C	2.041	2.041	N/A	N/A	2
TOTALS:					100.0	100.0	100.0	100.0	98

UNOFFICIAL COPY



EXHIBIT B
TO
FOURTH AMENDMENT TO DECLARATION OF CONDOMINIUM
OF
SHALLOWBAG BAY CLUB CONDOMINIUM

ALLOCATION OF LIMITED COMMON ELEMENTS

PHASE 1: BUILDINGS 1, 2, 3, 4 and 5

PHASE 2: BUILDING 6

PHASE 3: BUILDING 7

PHASE 4: BUILDING 8

PHASE 5: CLUBHOUSE UNIT C1

1. Limited Common Elements allocated to Class A Members.
 - a. Owners of Units in Buildings 1, 2, 3, 4 and 5, Phase 1 and Building 6, Phase 2 and Building 7, Phase 3 and Building 8, Phase 4 are Class A Members.
 - b. All portions of Buildings 1, 2, 3, 4 and 5, Phase 1, Building 6, Phase 2, Building 7, Phase 3 and Building 8, Phase 4 including but not limited to the roof and all exterior surfaces, which are not defined in this Declaration as Units, shall be Limited Common Elements allocated to all Unit Owners in Buildings 1, 2, 3, 4 and 5, Phase 1, Building 6, Phase 2, Building 7, Phase 3, and Building 8, Phase 4. The purpose for this allocation is to allocate as a Limited Common Element Expense the cost of maintenance, repairs and capital improvements to Buildings 1, 2, 3, 4 and 5, Phase 1, Building 6, Phase 2, Building 7, Phase 3, and Building 8, Phase 4 to the Class A Members (Unit Owners in Buildings 1, 2, 3, 4 and 5, Phase 1, Building 6, Phase 2, Building 7, Phase 3, and Building 8, Phase 4) and not to all Unit Owners in the Condominium.
 - c. The allocation of the respective cost to each Class A Member (Unit Owners in Buildings 1, 2, 3, 4, and 5, Phase 1, Building 6, Phase 2, Building 7, Phase 3, and Building 8, Phase 4) for the Limited Common Element Expense for Buildings 1, 2, 3, 4, and 5, Phase 1, Building 6, Phase 2, Building 7, Phase 3, Building 8, Phase 4 are designated as the "Fractional Share of Class A Limited Common Expense" on Exhibit A.
 - d. Owners of Residential Units (maximum of 12 additional Units) in proposed Buildings 9 and 10, shall be Class A Members, and all Class A Members (maximum of 60) shall share the Class A Limited Common Expense for all ten (10) buildings.
2. Limited Common Elements proposed to be allocated to Class B Members.
 - a. If the Declarant exercises its Development Right to create Residential and/or