

**DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS**

HOMERS POINT BOATING CLUB, INC.

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this _____ day of _____, 20____ by **SALTER PATH DEVELOPMENT GROUP, LLC**, a North Carolina corporation, hereinafter referred to as “Declarant”.

STATEMENT OF PURPOSE

Declarant is the owner of certain property in Carteret County, North Carolina, which is more particularly described on a map recorded in Map Book_____, Page_____, in the Carteret County, North Carolina Public Registry, reference to which is hereby made. **Declarant** desires to create thereon an exclusive with a marina, to be named HOMERS POINT BOATING CLUB.

Declarant desires to insure the attractiveness of **HOMERS POINT BOATING CLUB** and to prevent any future impairment thereof, to prevent nuisances, to preserve, protect and enhance the values and amenities of all properties within **HOMERS POINT BOATING CLUB** and to provide for the maintenance and upkeep of all common areas in **HOMERS POINT BOATING CLUB**. To this end the **Declarant** desires to subject the real property described herein, together with such additions as may hereafter be made thereto, to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof.

Declarant further desires to create an organization to which will be delegated and assigned the powers of owning, maintaining and administering the common areas and facilities in **HOMERS POINT BOATING CLUB**, administering and enforcing the covenants and restrictions contained herein, and collecting and disbursing the assessments and charges hereinafter created in order to efficiently preserve, protect and enhance the values and amenities in **HOMERS POINT BOATING CLUB**, to insure the members’ enjoyment of the specific rights, privileges and easements in the common area, and to provide for the maintenance and upkeep of the common area.

To that end the **Declarant** has or will cause to be incorporated under North Carolina law, **HOMERS POINT BOATING CLUB, INC.**, as a non-profit corporation for the purpose of exercising and performing the aforesaid functions.

NOW, THEREFORE, **Declarant**, by this Declaration of Covenants, Conditions, and Restrictions, does declare that all of the property described herein, and such additions thereto as may be hereafter made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration which shall run with the real property and be binding on all parties owning any right, title or interest in said real property or any part thereof, their heirs, successors and assigns, and shall insure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. “Association” shall mean and refer to **HOMERS POINT BOATING CLUB, INC.**, a North Carolina non-profit corporation, its successors and assigns.

Section 2. “Common Area” shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the members of the Association. The Common Area to be owned by the Association will include the Marina Facility, private streets, parking lot and bath facility, other areas as may be marked on the Map.

Section 3. “Declarant” shall mean and refer to **Salter Path Development Group, LLC** and also shall mean and refer to any person, firm or corporation which shall also be designated as “Declarant” by **Salter Path Development Group, LLC** or which shall be a successor or assign of **Salter Path Development Group, LLC**.

Section 4. “Development” shall mean and refer to **HOMERS POINT BOATING CLUB** with marina and docks, as shown on the map referred to and may include future development of Boat Slips, and/or other properties and annexed hereto. It is anticipated that Development shall be not less than 120 slips.

Section 5. “Map” shall mean and refer to the map of the Existing Property as recorded in Map Book____, Page_____, In the Carteret County, North Carolina, Public Registry and the maps of any additions to the Existing Properties which may be recorded by Declarant in the Carteret County, North Carolina, Public Registry hereafter.

Section 6. “Marina” or “Marina Facility” shall mean and refer to that certain facility, including all pilings, piers, docks, and appurtenances thereto, for the docking of pleasure boats and crafts, located or to be located in the navigable waters of Newport River and Morehead City Channel Southeast of Highway 70 Bridge immediately adjacent to that high land comprising the Existing Property as shown on Map.

Section 7. “Boat Slip” shall mean a Wet Boat Slip and/or Slip with boat lift, referring to a designated boat space and above the water adjacent to Newport River and Morehead City Channel southeast of Highway 70 Bridge for the docking of a pleasure boat or craft. Such a “Boat Slip” shall be a portion of the Marina Facility, said boat slips to be shown diagrammatically on a plat to be recorded hereafter by the Declarant.

Section 8. “Member” shall mean and refer to every person or entity who holds membership in the Association.

Section 9. “Properties” shall mean and refer to the “Existing Property” described in Article II, Section I hereof, and such additions thereto as may hereafter be made subject to this Declaration and brought within the jurisdiction of the Association.

Section 10. “Charter Member” shall mean and refer to Salter Path Development Group, LLC (a North Carolina corporation).

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION AND WITHIN THE JURISDICTION OF HOMERS POINT BOATING CLUB, INC.

Section 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration, and within the jurisdiction of the Association is located in Carteret County, North Carolina and is more particularly described on the Map. Declarant shall not modify or recombine boat slips in such a fashion as shall reduce the total number of boat slips to less than 70.

Section 2. Additions to Existing Property

(a) Additional land which is contiguous to the Existing Property or any land previously added to the Existing Property may be brought within the scheme of this Declaration and the jurisdiction of the Association by Declarant, in the future stages of development, with the consent and approval of either a majority of the Members of the Board of Directors (by a simple

majority vote), provided that such annexations occur within five (5) years after the date of the filing of this instrument.

(b) The additions authorized under subsection (a) above shall be made by filing Supplementary Declarations of Covenants, Conditions and Restrictions with respect to the additional properties in the Carteret County, North Carolina, Public Registry which shall extend the scheme of this Declaration and the jurisdiction of the Association to such properties and thereby subject such additions to the benefits, agreements, restrictions and obligations set forth herein including, but not limited to, assessments as herein determined. Provided, however, that the Declarant specifically reserves the right to amend or modify any portion or portions of these covenants, conditions, and restrictions as the same may be made applicable to such additional properties.

ARTICLE III

DISCLOSURES AND DISCLAIMERS BY DECLARANT

Section 1. Status of Marina Facility. The Marina Facility is located upon the navigable waters and exists solely in accordance with the terms of such permits as have been issued, and remain in effect, by agencies of the United States of America and the State of North Carolina. All rights in and to said Marina Facility and all improvements related thereto are subject to the terms and conditions of such permits, compliance with such terms and conditions, and the continued existence, effectiveness, and renewal (if required) of such permits. In accordance with State regulations and permits, the Marina Facility is a “closed-head”, “non live-aboard” marina. All Members, by acceptance of their membership, acknowledge these disclosures by Declarant and agree to accept membership subject thereto. Further, all membership is subject to all the terms and conditions as contained in CAMA permit No. 81-01, and modifications thereto. All members agree to be bound by all of the terms and conditions as contained therein.

ARTICLE IV

MEMBERS AND RIGHTS OF MEMBERSHIP

Section 1 CLASSES OF MEMBERSHIP. There shall be two (2) classes of members and memberships: Charter and Class A. The various rights and characteristics of said classes of membership shall be as set forth in this Article.

Section 2. Charter Membership. In consideration for the establishment of the Development and the creation of the proposed facilities, the Association shall issue and assign to the Charter Member the Charter Membership rights for each and every membership in the Association. Said Charter Memberships shall be freely transferable by Charter Member without any application or approval. Upon transfer of any such Charter Membership by Charter Member to another person, partnership, corporation, or other entity, such membership shall immediately cease to be a Charter Membership and automatically convert to a Class A Membership, depending upon the nature of the membership transferred as hereinafter described and as shown on the certificates. Further, the Charter Membership shall have the right, at its sole option, to convert any Charter Membership to a Class A Membership at any time upon notice to the Association.

Section 3. Class A Membership Each Class A membership shall entitle such member to the exclusive use and enjoyment of one (1) particular Boat Slip as identified on the membership certificate. Each Class A member shall have the exclusive right, subject to the provisions hereof and the provisions of the Bylaws and Rules and Regulations issued pursuant hereto, to occupy, possess, and lawfully use that particular boat slip identified on such membership certificate. Each Class A member shall also have those common area rights and voting rights set forth below in this Article.

Section 4. Common Area Rights. Each member shall have a nonexclusive right and easement of enjoyment in and to the common areas subject to the right of the association:

1. To assign particular Class A members the right to the exclusive use and enjoyment of Boat Slips in the Marina Facility;
2. To limit the number of guests of members;
3. In accordance with its Articles and By-Laws, to borrow money for the purpose of improving the properties, common area and facilities;
4. To suspend all rights of any member for any period during which an assessment against such member remains unpaid or, for a period not to exceed sixty (60) days, for an infraction of its published Rules and Regulations; and to license or otherwise lawfully use all rights of any such member during any such period of suspension; and

5. To dedicate or transfer all or any parts of the Common Area to any public agency, authority or utility for such purpose, subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless approved by the consent of the membership based upon an affirmative vote to two-thirds) (2/3) of the total votes eligible to be cast.

Section 6. Voting Rights Except as specifically provided in the Bylaws of the Association, the voting rights of the members at any meeting of members shall be as follows;

- (a) Each Class A membership shall have (1) vote;
- (b) Each Charter membership shall have (1) vote.

Section 7. Transfer of Membership Any and all Charter Memberships may transferred, assigned, pledged or leased by Declarant without limitation and without the requirement of any approval. As to all other classes of membership, there shall be no transfer, assignment, pledge, or lease of any membership or any interest therein except as it relates to the perfection of a security interest herein with a federal deposit insurance corporation (FDIC) insured corporation without the prior written notification to the Board of Directors following such procedure as may be prescribed in the Bylaws.

ARTICLE V

PROPERTY RIGHTS

Section 1. Ownership of Common Areas. Declarant shall convey the Common Areas to the Association at such time as all amenities have been constructed and completed. Notwithstanding the recordation of any Map or any other action by Declarant or the Association, all Common Areas (including the Common Area streets and roads) shall remain private property and shall not be considered as dedicated to the use and enjoyment of the public.

Section 2. Delegation of Use. Any member may delegate, in accordance with the Bylaws of the Association, his right of enjoyment to the common Area and facilities to the members of his family, his guest, his tenants, or contract purchasers.

ARTICLE VI

COVENANT FOR ASSESSMENTS

Section 1 CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. (a) Each owner of each membership excepting all Charter Memberships agrees to pay the Association: (1) regular assessments, (2) special assessments, (3)

assessments for violations of this DECLARATION, the BY-LAWS, or RULES AND REGULATIONS, and (4) assessments for repairs of damage caused by fault, such assessments to be fixed, established and collected from time to time as hereinafter provided. All such assessments together with such interest thereon and cost of collection thereof, as hereinafter provided, shall be a charge on the membership and shall be a continuing lien upon the membership against which each such assessment is made. Each such assessment, together with such interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such membership at the time the assessment fell due. Their personal obligation for delinquent assessments shall not pass to his successor in title unless expressly assumed by such successor.

(b) The Charter Members shall agree to pay the Association the difference between the regular assessments paid by the Class A Members and the normal operational costs for the Marina. Any special assessments will be paid by the owner of each completed slip on a prorata basis. Beginning on January 1, 2005, the Charter memberships shall be subject to the same obligation of assessments as a Class A membership.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used as follows;

- (a) to maintain the Marina Facility and all pilings, piers, do keep the drainage easements free of pollution and natural debris;
- (b) to keep all amenities in the Common Areas clean and free from debris and to maintain all amenities in an orderly condition, and to maintain the landscaping therein in accordance with the highest standards for private marina community including any necessary removal and replacement of landscaping;
- (c) to provide such security services as may be deemed reasonably necessary for the protection of the Common Areas from theft, vandalism, fire, and damage from animals;
- (d) to provide garbage removal services for all common areas and the Marina Facility;
- (e) to pay all ad valorem taxes levied against the Common Areas and any property owned by the Association;

- (f) to pay the premiums on all hazard insurance carried by the Association on the Common Areas and all public liability insurance carried by the Association pursuant to the Bylaws;
- (g) to enforce these Covenants and Rules and the Rules and Regulations of the Corporation;
- (h) to pay all legal, accounting and other professional fees incurred by the Association in carrying out its duties as set forth herein or in the Bylaws; and
- (i) to accumulate and subsequently maintain a contingency reserve equal to 10% of the sum of the amounts described in subsections (a) through (k) above in order to fund unanticipated expenses of the Association.

Section 3. Determination of Regular Assessments

A. The Board shall determine the amount of regular assessments against members as specified in the By-Laws. Regular assessments against members shall be determined, imposed levied and collected by the Board.

B. The Board is specifically empowered on behalf of the association to make and collect regular assessments and to replace, maintain and repair all property of the corporation including the private roads, bulkheads, docks, piers, pilings, bathrooms, pup-out station, and other facilities. Assessments shall be payable periodically as determined by the Board, but no more than frequently monthly.

Section 4. Special Assessments. In addition to the regular assessments authorized above, the Board may levy in any fiscal year, a special assessment or assessments applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of capital improvements upon any of the common area and the necessary fixtures and personal property related thereto, or defraying the expenses of operation, maintenance or renovation not adequately funded by regular assessments. Except as specified herein all special assessments shall be determined, imposed, levied and collected in the manner prescribed in the By-Laws, provided that, if such special assessment exceeds ONE THOUSAND DOLLARDS (\$1,000.00) in any fiscal year for any membership, such assessment shall have the approval of a majority of the votes eligible to be cast at a meeting duly constituted for this purpose, written notice of which shall have been sent to all members not

less than ten (10) days nor more than sixty (60) days in advance of the meeting setting forth the time, date, place and purpose of the meeting.

Section 5. Assessment for Violations. For the violation by a member of his guest of any rule or regulation adopted by the Board or the breach of any By-Law, or the breach of any provision of the DECLARATION, the Board shall have the power and authority to impose a special assessment against any member not to exceed FIVE HUNDRED DOLLARS (500.00) for each occurrence.

Section 6. Quorum For Any Action. At the first meeting called, the presence at the meeting of membership or of proxies entitled to cast fifty-one percent (51%) of all votes shall constitute a quorum.

Section 7. Date of Commencement of Annual Assessments. Due Dates. The regular assessments provided for herein shall commence as to each membership on the first day of the month following its acquisition from the Declarant by some other person, partnership, corporation or other entity. No assessment shall be levied or charged against any Charter Membership, except as provided in Article VI, Section 1 (b) hereinabove. The Board of Directors shall fix the amount of the regular assessment against each membership at least thirty (30) days in advance of each fiscal year. Written notice of the regular assessment shall be sent to the member(s) owning each membership. The due dates shall be established by the Board of Directors. The Association shall, upon demand at any reasonable time, furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments against a specified membership have been paid. A reasonable charge may be made by the Board for issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Assessments for Repairs of Damage Caused by Fault. If a member, his assignee or licensee, or one of his guests damages or destroys by his or her fault, as determined by the Board, any of the property of the Association including the private roads, landscaping, bulkheads, piers, docks and other facilities, the Association shall repair the damage or replace the destroyed property as soon as practicable and shall levy an individual assessment upon the owner(s) of that membership for the full cost of repair or replacement.

Section 9. Effect of Non-payment of Assessments. Remedies of the Association.

Any assessments or any portions thereof which are not paid when due shall be delinquent. If the assessment or portion thereof is not paid within thirty (30) days after the due date; the same shall become a lien on such membership and bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum. No member may waive or otherwise escape liability for the assessments provided for herein by non-use or abandonment of his membership.

Section 10. Creation of Lien. Recognizing that proper operation and management of the COMMON AREAS require the continuing payment of costs and expenses therefor, and that such proper operation and maintenance result in benefit to all of the owners of memberships, and that the payment of such common expenses represented by the assessments levied and collected by the Board is necessary in order to preserve and protect the property of the owners of memberships, the Association is hereby granted a lien upon each membership exception all Charter Memberships which lien shall secure and does secure the monies due for all assessments now or hereafter levied against the owner of each membership which lien shall also secure interest, if any, which may be due on the amount of any delinquent assessments owing to the Association, and which lien shall also secure all costs and expenses, including reasonable attorney's fees, which may be incurred by the Corporation in securing the payment of such assessment or enforcing this lien upon the membership. The lien granted to the Association may be foreclosed in the manner provided by North Carolina General Statutes Section 47A-22, and in any suit for the foreclosure of that lien, the Association shall be entitled to the appointment of a receiver for that membership. The lien granted to the Association shall further secure such advances for taxes, and payments on account of superior mortgages, liens, or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien, and the Association shall further be entitled to interest at the rate prescribed above on any such advances made for such purpose. All persons, firms, or corporations who shall acquire, by whatever means, any interest in the ownership of any membership, or who may be given or acquire a mortgage, lien, or other encumbrance thereon, are hereby placed on notice of the lien rights granted to the Association, and shall acquire such interest in any membership expressly subject to such lien rights.

Section 11. Claim of Lien and Foreclosure. The lien herein granted unto the Association shall be enforceable from and after the time of recording a claim of lien in the public

records of Carteret County, North Carolina, which claim shall state the description of the membership encumbered thereby, the name of the record owner, the amount due and the date when due. The claim of lien shall be recordable any time after default and the lien shall continue in effect until all sums secured by that lien as herein provided shall have been fully paid. Such claims of lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorney's fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claims of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such Claim of lien, the same shall be satisfied of record. The Association shall be authorized to foreclose on such lien or claim of lien in any manner allowed by law. The lien provided for herein shall be subordinate to the lien of any first mortgage or pledge, and any person, firm or corporation acquiring title to any membership by virtue of any foreclosure, transfer in lieu of foreclosure or judicial sale, shall be liable and obligated only for assessments as shall accrue and become due and payable thereafter. After satisfaction of the lawful claims of such first mortgagee/pledge, the net proceeds from any foreclosure sale or private sale shall first be applied to the payment of all lien claims of the Association, and the balance of such sale proceeds shall then be delivered to the owner(s) of the Membership which was subjected to the foreclosure or private sale in lieu of foreclosure. In the event of the acquisition of a membership by foreclosure, transfer in lieu of foreclosure, or judicial sale, any assessment or assessments as to which the party so acquiring the membership shall not be liable shall be absorbed and paid by all owners of all memberships as part of the common expenses, although nothing herein contained shall be construed as releasing the party liable for such delinquent assessment from payment thereof or the enforcement of collection of such payment by means other than foreclosure.

Section 12. Lien Not Exclusive Remedy. Whenever any membership may be licensed, sold or mortgaged by the owner thereof, the Association, upon written request of the Member(s) shall furnish to the proposed licensee, purchaser or mortgagee, a statement verifying the status of payment of any assessment which shall be due and payable to the Association by such membership. Such statement shall be signed by any officer of the Association and any licensee, purchaser, or mortgagee may rely upon such statement in concluding the proposed license, purchase, or mortgage transaction; and the Association shall be bound by such statement.

In any voluntary conveyance of a membership, the purchaser thereof shall be jointly and severally liable with the seller for all unpaid obligations against seller made prior to the time of such voluntary conveyance, without prejudice to the rights of the purchaser to recover from seller the amounts paid by purchaser therefor.

Institution of a suit at law to attempt to effect collection of the payment of any delinquent assessment, attorney's fees, interest and costs shall not be deemed to be an election by the Association which shall prevent it from thereafter seeking, by foreclosure action, enforcement of the collection of any sums remaining owing to it, nor shall proceeding by foreclosure to attempt such collection be deemed to be an election precluding the institution of a suit at law to collect any sums then remaining owing to the Association.

ARTICLE VII

COMMON AREAS AND COMMON EASEMENTS

Section 1. Use of Common Area. The Common Area shall not be used in any manner except as shall be approved or specifically permitted by the Association. Subject to the provisions of the Articles of Incorporation and this Declaration, the Board of Directors of the Association shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of all the property of the Association, including private roads, marina facility, and parking lot and areas.

Section 2. Quiet Enjoyment. No obnoxious or offensive activity shall be carried on in or upon the property of the Association, nor shall anything be done which may or may become a public or private nuisance as determined by the law of North Carolina.

Section 3. Maintenance of Common Areas. The Association shall provide maintenance of all of its properties including roads, marina facility, bulkheads, parking lot and areas, as well as maintenance dredging of the submerged lands of the marina facility. The cost of such maintenance shall be added to and become a part of the total, annual assessment as specified herein and in the By-Laws.

Sections 4. Easement Affecting Common Areas. All of the property of the Association shall be subject to such easement for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, footing, air conditioning compressors, gas lines, telephone, cablevision and electrical power lines and other public utilities as are of record in the Carteret County Registry, prior to the recording of this Declaration; and the Association shall

have the power and authority to grant and establish upon, over and under and across all of its properties as described such further easements as are appropriate for the convenient maintenance, repair, use and enjoyment of such properties.

ARTICLE VIII

INSURANCE

Section 1. Association and Common Areas. The Board of Directors on behalf of the Association, as an operational expense, shall at all times keep it and its property reasonably insured against loss or damage by fire or other hazards normally insured against, and other such risks, including public liability insurance, upon such terms and for such amounts as may be reasonably necessary from time to time to protect the interests of the Association, which insurance proceeds shall be payable in case of loss to the corporation. The Association shall have the sole authority to deal with the insurer in the settlement of claims.

Such insurance shall be obtained without prejudice to the right of each member to insure his personal property for his own benefit at his own expense. In no event shall the insurance coverage obtained by the Association be brought into contribution with insurance purchased by members or their pledges or mortgagees.

Section 2. Boats and Crafts. All boats and crafts docked in any boat slip of the Marina Facility shall be covered by liability insurance providing, at a minimum, \$300,000.00 single limit coverage. Proof of such insurance shall be provided by the member to the Association or such agent, property manager, or dock master as it shall appoint.

ARTICLE IX

SALES, MORTGAGES, PLEDGES AND LICENSES

Section 1. Sale of Membership. In the event that any member, excluding a Charter Member, desires to sell or transfer his membership, he shall evidence such transfer by executing the transfer provision on the reverse side of his membership certificate and shall deliver said certificate to the Association, requesting issuance of a new certificate to the buyer. Any transfer or sale of any membership by any member shall be subject to all the terms and covenants, limitations and provisions of this Declaration, as well as the Bylaws and Rules and Regulations issued pursuant hereto.

Section 2. License of Membership. No member shall license his membership rights without express prior approval of the Association, but such approval shall not be

unreasonably withheld. The Board of Directors shall adopt a procedure for application for the approval of licenses.

Section 3. Transfer Voidable Any sale, transfer, conveyance or license of any membership without complying with the provisions of this Article is voidable at the election of the Association.

Section 4. Pledging of Membership. No member may pledge or mortgage his membership or any interest therein without the express, prior approval of Association, except a first pledge or mortgage lien made to a bank or other person, firm or corporation to finance a portion of the purchase price of a membership. The Association shall maintain a record of all pledges, mortgages, liens of which it is notified.

Section 5. Binding Nature: Endorsement of Membership Certificates. The provisions of this article shall be binding upon and inure to the benefit of all the members of the Association, their respective heirs, administrators, successors and assigns; and, as further evidence of the binding nature of these provisions, each certificate of membership, excepting certificates for all Charter Memberships, shall be endorsed as follows:

“Any sale, transfer, pledge, mortgage or lease of this certificate must be done in compliance with the provisions of said Declaration and Bylaws”

ARTICLE X

GENERAL PROVISIONS

Section 1. Governance and Control of Association. The Association shall be governed by a Board of Directors in accordance with the provisions of the Bylaws. Notwithstanding any other provision of this Declaration of the Bylaws, the Declarant shall have the right and power to appoint and to remove all members of the Board of Directors and all officers of the Association until such time as the first of the following events occurs:

- (a) Declarant no longer owns any membership in the Association; and
- (b) Declarant expressly surrenders said right and power by written instrument fully executed by Declarant and recorded in the Carteret County Registry.

Section 2. Assignment of Development Rights: If the Declarant shall transfer or assign the development of such Properties or if it shall be succeeded by another in the development of such Properties, then such transferee, assignee, or successor shall be vested with

the several rights, powers, privileges or authorities given said Declarant by any part of paragraph hereof. The foregoing provisions of this paragraph shall be automatic, but the Declarant may execute such instrument as it shall desire to evidence the vesting of the several rights, powers, privileges, and authorities in such transferee, assignee or successor. In the event the Declarant contemplates or is in the process of dissolution, merger or consolidation, the Declarant may transfer and assign to such person, firm or corporation as it shall select any and all rights, powers and privileges and authorities given the Declarant by any part of paragraph hereof, whether or not the Declarant shall also transfer assign the development of such Properties or be succeeded in the development of such Properties. In the event that at any time hereafter there shall be no person, firm or corporation entitled to exercise the rights, powers privileges and authorities given said Declarant under the provisions hereof, such rights, powers, privileges and authorities shall be vested in and exercised by the Committee to be elected or appointed by the Board of Directors. In such event, the Committee shall then have the same rights, power, privileges and authorities as are given to the Declarant by any part of paragraph hereof. Nothing herein shall be considered as conferring any rights, powers, privileges, and authorities in said Committee except in the event of aforesaid.

Section 3. Enforcement. In the event of any violation or attempted violation of any of the restrictions, conditions, covenants, reservation, and provisions hereof, then the Declarant, the Association, and/or any member shall have the right to enforce the same by maintaining or prosecuting proceedings at law for the recovery of damages and/or proceedings in equity for the purpose of preventing such violation. The remedies set forth herein shall be construed as cumulative of all other remedies now or hereafter provided by law. Failure to enforce any covenant or restriction contained herein shall in no event be deemed a waiver of the right to do so thereafter.

Section 4. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 5. Rules and Regulations. Rules and Regulations governing the use and appearance of the Common Area, conduct of members and guests, and use and care of the Marina Facility may be made by the Board of Directors and thereafter amended in accordance with the Bylaws.

Section 6. Duration and Binding Effect. The covenants, conditions and restrictions of this Declaration shall run with the land, shall be binding insofar as the law permits, and shall be enforceable for a term of twenty (20) years from the date of this Declaration is recorded, after which time such covenants shall be automatically extended for successive periods of ten (10) years each.

Section 7. Amendment. This Declaration may be amended in either of the following two (2) ways:

- (a) By the Declarant, so long as the Declarant still owns or holds any membership, by a written instrument executed by Declarant and recorded in the Carteret County Registry; or
- (b) By the Association upon an affirmative vote of not less than sixty-six and two-thirds percent (66 2/3%) of the votes eligible to be cast, any such amendment to be evidenced by a written instrument recorded in Carteret County Registry; provided, however, that any such amendment by Association, to be effective shall require the written consent of the Declarant so long as the Declarant owns or holds any membership.

Section 8. Effective Date. This Declaration shall become effective upon the recording hereof in the Carteret County Registry.

IN WITNESS WHEREOF, **Salter Path Development Group, LLC**, the Declarant, has caused this instrument to be executed the day and year first above written.

Salter Path Development Group, LLC

By: _____
_____ President

ATTEST:

Secretary

[Corporate Seal]

STATE OF NORTH CAROLINA
COUNTY OF _____

I, _____, a Notary Public in and for the State and County above do hereby certify, that _____, personally came before me this day and acknowledged that he/she is the Secretary of SALTER PATH DEVELOPMENT GROUP, LLC, an North Carolina corporation, and by authority duly given and as an act of the Corporation, the foregoing Declaration of Covenants, Conditions and Restrictions was signed in its name by _____ President, sealed with its corporate seal, and as attested by him/her as its secretary.

Witness my hand and official stamp or seal this _____ day of _____, 20____.

Notary Public

My Commission Expires _____