

STATE OF NORTH CAROLINA

AGREEMENT

COUNTY OF BRUNSWICK

This Agreement is entered into the ____ day of _____, 20__ by and between _____, _____ (collectively "Property Owner(s)") and Bald Head Association, a North Carolina non-profit corporation (the "Association").

RECITALS

WHEREAS, Property Owner is the owner of the property identified and described in Exhibit A hereto (the "Property"); and

WHEREAS, an Architectural Review Committee (ARC) exists pursuant to authority vested by the Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Bald Head Association (the "Covenants"), for the purpose of administering Bald Head Association Design Guidelines and reviewing all applications for new construction, exterior renovations, or site-work on any of the properties which are subject to the Covenants; and

WHEREAS, ARC approval is required prior to undertaking any new construction, exterior renovation, or site work and for any change to an approved plan, however insignificant, to ensure compliance with the Covenants or the Design Guidelines set forth therein; and

WHEREAS, Property Owner wishes to commence construction on the Property.

NOW THEREFORE, in consideration of the foregoing and the releases, covenants, representations and warranties contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged by the Parties, the Parties agree as follows:

1. **Refundable Construction Deposit:** Property Owner shall cause a construction deposit of \$10,000 to be paid to the Association, for purposes of ensuring compliance with the Covenants and Design Guidelines and reimbursing any administrative expenses, costs of repairing damage to Common Areas, fees, fines, and penalties incurred during the construction process. The Association shall refund the deposit in full upon completion of the project if:

a) The construction project on the Property has been completed in accordance with the ARC approved plans;

- b) No Common Areas or right-of-way areas have been damaged or disturbed by construction;
- c) No Covenants or Design Guidelines have been violated;
- d) No deficits are remaining from the landscaping plan.
- e) The Final Project Inspection Form has been completed satisfactorily.

Failure to satisfy these conditions may result in the loss of some or all of the Construction Deposit, regardless of whether such failure is caused by the Owner, architect/designer, builder, their contractors or agents. If the fine(s) exceed the amount of the Construction Deposit, the balance owed may be assessed as a lien against the Owner's property.

2. Property Owner's Other Obligations: Property Owner shall:

- a) Become familiar with the requirements set forth in the Design Guidelines;
- b) Submit any changes to any proposed plans for the property to the ARC for review;
- c) Promptly remedy any violations of the Covenants or Design Guidelines;
- d) Permit architect/designer _____ to submit a proposal for work to begin on the property based upon a review of all drawings submitted for final review on _____, 20____ and instructions to have the structure built as submitted if it is approved by the ARC;
- e) Submit a copy of the *required* as-built survey to the ARC Coordinator within thirty (30) days of the Certificate of Occupancy issuance date to ensure that the residence is built according to the approved set of drawings;
- f) Authorize Property Owner's architect/designer and builder to act in Property Owner's stead as Property Owner's representatives during the construction process;
- g) Be responsible for the actions of Property Owner's architect/designer, builder, and other agents as Property Owner's duly appointed representatives;
- h) Permit the ARC Coordinator on-site access throughout the construction process;
- i) Repair any damage to Common Areas or rights-of-way during the construction process;
- j) Remit any amount assessed by the BHA Board as damages or fines, understanding that damages may be assessed, and fines imposed of up to \$100 per day per violation.

3. Property Owner(s) understand and agree in the event any portion of the proposed construction work involves work on property owned in whole or part by any person or entity other

than the applicant property owner (*i.e.*, an access easement to the ocean for which the walkway or structure is owned jointly with an adjacent owner or otherwise) the written consent to the plans for any such construction work shall be required from that adjacent owner before the ARC shall consider approval of any such work. It shall be the obligation of the Property Owner to obtain such written consent from the adjacent owner or other such proper person and provide it to the ARC.

4. Transfer of Property: Should Property Owner sell the property before completion of the approved construction; Property Owner shall notify the purchaser of any ARC review process requirements and the existence of this Agreement. The Construction Deposit balance will be assigned to the new owner and will be subject to payment of any claims pre-dating the transfer of the property.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed effective the date specified above.

NOTICE TO PROSPECTIVE PURCHASERS: IT IS BALD HEAD ASSOCIATION'S PRACTICE TO FILE AND RECORD WITH THE BRUNSWICK COUNTY REGISTRY AN ACKNOWLEDGMENT OF SATISFACTION, FOLLOWING COMPLETION OF PROPERTY OWNERS'S OBLIGATIONS UNDER THIS AGREEMENT. UNLESS AND UNTIL THAT DOCUMENT IS FILED, YOU SHOULD PRESUME THAT THE PROPERTY HAS NOT YET ACHIEVED COMPLIANCE WITH APPLICABLE ARCHITECTURAL REVIEW GUIDELINES AND FINAL INSPECTION OF THE CONSTRUCTION HAS NOT YET BEEN COMPLETED.

EXHIBIT A

Lot #_____, BHA, Bald Head Island, North Carolina, more commonly known and identified by its street address of _____.

PROPERTY OWNER

_____(SEAL)
Property Owner Signature

STATE OF _____

COUNTY OF _____

I, _____, a Notary Public for the State of _____, County of _____, do hereby certify that _____ personally appeared before me this ____ day of _____, 20____, and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official seal this ____ day of _____, 20____.

Notary Public

My commission expires: _____

PROPERTY OWNER

_____(SEAL)
Property Owner Signature

STATE OF _____

COUNTY OF _____

I, _____, a Notary Public for the State of _____, County of _____, do hereby certify that _____ personally appeared before me this ____ day of _____, 20____, and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official seal this ____ day of _____, 20____.

Notary Public

My commission expires: _____

BALD HEAD ASSOCIATION

By: _____

Its: _____

STATE OF _____

COUNTY OF _____

I, _____, a Notary Public of _____ County,
North Carolina, do hereby certify that _____ personally came
before me this day and acknowledged that she is _____ of
Bald Head Association, a North Carolina corporation, and that by authority duly given and as the
act of the corporation, the foregoing instrument was signed in its name by the duly authorized
agent.

WITNESS my hand and official seal this _____ day of _____, 20__

Notary Public

My commission expires: _____

**ACKNOWLEDGMENT
OF SATISFACTION
OF AGREEMENT**

BALD HEAD ASSOCIATION

AND

BALD HEAD ISLAND

Drawn by: Bald Head Association

Return to: Murchison, Taylor & Gibson, PLLC

STATE OF _____

COUNTY OF _____

ACKNOWLEDGMENT

Bald Head Association, a North Carolina non-profit corporation (the "Association") hereby acknowledges that all conditions of the Agreement recorded in Book ____ at Page _____, Brunswick County Registry, have been fully satisfied.

IN WITNESS WHEREOF, the Bald Head Association has caused this Agreement to be executed effective the date specified above.

BALD HEAD ASSOCIATION

By: _____

Its: _____

STATE OF _____

COUNTY OF _____

I, _____, a Notary Public for the State of _____,
County of _____, do hereby certify that
_____ personally appeared before me this ____ day
of _____, 20____, and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official seal this _____ day of _____, 20__.

Notary Public

My commission expires: _____

EXHIBIT A

Lot #____, BHA, Bald Head Island, North Carolina, more commonly known and identified by its street address of _____.