



# *North Tower of Barefoot Resort*

AT NORTH MYRTLE BEACH, SOUTH CAROLINA

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## CONDOMINIUM ASSOCIATION DOCUMENTS

DEVELOPED BY:



DRAKE DEVELOPMENT BF LLC

THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION PURSUANT TO  
THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION  
ASSOCIATION

**MASTER DEED**  
**OF**  
**NORTH TOWER OF BAREFOOT RESORT**  
**HORIZONTAL PROPERTY REGIME**

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HUNTER COUNTY, SC  
2002 JUN 17 PM 4:21  
REGISTER OF DEEDS

North Myrtle Beach, South Carolina

Developer:

DRAKE DEVELOPMENT BF LLC

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[Click on Description to View Exhibits](#)

EXHIBIT "A"	LEGAL DESCRIPTION
EXHIBIT "B"	PLAT & ELEVATION CERTIFICATE
EXHIBIT "C"	PLOT PLANS
EXHIBIT "D"	TABLE OF VALUES
EXHIBIT "E"	ARCHITECT'S CERTIFICATE
EXHIBIT "F"	ARTICLES OF INCORPORATION OF NORTH TOWER OF BAREFOOT RESORT CONDOMINIUM ASSOCIATION
EXHIBIT "G"	BY LAWS OF THE NORTH TOWER OF BAREFOOT RESORT CONDOMINIUM ASSOCIATION

**THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION PURSUANT TO  
THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION  
ASSOCIATION**

**MASTER DEED  
OF  
NORTH TOWER OF BAREFOOT RESORT**

**Horizontal Property Regime**

Horry County, North Myrtle Beach, South Carolina

\*\*\*\*\*

Drake Development BF LLC, having its principal office in Columbia, South Carolina, hereinafter referred to as the "Grantor", as the sole owner of the land and improvements hereinafter described, does hereby make, declare, and publish its intention and desire to submit, and does hereby submit, the lands and buildings herein described, together with all other improvements thereon, including all easements, rights, and appurtenances thereto belonging, to a Horizontal Property Regime (to be known as North Tower of Barefoot Resort Horizontal Property Regime, hereinafter called the "Regime") in the manner provided for by the South Carolina Horizontal Property Act, as amended, S.C. Code Ann. § 27-31-10 et seq. (1976). In conformity with § 27-31-30 and § 27-31-100 of said Act, the Grantor sets forth the following particulars:

**I. Legal Description**

The lands (the "Real Property") which are hereby submitted to the Regime are described on Exhibit "A" attached hereto and made a part hereof by reference. The Real Property as so described has an area set forth on the plat incorporated into Exhibit "B".

**II. Survey and Description of Improvements**

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Incorporated herein by reference, as is set forth in full herein, is the plat, incorporated into Exhibit "B" (Plat), showing the location of the buildings and other improvements and the Real Property and the plot plan showing the location of the buildings and other improvements consisting of an Architectural Site Plan (ground level); First Level Floor Plan, Second Level Floor Plan, Third - Eighth Level Floor Plan, Ninth - Twelfth Level Floor Plan, Thirteenth & Fourteenth Level Floor Plan, Main Roof Level Plan, West, East, South & North Elevations of the building on the Real Property and a set of floor plans (hereinafter "Floor Plans") for each stack of Apartments on floors 1 - 14 (hereinafter "Plot Plans") which show graphically the dimensions, area, and location of each Apartment in the building on the Real Property and General Common Elements on the Real Property affording access to each Apartment. Each Apartment is identified thereon by specific number and no Apartment bears the same designation as any other Apartment. Said Plot Plans and Floor Plans are attached hereto as Exhibit "C". The building containing the Apartments has an aggregate area set forth thereon.

### **III. Notice of Restrictions**

**The Regime is subject to all restrictions, easements, assessments, conditions, and limitations now of record affecting the Real Property and the improvements thereon, including without limitation the following below-listed restrictions and easements. The North Tower of Barefoot Resort Condominium Association ("Association") as a whole and each Apartment co-owner individually is subject to the terms and conditions of said restrictions and easements, including without limitation assessment and maintenance obligations as specified by the terms and conditions of the respective recorded documents listed below and all other restrictive documents and easements of record at the time this Master Deed is recorded:**

**A. Declaration of Covenants, Conditions, and Restrictions for Barefoot Resort Nonresidential Properties, dated July 13, 2001 and recorded in the Register of Deeds Office for Horry County on July 25, 2001 in Book 2392 at Page 1321, including any and all exhibits, attachments and addendums thereto ("Barefoot Nonresidential Declaration"), and the By-Laws of Barefoot Resort Joint Committee, Inc., dated April 12, 2000 ("Barefoot Joint Committee By-Laws"). Each Apartment co-owner in the Regime is a Member of the Barefoot Resort Nonresidential Owners Association, Inc. ("Barefoot Nonresidential Association") and is represented in the Barefoot Nonresidential Association by the Association and its Board of Directors.**

B. Pool Construction and Use Easement, dated July 24, 2001 and recorded in the Register of Deeds Office for Horry County on July 25, 2001 in Book 2392 at Page 1471, including any and all exhibits, attachments and addendums thereto ("Pool Easement"), and Deed of Parcel IX ("Pool Parcel") from Silver Carolina Development Company, L.L.C. ("Silver Carolina") to the Barefoot Nonresidential Association and Barefoot Resort Residential Owners Association, Inc. ("Barefoot Residential Association"), dated July 24, 2001 and recorded in the Register of Deeds Office for Horry County on July 25, 2001 in Book 2393 at Page 6 ("Pool Parcel Deed"). As Members of the Barefoot Nonresidential Association, the co-owners of Apartments in the Regime, and their immediate family, guests, and invitees, are entitled to access, use and enjoyment of the Pool Parcel (as generally shown on the attached Site Plan in Exhibit "C" to this Master Deed), subject to the easements, restrictions, and obligations set forth in the Barefoot Resort Nonresidential Declaration and the Pool Parcel Deed.

C. Storm Water Drainage Easement, dated July 24, 2001 and recorded in the Register of Deeds Office for Horry County on July 25, 2001 in Book 2392 at Page 1484, including any and all exhibits, attachments and addendums thereto ("Storm Water Drainage Easement").

D. Parking Garage Easement, dated July 24, 2001 and recorded in the Register of Deeds Office for Horry County on July 25, 2001 in Book 2392 at Page 1478, including any and all exhibits, attachments and addendums thereto ("Parking Garage Easement").

E. Temporary Parking Easement, dated July 24, 2001 and recorded in the Register of Deeds Office for Horry County on July 25, 2001 in Book 2393 at Page 1, including any and all exhibits, attachments and addendums thereto ("Temporary Parking Easement").

F. Easement dated June 17, 2002 and recorded in the Register of Deeds Office for Horry County on June 17, 2002 in Book 2491 at Page 89, including any and all exhibits, attachments and addendums thereto, identified on the Plat attached as Exhibit "B" to this Master Deed as "37.0 Access Easement" ("Access Easement") providing access, ingress and egress from Harbor Pointe Drive to the Real Property.

G. Timeshare restrictions contained in the Barefoot Nonresidential Declaration and in the Deed of Parcels I and V from Silver Carolina to Grantor dated July 24, 2001 and recorded in the Register of Deeds Office for Horry County on July 25, 2001 in Book 2392 at Page 1466 ("Drake Deed").



#### **IV. Warranty**

GRANTOR ASSIGNS TO THE ASSOCIATION ALL ITS RIGHTS UNDER THE LIMITED WARRANTY AS RECEIVED FROM ITS CONTRACTOR, DARGAN CONSTRUCTION COMPANY ("CONTRACTOR"), AND MORE FULLY DESCRIBED IN PARAGRAPH 3.5 AND ITS SUBPARAGRAPHS OF THE PROJECT MANUAL FOR NORTH TOWER OF BAREFOOT AT BAREFOOT RESORT, SOUTH CAROLINA, PREPARED BY JENKINS HANCOCK AND SIDES, ARCHITECTS, ENGINEERS, AND CONSULTANTS TO THE ARCHITECTS AND ENGINEERS ("ARCHITECT") DATED NOVEMBER 6, 2000. THIS WARRANTY IS LIMITED TO THE WORK PERFORMED BY THE CONTRACTOR PURSUANT TO THE PLANS AND DOES NOT APPLY TO ANY PORTION OF THE COMMON ELEMENTS WHICH HAVE NOT BEEN CONSTRUCTED BY THE CONTRACTOR.

GRANTOR'S, CONTRACTOR'S, AND ARCHITECT'S SOLE OBLIGATION, TO THE EXCLUSION OF ALL OTHER REMEDIES, IS LIMITED TO THE REPAIR OR REPLACEMENT, AT GRANTOR'S, CONTRACTOR'S, AND ARCHITECT'S OPTION, OF THE DEFECTIVE CONDITION OF THE WORK PURSUANT TO THE PLANS ("WORK") RELATING SOLELY TO THE GENERAL AND LIMITED COMMON ELEMENTS.

FOR A PERIOD OF ONE (1) YEAR FROM THE DATE OF ISSUANCE BY THE CITY OF NORTH MYRTLE BEACH OF THE OCCUPANCY PERMIT FOR THE REGIME, GRANTOR OR ITS CONTRACTOR WILL, AT NO COST TO REGIME, REPAIR OR REPLACE ANY PORTION OF THE GENERAL AND LIMITED COMMON ELEMENTS, EXCEPT FIXTURES, FURNITURE, ACCESSORIES, AND APPLIANCES COVERED BY A WARRANTY OF MANUFACTURERS AND DEALERS, WHICH ARE DEFECTIVE AS TO MATERIAL OR WORKMANSHIP. THE LIABILITY OF THE GRANTOR IS EXPRESSLY LIMITED TO SUCH REPAIRS OR REPLACEMENT AND GRANTOR MAKES NO OTHER WARRANTIES EXPRESSED OR IMPLIED (INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, SOUNDNESS, QUALITY, WORKMANLIKE SERVICE, VALUE, SUITABILITY, FITNESS, HABITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE).

THIS LIMITED WARRANTY IS NONTRANSFERABLE AND IS PERSONAL ONLY TO THE ASSOCIATION.

AS TO ANY PERSONAL PROPERTY (INCLUDING WITHOUT LIMITATION, FAN COIL UNIT(S), MOTORIZED DAMPERS, AND HEATING, VENTILATING AND COOLING CONTROLS) CONVEYED ALONG WITH THE GENERAL AND LIMITED COMMON ELEMENTS BY THE GRANT TO THE ASSOCIATION, AND AS TO ANY "CONSUMER PRODUCT" (AS THAT TERM MAY BE DEFINED UNDER

APPLICABLE FEDERAL LAW OR IMPLEMENTING REGULATIONS, OR AS A TERM OF SIMILAR MEANING MAY BE DEFINED UNDER STATE, OR LOCAL LAWS, OR THEIR IMPLEMENTING REGULATIONS) WHICH MAY BE CONTAINED IN THE COMMON ELEMENTS, GRANTOR NEITHER MAKES NOR ADOPTS ANY WARRANTY WHATSOEVER AND SPECIFICALLY EXCLUDES EXPRESS OR IMPLIED WARRANTIES OF ANY NATURE, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE. ADDITIONALLY, THE GRANTOR EXCLUDES ALL WARRANTIES OF SOUNDNESS, QUALITY, WORKMANLIKE SERVICE, VALUE, SUITABILITY, FITNESS, OR OF HABITABILITY.

Additional Warranty Exclusions:

1. Nail or screw pops or cracks in the walls and ceilings of the General and Limited Common Elements which do not result from faulty workmanship or defective materials but are the result of natural shrinkage and drying of building materials, or of normal settlement of the building, wind loads or other normal movement of the building components. To the extent that the Grantor may elect at its sole discretion to perform repairs for the above conditions, provided that notice of such conditions in writing is received by Grantor, Contractor and Architect during the Warranty period, Grantor, Contractor and Architect will not be liable for repainting, wallpapering or refinishing any repaired areas.
2. Ordinary wear and tear, or damage due to misuse or neglect, negligence, or the Association's failure to provide proper maintenance to the General and Limited Common Elements or the Association's failure to perform maintenance as required by the manufacturer.
3. This Limited Warranty does not cover the individual commercial and residential Units.
4. Any item which has been modified or repaired by the Association, or any items which are installed or constructed pursuant to a separate contract or agreement between the Association and any party other than Grantor.
5. Any and all secondary, incidental or consequential damages caused by any defect or breach hereof.
6. No steps taken by Grantor, Contractor and Architect to correct defects shall act to extend the scope of duration of this Limited Warranty beyond the Warranty period.
7. No representative of the Grantor, Contractor, and Architect has the authority to expand or extend the scope of this Limited Warranty or to make verbal agreements with respect thereto.
8. All requests for correction pursuant to this Limited Warranty must be in written form and delivered to the Grantor, Contractor, and Architect, or their designated representatives.

**ARBITRATION AGREEMENT:**

**EACH AND EVERY CLAIM AND CAUSE OF ACTION ARISING OUT OF OR RELATED IN ANY WAY TO THE DESIGN, CONSTRUCTION, SALE, MAINTENANCE, HABITABILITY OF, OR CONDITION OF ANY UNIT OR ANY COMMON AREA THAT IS ASSERTED BY (I) ANY PERSON OR ENTITY THAT NOW HAS OR HEREAFTER ACQUIRES ANY INTEREST IN A UNIT, (II) THE GRANTOR OR DEVELOPER, (III) THE UNIT OWNER'S ASSOCIATION (INCLUDING ANY CORPORATION OR OTHER ENTITY FORMED TO SERVE AS UNIT OWNERS' ASSOCIATION), (IV)**

ANY PERSON OR ENTITY THAT HAS PREVIOUSLY OR HEREAFTER SUPPLIES (DIRECTLY OR INDIRECTLY) LABOR, MATERIALS, DESIGN SERVICES, EQUIPMENT OR OTHER THINGS OF VALUE IN CONNECTION WITH THE CONSTRUCTION OR MAINTENANCE OF ANY UNIT OR THE COMMON AREA , OR (V) ANY HEIR, SUCCESSOR, DELEGATEE OR ASSIGNEE OF ANY SUCH PERSONS OR ENTITIES, SHALL BE RESOLVED BY FINAL AND BINDING ARBITRATION BEFORE A PANEL OF THREE ARBITRATORS PURSUANT TO THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION, AS MODIFIED HEREIN. THE ARBITRATION HEARING SHALL BE CONDUCTED IN RICHLAND COUNTY, SOUTH CAROLINA. ALL CLAIMS AND CAUSES OF ACTION OF ALL PERSONS AND ENTITIES ENTITLED TO ENFORCE (OR BOUND BY) THIS ARBITRATION PROVISION SHALL BE ASSERTED IN A SINGLE ARBITRATION PROCEEDING, AND MULTIPLE PARTIES MAY BE JOINED IN THE ARBITRATION PROCEEDING SO THAT ALL DISPUTES MAY BE RESOLVED IN ONE FORUM. NO CLAIM OR CAUSE OF ACTION MAY BE ASSERTED THAT WOULD BE BARRED BY THE STATUTE OF LIMITATIONS OR THE STATUTE OF RESPONSE.

IN ANY ARBITRATION PROCEEDING, REQUESTS FOR PRODUCTION OF DOCUMENTS MAY BE SERVED BY EACH PARTY, AND NON-PRIVILEGED, RESPONSIVE DOCUMENTS THAT WOULD BE DISCOVERABLE UNDER RULE 34 OF THE FEDERAL RULES OF CIVIL PROCEDURE (WERE THE CLAIMS AND CAUSES OF ACTION BEING ASSERTED IN UNITED STATES DISTRICT COURT) SHALL BE PRODUCED. DEPOSITIONS MAY BE TAKEN AS ALLOWED BY THE ARBITRATION PANEL, WHICH PANEL SHALL REASONABLY LIMIT THE NUMBER OF DEPOSITIONS IN ORDER TO AVOID UNNECESSARY OR EXCESSIVE EXPENSE, DELAY, OR HARASSMENT.

THE ARBITRATION PANEL SHALL ISSUE A WRITTEN DECISION IDENTIFYING WITH SPECIFICITY EACH CLAIM OR CAUSE OF ACTION ASSERTED OR RESOLVED IN ANY ARBITRATION, AND THE LEGAL PRINCIPLES OF RES JUDICATA AND COLLATERAL ESTOPPEL SHALL BE APPLICABLE TO ANY ARBITRATION AWARD. ANY ARBITRATION AWARD MAY BE CONFIRMED AND ENFORCED IN ANY COURT OF JURISDICTION.

THIS ARBITRATION PROVISION IS EXPRESSLY INTENDED TO BENEFIT AND BE ENFORCEABLE BY EACH PERSON AND ENTITY REFERENCED IN SUBPARAGRAPHS (I) - (V) ABOVE WHETHER OR NOT SUCH PERSON OR ENTITY IS BOUND BY THIS ARBITRATION PROVISION. ANY ATTEMPT BY ANY SUCH PERSON OR ENTITY TO ENFORCE THIS ARBITRATION PROVISION SHALL CONSTITUTE CONCLUSIVE CONSENT TO BE BOUND HEREBY.

THE GRANTOR, DEVELOPER, CONTRACTOR, ARCHITECT, THE ASSOCIATION, AND THE INDIVIDUAL UNIT OWNERS EXPRESSLY WAIVE ALL RESORT TO TRIAL BY JURY OF ANY AND ALL ISSUES OTHERWISE SO TRIABLE.

#### **V. Apartments and General and Limited Common Elements**

The Regime consists of Apartments and General and Limited Common Elements, as said terms are hereinafter defined.

Apartments, as the term is used herein, shall mean and comprise the one-hundred and eighteen (118) residential Apartments and fifteen (15) commercial Apartments which are separately designated in Exhibit "C"

to this Master Deed, including but not limited to the space, interior partitions or interior walls, fixtures and appliances therein, excluding, however, all spaces and improvements lying beneath the undecorated and/or unfinished inner surfaces of the perimeter walls and floors, and above the undecorated and/or unfinished inner surfaces of the ceilings and floors of each Apartment, and further excluding all spaces and improvements lying beneath the undecorated and/or unfinished inner surface of all interior load-bearing columns, and further excluding all pipes, ducts, wires, conduits and other facilities running through any interior wall or partition for the furnishing of utility services to other Apartments or to the Limited or General Common Elements. The general description and number of each Apartment in the building on the Real Property, expressing its area, general location, and any other data necessary for its identification, also appears in Exhibit "C". The residential Apartments include entry area, living area, dining area, kitchen area, including appliances therein, bathrooms, bedrooms, closets and the HVAC System excluding the central air conditioning on the roof. There are nine (9) residential Apartments per floor on the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, and twelfth floors (levels), and five (5) residential Apartments per floor on the thirteenth and fourteenth floors (levels). There are two (2) commercial Apartments on the first floor (level), and one commercial Apartment per floor on the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, and fourteenth floors (levels). The Apartments are generally described as follows:

Residential Apartments:

**Apartments 101, 109, 201, 209, 301, 309, 401, 409, 501, 509, 601, 609, 701, 709, 801, 809, 901, 909, 1001, 1009, 1101, 1109, 1201, and 1209.** These Apartments contain approximately 1730 square feet in heated space and 29 square feet in storage. These Apartments have four bedrooms, three baths, kitchen, living/dining area, and entry area. Each of these Apartments has a Limited Common Element balcony of approximately 240 square feet. **Apartments 101, 201, 301, 401, 501, 601, 701, 801, 901, 1001, 1101, and 1201.** These Apartments are shown on the Unit "A" Floor Plan in the attached Exhibit "C" and have the master bedroom on the right side and the living/dining area on the left side as one enters the Apartment facing toward the balcony. **Apartments 109, 209, 309, 409, 509, 609, 709, 809, 909, 1009, 1109, and 1209.** These Apartments are shown on the Unit "A" Opp. Floor Plan in the attached Exhibit "C" and have the master bedroom on the left side and the living/dining area on the right side as one enters the Apartment facing toward the balcony.

**Apartments 102, 103, 104, 106, 107, 108, 202, 203, 204, 206, 207, 208, 302, 303, 304, 306, 307, 308, 402, 403, 404, 406, 407, 408, 502, 503, 504, 506, 507, 508, 602, 603, 604, 606, 607, 608, 702, 703, 704, 706, 707, 708, 802, 803, 804, 806, 807, 808, 902, 903, 904, 906, 907, 908, 1002, 1003, 1004, 1006, 1007, 1008, 1102, 1103, 1104, 1106, 1107, 1108, 1202, 1203, 1204, 1206, 1207, and 1208.** These Apartments contain approximately 1701 square feet in heated space and 33 square feet in storage. These Apartments have three

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bedrooms, three baths, kitchen, living/dining area and entry area. Each of these Apartments has a Limited Common Element balcony of approximately 317 square feet. **Apartments 102, 104, 107, 202, 204, 207, 302, 304, 307, 402, 404, 407, 502, 504, 507, 602, 604, 607, 702, 704, 707, 802, 804, 807, 902, 904, 907, 1002, 1004, 1007, 1102, 1104, 1107, 1202, 1204, and 1207.** These Apartments are shown on the Unit "B" Floor Plan in the attached Exhibit "C" and have the kitchen and master bedroom on the left side and the other bedrooms on the right side as one enters the Apartment facing the balcony. **Apartments 103, 106, 108, 203, 206, 208, 303, 306, 308, 403, 406, 408, 503, 506, 508, 603, 606, 608, 703, 706, 708, 803, 806, 808, 903, 906, 908, 1003, 1006, 1008, 1103, 1106, 1108, 1203, 1206, and 1208.** These Apartments are shown on the Unit "B" Opp. Floor Plan in the attached Exhibit "C" and have the kitchen and master bedroom on the right side and the other bedrooms on the left side as one enters the Apartment facing the balcony.

**Apartments 205, 305, 405, 505, 605, 705, 805, 905, 1005, 1105, and 1205.** These Apartments contain approximately 1701 square feet in heated space and 33 square feet in storage. These Apartments have three bedrooms, three baths, kitchen, living/dining area, and entry area. Each of these Apartments has a Limited Common Element balcony of approximately 355 square feet. These apartments are shown on the Unit "B-1" Floor Plan in the attached Exhibit "C" and have the kitchen and master bedroom on the left side and the other bedrooms on the right side as one enters the Apartment facing the balcony.

**Apartments 1301, 1305, 1401 and 1405.** These Apartments contain approximately 2447 square feet in heated space and 43 square feet in storage. These Apartments have four bedrooms, three baths, kitchen, living and dining area, and entry area. Each of these Apartments has a Limited Common Element balcony of approximately 268 square feet. **Apartments 1305 and 1405** are shown on the Unit "C" Floor Plan in the attached Exhibit "C" and have the kitchen and master bedroom on the right side and the other bedrooms on the left side as one enters the Apartment facing the balcony. **Apartments 1301 and 1401** are shown on the Unit "C" Opp. Floor Plan in the attached Exhibit "C" and have the kitchen and master bedroom on the left side and the other bedrooms on the right side as one enters the Apartment facing the balcony.

**Apartments 1302, 1304, 1402, and 1404.** These Apartments contain approximately 2478 square feet in heated space and 43 square feet in storage. These Apartments have four bedrooms, three baths, kitchen, living and dining area, and entry area. Each of these Apartments has a Limited Common Element balcony of approximately 310 square feet. These Apartments are shown on the Unit "D" Floor Plan in the attached Exhibit "C" and have the kitchen and master bedroom on the left side and the other bedrooms on the right side as one enters the Apartment facing the balcony.



**Apartments 1303 and 1403.** These Apartments contain approximately 3045 square feet in heated space and 43 square feet in storage. Each of these Apartments has a Limited Common Element balcony of approximately 408 square feet. These Apartments have the kitchen and master bedroom on the left side and the other bedrooms on the right side as one enters the Apartment facing the balcony. **Apartment 1303.** This Apartment is shown on the Unit "E" Floor Plan in the attached Exhibit "C" and has four bedrooms, three baths, kitchen, living and dining area, and entry area. **Apartment 1403.** This Apartment is shown on the Unit "E-1" Floor Plan in the attached Exhibit "C" and has three bedrooms, three baths, kitchen, living and dining area, and entry area.

**Apartment 105.** This Apartment contains approximately 1152 square feet in heated space and 33 square feet in storage. This Apartment has one bedroom, one bath, kitchen, living and dining area, and entry area. This Apartment has a Limited Common Element balcony of approximately 186 square feet. This Apartment is shown on the Unit "F" Floor Plan in the attached Exhibit "C" and has the kitchen and master bedroom on the right side as one enters the Apartment facing the balcony.

#### Commercial Apartments:

**Com #1.** This Apartment is located on level 1 and is adjacent to the two General Common Element bathrooms as depicted in Exhibit "C," and contains a total of 196 square feet.

**Com #2.** This Apartment is located on level 1 and is across the corridor from Apartments 104 and 105 as depicted in Exhibit "C," and contains a total of 177 square feet.

**Com #3.** This Apartment is located on level 2 and is across the corridor from Apartments 204 and 205 as depicted in Exhibit "C," and contains a total of 136 square feet.

**Com #4, #5, #6, #7, #8, #9, #10, #11, #12, #13, #14, and #15.** These Apartments are located on levels 3 through 14 (one per floor, respectively) and are located in the same location as Com #3 as depicted in Exhibit "C," each containing a total of 136 square feet.

The residential Apartments are shown generally on the Floor Plans attached to Exhibit "C", however the owners may have made interior alterations to the Floor Plan of an Apartment which are not shown in Exhibit "C".

#### **General Common Elements means and includes:**

(1) The land on which the building is constructed, more fully described above, together with all of the other real property described in Exhibit "A";

(2) The foundations, main walls, roofs, utility rooms, property management rooms, halls, corridors, railings in the corridors, lobbies, stairways, elevators, lounge area, and communication ways of the building;

(3) The sprinkler system, yards, patio, shrubs, planter boxes, exterior lights, fire alarms, fire hoses, signs, maintenance equipment, and storm drainage system, except as otherwise provided or stipulated;

(4) The compartments or installations of central services such as power, light, telephone, television, cold and hot water, surveillance cameras and screens, refrigeration, generator, fuel tank and water pump, and the like;

(5) The parking lot, shown and depicted as Parcel V on the attached Site Plan;

(6) The two (2) first level bathrooms and all appurtenances thereto;

(7) In general, all devices or installations existing for common use;

(8) The corridor between Apartments 105 and 106, as shown on the attached First Level Floor Plan;

(9) The air conditioning compressors on the roof shall be Limited Common Elements, limited to the use of the Apartment it serves;

(10) All other elements of the property rationally of common use or necessary to its existence, upkeep, and safety; and

(11) The Common Area containing such areas as are shown on said plat and shown on Exhibit "C".

**(12) The Pool Parcel, including without limitation all amenities and improvements located thereon, is not a Common Element and is not a part of the Regime.**

**Limited Common Elements means and includes:**

(1) Any mailboxes, porches, balconies, floor, ceiling, railings and walls, entrance or exit ways, and all exterior doors and windows or other fixtures designed to serve one or more but less than all Apartments, are Limited Common Elements allocated exclusively to such Apartment or Apartments.

(2) If any flue, duct, wire, conduit, load bearing wall, load bearing column, or any other fixture lies partially within and partially outside the designated boundaries of a Apartment, any portion serving only that Apartment is a Limited Common Element allocated solely to that Apartment. Insofar as possible, the Limited Common Elements are shown graphically and described in detail in words and figures in the plat and plot plans. The air conditioning units on the roof of the building shall be Limited Common Elements, limited to the use of the Apartment the air conditioning compressor serves.

#### **VI. Ownership of Apartments and Appurtenant Interest in General Common Elements**

An Apartment in the Regime may be individually conveyed and encumbered and may be the subject of ownership, possession, or sale, and of all types of juridical acts, inter vivos or mortis causa, as if it were sole and entirely independent of the other Apartments in the Regime of which it forms a part, and the corresponding individual titles and interests are recordable.

Any Apartment may be held and owned by more than one person as tenants in common or in any other form of real property ownership recognized in this State.

An Apartment owner shall have the exclusive ownership of his Apartment and shall have a common right to a share, with the other co-owners, in the Common Elements of the Regime, equivalent to the percentage representing the value of the individual Apartment, with relation to the value of the whole Regime. This percentage, which is set forth on Exhibit "D" attached hereto and made a part hereof by reference, shall have a permanent character, and shall not be altered without the acquiescence of the co-owners representing all the Apartments of the Regime.

The basic value, which shall be fixed for the sole purpose of this Master Deed and irrespectively of the actual value, shall not prevent each co-owner from fixing a different circumstantial value to his Apartment in all types of acts and contracts.

#### **VII. Restriction Against Further Subdividing of Apartments and Separate Conveyance of Appurtenant Common Elements, Etc.**

An Apartment may not be divided or subdivided into a smaller Apartment or smaller Apartments than as described in Exhibit "C" attached hereto, nor shall any Apartment, or portion thereof, be added to or incorporated into any other Apartment. The undivided interest in the General and Limited Common Elements declared to be an appurtenance to each Apartment shall not be conveyed, devised, encumbered, or otherwise



dealt with separately from said Apartment and the undivided interest in General and Limited Common Elements appurtenant to each Apartment shall be deemed conveyed, devised, encumbered, or otherwise included with the Apartment even though such undivided interest is not expressly mentioned or described in the instrument conveying, devising, encumbering, or otherwise dealing with such Apartment. Any conveyance, mortgage, or other instrument which purports to effect the conveyance, devise, or encumbrance, or which purports to grant any right, interest or lien in, to, or upon an Apartment, shall be null, void, and of no effect insofar as the same purports to effect any interest in an Apartment and its appurtenant undivided interest in General and Limited Common Elements, unless the same purports to convey, devise, encumber, or otherwise trade or deal with the entire Apartment. Any instrument conveying, devising, encumbering or otherwise dealing with any Apartment which describes said Apartment by the Apartment Number assigned thereto in Exhibit "C" without limitation or exception, shall be deemed and construed to affect the entire Apartment and its appurtenant undivided interest in the General and Limited Common Elements. Nothing herein contained shall be construed as limiting or preventing ownership of any Apartment, residential or commercial, and its appurtenant undivided interest in the General and Limited Common Elements by more than one person or entity as tenants in common, joint tenants, or any other form of real property ownership recognized in this State or preventing the leasing of the Commercial Apartment to one or more real estate sales and/or property management companies. All Common Elements shall be owned by the Regime and may not be subject to a lease between the Apartment owners (or the Association) and another party, except that the Association shall have the authority to lease General Common Element space on the rooftop to a third party for purposes of placing and maintaining electronic transmitting equipment and the like for the benefit of the Unit owners.

#### **VIII. Horizontal Property Regime Subject to Restrictions, Etc.**

Each and every Apartment and the General and Limited Common Elements shall be, and is hereby declared to be, subject to the restrictions, easements, conditions, and covenants prescribed and established herein, governing the use of said Apartment and General and Limited Common Elements, and setting forth the obligations and responsibilities incident to ownership of each Apartment and its appurtenant undivided interest in the General and Common Elements. Said Apartments and General and Limited Common Elements are further declared to be subject to the restrictions, easements, conditions, and limitations now of record affecting the land and improvements of the Real Property.

#### **IX. Perpetual Non-Exclusive Easements in General Common Elements**

The General Common Elements shall be, and are hereby declared to be, subject to a perpetual non-exclusive easement in favor of all of the co-owners of Apartments in the Horizontal Property Regime for their use and

the use of their immediate family, guests, and invitees, for all proper and normal purposes, and for the furnishing of services and facilities for which the same are reasonably intended, or the enjoyment of said co-owners of Apartments.

The Grantor reserves unto itself and its successors or assigns an easement, including a construction easement, through all General and Limited Common Elements as may be reasonably necessary for the purpose of discharging Grantor's rights or obligations of exercising special Grantor rights reserved in this Master Deed.

As part of the right of Grantor to construct the General and Limited Common Elements of this Regime, Grantor reserves unto itself, and its successors and assigns, easements for ingress and egress over, under and across all Common Elements, Limited and General and such other reasonable right of access to and use of the Common Elements, Limited and General, subject to this Regime as may be necessary for the construction, maintenance and marketing of the Apartments and the General and Limited Common Elements.

Notwithstanding anything above provided in this article, the Association shall have the right to establish the rules and regulations pursuant to which the co-owner or co-owners of any Apartment may be entitled to the exclusive use of any parking space or spaces located in the Parking Lot.

#### **X.      Airspace Easement Over Parking Lot**

The Grantor reserves unto itself and its successors or assigns an easement, including an airspace easement, over the Parking Lot, shown as Parcel V on the attached Site Plan (Exhibit "C"), as may be reasonably necessary for the purpose of constructing a parking deck/structure over the existing Parking Lot at a future date per the terms, conditions and restrictions of the Parking Garage Easement.

As part of the right of Grantor to utilize the aforementioned airspace easement and construct a parking deck/structure over the existing Parking Lot, Grantor reserves unto itself, and its successors and assigns, easements for ingress and egress over the airspace of the Parking Lot and such other reasonable right of access to, and use of, the Parking Lot, subject to the terms of this Master Deed as may be necessary for the construction and maintenance of the future parking deck/structure. During construction of said planned parking deck/structure over the existing Parking Lot, co-owners of Apartments in the Regime shall have access to parking on Parcel VI as shown and described on a Bonded Final Plat entitled "Subdivision of Lot 2 Revised, Barefoot Resort" dated February 12, 2001 and revised March 26, 2001, recorded in the Register of

Deeds Office for Horry County on July 9, 2001 in Plat Book 178 at Pages 86 and 86A ("Temporary Parking Parcel"), per the terms, conditions and restrictions of the Temporary Parking Easement.

**XI. Perpetual Exclusive Easement to Use Limited Common Elements**

Subject to Grantor's rights reserved herein, each co-owner shall have the exclusive right to use the Limited Common Elements allocated to such co-owner's Apartment for his use and the use of his immediate family, guests, and invitees for all proper and normal purposes. Such right to use shall be a perpetual exclusive easement in favor of such co-owner.

**XII. Easement for Unintentional and Non-Negligent Encroachments**

In the event that any portion of the General and Limited Common Elements now or hereafter encroaches upon any Apartment, or vice versa, or in the event that any portion of one Apartment now or hereafter encroaches upon another Apartment, a valid easement for the encroachment and for the maintenance of the same, so long as it stands, does and shall exist.

**XIII. Restraint Upon Separation and Partition of General and Limited Common Elements**

The Common Elements, both general and limited, shall remain undivided and shall not be the object of an action for partition or division of the co-ownership. Any covenant to the contrary shall be void.

All of the co-owners or the sole owner of the Regime may waive the Regime and regroup or merge the records of the individual Apartments with the Real Property, provided that the individual Apartments are unencumbered, or if encumbered, that the creditors in whose behalf the encumbrances are recorded agree to accept as security the undivided portions of the property owned by the debtors.

Subject to the other provisions of this Article XIII and Article XIV, unless all of the first mortgagees (based upon one vote for each first mortgage owned) or all owners of the Apartments have given their prior written approval, the Association shall not be entitled to:

(a) by act or omission, seek to abandon or terminate the Regime or legal status of the project as a condominium;

(b) change the pro rata interest or obligations of any Apartment for the purpose of: (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each Apartment in the General and Limited Common Elements;

(c) partition or subdivide any Apartment; or

(d) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Regime or Association shall not be deemed a transfer within the meaning of this subparagraph (d).

The Co-owners representing two-thirds of the total value of the property shall be required to modify the system of administration of the Association. These provisions shall not apply to amendments to the constituent documents or termination of the Condominium Regime made as a result of destruction, damage, or condemnation pursuant to the provisions of this Master Deed or the other constituent documents.

#### **XIV. Rights of Eligible Mortgage Holders and Eligible Insurers or Guarantors**

1. Notice of Action: Upon written request to the Association, identifying the name and address of the holder, insurer, or guarantor and the Apartment number or address, any such eligible mortgage holder or eligible insurer or guarantor will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Regime or any Apartment on which there is a first mortgage held, insured, or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, as applicable;

(b) Any delinquency in the payment of assessments or charges owed by a co-owner of an Apartment subject to a first mortgage held, insured, or guaranteed by such eligible holder or eligible insurer or guarantor, which remains uncured for a period of sixty (60) days;

(c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and

(d) Any proposed action which would require the consent of a specified percentage of eligible mortgage holders as specified in this Master Deed.

2. Other Provisions for Eligible Mortgage Holders: To the extent permitted by applicable law, eligible mortgage holders shall also be afforded the following rights:

(a) Any restoration or repair of the Regime, after a partial condemnation or damage, due to an insurable hazard, shall be performed substantially in accordance with this declaration (Master Deed) and the original plans and specifications, unless other action is approved by eligible holders holding mortgages on Apartments which have at least fifty-one percent (51%) of the votes of Apartments subject to eligible mortgage holders;

(b) Any election to terminate the legal status of the Regime after substantial destruction or a substantial taking in condemnation of the Regime property must require the approval of eligible holders holding mortgages on Apartments which have at least fifty-one percent (51%) of the votes of Apartments subject to eligible holder mortgages;

(c) No reallocation of interests in the Common Areas resulting from a partial condemnation or partial destruction of such a Regime may be effected without the prior approval of eligible holders holding mortgages on all remaining Apartments, whether existing in whole or in part, and which have at least fifty-one percent (51%) of the votes of such remaining Apartments subject to eligible holder mortgages; and

(d) When professional management has been previously required by any eligible mortgage holder, insurer, or guarantor, whether such entity became an eligible mortgage holder, insurer or, guarantor at that time or later, any decision to establish self-management by the Association shall require the prior consent of co-owners of Apartments to which at least sixty-seven percent (67%) of the votes in the Association are allocated and the approval of eligible holders holding mortgages on Apartments which have at least fifty-one percent (51%) of the votes of Apartments subject to eligible mortgages holders.

3. Non-Material Amendments to Master Deed: An addition or amendment to this Master Deed, By-Laws, or other exhibits shall not be considered material if it is for the purpose of correcting technical, scrivener's or typographical errors or for clarification.

4. Material Amendments to Master Deed: In addition to the foregoing requirements, Amendments of a material nature must be agreed to by Apartment owners who represent at least sixty-seven percent (67%) of the total allocated votes in the Association and by eligible mortgage holders who represent at least fifty-one percent (51%) of the votes that are subject to mortgages held by eligible holders. An eligible mortgage holder who receives a written request to approve additions or amendments who does not deliver or post to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request. A change to any of the provisions governing the following would be considered as material:

- (a) voting rights;
- (b) increases in assessments that raise the previously assessed amount by more than twenty-five percent (25%), assessment liens, or the priority of the assessment liens;
- (c) reductions in reserves for maintenance, repair, and replacement of Common Elements;
- (d) responsibility for maintenance and repairs;
- (e) reallocation of interests in the General or Limited Common Elements, or rights to their use;
- (f) redefinition of any Apartment boundaries;
- (g) convertibility of Apartments into Common Elements, or vice versa;
- (h) expansion or contraction of the Regime, or the addition, annexation, or withdrawal of property to or from the Regime;
- (i) hazard or fidelity insurance requirements;
- (j) imposition of any restrictions on the leasing of the Apartments;
- (k) imposition of any restrictions on an Apartment owner's right to sell or transfer his or her Apartment; and



- (l) any provisions that expressly benefit mortgage holders, insurers, or guarantors.

**XV. Residential Use Restriction Applicable to Residential Apartments and Commercial Use Restrictions Applicable to Commercial Apartment**

Each Residential Apartment (Apartments located on Levels 1 through 14) is hereby restricted to residential use by the co-owner or co-owners thereof, their immediate families, guests, tenants, lessees, licensees, and invitees; provided, however, that so long as the Grantor shall retain any interest in the Regime or any Apartment, it may utilize an Apartment or Apartments of its choice owned or leased by Grantor from time to time, for a sales office, model, or other usage for the purpose of selling or closing the sale of Apartments in said Regime or outside of the Regime. Grantor may assign this commercial usage right to such other persons or entities as it may choose; provided, however, that when all Apartments have been sold this right of commercial usage shall immediately cease. No "For Sale" or "For Rent" signs or the like shall be permitted on any General or Limited Common Element or any Apartment so as to be visible from any General or Limited Common Element or public street or area, other than any sign placed upon the sales office or model by Grantor or the Commercial Apartments. Nothing herein shall prevent the Association from providing portions of the Common Elements to management companies for use as an office, model or other purpose connected with the management of the Regime or to grant licenses and easements over the Common Areas for utilities, roads, electronic transmitting equipment, and other purposes reasonably necessary or usable for the proper maintenance and operation of the Regime. Any lease or rental agreement concerning the use of the Apartment must be in writing and subject to the requirements of the Master Deed and the rules and regulations of the Association and terms adopted by the Board of Directors of the Association.

The Commercial Apartments located on the first level are hereby restricted to use as an office, check-in counter and other related activities necessary to operate, one or more real estate sales or rental agencies and/or real estate property and regime management companies, provided such use complies with the City of North Myrtle Beach zoning laws and regulations. "For Rent" and "For Sale" signs, along with other commercially related signs, may be displayed on the Commercial Units, subject to the reasonable approval and guidelines of the Association.

**XVI. Use of General Common Elements Subject to Rules of Association**

The use of General Common Elements by the co-owner or co-owners of all Apartments, and all other parties authorized to use the same shall be at all times subject to such reasonable rules and regulations as may be

prescribed and established governing such or which may hereafter be prescribed and established by the Association.

**XVII. Horizontal Property Regime to be Used for Lawful Purposes, Restriction Against Nuisances, Etc.**

No immoral, improper, offensive, or unlawful use shall be made of any Apartment or of the General or Limited Common Elements, nor any part thereof, and all laws, zoning ordinances, and regulations of all governmental authorities having jurisdiction over the Regime shall be observed. No co-owner of any Apartment shall permit or suffer anything to be done or kept in his Apartment, or on the General or Limited Common Elements, which will increase the rate of insurance on the Regime, or which will obstruct or interfere with the rights of other occupants of the building or annoy them by unreasonable noises, nor shall any such co-owner undertake any use or practice which shall create and constitute a nuisance to any other co-owner of an Apartment, or which interferes with the peaceful possession and proper use of any other Apartment or the General or Limited Common Elements.

**XVIII. Right of Entry into Apartments in Emergencies**

In case of any emergency originating in or threatening any Apartment, regardless of whether the co-owner is present at the time of such emergency, the Board of Directors of the Association or any other person or firm authorized by it, or the building superintendent or managing agent, shall have the right to enter such Apartment for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate. To facilitate entry in the event of any such emergency, the co-owner of each Apartment, if required by the Association, shall deposit under the control of the Association a key to such Apartment.

**XIX. Right of Entry for Maintenance of General Common Elements**

Whenever it is necessary to enter any Apartment for the purpose of performing any maintenance, alteration, or repair to any portion of the Common Elements, the co-owner of each Apartment shall permit other co-owners or their representatives, or the duly constituted and authorized agent of the Association, to enter such Apartment, provided that such entry shall be made only at reasonable times and with reasonable advance notice.



**XX. Limitation Upon Right of Co-Owners to Alter and Modify Apartments**

No co-owner of a residential Apartment shall permit any structural modification or alterations to be made therein without first obtaining the written consent of the Association, whose consent may be withheld if a majority of the Board of Directors of said Association determine, in their sole discretion, that such structural modifications or alterations would affect or in any manner endanger the building in part or in its entirety. If the modification or alteration desired by the co-owner of any residential Apartment involves the removal of any permanent interior partition, the Association shall have the right to permit such removal so long as the permanent interior partition to be removed is not a load-bearing partition, and so long as the removal thereof would in no manner affect or interfere with the provision of utility services constituting General or Limited Common Elements located therein. No co-owner shall cause the balcony abutting his Apartment to be enclosed, or cause any improvements or changes to be made on the exterior of the building, the balconies, or railings, including painting or other decoration, or the installation of electrical wiring, wire, screening, any railing cover, television, radio or telecommunication antennae, machines or air conditioning units which may protrude through the walls or roof of the building, or in any manner change the appearance of any portion of the building, including balconies and railings not within the walls of such Apartment. No storm panels or awnings shall be affixed to any Apartment without first obtaining the written consent of the Association.

**XXI. Right of the Association to Alter and Improve General and Limited Common Elements and Assessment Therefor**

The Association shall have the right to make or cause to be made alterations, modifications, and improvements to the General and Limited Common Elements, provided such alterations, modifications, or improvements are first approved in writing by the Board of Directors of the Association and also by the co-owners of sixty-seven percent (67%) or more of the Apartments in the entire Regime. The cost of such alterations, modifications, or improvements shall be assessed as common expenses and collected from the co-owners of all Apartments according to their percentage of ownership of the General and Limited Common Elements.

**XXII. Maintenance and Repair by Co-Owners of Apartments**

Every co-owner must perform promptly all maintenance and repair work within his Apartment which, if omitted, would adversely affect the Regime in its entirety or in a part belonging to other co-owners, and is expressly responsible for the damages and liability which his failure to do so may engender. The co-owner of each Apartment shall be liable and responsible for the maintenance, repair, and replacement, as the case may be,

of all air conditioning and heating equipment located within the Apartment, hot water heaters, stoves, refrigerators, garbage disposals, dishwashers, fans, or other appliances or equipment, including any fixtures and/or their connections or receptacles required to provide water, light, power, telephone, television, and sewerage and sanitary service to his Apartment and which may now or hereafter be situated in his Apartment including toilets, lavatories, sinks, tubs, and showers. Such co-owner shall further be responsible and liable for maintenance, repair, and replacement of any and all window glass, glass doors, wall, ceiling and floor surfaces or coverings, painting, decorating and furnishings, and all other accessories which such co-owner may desire to place or maintain in his Apartment. Whenever the maintenance, repair, and replacement of any items for which the co-owner of an Apartment is obligated to maintain, repair, or replace at his own expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association, or the Insurance Trustee hereinafter designated, shall be used for the purpose of making such maintenance, repair, and replacement. Any cost of maintenance, repair, or replacement, by reason of the applicability of any deductibility provision of such insurance which is not paid by the insurance of the Association, shall be paid by such Co-owner. Reference is made to S.C. Code Ann. '27-31-250 (1976) as amended, which is controlling of insurance proceeds use when said code section is applicable by its terms.

**If an Apartment or any portion thereof is damaged by another co-owner's Apartment, whether due to the other co-owner's failure to maintain their Apartment or not, the Association shall be responsible for repairing the damage and fixing the cause of the problem. If the damage was caused by the other co-owner's failure to properly maintain their Apartment in accordance with the provisions of this Master Deed, the Association shall have the authority to assess a Special Assessment against the negligent co-owner, which shall be a lien on said co-owner's Apartment until paid in full along with all accrued interest, costs, and attorney's fees related to collection in accordance with Article XXIX of this Master Deed. If the Unit damage was caused by a problem with the Common Elements, the Association shall be responsible for the cost of repair.**

Co-owners are hereby notified of the following Unit temperature control recommendations in order to insure proper humidity levels to protect woodwork, furniture and electronic equipment in the Units: During the summer months, no higher than eighty (80°) degrees; during the winter months, no lower than fifty (50°) degrees. Co-owners are responsible for any damage to their Units or to the contents of their Units if these temperature control recommendations are not adhered to.

#### **XXIII. Maintenance and Repair of General and Limited Common Elements by the Association**

The Association, at its expense, shall be responsible for the maintenance, repair, and replacement of all of the General and Limited Common Elements, including those portions thereof which contribute to the support of the building, and all conduits, ducts, plumbing, wiring, and other facilities located in the General or Limited Common Elements for the furnishing of utility services to the Apartments and said General and Limited Common Elements. Should any incidental damage be caused to any Apartment by virtue of any work which may be done or caused to be done by the Association in the maintenance, repair, or replacement of any General or Limited Common Elements, the Association shall, at its expense, repair such incidental damage. Excepted herefrom, however, are the maintenance of the floor and interior walls of the balcony or balconies attached to the Apartment, which shall be maintained by the co-owner at his expense.

The Association is responsible for insuring that the Regime's management company conduct, or have conducted at the Association's expense, a visual inspection of the exterior Common Elements of the building a minimum of twice a year or as necessary for the purpose of determining needed repairs and maintenance and to insure that the building does not deteriorate and compromise the water tightness of the exterior skins. Said visual inspection shall include, but not be limited to, the following: (1) exterior stucco; (2) sealant around doors, windows and all dissimilar materials; (3) water proof membrane on the balcony concrete slabs; (4) roof, flashing and roof penetrations at mechanical units; and (5) handrail sleeves and anchorage. Further, the Association is responsible for ensuring that the Regime's management company perform properly any maintenance to the Common Element and Apartment HVAC units located outside of the Apartments, as required by the manufacturer.

#### **XXIV. Personal Liability and Risk of Loss of Co-Owner and Apartment and Separate Insurance Coverage, Etc.**

The co-owner of each Apartment may, at his own expense, obtain insurance coverage for loss of or damage to any furniture, furnishings, personal effects, and other personal property belonging to such co-owner and may, at his own expense and option, obtain insurance coverage against personal liability or injury to the person or property of another while within such co-owner's Apartment or upon the General or Limited Common Elements. All such insurance obtained by the co-owner of each Apartment shall, where available, provide that the insurer waives its right of subrogation as to any claims against other co-owners of Apartments, the Association, and the respective servants, agents and guests of said other co-owners and the Association. Risk of loss or, damage to any furniture, furnishings, personal effects, and other personal property (other than such furniture, furnishings, and personal property constituting a portion of the General or Limited Common Elements or which is insured by the Association) belonging to a Co-owner or carried on the person of the co-owner of each such Apartment or carried by such Co-owner in, to, or upon General or Limited Common

Elements shall be borne by the co-owner of each such Apartment. All furniture, furnishings, and personal property constituting a portion of the General or Limited Common Elements and held for the joint use and benefit of all co-owners of all Apartments shall be covered by such insurance as shall be maintained in force and effect by Association as hereinafter provided. The co-owner of an Apartment shall have no personal liability for any damages caused by the Association or in connection with the use of the General or Limited Common Elements. The co-owner of an Apartment shall be liable for injuries or damage resulting from an accident in his own Apartment, to the same extent and degree that the co-owner of a house would be liable for an accident occurring within the house.

## **XXV. Condemnation**

A. Apartments Acquired. If an Apartment is acquired by eminent domain, or if part of an Apartment is acquired by eminent domain, leaving the Apartment owner with a remnant which may not practically or lawfully be used for any purpose permitted by this Master Deed, the award must compensate the Apartment owner for his Apartment and its General and Limited Common Element interest, whether or not any General or Limited Common Element interest is acquired. Upon acquisition, unless the decree otherwise provides, that Apartment's entire General and Limited Common Element interest, votes in the Association, and common expense liability are automatically reallocated to the remaining Apartments in proportion to the respective interests and votes, and the Association shall promptly prepare, execute, and record an amendment to this Master Deed reflecting the reallocations. Any remnant of an Apartment remaining after part of an Apartment is taken under this subsection is thereafter a General and Limited Common Element.

B. Part of Apartment Acquired. Except as provided above, if part of an Apartment is acquired by eminent domain, the award must compensate the Apartment owner for the reduction of value of the Apartment and its Common Element interest. Upon acquisition, (1) that Apartment's Limited and General Common Element percentage interest, votes in the Association, and common expense liability are reduced in proportion to the reduction in size of the Apartment, and (2) the portion of Limited and General Common Element interest, votes, and common expense liability divested from the partially acquired Apartment are automatically reallocated to that Apartment and the remaining Apartments in the percentages set out in Exhibit "D".

C. Claims. The Board of Directors of the Association shall have exclusive authority to negotiate and settle on behalf of the owners all claims arising from condemnation of any portion or all of the Apartments or General or Limited Common Elements and the owners hereby appoint the Board of Directors as their attorney in fact for this purpose. Any proceeds from such condemnation shall be distributed in accordance with the provisions of Article XXVI Insurance, Paragraph F Insurance Proceeds.

## XXVI. Insurance

A. Hazard Insurance. The Association shall insure all Apartments and all General and Limited Common Elements against all hazards and risks normally covered by a standard hazard policy, including fire and lightning, the hazards and risks covered by "extended coverage," vandalism, and malicious mischief, and by hazards or risks covered by the National Flood Insurance Act, windstorm and hail policies and all other coverage commonly required by lending institutions in the area. All Apartments and all General and Limited Common Elements shall be insured for the full replacement cost thereof, and where possible, the policy of insurance shall have a full replacement cost rider. Each year the Association shall update the replacement value cost rider. Such insurance shall cover only the Apartments and General and Limited Common Elements. The Association shall not be responsible for insuring the contents of the Apartment (other than standard fixtures originally installed therein by Grantor and being a part of such Apartment). The hazard insurance obtained by the Association may provide that any amount not to exceed One Thousand Dollars (\$1,000.00) shall be deductible from any indemnity payable on account of a single loss, but any such deductible portion shall be borne by the Association as a Common Expense regardless of the number of co-owners directly affected by the loss.

B. Liability Insurance. The Association shall also obtain premises liability insurance on all Apartments and General and Limited Common Elements and the policy shall provide for a single limit indemnity of not less than One Million Dollars (\$1,000,000.00) and cover bodily and personal injury and property damage, including, but not limited to, injury or property damage caused to third parties, co-owners, the Limited and General Common Elements or the Apartments or any improvements therein. Such liability insurance shall cover claims of one or more co-owners against one or more co-owners as well as claims of third parties against one or more co-owners. The Association shall not be required however, to obtain public liability insurance covering accidents occurring within the limits of an Apartment or off the Regime Property. If available at a reasonable cost, the Association shall cause premises medical payment coverage to be included within the policy of liability insurance.

C. General Provisions. All insurance obtained on the Apartments and General and Limited Common Elements by the Association shall be written in the name of the Association as trustee for the Owners, and the cost of such insurance shall be a common expense. All such insurance shall be obtained from a company of companies licensed to do business in the State of South Carolina and currently rated "A" or better by Best's Insurance Ratings. No such insurance shall be permitted to expire except upon resolution of sixty-seven percent (67 %) of the co-owners to that effect and all mortgagees. Duplicate originals of all policies of hazard



insurance obtained on the Property by the Board of Directors, together with proof of payment of the premiums thereon, shall be delivered upon request to any co-owner or to any person holding a security interest in an Apartment.

D. Hazard Policy Provisions. All policies of hazard insurance on the Apartments and General and Limited Common Elements obtained by the Board of Directors shall provide as follows:

1. The indemnity payable on account of any damage to or destruction of the Apartments or General and Limited Common Elements shall be payable to the owner and/or to any persons holding security interests in any damaged Apartments as their interests may appear;
2. The policy shall not be canceled without thirty (30) days prior written notice to the Board of Directors and to every holder of a security interest in any Apartment who is named in the policy or an endorsement thereto;
3. No co-owner shall be prohibited from insuring his own Apartment for his own benefit;
4. No insurance obtained by a co-owner on his own Apartment shall be brought into contribution with the insurance obtained by the Board of Directors;
5. If the Board of Directors determines that it is possible to obtain such a provision, no right to subrogation shall exist against any owner or members of his household or his social guests;
6. If possible, the policy should provide that the insurer shall not be entitled to reconstruct in lieu of paying the indemnity in cash if the owners determine, in the manner provided in the Master Deed, not to repair or restore the damaged property; and
7. The policy shall not be canceled on account of the actions of one or more of the co-owners.

If a policy of insurance containing all of the foregoing provisions cannot be obtained at a reasonable cost, one or more of such provisions may be waived by resolution of a sixty-seven percent (67 %) of the co-owners and fifty-one percent (51%) of the mortgagees of Apartments.

E. Claims. The Board of Directors of the Association shall have exclusive authority to negotiate and settle on behalf of the owners all claims arising under policies of hazard insurance obtained on the Property by

the Board of Directors except to the extent institutional mortgagees are granted such rights by co-owners. In the event of damage to or destruction of any portion of the Apartments or General or Limited Common Elements, the Board of Directors shall promptly file a claim for any indemnity due under any such policies. The Board of Directors shall simultaneously notify the holders of any security interest in the Property who may be entitled to participate in such claim of the filing of same.

F. Insurance Proceeds. If the insurance proceeds exceed Five Thousand (\$5,000.00) Dollars, the net proceeds received by the Board of Directors from any indemnity paid under a policy of hazard insurance obtained on the Property by the Board of Directors shall promptly be paid by the Board of Directors to an Insurance Trustee as trustee for the co-owners as hereinafter provided. The Insurance Trustee shall be a state or federally chartered bank or savings and loan association selected by the Board of Directors and having trust powers and capital and surplus of Five Million Dollars (\$5,000,000.00) or more or a Professional Property Management Company with a like amount of Fidelity insurance coverage. The Insurance Trustee shall hold the insurance proceeds in trust and disburse said proceeds, after deduction of all reasonable fees and expenses of the Insurance Trustee, as follows:

1. If the co-owners determine, in the manner provided in the Master Deed, not to reconstruct the damaged property, the Insurance Trustee shall distribute the insurance proceeds among all the owners and/or mortgagees with liens upon the Apartments, as their respective interests may appear, in proportion to their respective undivided interests in the portion or portions of the property damaged or destroyed.
2. If the Board of Directors is required to provide for the reconstruction of the damaged property, the Insurance Trustee shall disburse the insurance proceeds to the person or persons employed by the Board of Directors to effect such reconstruction in accordance with written authorizations submitted to the Insurance Trustee by the architect supervising the reconstruction or by the Board of Directors. Any portion of the insurance proceeds remaining after all the costs of reconstructing the Property have been paid shall be disbursed to the co-owners and their mortgagees in proportion to their interests in the portion or portions of the property repaired or restored.

In making disbursements of the insurance proceeds, the Insurance Trustee shall be entitled to rely upon the written authorization submitted as provided above or upon any written certification of facts submitted to the Insurance Trustee by the Board of Directors as hereinafter provided without further inquiry. The Insurance Trustee shall in no event be responsible for obtaining insurance on the Property, paying the premiums on any such insurance, or filing claims for any payments due under any such insurance.

G. Insurance by Owners. Each co-owner shall be responsible for obtaining such amounts of the following types of insurance as he deems necessary or desirable:

1. Hazard insurance on his Apartment for his own benefit;
2. Hazard insurance on the contents of his Apartment and on improvements made to his Apartment;  
and
3. Liability insurance covering accidents occurring within the boundaries of his Apartment.

Any owner who obtains hazard insurance on his dwelling for his own benefit shall within thirty (30) days of obtaining the same deliver to the Board of Directors a copy of the policy of insurance, should the Board request.

**XXVII. Apportionment of Tax or Special Assessment if Levied and Assessed Against the Regime as a Whole**

In the event that any taxing authority having jurisdiction over the Regime shall levy or assess any tax or special assessment against the Regime as a whole, as opposed to levying and assessing such tax or special assessment against each Apartment and its appurtenant undivided interest in General and Limited Common Elements as now provided by law, then such tax or special assessment so levied shall be paid as a common expense by the Association, and any taxes or special assessments which are to be levied shall be included wherever possible, in the estimated annual budget of Association, or shall be separately levied and collected as an assessment by the Association, against all of the co-owners of Apartments and said Apartments if not included in said annual budget. The amount of any tax or special assessment paid or to be paid by the Association in the event that such tax or special assessment is levied against the Regime, as a whole, instead of against each separate Apartment and its appurtenant undivided interest in General and Limited Common Elements shall be apportioned among the co-owners of all Apartments so that the amount of such tax or special assessment so paid or to be paid by the Association and attributable to and to be paid by the co-owner or co-owners of each Apartment shall be that portion of such total tax or special assessment which bears the same ratio to said total tax or special assessment as the undivided interest in General and Limited Common Elements appurtenant to each Apartment bears to the total undivided interest in General and Limited Common Elements appurtenant to all Apartments. In the event that any tax or special assessment shall be levied against the Regime in its entirety, without apportionment by the taxing authority of the Regime and



appurtenant undivided interests in General and Limited Common Elements, then the assessment by the Association, which shall include the proportionate share of such tax or special assessment attributable to each Apartment and its appurtenant undivided interest in General and Limited Common Elements, shall separately specify and identify the amount of such assessment attributable to such tax or special assessments and the amount of such tax or special assessment so designated shall be a lien prior to all mortgages and encumbrances upon any Apartment and its appurtenant undivided interest in General and Limited Common Elements, regardless of the date of the attachment and/or recording of such mortgage or encumbrance, to the same extent as though such tax or special assessment had been separately levied by the taxing authority upon each Apartment and its appurtenant undivided interest in General and Limited Common Elements.

#### **XXVIII. Amendment of Master Deed**

Neither this Master Deed nor any of its provisions shall be revoked or amended without the acquiescence of the co-owners owning at least two-thirds of the Apartments and at least two-thirds of the total interest in the General and Limited Common Elements and the record holders of encumbrances affecting at least two-thirds of the Apartments and at least two-thirds of the total interest in the General and Limited Common Elements, except that the system of administration as set forth in the Articles of Incorporation and By-Laws may be amended and modified from time to time in accordance with the provisions of the South Carolina Horizontal Property Act and other applicable provisions of the Code of Laws of South Carolina. No amendment shall change the use of, or otherwise affect the operation of the Commercial Apartment without the consent of the Co-Owner of the Commercial Apartment. Any such amendment or revocation shall be executed and subscribed with the same formalities required in South Carolina for the making of deeds, and recorded in the public records of Horry County.

Without limiting the foregoing, the Grantor, its successors or assigns, "acting alone" shall have the power, but not the obligation, at any time (and from time to time), to amend the Master Deed to correct typographical or scrivener's errors, and to cause the Master Deed to conform to the requirements of the South Carolina Horizontal Property Act, the Federal National Mortgage Association, and/or the Federal Home Loan Mortgage Corporation, as set forth, respectively, in "FNMA Conventional Home Mortgage Selling Contract Supplement" and "Seller's Guide to Conventional Mortgages," as the same may be amended from time to time.

#### **XXIX. Remedies in Event of Default**

The co-owner or co-owners of each Apartment shall be governed by and shall comply with the provisions of this Master Deed, the Articles and the By-Laws of the Association, and its rules and regulations as any of the

same are now constituted or as they may be adopted and/or amended from time to time. A default by the co-owner or co-owners of any Apartment shall entitle the Association or the co-owner or co-owners of other Apartment or Apartments to the following relief:

A. Failure to comply with any of the terms of this Master Deed or other restrictions and regulations contained in the Articles of Incorporation, By-Laws of the Association, its rules and regulations, or decisions made pursuant thereto shall be grounds for relief which may include, without intending to limit the same, an action to recover sums due for damages, injunctive relief, foreclosure of lien or any combination thereof. Relief may be sought by the Association, or if appropriate, by an aggrieved co-owner of an Apartment or both;

B. The co-owner or co-owners of each Apartment shall be liable for the expense of any maintenance, repair, or replacement rendered necessary by his act, neglect, or carelessness, or by that of any member of his family, or his or their guests, employees, agents, or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy, or abandonment of an Apartment or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation;

C. In any proceeding arising because of an alleged default by the co-owner of any Apartment, the Association, if successful, shall be entitled to recover the costs of the proceedings and such reasonable attorney's fees as may be determined by the Court, and the co-owner of any Apartment shall be entitled to such attorney's fees and costs if successful in such action;

D. The failure of the Association or of the co-owner of an Apartment to enforce any right, provision, covenant, or condition which may be granted by this Master Deed or other above mentioned documents shall not constitute a waiver of the right of the Association or of the co-owner of an Apartment to enforce such right, provision, covenant, or condition in the future;

E. All rights, remedies, and privileges granted to Association or the Co-owner or co-owners of an Apartment pursuant to any terms, provisions, covenants; or conditions of this Master Deed or other above mentioned documents, shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising the same from exercising such other and additional right, remedies, or privileges as may be available to such party at law or in equity; and

F. The failure of the Grantor or the lender to enforce any right, privilege, covenant, or condition which may be granted to them, or either of them, by this Master Deed or other above mentioned document shall not constitute waiver of the right of either of said parties to thereafter enforce such right, provision, covenant, or condition in the future.

**XXX. Use or Acquisition of Interest in the Regime to Render User or Acquirer Subject to Provisions of Master Deed Rules and Regulations, Bylaws and Binding Arbitration**

All present or future co-owners, tenants, or any other person who might use the facilities of the Regime in any manner are subject to the provisions of this Master Deed and all documents appurtenant thereto and incorporated herewith. The acquisition or rental of any Apartment, or the mere act of occupancy of any Apartment, shall signify that the provisions of this Master Deed, By-laws, and Rules and Regulations of the Association are accepted and ratified in all respects. Such owner or occupant agrees that any dispute arising out of use, ownership or occupancy of an Apartment or the Common Elements in Regime and any complaint against the Grantor shall be settled by binding arbitration pursuant to the Commercial Arbitration Rules of the American Arbitration Association. Disputes between the Grantor, the Contractor, or the Architect, or any of their successors or assigns, agents, employees or subcontractors and a purchaser of an Apartment regarding the sale, design or construction of North Tower of Barefoot Resort or the purchased Apartment, the Limited Warranty, the Limitation of Remedies, or the Disclaimer and Exclusion of All Other Warranties, or any provision of any of them shall, at the Grantor's option, be subject to arbitration in the State of South Carolina, pursuant to the Commercial Arbitration Rules of the American Arbitration Association as modified herein and in the Limited Warranty.

**XXXI. Council of Co-Owners Association, Control of Board of Directors**

Subject to the remainder of this paragraph, the Grantor may appoint and remove members of the Board of Directors of the Association of the Co-Owners ("Board") for a period not exceeding five (5) years from the date of the first conveyance of any Apartment to a person other than the Grantor. This period of Grantor control terminates no later than sixty (60) days after conveyance of seventy-five percent (75%) of the Apartments to Apartment owners other than the Grantor. The Grantor may voluntarily surrender the right to appoint and remove members of the Board before termination of that time period. After termination of the Grantor's control, any or all of the Board of Directors may be removed or replaced by written petition signed by the Co-Owners having more than fifty percent (50%) of the votes of the Association. The petition shall state the

name(s) of the Board of Directors being removed and the name(s), address(es) and telephone number(s) of the replacement Director(s).

Whenever Grantor shall be entitled to designate and select any person or persons to serve on any Board of Directors of the Association, the manner in which such person or persons shall be designated shall be as provided in the Articles and/or By-Laws of the Association. Grantor shall have the right to remove any person or persons selected by it to act and serve on said Board of Directors and to replace such person or persons with another person or other persons to act and serve in the place of any director or directors so removed for the remainder of the unexpired term of any director or directors so removed. Any director designated and selected by Grantor need not be an owner or a resident in the Regime. Anything to the contrary notwithstanding, the power in the Grantor to designate directors shall terminate five (5) years from the date of recording of the Master Deed.

Any representative of Grantor serving on the Board of Directors of the Association shall not be required to disqualify himself upon any vote upon any management contract or other matter between Grantor and Association where the said Grantor may have a pecuniary or other interest. Similarly, Grantor as a member of the Association, shall not be required to disqualify itself in any vote which may come before the membership of the Association upon any management contract or other matter between Grantor and Association where Grantor may have a pecuniary or other interest.

Transfer of Rights. All rights, duties and obligations of the Grantor herein may be experienced or performed by the Grantor, its successors and assigns.

Barefoot Nonresidential Association. Each co-owner of an Apartment in the Regime is a Member of the Barefoot Nonresidential Association and subject to the terms, obligations, and restrictions of the Barefoot Nonresidential Declaration, including without limitation maintenance and assessment payment obligations. Each co-owner, by acceptance of a deed to an Apartment in the Regime, hereby grants a power of attorney to the Board of Directors to represent the interests of the individual co-owners and the Association as a whole before the Barefoot Nonresidential Association for purposes of voting and assessment payment, and any other functions deemed appropriate by the Board of Directors of the Association.

#### **XXXII. Annual Reports to be Provided to Lender**

So long as any institutional lender is the co-owner or holder of a mortgage encumbering an Apartment in the Regime, the Association shall furnish said lender upon request with at least one copy of the annual financial

statement and report of the Association audited satisfactorily, setting forth such details as the said lender may reasonably require, including a detailed statement of annual carrying charges or income collected and operating expense, with such financial statement and report to be furnished within ninety (90) days following the end of each fiscal year.

Such statement shall be prepared in accordance with generally accepted accounting principles and shall contain the certificate of the accountant or accounting firm to that effect. Further, the accountant or accounting firm shall include as a special item(s) any information to which a reasonable man would attach importance in the management of his own financial affairs, should said information not appear readily from the face of the statement.

The Association shall make available to Apartment owners, lenders, lienholders, insurers, or guarantors of any first mortgage current copies of the Master Deed, By-Laws, other rules concerning the project and the books, records and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances.

Any holder, insurer, or guarantor of a first mortgage shall be entitled, upon written request, to a financial statement of the immediately preceding fiscal year, free of charge to the party so requesting.

Any financial statement requested pursuant to this section shall be furnished within a reasonable time following such request.

### **XXXIII. Severability**

In the event that any of the terms, provisions, or covenants of this Master Deed are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holding shall not affect, alter, modify, or impair in any manner whatsoever any of the other terms, provisions, or covenants hereof or the remaining portions of any terms, provisions, or covenants held to be partially invalid or unenforceable.

### **XXXIV. Master Deed Binding Upon Grantor, Its Successor and Assigns, and Subsequent Co-Owners**

The restrictions and burdens imposed by the covenants of this Master Deed are intended to and shall constitute covenants running with the land, and shall constitute an equitable servitude upon each Apartment and its appurtenant undivided interest in General and Limited Common Elements. This Master Deed and all easements reserved herein shall be binding upon Grantor, its successors and assigns, and upon all parties



who may subsequently become co-owners of Apartments in the Regime and their respective heirs, legal representative, and successors and assigns.

#### **XXXV. Definitions**

The definitions contained in S. C. Code Ann. § 27-31-10 et seq. (1976), are hereby incorporated herein and made a part hereof by reference. The words, "Unit", "Villa" and "Apartment" shall have the same meaning as the word "Apartment" as defined in S. C. Code Ann. ' 27-31-20 (1976).

#### **XXXVI. Alternative Dispute Resolution**

##### **A. Definitions Applicable to this Article XXXVI**

1. **Bound Party.** Includes: Grantor; all Co-owners; the Association and its officers, directors, and committee members, including any corporation or other entity formed to serve as the Association; all persons and entities subject to this Master Deed; any person or entity not otherwise subject to this Master Deed who agrees to submit to this Article; any person or entity that now has or hereafter acquires any interest in a Unit; the developer of the Regime; any person or entity that has previously or hereafter supplies (directly or indirectly) labor, materials, design services, equipment or other things of value in connection with the construction or maintenance of any Unit or Common Element in the Regime; any heir, successor, delegatee or assignee of any person or entity listed in this paragraph.

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

(i) the interpretation, application, or enforcement of this Master Deed, including all documents attached thereto or incorporated by reference therein; (ii) the rights, obligations, and duties of any Bound Party under the Master Deed, including all documents attached thereto or incorporated by reference therein; or (iii) the design or construction of improvement within the Regime,

except that the following shall not be considered a Claim unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section B of this Article:

(i) any suit by the Association to collect assessments or other amounts due from any Co-Owner of a Unit; (ii) any suit between Unit Co-owners, which does not include Grantor or the

Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Master Lease; and (iii) any suit in which any indispensable party is not a Bound Party.

3. Claimant. A Bound Party asserting a Claim.

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

**B. ARBITRATION.**

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

2. EACH AND EVERY CLAIM AND CAUSE OF ACTION ARISING OUT OF OR RELATED IN ANY WAY TO THE DESIGN, CONSTRUCTION, SALE, MAINTENANCE, HABITABILITY OF, OR CONDITION OF ANY UNIT OR ANY COMMON AREA THAT IS ASSERTED BY CLAIMANT SHALL BE RESOLVED BY FINAL AND BINDING ARBITRATION BEFORE A PANEL OF THREE (3) ARBITRATORS PURSUANT TO THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION, AS MODIFIED HEREIN. THE ARBITRATION HEARING SHALL BE CONDUCTED IN RICHLAND COUNTY, SOUTH CAROLINA. ALL CLAIMS AND CAUSES OF ACTION OF ALL PERSONS AND ENTITIES ENTITLED TO ENFORCE (OR BOUND BY) THIS ARBITRATION PROVISION SHALL BE ASSERTED IN A SINGLE ARBITRATION PROCEEDING, AND MULTIPLE PARTIES MAY BE JOINED IN THE ARBITRATION PROCEEDING SO THAT ALL DISPUTES MAY BE RESOLVED IN ONE FORUM. NO CLAIM OR CAUSE OF ACTION MAY BE ASSERTED THAT WOULD BE BARRED BY THE STATUTE OF LIMITATIONS OR THE STATUTE OF RESPONSE.

3. IN ANY ARBITRATION PROCEEDING, REQUESTS FOR PRODUCTION OF DOCUMENTS MAY BE SERVED BY EACH PARTY, AND NON-PRIVILEGED, RESPONSIVE

DOCUMENTS THAT WOULD BE DISCOVERABLE UNDER RULE 34 OF THE FEDERAL RULES OF CIVIL PROCEDURE (WERE THE CLAIMS AND CAUSES OF ACTION BEING ASSERTED IN UNITED STATES DISTRICT COURT) SHALL BE PRODUCED. DEPOSITIONS MAY BE TAKEN AS ALLOWED BY THE ARBITRATION PANEL, WHICH PANEL SHALL REASONABLY LIMIT THE NUMBER OF DEPOSITIONS IN ORDER TO AVOID UNNECESSARY OR EXCESSIVE EXPENSE, DELAY, OR HARASSMENT.

4. THE ARBITRATION PANEL SHALL ISSUE A WRITTEN DECISION IDENTIFYING WITH SPECIFICITY EACH CLAIM OR CAUSE OF ACTION ASSERTED OR RESOLVED IN ANY ARBITRATION, AND THE LEGAL PRINCIPLES OF RES JUDICATA AND COLLATERAL ESTOPPEL SHALL BE APPLICABLE TO ANY ARBITRATION AWARD. ANY ARBITRATION AWARD MAY BE CONFIRMED AND ENFORCED IN ANY COURT OF JURISDICTION.

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

C. Association Claims

In addition to compliance with the foregoing arbitration procedures outlined in this Article, the Board shall not be authorized or obligated to, and the Association shall not initiate any judicial or administrative proceeding unless first approved by a seventy-five percent (75%) affirmative vote of the entire Association membership, except that no such approval shall be required for actions or proceedings:

- (1) initiated to enforce the provisions of this Master Deed (excluding the provisions of the Limited Warranty contained in Article IV herein) including all documents attached thereto or incorporated by reference therein, including, but not limited to, collection of assessments and foreclosure of liens;
- (2) initiated to challenge property taxation or condemnation proceedings;
- (3) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.



IN WITNESS WHEREOF, the Grantor has executed this Master Deed this 17th day of June, 2002.

Signed, sealed and delivered  
in the presence of:



DRAKE DEVELOPMENT BF LLC  
(SEAL)

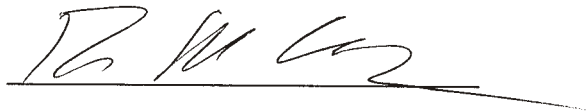
By:

  
W. Russell Drake, Manager

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

PROBATE

Personally appeared before me the undersigned witness and made oath that (s)he saw the within-named Drake Development BF LLC by W. Russell Drake, its Manager, sign, seal and as its act and deed, deliver the within written instrument for the uses and purposes therein mentioned, and that (s)he with the other witness witnessed the execution thereof.



Sworn to before me this 17th  
day of June, 2002.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: 3-08-2009

**EXHIBIT "A"**

[Legal Description]

## EXHIBIT "A"

All those certain pieces, parcels or tracts of land, situate, lying and being in the County of Horry, State of South Carolina in Barefoot Resort, and shown as Parcel V, containing 2.85 acres, and Parcel 1, containing 1.21 acres, on a "Bonded Final Plat of Subdivision of Lot 2 Revised Barefoot Resort" prepared for Silver Carolina Development Company, LLC by DDC Engineers, Inc. dated February 12, 2001 and revised March 26, 2001 and recorded on July 9, 2001 in Horry County in Plat Book 178 at Pages 86/86A; also shown on an As Built Survey and Recombination Plat prepared for Drake Development BF LLC by DDC Engineers, Inc. dated June 3, 2002 and recorded on June 17, 2002 in Plat Book 184 at Page 29 and according to said latter plat having the following metes and bounds to wit:

Beginning at and iron pin at the northwesternmost corner of subject parcel and the "Existing Asphalt Drive", and running along the right of way of Harbor Pointe Drive (66' r/w) N67°02'58"E for a distance of 384.36 feet to a ½ iron pin; thence turning and running along the curve of the right of ways of Harbor Pointe Drive and Bridge View Court (50' r/w), said curve having a chord bearing of S67°57'02"E, a chord distance of 35.36 feet, a radius of 25.00 feet for a distance of 39.27 feet to a point; thence continuing along the right of way of Bridge View Court S22°57'02"E for a total distance of 328.37 feet to a ½ iron pin; thence running along the curve of the right of way of Bridge View Court said curve having a chord bearing of S38°53'59"E, a chord distance of 27.48 feet, a radius of 50.00 feet for a distance of 27.84 feet to a point; thence running along Parcel IX on said plat S02°41'36"E for a distance of 51.47 feet; thence turning and continuing along Parcel IX S67°02'58"W for a distance of 412.09 feet to a point; thence turning and running along "Remainder of Lot 2 and existing asphalt drive" N22°57'02"W for a distance of 124.71 feet to a point; thence turning and continuing along "existing asphalt drive" N67°02'58"E for a distance of 13.00 feet to a point; thence turning and running along "Existing Asphalt Drive N22° 57'02"W for a distance of 303.37 feet to the point of beginning.

Together with all easements in favor of Drake Development BF LLC established in the following easement agreements:

**Pool Construction and Use Easement** between Silver Carolina Development Company, L.L.C., Drake Development BF LLC and Wachovia Bank, N.A., dated July 24, 2001, and recorded in the Horry County Register of Deeds office on July 25, 2001 in Deed Book 2392 at Page 1471.

**Temporary Parking Easement** between Silver Carolina Development Company, L.L.C., Drake Development BF LLC, and Wachovia Bank, N.A., dated July 24, 2001, and recorded in Horry County Register of Deeds office on July 25, 2001 in Deed Book 2393 at Page 1.

**Storm Water Drainage Easement** dated July 24, 2001, by and between Silver Carolina Development Company, L.L.C., and Drake Development BF LLC, and recorded in the Horry County Register of Deeds office on July 25, 2001 in Deed Book 2392 at Page 1484.

**Access Easement** dated June 17, 2002, by and between Silver Carolina Development Company L.L.C. and Drake Development BF LLC recorded in the Horry County Register of Deeds office on June 17, 2002 in Deed Book 249 at Page 89 and described as follows:

Beginning at a 1/2" iron pin on the right of way of Harbor Pointe Drive (66' r/w) and the northeastern boundary of the easement and running along the right of way of Harbor Pointe Drive 37 feet to a calculated point; thence turning and running along Remainder of Lot 2 S22° 57'02"E for a distance of 371.79 feet to a calculated point; thence turning and running N67° 02'58"E for a distance of 24.00 feet to a calculated point; thence turning and running N22° 57'02"W for a distance of 68.39 feet to a calculated point; thence turning and running N 67° 02'58"E for a distance of 13.00 feet to a calculated point; thence turning and running N 22° 57'02"W for a distance of 303.37 feet; to the point of beginning.

EXHIBIT "B"

[Plat & Elevation Certificate]

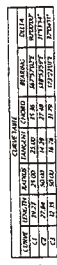
Plat was recorded in the Horry County Register of Deeds on June 17, 2002 in Book 184 at Page 29.

[illegible][illegible]

ROBERT A. PRAEPE	SCPL NO. 17227	DATE
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**SURVEYORS' CERTIFICATION**  
I HEREBY CERTIFY THAT THIS MAP IS TRUE AND CORRECT TO THE ACCURACY REQUIRED BY ARTICLE 1, SECTION 30-30-01, TITLE OF ACCURACY.  
I HEREBY STATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS FOR THE PRACTICE OF SURVEYING IN THE STATE OF ALABAMA, AND MEETS ALL THE REQUIREMENTS FOR A LEGAL SURVEY AS SET FORTH BY THE ALABAMA SURVEYING ACT.  
I FURTHER CERTIFY THAT THERE ARE NO UNFILED ENCUMBRANCES OR PROJECTIONS OTHER THAN SHOWN.

REMAINDER OF  
LOT 2 (FINAL MASTER PLAT)  
FUTURE DEVELOPMENT  
P.B. 16B, PG. 119-119H  
TMS #155-00-01-014



IGN TABLE			
IGN	IGN/T	BEARING	BEARING
11	11.00	50/75	50/75
12	11.00	50/75	50/75

REMAINDER OF  
LOT 2 (FINAL MASTER PLAT)  
FUTURE DEVELOPMENT  
P.B. 168. PG. 119-119H  
TMS #155-00-01-014

PARCEL IX  
135,587.40 sq. ft.  
3.11 ac.  
TMS #156-00-01-006

**CERTIFICATE OF EASEMENT DEDICATION**

GRANTOR	DATE
GRANTOR	DATE
GRANTOR	DATE

PARKING SPACES

**LEGEND**

- CP - COMPUTED POINT  
RF - IRON REBAR FOUND  
RF - IRON REBAR SET  
RF - IRON PIPE FOUND  
RF - IRON PIPE SET  
R/R F - RAILROAD FENCE FOUND  
R/R F - RAILROAD FENCE SET  
C/MF - CONCRETE MONUMENT FOUND  
P - POWER POLE  
P/N - PILE FOUND  
P/N - PILE NAIL SET  
P/N - PILE NAIL SET  
C - CATCH BASIN  
ARM - ARMED VALVE ARMOR  
WV - WATER VALVE  
TF - TELEPHONE FOOTSTAL  
CO - CLEAN OUT  
FH - FIRE HYDRANT



FEDERAL EMERGENCY MANAGEMENT AGENCY  
NATIONAL FLOOD INSURANCE PROGRAM

O.M.B. No. 3067-0077  
Expires July 31, 2002

# ELEVATION CERTIFICATE

Important: Read the instructions on pages 1 - 7.

## SECTION A - PROPERTY OWNER INFORMATION

For Insurance Company Use:

BUILDING OWNER'S NAME

Drake Development

BF LLC

Policy Number 12

BUILDING STREET ADDRESS (including Apt., Unit, Suite, and/or Bldg. No.) OR P.O. ROUTE AND BOX NO.

4801 Harbor Point Road

Company NAIC Number

CITY

North Myrtle Beach,

STATE

SC

ZIP CODE

29582

PROPERTY DESCRIPTION (Lot and Block Numbers, Tax Parcel Number, Legal Description, etc.)

TMS # 156-00-01-008 and 156-00-01-009

BUILDING USE (e.g., Residential, Non-residential, Addition, Accessory, etc. Use Comments section if necessary.)

Residential

LATITUDE/LONGITUDE (OPTIONAL)

(##° - ##' - ###" or #####)

HORIZONTAL DATUM:

☐ NAD 1927 ☐ NAD 1983

SOURCE: ☐ GPS (Type):

☐ USGS Quad Map

☐ Other:

## SECTION B - FLOOD INSURANCE RATE MAP (FIRM) INFORMATION

B1. NFIP COMMUNITY NAME & COMMUNITY NUMBER

Horry 450104

B2. COUNTY NAME

Horry

B3. STATE

South Carolina

B4. MAP AND PANEL  
NUMBER  
45051C0567

B5. SUFFIX  
H

B6. FIRM INDEX DATE  
8/23/99

B7. FIRM PANEL  
EFFECTIVE/REVISED DATE  
8/23/99

B8. FLOOD ZONE(S)  
"X"

B9. BASE FLOOD ELEVATION(S)  
(Zone AO, use depth of flooding)  
N/A

B10. Indicate the source of the Base Flood Elevation (BFE) data or base flood depth entered in B9.

☐ FIS Profile ☐ FIRM ☐ Community Determined

☐ Other (Describe):

B11. Indicate the elevation datum used for the BFE in B9: ☒ NGVD 1929

☐ NAVD 1988 ☐ Other (Describe):

B12. Is the building located in a Coastal Barrier Resources System (CBRS) area or Otherwise Protected Area (OPA)? ☐ Yes ☒ No Designation Date

## SECTION C - BUILDING ELEVATION INFORMATION (SURVEY REQUIRED)

C1. Building elevations are based on: ☐ Construction Drawings\* ☐ Building Under Construction\* ☒ Finished Construction

\*A new Elevation Certificate will be required when construction of the building is complete.

C2. Building Diagram Number 1 (Select the building diagram most similar to the building for which this certificate is being completed - see pages 6 and 7. If no diagram accurately represents the building, provide a sketch or photograph.)

C3. Elevations - Zones A1-A30, AE, AH, A (with BFE), VE, V1-V30, V (with BFE), AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO

Complete Items C3a-i below according to the building diagram specified in Item C2. State the datum used. If the datum is different from the datum used for the BFE in Section B, convert the datum to that used for the BFE. Show field measurements and datum conversion calculation. Use the space provided or the Comments area of Section D or Section G, as appropriate, to document the datum conversion.

Datum N/A Conversion/Comments N/A

Elevation reference mark us Local on Local on Site Does the elevation reference mark used appear on the FIRM? ☐ Yes ☒ No

O a) Top of bottom floor (including basement or enclosure) 21.1 ft.(m)

O b) Top of next higher floor 30.3 ft.(m)

O c) Bottom of lowest horizontal structural member (V zones only) N/A ft.(m)

O d) Attached garage (top of slab) N/A ft.(m)

O e) Lowest elevation of machinery and/or equipment servicing the building 21.0 ft.(m)

O f) Lowest adjacent grade (LAG) 19.8 ft.(m)

O g) Highest adjacent grade (HAG) 21.3 ft.(m)

O h) No. of permanent openings (flood vents) within 1 ft. above adjacent grade N/A

O i) Total area of all permanent openings (flood vents) in C3h N/A sq. in. (sq. cm)

License Number, Embossed Seal,  
Signature, and Date

*Robert A. Praete*  
8/11/02

## SECTION D - SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION

This certification is to be signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information.

I certify that the information in Sections A, B, and C on this certificate represents my best efforts to interpret the data available.

I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1001.

CERTIFIER'S NAME Robert A. Praete

LICENSE NUMBER SC# 17227

TITLE Land Surveyor

COMPANY NAME DDC Engineers, Inc.

ADDRESS 1298 Professional Drive

CITY Myrtle Beach,

STATE SC

ZIP CODE 29577

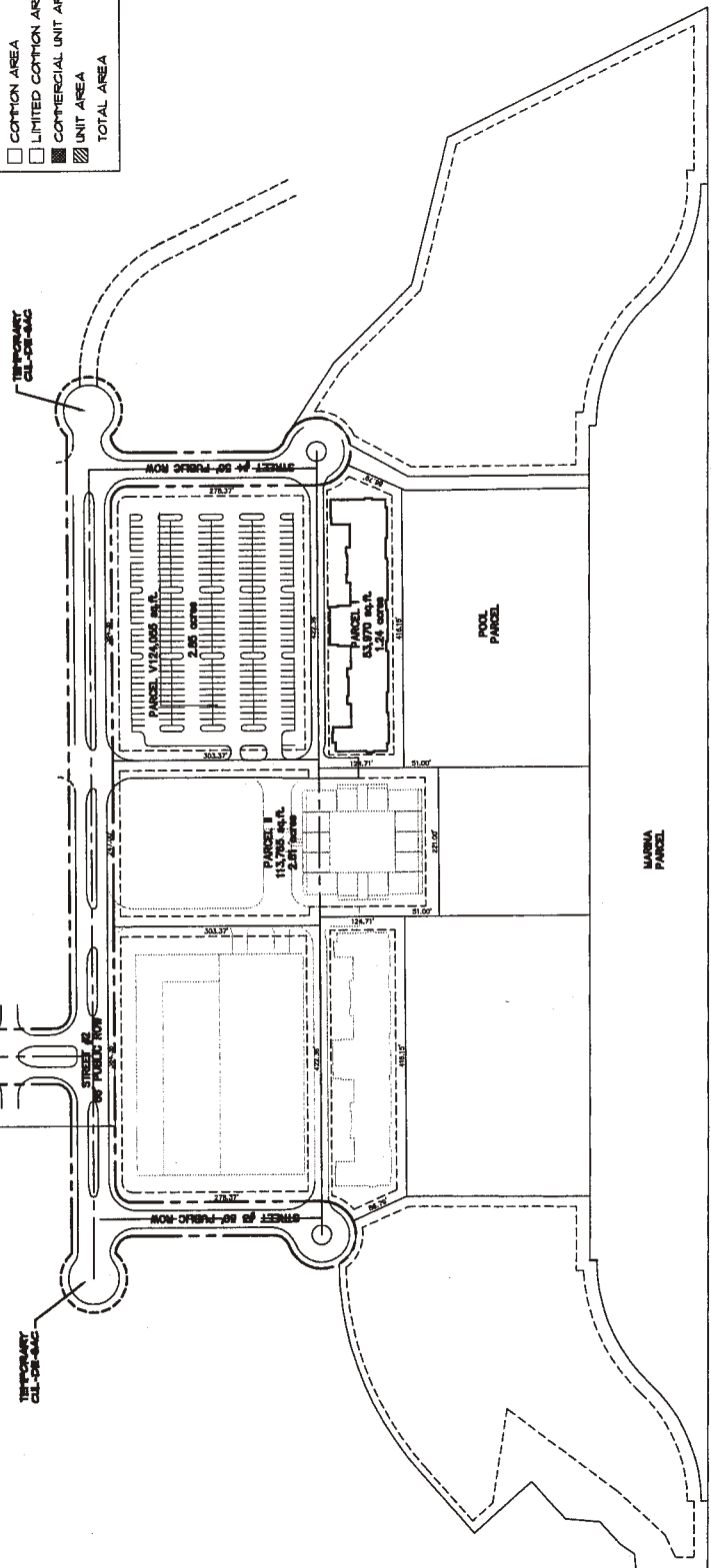
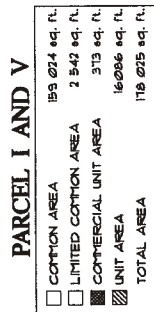
SIGNATURE

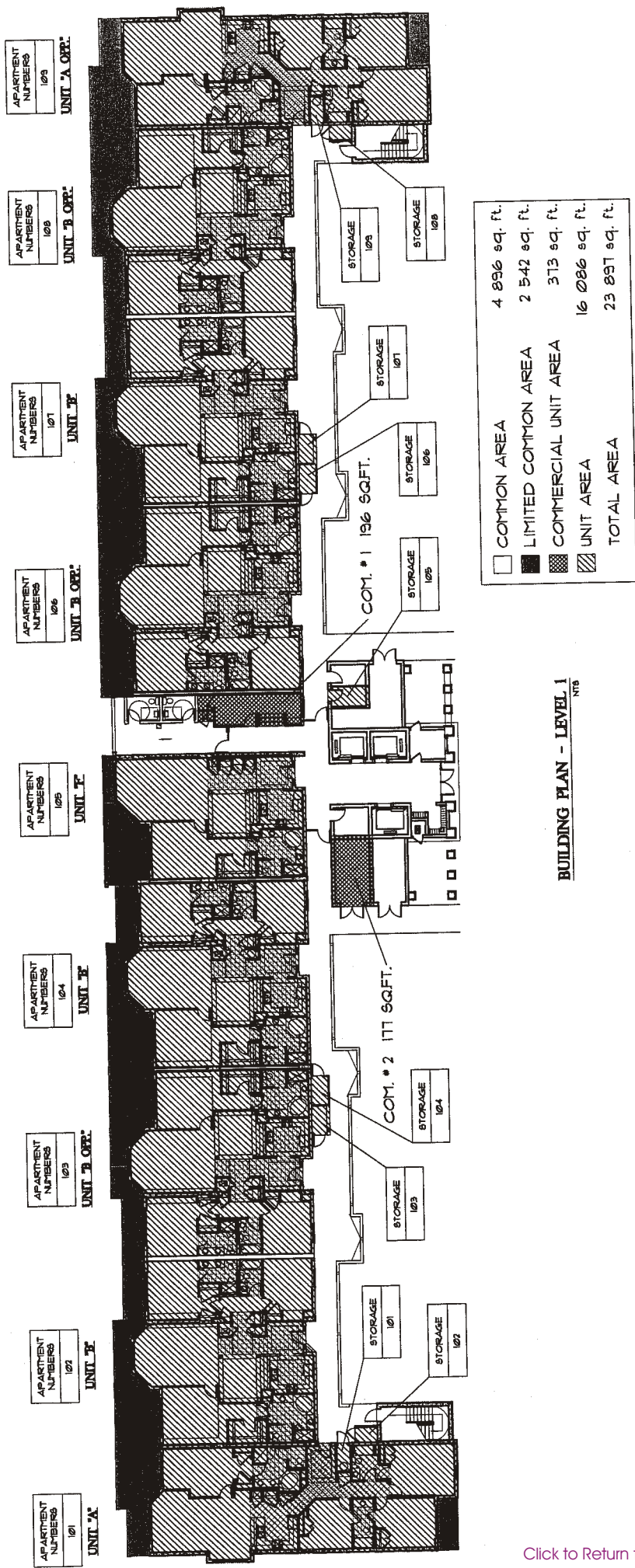
DATE 6/17/02

TELEPHONE (843)692-3200

## **EXHIBIT "C"**

Plot Plans, consisting of  
(Site Plans, Building Plans, Elevations  
and Floor Plans of Buildings)





BUILDING PLAN - LEVEL 1  
NTS

APARTMENT  
NUMBERS  
203  
UNIT 'A OFF.'

APARTMENT  
NUMBERS  
208  
UNIT 'B OFF.'

APARTMENT  
NUMBERS  
207  
UNIT 'F'

APARTMENT  
NUMBERS  
206  
UNIT 'B OFF.'

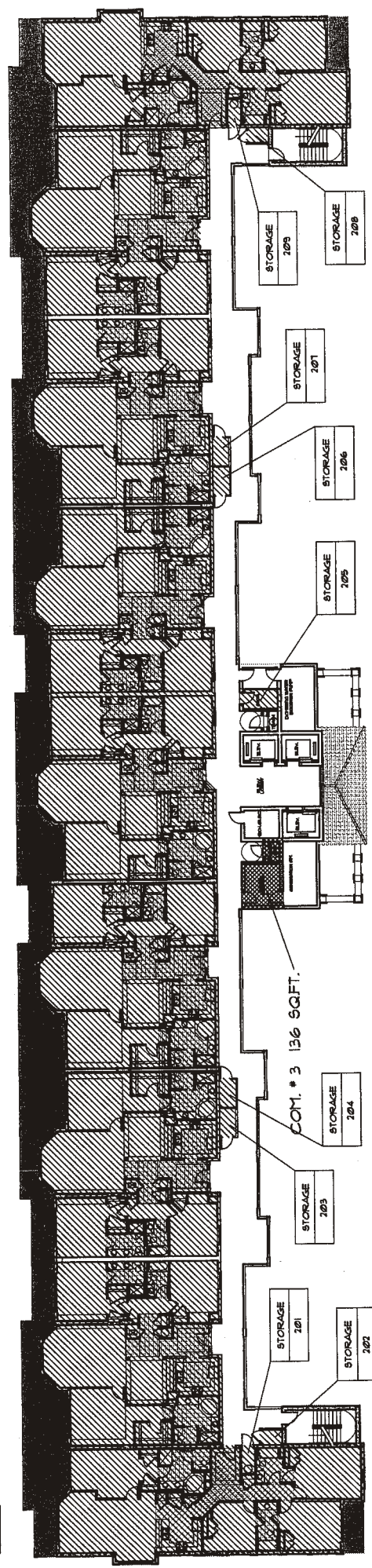
APARTMENT  
NUMBERS  
205  
UNIT 'B-F'

APARTMENT  
NUMBERS  
204  
UNIT 'F'

APARTMENT  
NUMBERS  
203  
UNIT 'B OFF.'

APARTMENT  
NUMBERS  
202  
UNIT 'F'

APARTMENT  
NUMBERS  
201  
UNIT 'A'



COMMON AREA	4 126 sq. ft.
LIMITED COMMON AREA	2 623 sq. ft.
COMMERCIAL UNIT AREA	136 sq. ft.
UNIT AREA	16 809 sq. ft.
TOTAL AREA	23 664 sq. ft.

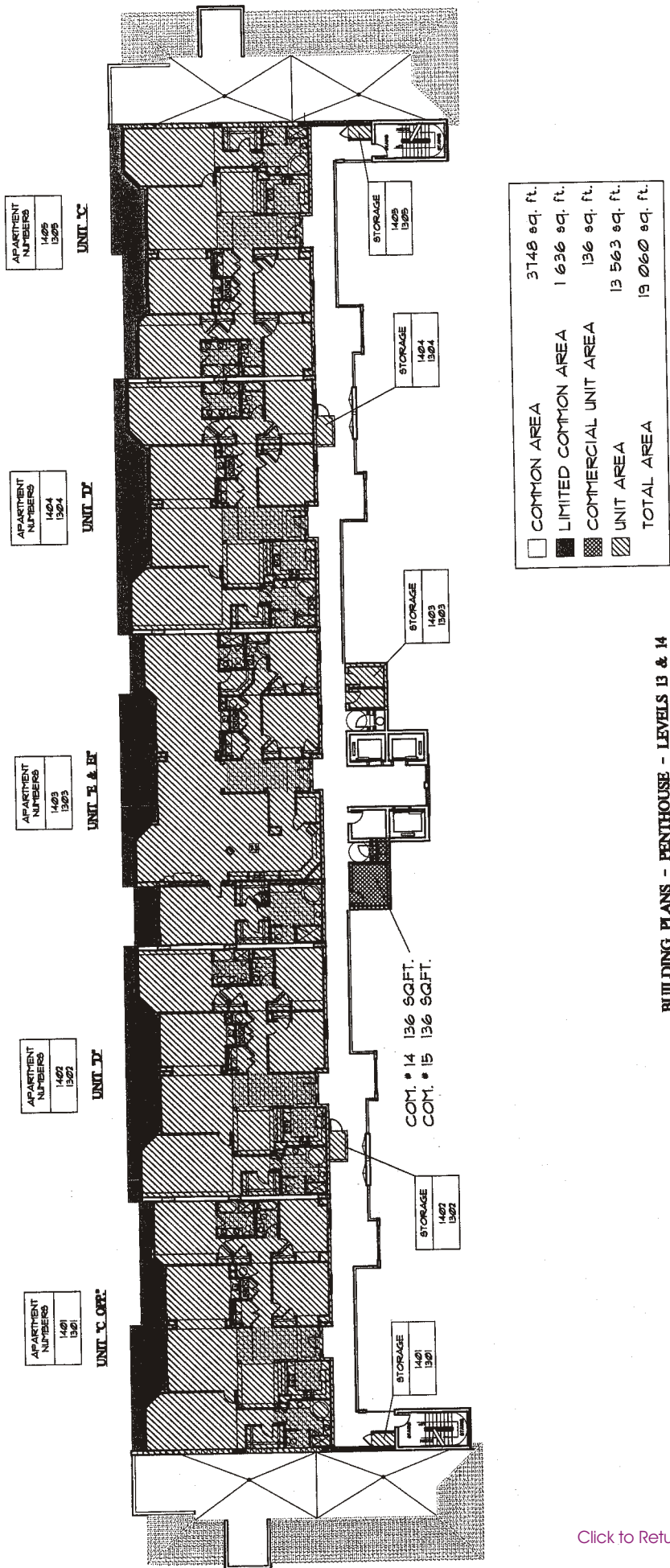
BUILDING PLAN - LEVEL 2  
N16





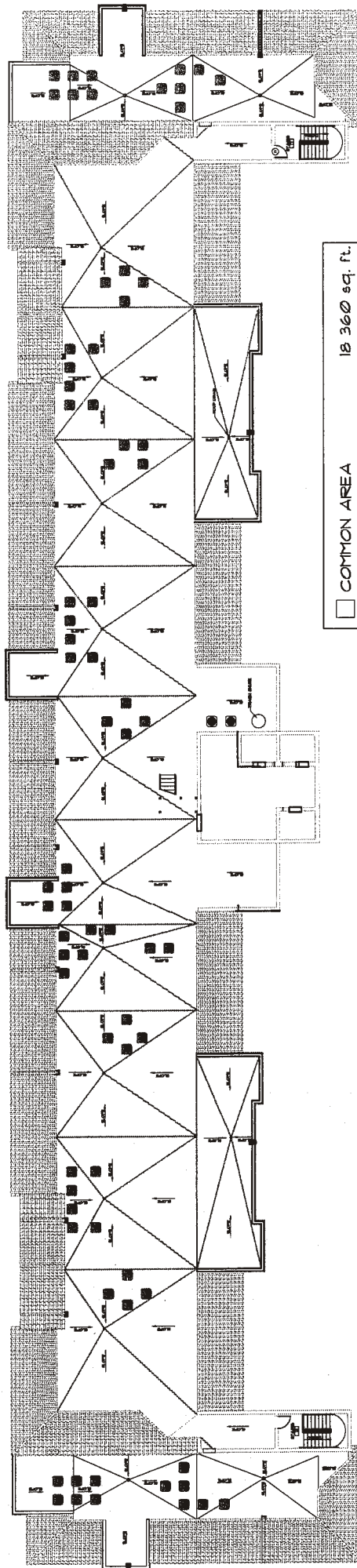






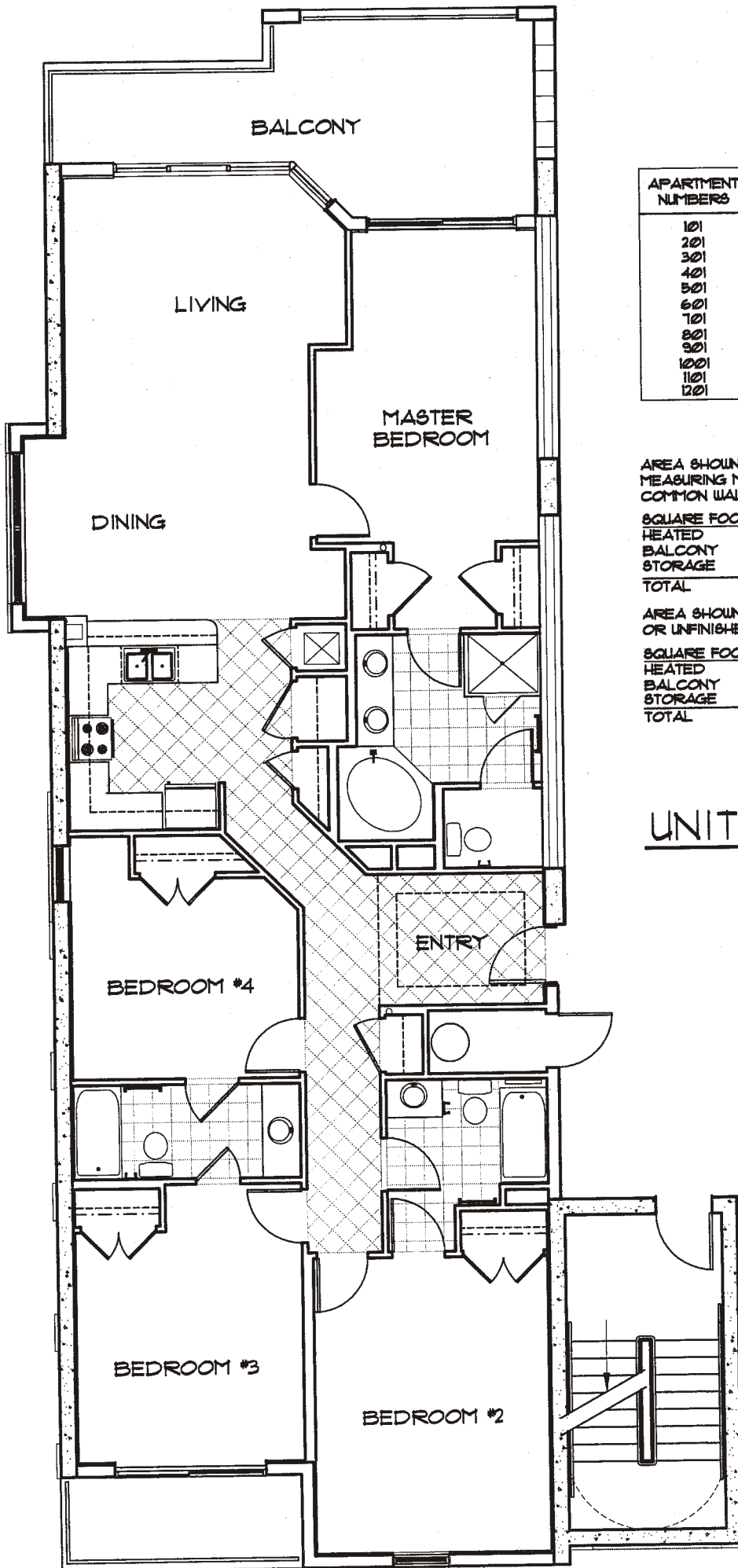
**BUILDING PLANS - PENTHOUSE - LEVELS 13 & 14**

RTS



COMMON AREA	18 360 sq. ft.
LIMITED COMMON AREA	100 sq. ft.
COMMERCIAL AREA	0 sq. ft.
UNIT AREA	0 sq. ft.
TOTAL AREA	19 060 sq. ft.

MAIN ROOF PLAN NTS



APARTMENT NUMBERS
101
201
301
401
501
601
701
801
901
1001
1101
1201

AREA SHOWN USING STANDARD ARCHITECTURAL  
MEASURING METHODS (FROM CENTER OF INTERIOR  
COMMON WALL TO OUTSIDE OF EXTERIOR WALL)

SQUARE FOOTAGE:	
HEATED	1811
BALCONY	240
STORAGE	29
TOTAL	2086

AREA SHOWN BY CALCULATING FROM UNDECORATED  
OR UNFINISHED INTERIOR OF PERIMETER WALLS.

SQUARE FOOTAGE:	
HEATED	1730
BALCONY	240
STORAGE	29
TOTAL	1999

## UNIT "A" FLOOR PLAN



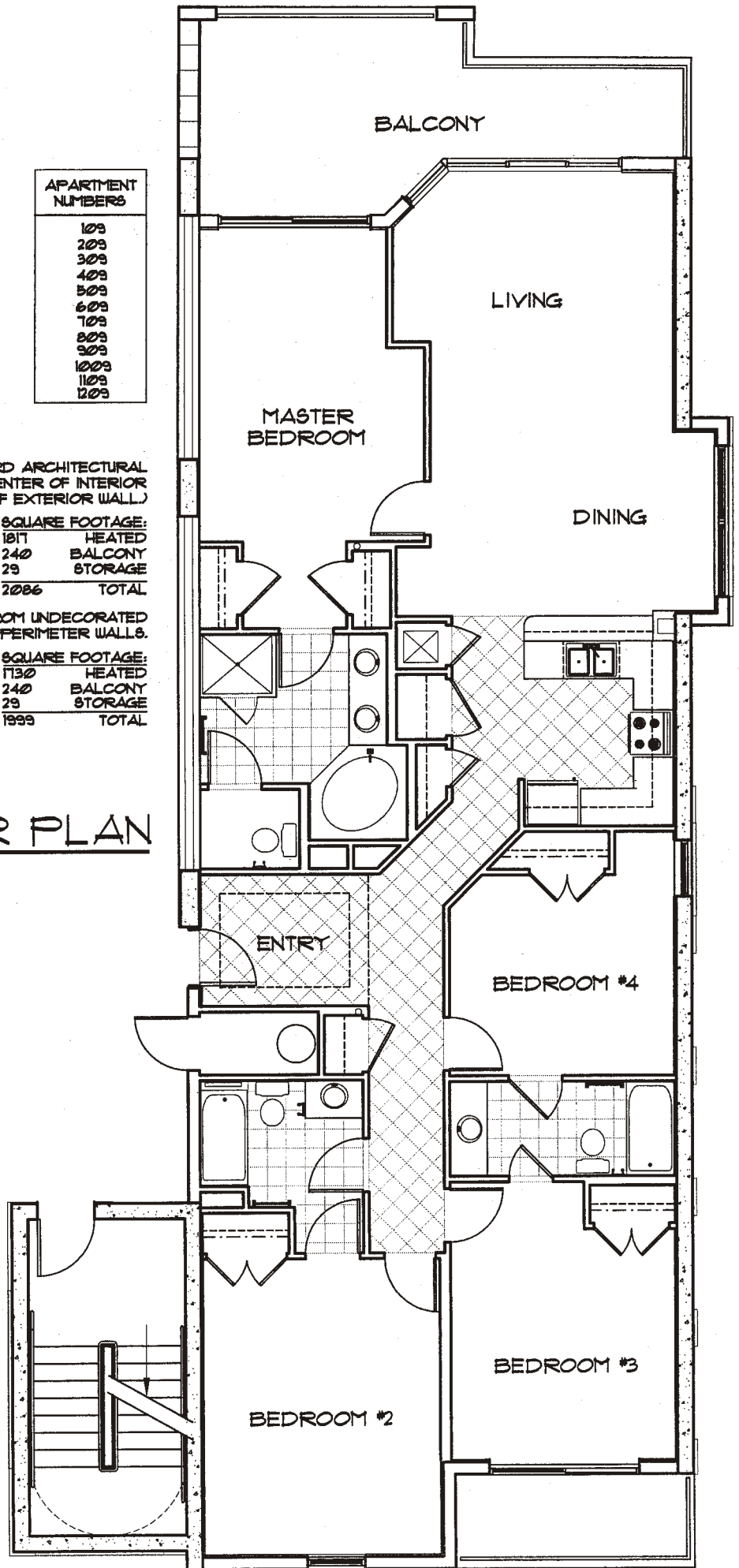
APARTMENT NUMBERS
109
209
309
409
509
609
709
809
909
1009
1109
1209

AREA SHOWN USING STANDARD ARCHITECTURAL  
MEASURING METHODS (FROM CENTER OF INTERIOR  
COMMON WALL TO OUTSIDE OF EXTERIOR WALL.)

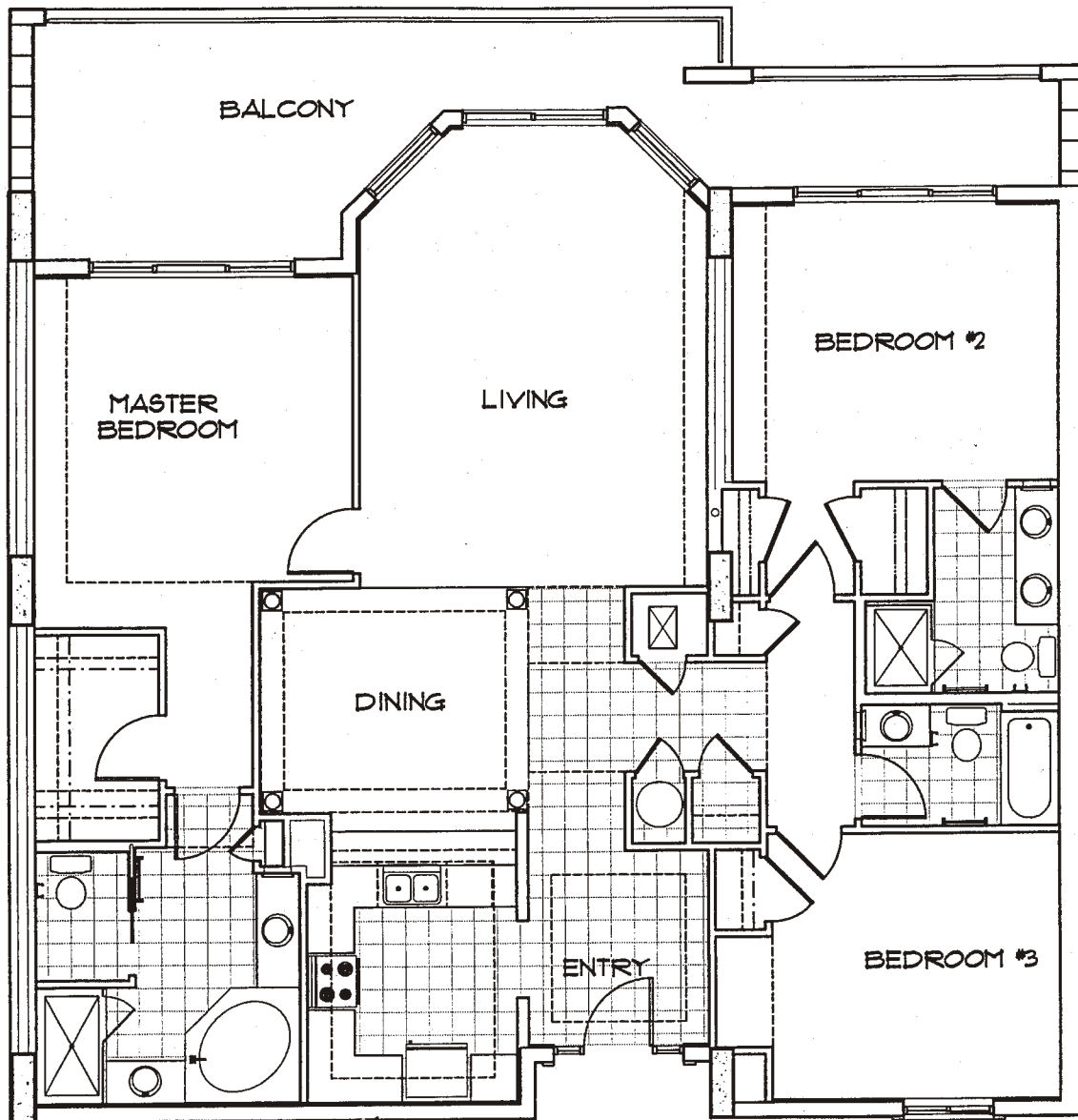
SQUARE FOOTAGE:	
1817	HEATED
240	BALCONY
29	STORAGE
2086	TOTAL

AREA SHOWN BY CALCULATING FROM UNDECORATED  
OR UNFINISHED INTERIOR OF PERIMETER WALLS.

SQUARE FOOTAGE:	
1730	HEATED
240	BALCONY
29	STORAGE
1999	TOTAL



# UNIT "A" OPP. FLOOR PLAN



AREA SHOWN USING STANDARD ARCHITECTURAL MEASURING METHODS (FROM CENTER OF INTERIOR COMMON WALL TO OUTSIDE OF EXTERIOR WALL)

SQUARE FOOTAGE:  
 HEATED 1830  
 BALCONY 317  
 STORAGE 33  
 TOTAL 2180

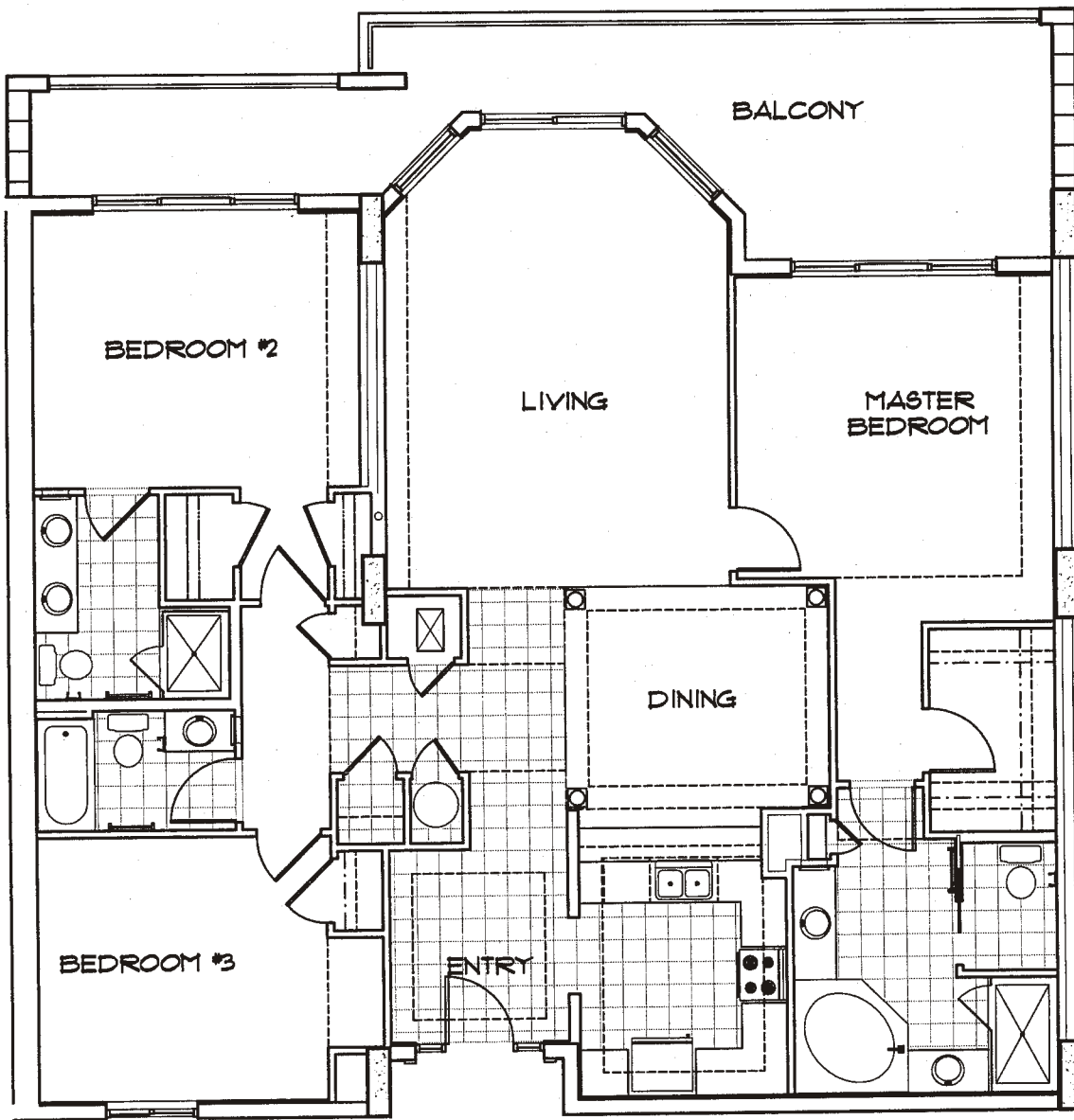
AREA SHOWN BY CALCULATING FROM UNDECORATED OR UNFINISHED INTERIOR OF PERIMETER WALLS.

SQUARE FOOTAGE:  
 HEATED 1701  
 BALCONY 317  
 STORAGE 33  
 TOTAL 2051

APARTMENT NUMBERS		
102	104	107
202	204	207
302	304	307
402	404	407
502	504	507
602	604	607
702	704	707
802	804	807
902	904	907
1002	1004	1007
1102	1104	1107
1202	1204	1207

## UNIT "B" FLOOR PLAN





AREA SHOWN USING STANDARD ARCHITECTURAL MEASURING METHODS (FROM CENTER OF INTERIOR COMMON WALL TO OUTSIDE OF EXTERIOR WALL)

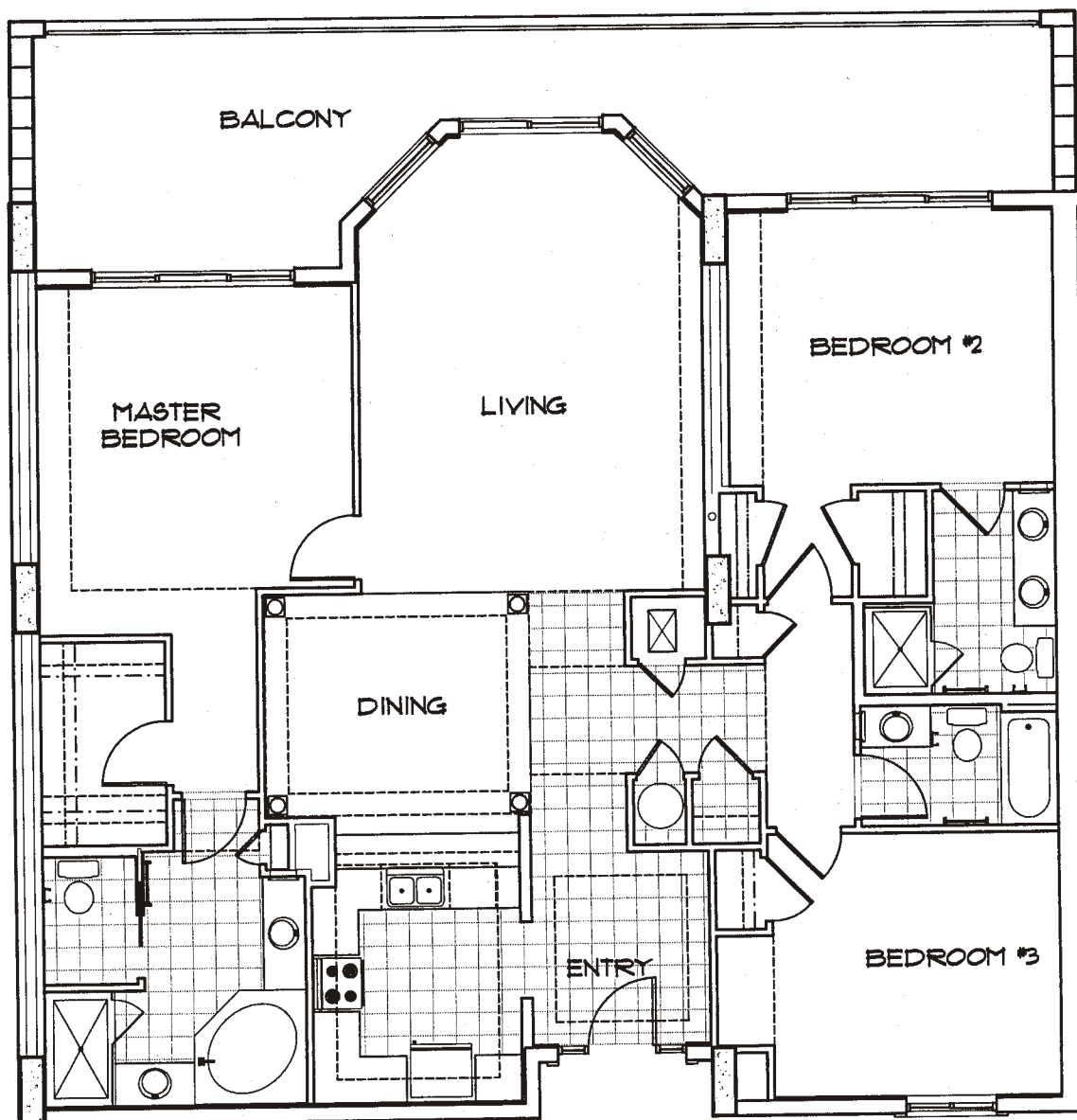
SQUARE FOOTAGE:  
HEATED 1830  
BALCONY 317  
STORAGE 33  
TOTAL 2180

AREA SHOWN BY CALCULATING FROM UNDECORATED OR UNFINISHED INTERIOR OF PERIMETER WALLS.

SQUARE FOOTAGE:  
HEATED 1701  
BALCONY 317  
STORAGE 33  
TOTAL 2051

APARTMENT NUMBERS		
103	106	108
203	206	208
303	306	308
403	406	408
503	506	508
603	606	608
703	706	708
803	806	808
903	906	908
1003	1006	1008
1103	1106	1108
1203	1206	1208

UNIT "B" OPP. FLOOR PLAN



AREA SHOWN USING STANDARD ARCHITECTURAL  
MEASURING METHODS (FROM CENTER OF INTERIOR  
COMMON WALL TO OUTSIDE OF EXTERIOR WALL.)

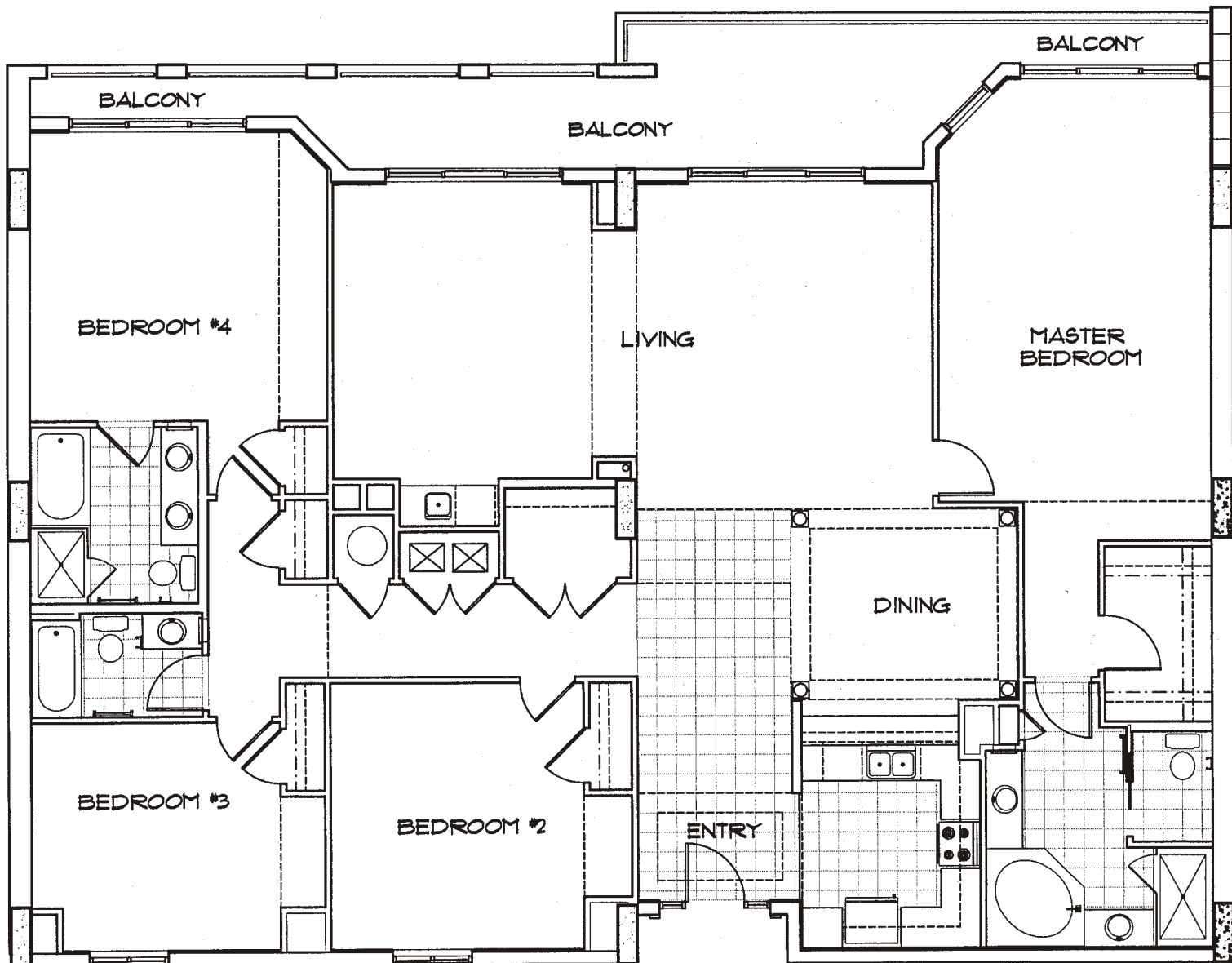
SQUARE FOOTAGE:	
HEATED	1830
BALCONY	355
STORAGE	33
TOTAL	2218

AREA SHOWN BY CALCULATING FROM UNDECORATED  
OR UNFINISHED INTERIOR OF PERIMETER WALLS.

SQUARE FOOTAGE:	
HEATED	1701
BALCONY	355
STORAGE	33
TOTAL	2089

APARTMENT NUMBERS
205
305
405
505
605
705
805
905
1005
1105
1205

## UNIT "B-1" FLOOR PLAN



AREA SHOWN USING STANDARD ARCHITECTURAL  
MEASURING METHODS (FROM CENTER OF INTERIOR  
COMMON WALL TO OUTSIDE OF EXTERIOR WALL)

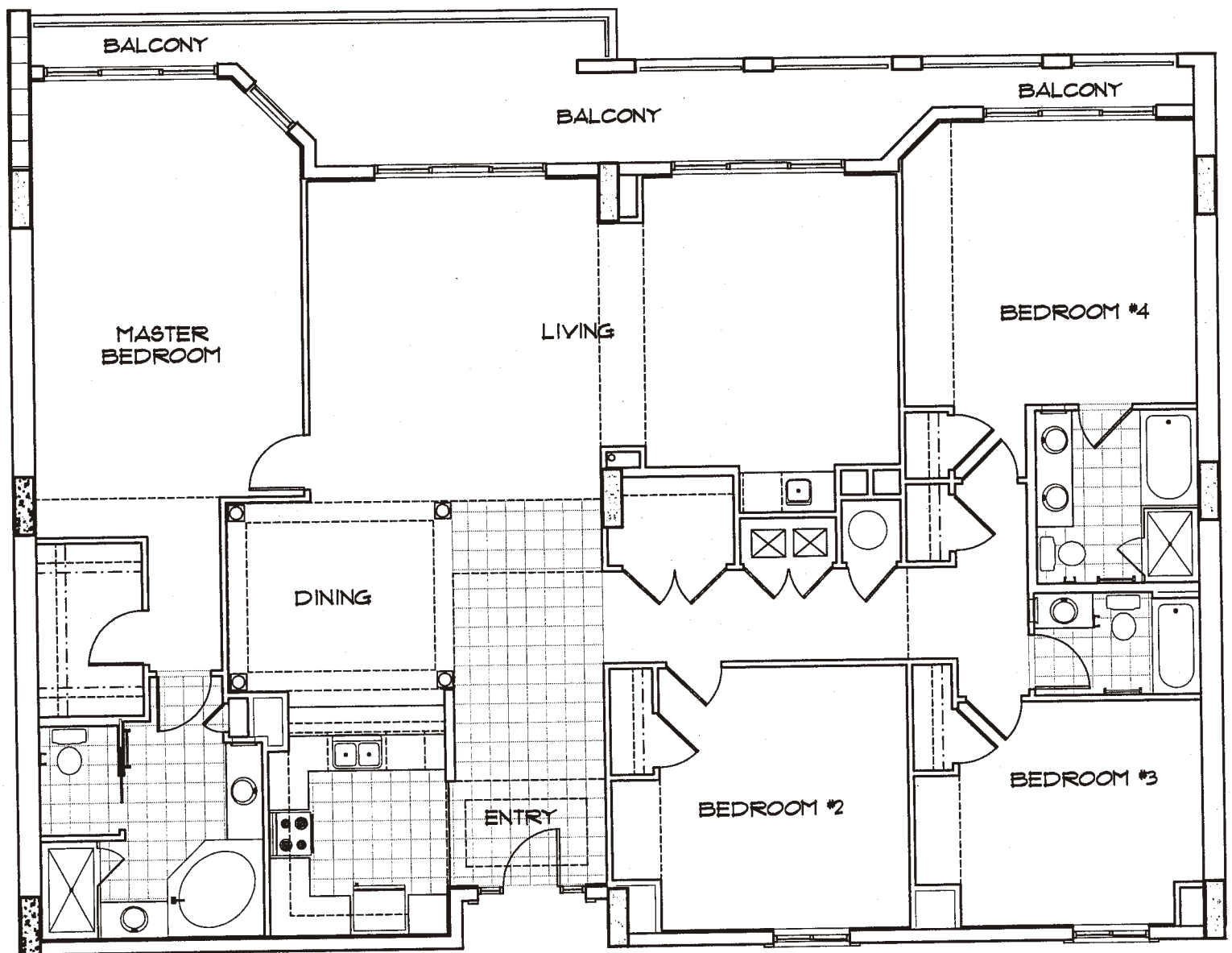
SQUARE FOOTAGE:	
HEATED	2603
BALCONY	268
STORAGE	43
TOTAL	2914

AREA SHOWN BY CALCULATING FROM UNDECORATED  
OR UNFINISHED INTERIOR OF PERIMETER WALLS.

SQUARE FOOTAGE:	
HEATED	2441
BALCONY	268
STORAGE	43
TOTAL	2752

APARTMENT NUMBERS
1305
1405

## UNIT "C" FLOOR PLAN



AREA SHOWN USING STANDARD ARCHITECTURAL  
MEASURING METHODS (FROM CENTER OF INTERIOR  
COMMON WALL TO OUTSIDE OF EXTERIOR WALL)

SQUARE FOOTAGE:  
HEATED 2603  
BALCONY 268  
STORAGE 43  
TOTAL 2914

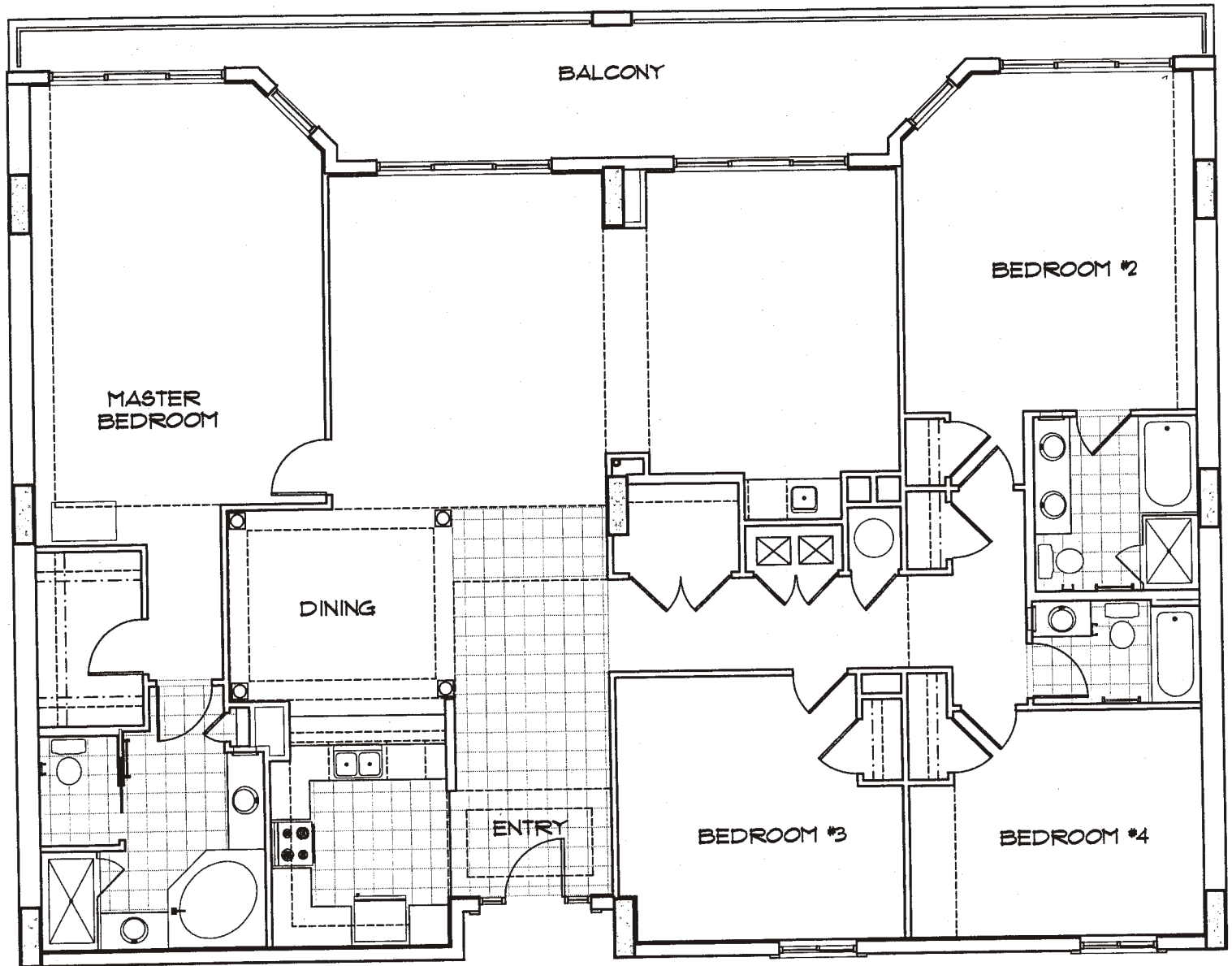
AREA SHOWN BY CALCULATING FROM UNDECORATED  
OR UNFINISHED INTERIOR OF PERIMETER WALLS.

SQUARE FOOTAGE:  
HEATED 2441  
BALCONY 268  
STORAGE 43  
TOTAL 2752

APARTMENT  
NUMBERS

1301  
1401

UNIT "C" OPP. FLOOR PLAN



AREA SHOWN USING STANDARD ARCHITECTURAL  
MEASURING METHODS (FROM CENTER OF INTERIOR  
COMMON WALL TO OUTSIDE OF EXTERIOR WALL)

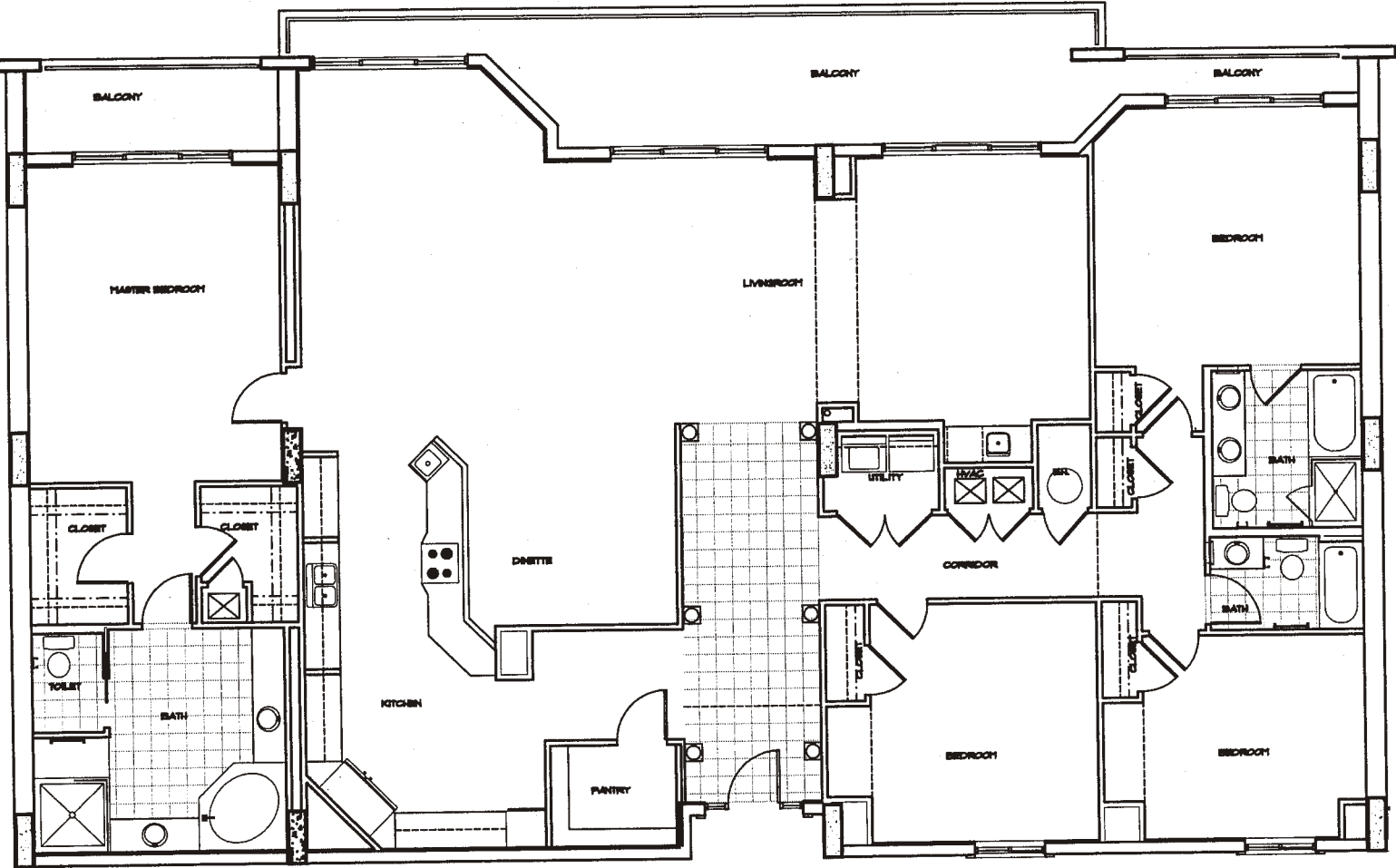
SQUARE FOOTAGE:  
HEATED 2624  
BALCONY 310  
STORAGE 43  
TOTAL 2977

AREA SHOWN BY CALCULATING FROM UNDECORATED  
OR UNFINISHED INTERIOR OF PERIMETER WALLS.

SQUARE FOOTAGE:  
HEATED 2478  
BALCONY 310  
STORAGE 43  
TOTAL 2831

APARTMENT NUMBERS
1302
1304
1402
1404

## UNIT "D" FLOOR PLAN



AREA SHOWN USING STANDARD ARCHITECTURAL MEASURING METHODS (FROM CENTER OF INTERIOR COMMON WALL TO OUTSIDE OF EXTERIOR WALL)

SQUARE FOOTAGE:	
HEATED	3228
BALCONY	408
STORAGE	43
TOTAL	3679

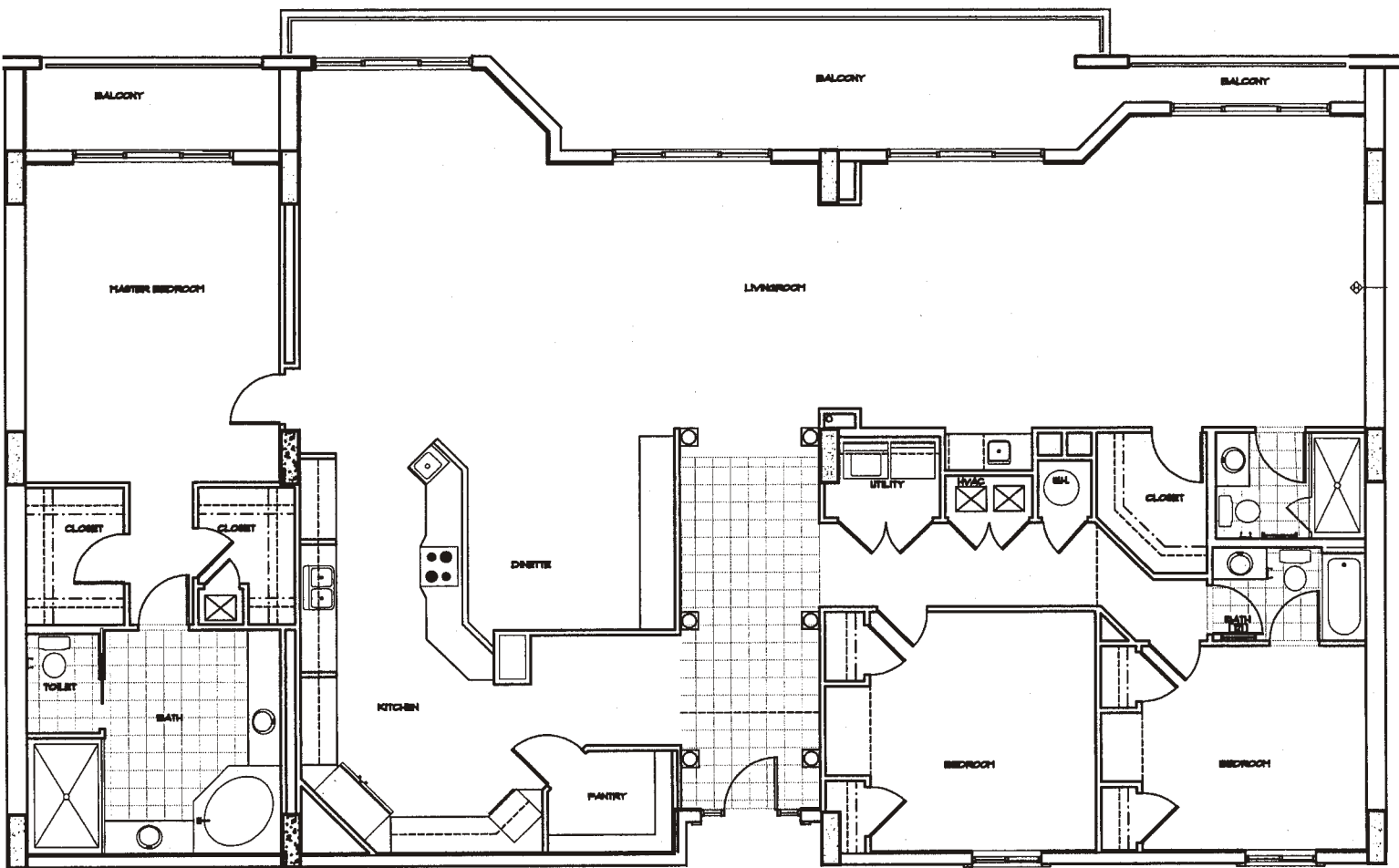
AREA SHOWN BY CALCULATING FROM UNDECORATED OR UNFINISHED INTERIOR OF PERIMETER WALLS.

SQUARE FOOTAGE:	
HEATED	3045
BALCONY	408
STORAGE	43
TOTAL	3496

APARTMENT NUMBERS
1303

UNIT "E" FLOOR PLAN





AREA SHOWN USING STANDARD ARCHITECTURAL MEASURING METHODS (FROM CENTER OF INTERIOR COMMON WALL TO OUTSIDE OF EXTERIOR WALL.)

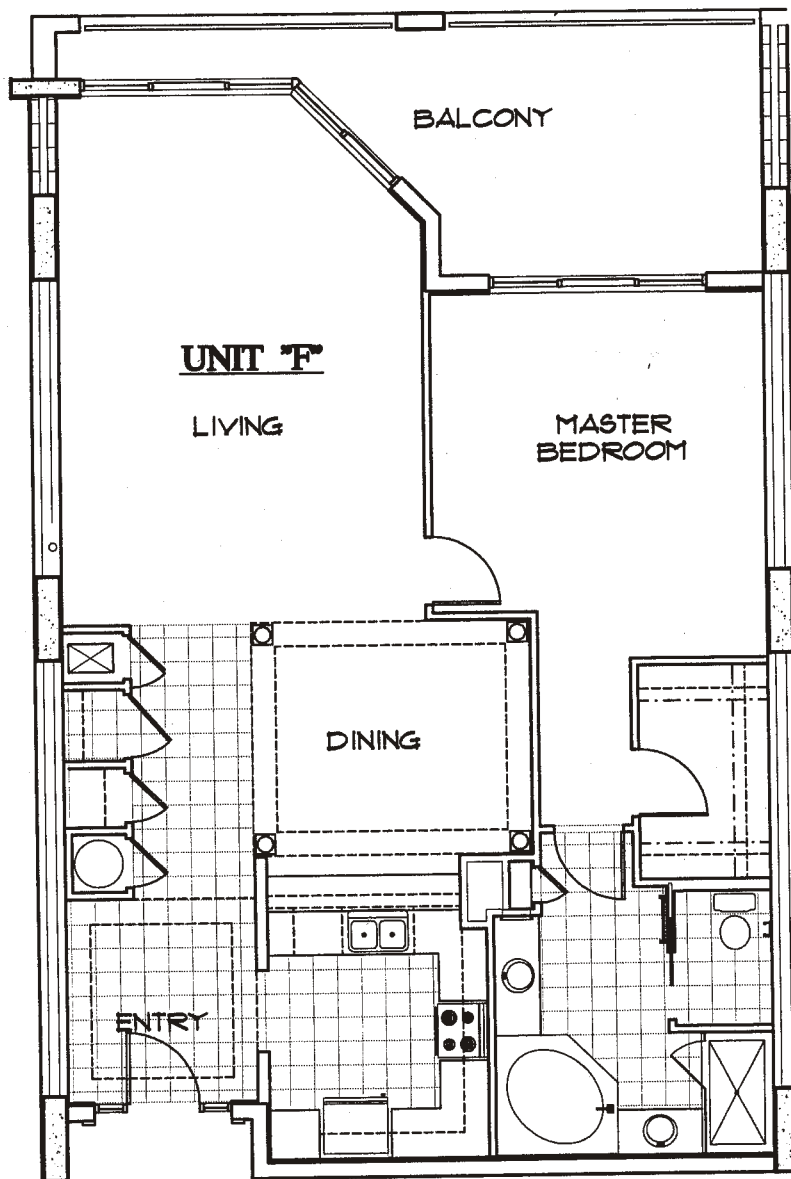
SQUARE FOOTAGE:	
HEATED	3228
BALCONY	408
STORAGE	43
TOTAL	3679

AREA SHOWN BY CALCULATING FROM UNDECORATED OR UNFINISHED INTERIOR OF PERIMETER WALLS.

SQUARE FOOTAGE:	
HEATED	3045
BALCONY	408
STORAGE	43
TOTAL	3496

APARTMENT NUMBERS
1403

UNIT "E 1" FLOOR PLAN



AREA SHOWN USING STANDARD ARCHITECTURAL  
MEASURING METHODS (FROM CENTER OF INTERIOR  
COMMON WALL TO OUTSIDE OF EXTERIOR WALL)

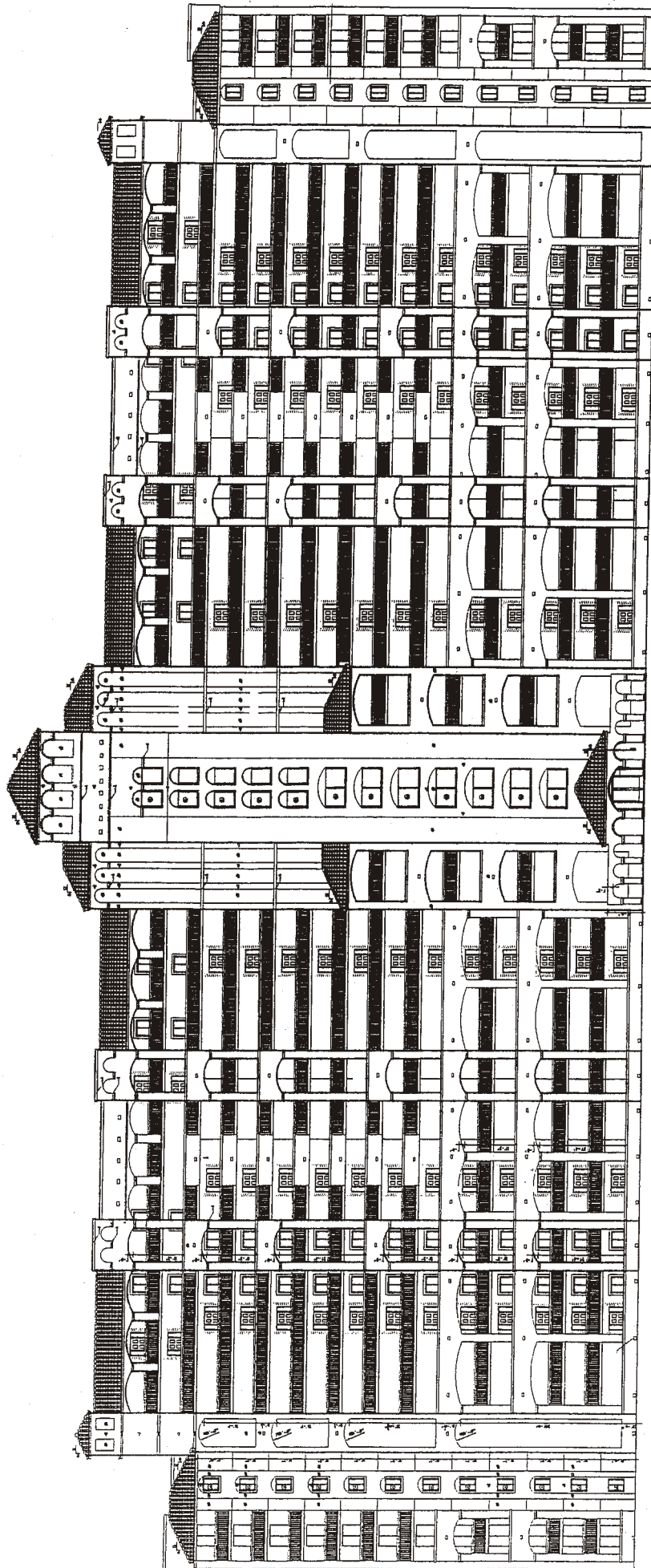
SQUARE FOOTAGE:	
HEATED	1250
BALCONY	186
STORAGE	33
<b>TOTAL</b>	<b>1469</b>

AREA SHOWN BY CALCULATING FROM UNDECORATED  
OR UNFINISHED INTERIOR OF PERIMETER WALLS.

SQUARE FOOTAGE:	
HEATED	1152
BALCONY	186
STORAGE	33
<b>TOTAL</b>	<b>1371</b>

APARTMENT NUMBERS
105

## UNIT "F" FLOOR PLAN



1. PRELIMINARY BUILDING ELEVATION - WEST SIDE  
ASB 2007.11.16

APARTMENT NUMBERS	
1403	1303

APARTMENT NUMBERS	
1402	1302

APARTMENT NUMBERS	
1401	1301

APARTMENT NUMBERS	
1404	1304

APARTMENT NUMBERS	
1405	1305

APARTMENT NUMBERS	
1205	1105
1005	905
805	705
605	505
405	305
205	105

APARTMENT NUMBERS	
1206	1106
1006	906
806	706
606	506
406	306
206	106

APARTMENT NUMBERS	
1207	1107
1007	907
807	707
607	507
407	307
207	107

APARTMENT NUMBERS	
1208	1108
1008	908
808	708
608	508
408	308
208	108

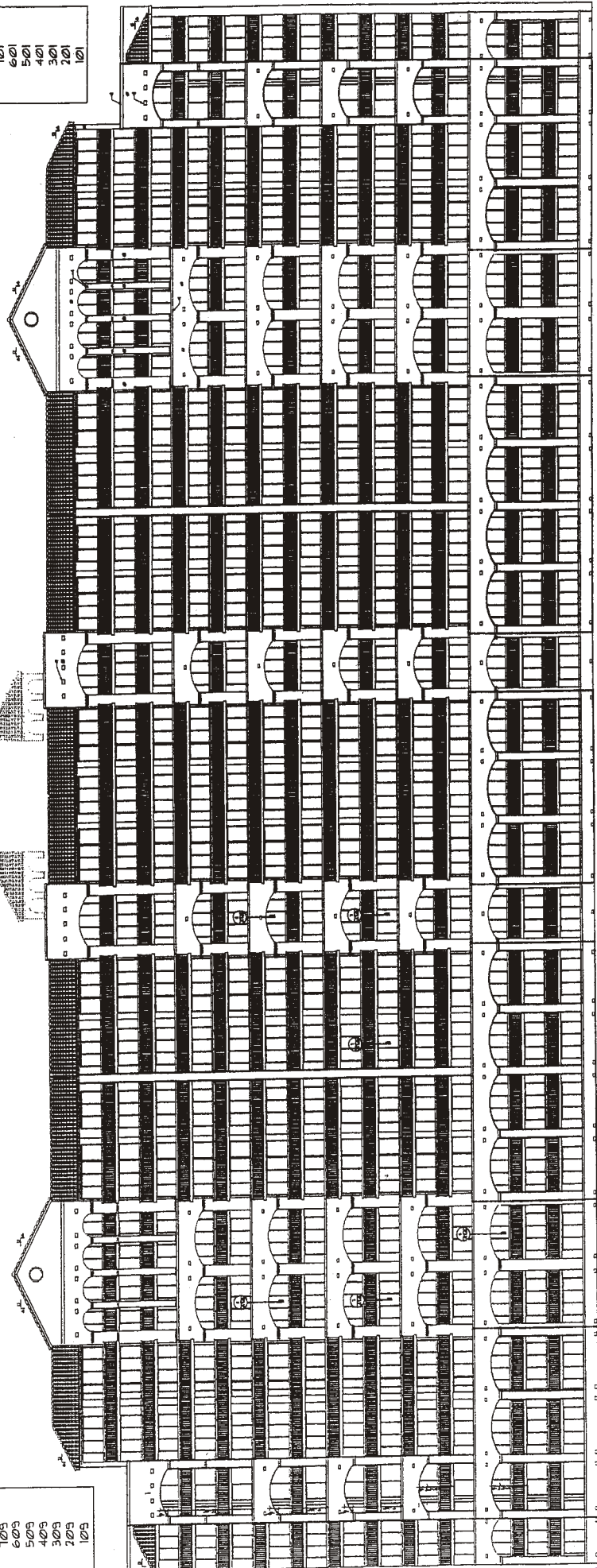
APARTMENT NUMBERS	
1204	1104
1004	904
804	704
604	504
404	304
204	104

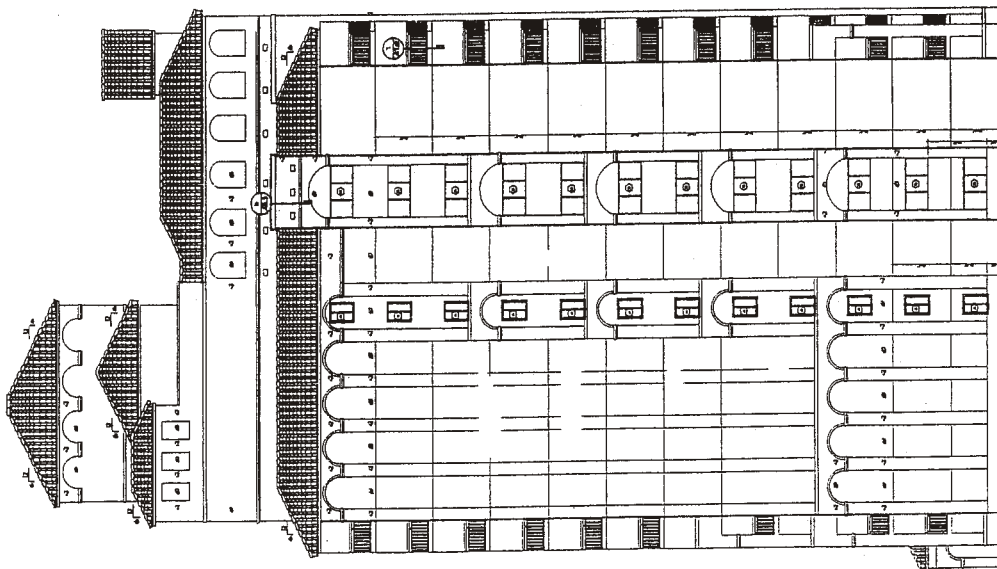
APARTMENT NUMBERS	
1203	1103
1003	903
803	703
603	503
403	303
203	103

APARTMENT NUMBERS	
1202	1102
1002	902
802	702
602	502
402	302
202	102

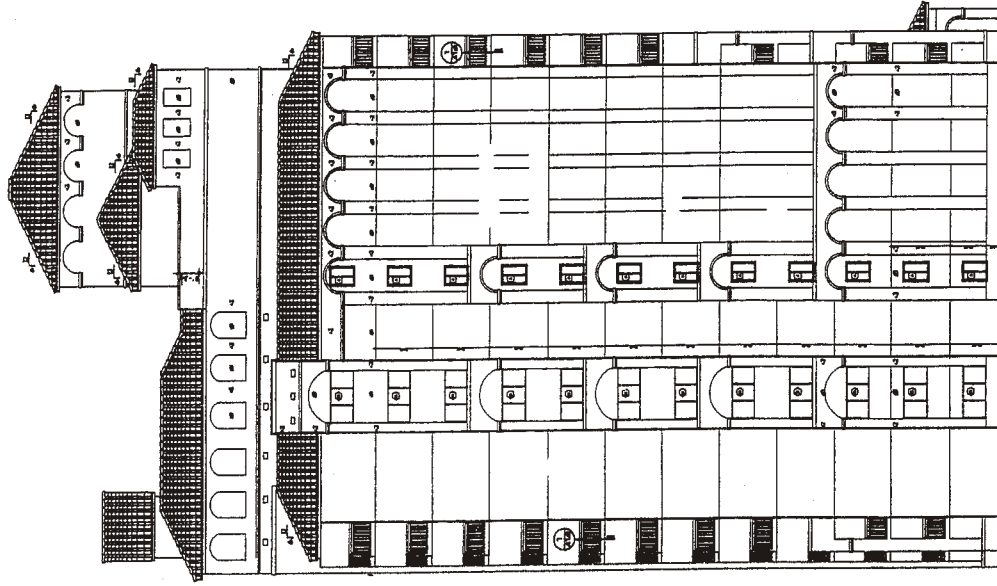
APARTMENT NUMBERS	
1201	1101
1001	901
801	701
601	501
401	301
201	101

APARTMENT NUMBERS	
1209	1109
1009	909
809	709
609	509
409	309
209	109





03 PRELIMINARY BUILDING ELEVATION - SOUTH SIDE  
2011.02.17



04 PRELIMINARY BUILDING ELEVATION - NORTH SIDE  
2011.02.17

## **EXHIBIT "D"**

[see separate document]



# EXHIBIT "D"

Type of Unit	Qty	Basic Value by Unit		Percentage of Ownership	
101, 109, 201, 209, 301, 309, 401, 409, 501, 509, 601, 609, 701, 709, 801, 809, 901, 909, 1001, 1009, 1101, 1109, 1201, 1209	24	\$	222,643.78	\$ 5,343,450.60	<b>0.00815545</b> 0.1957
102, 103, 104, 107, 108, 202, 203, 204, 206, 207, 208, 302, 303, 304, 306, 307, 308, 402, 403, 404, 406, 407, 408, 502, 503, 504, 506, 507, 508, 602, 603, 604, 606, 607, 608, 702, 703, 704, 706, 707, 708, 802, 803, 804, 806, 807, 808, 902, 903, 904, 906, 907, 908, 1002, 1003, 1004, 1006, 1007, 1008, 1102, 1103, 1104, 1106, 1107, 1108, 1202, 1203, 1204, 1206, 1207, 1208	71	\$	219,479.42	\$ 15,583,039.08	<b>0.00803954</b> 0.5708
105, 205, 305, 405, 505, 605, 705, 805, 905, 1005, 1105, 1205	12	\$	219,479.42	\$ 2,633,753.08	<b>0.00803954</b> 0.0965
1301, 1305, 1401, 1405	4	\$	315,169.41	\$ 1,260,677.66	<b>0.01154467</b> 0.0462
1303, 1403	2	\$	390,860.70	\$ 781,721.41	<b>0.01431724</b> 0.0286
1302, 1304, 1402, 1404	4	\$	319,093.21	\$ 1,276,372.84	<b>0.01168840</b> 0.0468
106	1	\$	149,990.26	\$ 149,990.26	<b>0.00549415</b> 0.0055
Com #1	1	\$	24,808.52	\$ 24,808.52	<b>0.00090874</b> 0.0009
Com #2	1	\$	22,403.61	\$ 22,403.61	<b>0.00082065</b> 0.0008
Com #3, #4, #5, #6, #7, #8, #9, #10, #11, #12, #13, #14, #15	13	\$	17,214.07	\$ 223,782.94	<b>0.00063055</b> 0.0082
Total Value	133			<b>\$ 27,300,000.00</b>	1.0000

**EXHIBIT "E"**  
**TO MASTER DEED OF**  
**NORTH TOWER OF BAREFOOT RESORT HORIZONTAL PROPERTY REGIME**  
**ARCHITECT'S CERTIFICATE**

Pursuant to S. C. Code Ann. § 27-31-110 (1976), I certify that the Regime plans described in the attached Exhibit "C" and the written description of 118 Residential Apartments and 15 Commercial Apartments in North Tower of Barefoot Resort Horizontal Property Regime (situate upon real estate described in the attached Exhibit "A"), fully depict the layout, dimensions, location, area and number identification of the Apartments and the General and Limited Common Elements of the Regime.

Jenkins, Hancock & Sides

JCHSides

By:

ARCHITECT

Its:

05248

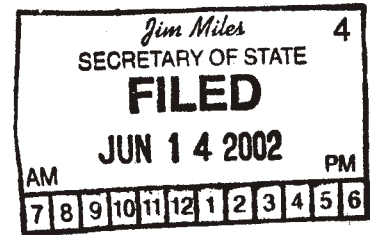
Architect's S.C. License No.

Columbia, South Carolina  
This 17 day of June, 2002

## **EXHIBIT "F"**

Articles of Incorporation of North Tower of Barefoot Resort Condominium Association

STATE OF SOUTH CAROLINA  
SECRETARY OF STATE  
JIM MILES  
NONPROFIT ORGANIZATION  
ARTICLES OF INCORPORATION



1. The name of the nonprofit corporation is North Tower of Barefoot Resort Condominium Association.

2. The initial registered office of the nonprofit corporation is Premier Resorts, 4980 Barefoot Resort Bridge Road, North Myrtle Beach, SC 29582.

The name of the registered agent of the nonprofit corporation at that office is Robert Ulery.

3. Check (a), (b), or (c) whichever is applicable. Check only one box.

a. ☐ The nonprofit corporation is a public benefit corporation.

b. ☐ The nonprofit corporation is a religious corporation.

c. ☒ The nonprofit corporation is a mutual benefit corporation.

**CERTIFIED TO BE A TRUE AND CORRECT COPY  
AS TAKEN FROM AND COMPARED WITH THE  
ORIGINAL ON FILE IN THIS OFFICE**

JUN 14 2002

4. Check (a) or (b), whichever is applicable:

a. ☒ This corporation will have members.

b. ☐ This corporation will not have members.

SECRETARY OF STATE OF SOUTH CAROLINA

5. The address of the principal office of the nonprofit corporation is c/o Premier Resorts, 4980 Barefoot Resort Bridge Road, North Myrtle Beach, SC 29582.

6. If this nonprofit corporation is either a public benefit corporation (box a. or b. of paragraph 3. is checked), complete either (a) or (b), whichever is applicable, to describe how the remaining assets of the corporation will be distributed upon dissolution of the corporation.

a. ☐ Upon dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, of the government, or to a state or local government, for a public purpose. Any such asset not so disposed of shall be disposed of a by the court of common pleas of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said court shall determine, which are organized and operated exclusively for such purposes.

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

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

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

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

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

**ADDITIONAL PROVISION TO ARTICLES OF INCORPORATION OF  
THE NORTSHORE VILLAS CONDOMINIUM ASSOCIATION**

**ARTICLE I -- POWERS OF THE ASSOCIATION**

The powers of the Association shall include the following provisions:

A. The Association shall have all of the common law and statutory powers of a nonprofit corporation which are not in conflict with the laws of South Carolina or the terms of this Charter.

B. The Association shall have all of the powers and duties prescribed for the "Council of Co-Owners" as set forth in the Act, and all such other powers and duties reasonably necessary to operate the Regime pursuant to the Master Deed, including but not limited to the following:

(i) To make and collect assessments against members as co-owners to defray the costs, expenses and losses of the Regime.

(ii) To use the proceeds of assessments in the exercise of its powers and duties.

(iii) To maintain, repair, replace, improve and operate the property of the Regime.

(iv) To purchase insurance upon the Regime property including all apartments and common elements, and insurance for the protection of the Association and the co-owners.

(v) To reconstruct improvements after casualty.

(vi) To make and amend reasonable regulations respecting the use of the Regime property.

(vii) To enforce by legal means the provisions of the Act, the Master Deed and the regulations promulgated thereunder for the use of the Regime property, including, but not limited to, issuing fines for violation of same.

(viii) To contract for the management of the Regime and to delegate to such manager all powers and duties of the Association except such as are specifically required by the Master deed to have approval of the Board of Directors of the Association or of the co-owners.

(ix) To employ personnel to perform the services required for proper operation of the Regime and to terminate such employment.

(x) To foreclose any lien for unpaid assessments in like manner as any mortgagee of real property, as provided in the Master Deed of the Regime and the By-Laws of this Association.

B. All funds and the title to all properties acquired by the Association and the proceeds thereof shall be held in trust for the members in accordance with the provisions of the Act and the Master Deed.

C. The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Act and the Master Deed.

D. The Association will not take steps which will serve to facilitate the transaction of specific business by its members or promote the private interest of any member, or engage in any activity which would constitute a regular business of a kind ordinarily carried on for profit, and no part of the net earnings of the Association shall inure to the benefit of any private individual. In the event of the liquidation or dissolution of the Association, whether voluntary or involuntary, no member shall be entitled to any distribution or division of its remaining property or its proceeds, and the balance of all money and other property received by the corporation from any source, after the payment of all debts and obligations of the Association, shall be used or distributed exclusively for such purposes as those set forth in the Code of Laws of South Carolina for nonprofit corporations.

E. The Association holds, or desires to hold, property in common for social or fraternal purposes and is not organized for the purpose of profit or gain to the members, otherwise than is above stated, or for the insurance of life, health, accident or property; and that three days notice in the Myrtle Beach Sun News, a Newspaper of general circulation published in the County of Horry, State of South Carolina, has been given that this Charter would be filed.

## ARTICLE II -- MEMBERS

The qualification of members, the manner of their admission and voting by members shall be as follows:

A. The co-owner of each of the apartments shall be a member of the Association, and no other persons or entities shall be entitled to membership. The Association shall have only so many memberships as there are apartments in the Regime, with each member having a vote equal to the percentage of his right to share in the common elements of the Regime set forth in Exhibit "D" to the Master Deed and in accordance with the Act. Voting rights will be exercised in the manner provided by the By-Laws of the Association.

B. Change of membership in the Association shall be established by the recording in the Office of the Register of Deeds of Horry County, South Carolina, of a deed or other instruments establishing a change of record title to an Apartment in the Regime and the delivery to the Association of a certified copy of such instrument, the new co-owner designated by such instrument thereby becoming a member of the Association. The membership of the prior co-owner shall be thereby terminated.

## ARTICLE III -- INDEMNIFICATION

Every director, officer, employee or agent of the Association shall be indemnified by the Association to the fullest extent permitted by law, for NonProfit Corporations, against (a) reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with any threatened, pending or completed action, suit or proceedings, whether civil, criminal, administrative or investigative, and whether or not brought by or on behalf of the Association, seeking to hold him liable by reason of the fact that he is or was acting in such capacity, and (b) reasonable payments made by him in satisfaction of any judgment, money decree, fine, penalty, or settlement for which he may have become liable in any such action, suit, or proceeding; and whether or not he continues to be such director, officer, or agent at the time of incurring or imposition of such costs, expenses or liabilities.

The Board of Directors of the Association shall take all such action as may be necessary and appropriate to authorize the Association to pay the indemnification required by this Charter including without limitation, to the extent needed, making a good faith evaluation of the manner in which the claimant for indemnity acted and of the reasonable



amount of indemnity due him.

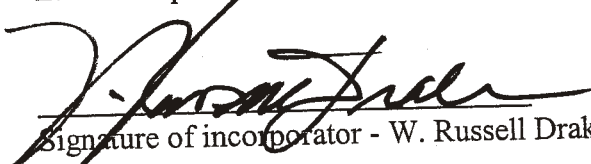
Such right shall inure to the benefit of the legal representatives of any such person and shall not be exclusive of any other rights to which such person may be entitled apart from the provisions of this Charter.

The Board of Directors of the Association shall have the power to purchase and maintain insurance on behalf of any such person who has or is such a director, officer, employee or agent against any liability asserted against him in any such capacity, arising out of his status as such.

9. The name and address (with zip code) of each incorporator is as follows (only one is required): W. Russell Drake, 1813 Hampton Street, Columbia, SC 29201.
10. Each original director of the nonprofit corporation must sign the articles but only if the directors are named in these articles:

\_\_\_\_\_  
(only if named in articles)      Signature of director

11. Each incorporator must sign the articles.

  
Signature of incorporator - W. Russell Drake

#### FILING INSTRUCTIONS

1. Two copies of this form, the original and either a duplicate original or a conformed copy, must be filed.
2. If space in this form is insufficient, please attach additional sheets containing a reference to the appropriate paragraph in this form, or prepare using a computer disk which will allow for expansion of space on the form.
3. This form must be accompanied by the filing fee of \$25.00 payable to the Secretary of State.

# *The State of South Carolina*



## *Office of Secretary of State Jim Miles* **Certificate of Incorporation, Nonprofit Corporation**

I, Jim Miles, Secretary of State of South Carolina Hereby certify that:

***NORTH TOWER OF BAREFOOT RESORT CONDOMINIUM ASSOCIATION,***  
a nonprofit corporation duly organized under the laws of the state of South Carolina  
on **June 14th, 2002**, and having a perpetual duration unless otherwise indicated  
below, has as of the date hereof filed a Declaration and Petition for Incorporation of a  
nonprofit corporation for Religious, Educational, Social, Fraternal, Charitable or other  
eleemosynary purpose.

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

Given under my Hand and the Great Seal of  
the State of South Carolina this 14th day of  
June, 2002.

A handwritten signature of Jim Miles in black ink, written over a horizontal line.

Jim Miles, Secretary of State

Note: This certificate does not contain any representation concerning fees or taxes owed by the Corporation to the South Carolina Tax Commission or whether the Corporation has filed the annual report with the Tax Commission. If it is important to know whether the Corporation has paid all taxes due to the State of South Carolina, and has filed the annual reports, a certificate of compliance must be obtained from the Tax Commission.

## **EXHIBIT "G"**

By-Laws of the Association

**BY-LAWS  
OF  
NORTH TOWER OF BAREFOOT RESORT CONDOMINIUM ASSOCIATION**

1. IDENTITY

These are the By-Laws of North Tower of Barefoot Resort Condominium Association, a non-profit corporation existing under the laws of the State of South Carolina (hereinafter called "the Association"), which has been organized for the purpose of administering North Tower of Barefoot Resort Horizontal Property Regime, a horizontal property regime established pursuant to S.C. Code Ann. §27-31-10 et seq. (1976) (hereinafter called "the Regime"). The Regime is identified by the name North Tower of Barefoot Resort and is located upon the real property in Horry County, South Carolina, described on Exhibit "A" attached hereto and made a part hereof by reference.

(a) The provisions of these By-Laws are applicable to the Regime, and the terms and provisions hereof are expressly subject to the effect of the terms, provisions, conditions, and authorizations contained in the Articles of Incorporation and which may be contained in the formal Master Deed which will be recorded in the public records of Horry County, South Carolina, at the time said property and the improvements now or thereafter situate thereon are submitted to the plan of condominium ownership, the terms and provisions of said Articles and Master Deed to be controlling whenever the same may be in conflict herewith.

(b) All present or future co-owners, tenants, future tenants, or their employees, or any other person that might use the Regime or any of the facilities thereof in any manner are subject to the regulations set forth in these By-Laws and in said Charter and Master Deed.

(c) The office of the Association shall be at 1813 Hampton Street, Columbia, South Carolina or such other place as the Board of Directors of the Association may designate from time to time;

(d) The fiscal year of the Association shall be the calendar year;

(e) The seal of the Association shall bear the name of the Association and the words "South Carolina."

2. MEMBERSHIP, VOTING, QUORUM, PROXIES

(a) The qualification of members, the manner of their admission to membership and termination of such membership, and voting by members, shall be as set forth in the Articles of Incorporation of the Association, the provisions of which Articles are incorporated herein by reference.

(b) The quorum at members' meetings shall consist of persons entitled to cast a majority (51% of the value of the property) of the votes of the entire membership. The joinder of a member in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such person for the purpose of determining quorum.

(c) The vote of the co-owners of an Apartment owned by more than one person or by a corporation or other entity shall be cast by the person named in a certificate signed by all of the co-owners of the Apartment and filed with the Secretary of the Association. Such certificate shall be valid until revoked by subsequent certificate. If such a certificate is not on file, the vote of such co-owners shall not be considered in determining the requirement for a quorum, nor for any other purpose.

(d) Votes may be cast in person or by proxy. Proxies must be filed with the secretary before the appointed time of the meeting for which their use is sought.

(e) Approval or disapproval of an Apartment co-owner upon any matters, whether or not the subject of an Association meeting, shall be by the same person who casts the vote of such co-owner in an Association meeting.

(f) Except where otherwise required under the provisions of the Articles of Incorporation of the Association, these By-Laws, the Master Deed, or where the same may otherwise be required by law, the affirmative vote of the co-owners of a majority of the Apartments represented at any duly called members' meeting at which a quorum is present shall be binding upon the members.

3. ANNUAL AND SPECIAL MEETINGS OF MEMBERSHIP

(a) The annual members' meeting shall be held at the office of the Association or such other place as may be designated by the Board of Directors, at 12:00 noon, Eastern Daylight Time, on the third Saturday in January, of each year, or at such other date and time as set by the Board of Directors after proper notice for the purpose of electing directors and of transacting any other business

authorized to be transacted by the members; provided, however, that if that day is a legal holiday, the meeting shall be held at the same hour on the next succeeding Saturday. The first annual meeting shall be held in 2001.

(b) Special members' meetings shall be held whenever called by the President or Vice President or by a majority of the Board of Directors and must be called by such officers upon receipt of a written request from the members of the Association owning a majority of the Apartments.

(c) Notice of all members' meetings, regular or special, shall be given by the President, Vice President, or Secretary of the Association, or other officers of the Association in the absence of said officers, to each member, unless waived, in writing. Such notice is to be written or printed and shall include a description of any matter as required by §33-31-705, of the Code of Laws of South Carolina (1976), as amended, and shall state the time and place of the member's meeting and shall be given to each member not less than ten (10) days nor more than sixty (60) days prior to the date set for such meeting. Notice shall be mailed first class or registered mail or presented personally to each member within said time. If presented personally, receipt of such notice shall be signed by the member, indicating the date on which such notice was received by him. If mailed, such notice shall be deemed properly given five (5) days after being deposited in the United States Mail, addressed to the member at his post office address as it appears in the records of the Association, the postage thereon prepaid or where otherwise provided by Section 33-31-141 of the Code of Laws of South Carolina (1976), as amended from time to time. Proof of such mailing shall be given by Affidavit of the person giving the notice. Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such member. If any members' meeting cannot be organized because a quorum has not been attended, or because the greater percentage of the membership required to constitute a quorum for particular purposes has not attended, wherever the latter percentage of attendance may be required as set forth in the Articles of Incorporation, these By-Laws, or the Master Deed, the members who are present, either in person or by proxy, may adjourn the meeting, from time to time until a quorum, or the required percentage of attendance greater than a quorum, is present.



(d) At meetings of membership, the President shall preside or, in the absence of him, the membership present shall select a chairman.

(e) The order of business at annual members' meeting, and, as far as practical, at any other members' meeting, shall be:

- i) Calling of the roll and certifying proxies;
- ii) Proof of notice of meeting or waiver of notice;
- iii) Reading of Minutes;
- iv) Reports of officers, president and chief financial officer;
- v) Reports of committees;
- vi) Appointment by chairman of inspectors of election;
- vii) Election of directors;
- viii) Unfinished business;
- ix) New business; and
- x) Adjournment.

#### 4. BOARD OF DIRECTORS

(a) The initial Board of Directors of the Association (hereinafter sometimes referred to as the "Board") shall be comprised of three (3) directors until the first members' meeting, at which time five (5) directors will be elected. Thereafter, the Board shall consist of five (5) directors. Subject to the remainder of this paragraph, the Grantor may appoint and remove members of the Board for a period not exceeding three (3) years from the date of the first conveyance of an Apartment to a person other than the Grantor. The period of Grantor control terminates no later than sixty (60) days after conveyance of seventy-five percent (75%) of the Apartments to Apartment owners other than the Grantor. In determining whether the period of Grantor control has terminated or whether Apartment Owners other than Grantor are entitled to elect members of the Board. The Grantor may voluntarily surrender the right to appoint and remove members of the Board before termination of that time period.

Whenever Grantor shall be entitled to designate and select any person or persons to serve on any Board of Directors of Association, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or By-Laws of the Association

and Grantor shall have the right to remove any person or persons selected by it to act and serve on said Board of Directors and to replace such person or persons with another person or other persons to act and serve in the place of any director or directors so removed for the remainder of the unexpired term of any director or directors so removed. Any director designated and selected by Grantor need not be a resident in the Regime. Anything to the contrary notwithstanding, the power in the Grantor to designate directors shall terminate on June 1, 2006.

Any representative of Grantor serving on the Board shall not be required to disqualify himself upon any vote upon any management contract or other matter between Grantor and Association where the said Grantor may have a pecuniary or other interest. Similarly, Grantor as a member of the Association, shall not be required to disqualify itself in any vote which may come before the membership of the Association upon any management contract or other matter between Grantor and Association where Grantor may have a pecuniary or other interest. This provision does not limit or restrict the requirement of Section 33-31-831, Code of Laws of South Carolina (1976), as amended.

An individual Co-owner other than Grantor engaged by the Regime in a commercial operation or otherwise earning monies from servicing the premises, i.e. rental company, contractor, hardware store, painter, or property manager may not serve on the Board as long as the individual is engaged in a business performing a service in connection with the Regime.

(b) Election of directors shall be conducted in the following manner:

i) Grantor, as Sponsor of the Regime, shall, at the beginning of the election of the Board designate and select that number of the members of the Board which it should be entitled to designate and select in accordance with the provisions of these By-Laws, and upon such designation and selection by Grantor by written instrument presented to the meeting at which such election is held, said individuals so designated and selected by Grantor shall be deemed and considered for all purposes directors of the Association, and shall thenceforth perform the duties of such directors until their successors shall have been selected or elected in accordance with the provisions of these By-Laws;

ii) All members of the Board whom Grantor shall not be entitled to designate and select under the terms and provisions of these By-Laws shall be elected by a plurality of the votes cast at the annual meeting of the members of the Association immediately following the designation

and selection of the members of the Board whom Grantor shall be entitled to designate and select;

iii) Vacancies in the Board may be filled until the date of the next annual meeting by the remaining directors, except that should any vacancy in the Board be created in any directorship previously filled by a person designated and selected by Grantor, such vacancy shall be filled by Grantor designating and selecting, by written instrument delivered to any officer of the Association, the successor director to fill the vacated directorship for the unexpired term thereof;

iv) At the first annual meeting of the members held after the property identified herein has been submitted to the plan of condominium ownership, the Master Deed has been recorded in the public records of Horry County, South Carolina, the term of office of the three (3) directors receiving the highest plurality of votes shall be established as two (2) years, and the terms of office of the other two (2) directors shall be established as one (1) year. Thereafter, as many directors of the Association shall be elected at the annual meeting as there are regular terms of office of directors expiring at such time, and the term of the directors so elected at the annual meeting of the members each year shall be for two (2) years expiring at the second annual meeting following their election, and thereafter until their successors are duly elected and qualified or until removed in the manner elsewhere provided or as may be provided by law for the removal of directors of South Carolina Nonprofit Corporation Act. If, at the time of the first annual meeting, Grantor still has the right to appoint directors, then Grantor shall have the right to designate and select two (2) directors whose term of office shall be established at two (2) years, and one (1) director whose term of office shall be established at one year;

v) In the election of directors, there shall be appurtenant to each Apartment as many votes for directors as there are directors to be elected, provided, however, that no member or co-owner of any Apartment may cast more than one vote for any person nominated as director, it being the intent hereof that voting for directors shall be non-cumulative;

vi) In the event that Grantor, in accordance with the privilege granted unto it, selects any person or persons to serve on any Board, the said Grantor shall have the absolute right at any time, in its sole discretion, to replace any such person or persons with another person or persons to serve on said Board. Replacement of any person or persons designated by Grantor to serve on any Board shall be made by written instrument delivered to the President or Secretary of the Association

or to the presiding officer of the Board, which instrument shall specify the name or names of the person or persons designated as successor or successors to the person or persons so removed from said Board. The removal of any director and designation of his successor shall be effective immediately upon delivery of such written instrument by Grantor to such officer of the Association and the director;

(c) The organizational meeting of newly elected Board shall be held within ten (10) days of its election, at such time and at such place as shall be fixed by the directors at the meeting at which they were elected, and no further notice of the organization meeting shall be necessary provided a quorum shall be present;

(d) Regular meetings of the Board may be held without notice at such time and place as shall be determined from time to time by a majority of the directors;

(e) Special meetings of the directors may be called by the President and must be called by the Secretary at the written request of one-third (1/3) of the votes of the Board or upon written petition signed by the Co-owners of one-third (1/3) of the Apartments. Not less than two (2) days notice of a meeting shall be given to each director personally, or by mail, telephone, or telegram, which notice shall state the time, place, and purpose of the meeting;

(f) Any director may waive notice of a meeting before or after the meeting and such waiver shall be deemed equivalent to the giving of notice;

(g) A quorum at a directors' meeting shall consist of the directors entitled to cast a majority of the votes of the entire Board. The acts of the Board approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the Board, except as specifically otherwise provided in the Articles of Incorporation, these By-Laws, or the Master Deed. If any director's meeting cannot be organized because a quorum has not attended or because the greater percentage of the directors required to constitute a quorum for particular purposes has not attended, wherever the latter percentage of attendance may be required as set forth in the Articles of Incorporation, these By-Laws, or the Master Deed, the directors who are present may adjourn the meeting, from time to time, until a quorum, or the required percentage of attendance greater than a quorum, is present. At any adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice. The joinder of a director in the

action of a meeting by signing and concurring the minutes thereof shall constitute the presence of such director for the purpose of determining a quorum;

(h) The presiding officer of directors' meetings shall be the President. In the absence of the President, the directors present shall designate one of their number to preside;

(i) Directors' fees, if any, shall be determined by the members of the Association;

(j) The Board shall manage and direct the affairs of the Association and subject to any restrictions imposed by law, by the Master Deed, or these By-Laws, may exercise all of the powers of the Association subject only to approval by the members when such is specifically required of these By-Laws. The Board shall exercise such duties and responsibilities as shall be incumbent upon it by law, the Master Deed, or these By-Laws, as it may deem necessary or appropriate in the exercise of its powers and shall include, without limiting the generality of the foregoing, the following:

i) To make, levy, and collect assessments against members and members' Apartments to defray the cost of the common areas and facilities of the Regime, and to use the proceeds of said assessments in the exercise of the powers and duties granted unto the Association;

ii) To carry out the maintenance, care, upkeep, repair, replacements, operation, surveillance, and the management of the general and limited elements, services, and facilities of the Regime wherever the same is required to be done and accomplished by the Association for the benefit of its members;

iii) To carry out the reconstruction of improvements after casualty and the further improvement of the property, real and personal;

iv) To make and amend regulations, after Notice and Consent, governing the use of the property, real and personal, in the Regime and to establish fines for the violation of same, so long as such regulations or amendments thereto and fines do not conflict with the restrictions and limitations which may be placed upon the use of such property under the terms of the Articles of Incorporation and Master Deed;

v) To acquire, operate, lease, manage, and otherwise trade and deal with property, real and personal, including Apartments in the Regime, as may be necessary or convenient in the operation and management of the Regime, and in accomplishing the purposes set forth in the Master Deed; provided, however, that any agreement for professional management of



the Regime, or any other contract providing for services of the Grantor, may not exceed three (3) years. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice; provided, further, that any contract entered into prior to passage of control of the Association from the Grantor may be terminated by the Association without cause and without penalty at any time after the transfer of control upon not more than ninety (90) days notice to the other party thereto unless ratified by a majority of the Board after passage of control;

vi) By competitive bidding, to contract for the management of the common areas and facilities in the Regime and to designate to such contractor all of the powers and duties of the Association, except those which may be required by the Master Deed to have approval of the Board or membership of the Association;

vii) To enforce by legal means the provisions of the Articles of Incorporation and By-Laws of the Association, the Master Deed, and the regulations and fines hereinafter promulgated governing use of the property in the Regime;

viii) To pay all taxes and assessments which are liens against any property of the Regime, other than Apartments and the appurtenances thereto, and to assess the same against the members and their respective Apartments subject to such liens;

ix) To carry insurance for the protection of the members and the Association against casualty and liability;

x) To pay all costs of power, water, sewer, and other utility services rendered to the condominium and not billed to the owners of the separate Apartments; and

xi) To employ personnel for reasonable compensation to perform the services required for proper administration of the purposes of the Association, as well as to dismiss said personnel; and

xii) To assign, reassign, or designate parking spaces for exclusive use to such Co-Owners as it shall decide and to revoke such assignment or designation from time to time.

(k) The first Board shall be comprised of three (3) persons designated to act and serve as directors in the Articles of Incorporation. Said persons shall serve until their successors are elected or appointed at the first meeting of the members of the Association called after the property



identified herein has been submitted to the plan of condominium ownership and the Master Deed has been recorded in the public records of Horry County, South Carolina. Should any member of said first Board be unable to serve for any reason, a majority of the remaining members of the Board shall have the right to select and designate a party to act and serve as a director for the unexpired term of said director who is unable to serve;

(l) The undertakings and contracts authorized by said first Board shall be binding upon the Association in the same manner as though such undertakings and contracts had been authorized by the first Board duly elected by the membership after the property identified herein has been submitted to the plan of condominium ownership and said Master Deed has been recorded in the Horry County public records, so long as any undertakings and contracts are within the scope of powers and duties which may be exercised by the Board in accordance with all applicable Regime Documents;

(m) Directors may be removed from office in the manner provided by law for the removal of directors of South Carolina nonprofit corporations.

5. ADDITIONAL PROVISIONS ABOUT MEETINGS OF MEMBERS AND DIRECTORS

(a) Notwithstanding anything contained in these By-Laws to the contrary, any meeting of members or Board may be held at any place within or without the State of South Carolina or by telephone conference.

(b) To the extent now or from time to time hereafter permitted by the laws of South Carolina, the Board may take any action which they might take at a meeting of directors without a meeting. One or more written consents of any such action so taken, signed by each director, is to be retained in the Association's minute book and given equal dignity by all persons to the minutes of meetings duly called and held.

(c) Any action of the members may be taken by written ballot in accordance with §33-31-704, Code of Laws of South Carolina (1976), as amended, or by written consent in accordance with §33-31-704 of said Code.

6. OFFICERS

(a) The executive officers of the Association shall be a President, who shall be a director, a

Vice President, a Treasurer, and a Secretary, all of whom shall be elected annually by the Board of Directors and who may be peremptorily removed by vote of the directors at any meeting. No person may hold more than two (2) offices. The Board, shall from time to time, elect such other officers or committees and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

(b) The President shall be the principal executive officer of the Corporation and subject to the control of the Board. He or she shall, in general, supervise and control all of the business and affairs of the Corporation. He or she shall preside at all meetings of the shareholders and of the Board. He or she may sign, with the Secretary or any other proper officer of the Corporation authorized by the Board, any deeds, mortgages, bonds, contracts, or other instruments which the Board has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board or by these By-Laws to some other officer or agent of the Association, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board.

(c) The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the directors.

(d) The Secretary shall keep the minutes of all proceedings of the directors and the members. He shall attend to the giving and serving of all notices to the members and directors, and such other notices required by law. He shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed. He shall keep the records of the Association, except those of the Treasurer, perform all other duties incident to the office of Secretary of any association, and as may be required by the directors or President.

(e) The Treasurer shall have custody of all of the property of the Association, including funds, securities, and evidences of indebtedness. He shall keep the assessment rolls, the accounts of members, and the books of the Association in accordance with good accounting practices. He shall perform all other duties incident to the office of Treasurer.

(f) The compensation of all officers and employees of the Association shall be fixed by the

Board. This provision shall not preclude the Board from employing the Grantor as an employee of the Association, nor preclude the contracting with the Grantor for management of the Regime. Officers need not be apartment owners.

#### 7. FISCAL MANAGEMENT

The provisions for fiscal management of the Association set forth in the Master Deed and Articles of Incorporation shall be supplemented by the following provisions:

(a) The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Apartment. Such an account shall designate the name and address of the Co-owner or Co-owners, the amount of each assessment against the amounts paid upon the account and, the balance due upon assessments;

(b) The initial Board shall adopt a budget for the period commencing upon submission of the property to Horizontal Property Regime, continuing through the end of the following calendar year, and shall establish assessments for that period;

(c) The Board shall adopt a budget for each calendar year, which shall contain estimates of the cost of performing the functions of the Association, including, but not limited to, the following items:

i) Common expense budget, which shall include without limiting the generality of the foregoing, the estimated amounts necessary for maintenance and operation of General Common Elements, landscaping, street and walkways, office expenses, swimming pool, utility services, casualty insurance, liability insurance, administration, and reserves (operating and replacement); and

ii) Proposed assessments against each member. Copies of the budget and proposed assessments shall be given to each member at each annual meeting. If the budget is subsequently amended before the assessments are made, a copy of the amended budget shall be furnished to each concerned member. Delivery of a copy of any budget or amended budget to each member shall not affect the liability of any member for any such assessment, nor shall delivery of a copy of such budget or amended budget be considered as a condition precedent to the effectiveness of said budget and assessments levied pursuant thereto, and nothing herein contained shall be construed as restricting the right of the Board, at any time, in their sole discretion to levy an additional assessment in the event that the budget originally adopted shall appear to be insufficient to pay costs and

expenses of operation and management, or in the event of emergencies.

(d) The Board shall determine the method of payment of such assessments and the due dates thereof and shall notify the members thereof. The assessments will initially be on a monthly-in-advance basis unless changed by a vote of the majority of the Board;

(e) The depository of the Association shall be such bank, savings and loan, or other Federally Insured depositories as shall be designated from time to time by the directors and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the directors.

(f) The Board shall require fidelity bonds from all officers and employees of the Association and from any contractor handling or responsible for Association funds. The amount of such bonds shall be determined by the directors, but shall be at least the amount of the total annual estimated operating expense and revenues. The premiums on such bonds shall be paid by the Association as a common expense.

8. PARLIAMENTARY RULES

Roberts Rules of Order (latest edition) shall govern the conduct of corporate proceedings when not in conflict with the Articles of Incorporation and these By-Laws or with the statutes of the State of South Carolina.

9. ASSESSMENTS: LIABILITY, LIEN AND ENFORCEMENT

The Board, as and for the co-owners, is given the authority to administer the operation and management of the Regime, it being recognized that the delegation of such duties to one entity is in the best interests of the co-owners of all Apartments. To properly administer the operation and management of the project, the Association will incur, for the mutual benefit of all of the co-owners of Apartments, costs and expenses which will be continuing or non-recurring costs, as the case may be, which costs and expenses are sometimes herein referred to as "common expense." To provide the funds necessary for such proper operation and management, the said Board is hereby granted the right to make, levy, and collect assessments against the co-owners of all Apartments and said Apartments. In furtherance of said grant of authority to the Board to make, levy, and collect assessments to pay the costs and expenses for the operation and management of the Regime, the following provisions shall be operative and binding upon the co-owners of all Apartments, to wit:

(a) All assessments levied against the co-owners of Apartments and said Apartments shall be uniform and, unless specifically otherwise provided for in these By-Laws, the assessments made by the Board shall be in such proportion that the amount of assessment levied against each co-owner of an Apartment and his Apartment shall bear the same ratio to the total assessment made against all co-owners of Apartments and their Apartments as does the undivided interest in General Common Elements appurtenant to each Apartment bear to the total undivided interest in the Regime;

(b) The Board, in establishing said annual budget for operation, management, and maintenance of the project shall include therein a sum to be collected and maintained as reserve fund for replacement of General Common Elements, which reserve fund shall be for the purpose of enabling the Association to replace structural elements and mechanical equipment constituting a part of the General Common Elements as well as the replacement of personal property which may constitute a portion of the General Common Elements held for the joint use and benefit of all the co-owners of all Apartments. The amount to be allocated to such reserve fund for replacements shall be established by said Board so as to accrue and maintain at all times a sum reasonably necessary to anticipate the need for replacements of said General Common Elements. The amount collected and allocated to the reserve fund for replacements from time to time shall be maintained in a separate account by the Association, although nothing herein contained shall prohibit the Association from applying any monies in such reserve fund for replacements to meet other needs or requirements of the Association in operating or managing the project in the event of emergencies or in the event the sums collected from the co-owners of Apartments are insufficient to meet the then fiscal financial requirements of the Association, but it shall not be a requirement that these monies be used for such latter purposes, as a separate assessment may be levied therefor if deemed to be preferable by the Board in the sole discretion of said Board;

(c) Additionally, a working capital fund must be established for the initial months of the project operation equal to at least a two months' estimated common area charge for each Apartment. Each Apartment's share of the working capital fund must be collected and transferred to the Association at the time of closing of the sale of each Apartment estate and maintained for the use and benefit of the Association. The contribution to the working capital fund for each unsold Apartment shall be paid to the Association within sixty (60) days after the date of the conveyance



of the first Apartment in the project. The purpose of the fund is to ensure that the Association will have cash available to meet unforeseen expenditures or to acquire additional equipment or services deemed necessary or desirable by the Board. Amounts paid into the fund are not to be considered as advance payment of regular assessments. The Grantor shall not use the working capital funds to pay any of its expenses, reserve contributions, construction costs, or to make up any budget deficits while it is in control of the Association. However, when unsold Apartments are sold, the Grantor may reimburse itself for funds it paid the Association for an unsold Apartment's share of the working capital fund by using funds collected at Closing when the Apartment is sold;

(d) The Board, in establishing said annual budget for operation, management, and maintenance of the project, shall include therein a sum to be collected as a general operating reserve which shall be used to provide a measure of financial stability during periods of special stress when such sums may be used to meet deficiencies existing from time to time as a result of delinquent payment of assessments by co-owners of Apartments, emergencies, or other reasons placing financial stress upon the Association;

(e) All monies collected by the Association shall be treated as the separate property of the Association and such monies may be applied by the said Association to the payment of any expense of operating and managing the Regime or to the proper undertaking of all acts and duties imposed upon it by virtue of these By-Laws and the Articles of Incorporation and Master Deed of the said Association. As the monies for any assessment are paid unto the Association by any co-owner of an Apartment the same may be commingled with the monies paid to the Association by the other Co-owners of Apartments. All funds and other assets of the Association, and any increments thereto or profits derived therefrom or from the leasing or use of General Common Elements, shall be held for the benefit of the members of the Association, who shall own any common surplus in the proportions of their percentage of undivided interest in the Regime. No member of the Association shall have the right to assign, hypothecate, pledge, or in any manner transfer this interest therein, except as an appurtenance to his Apartment;

(f) The payment of any assessment or installment thereof due to the Association shall be in default if such assessment, or any installment thereof, is not paid unto the Association on or before the due dates for such payment. When in default, the Board may accelerate the remaining



installments of the annual assessment upon notice thereof to the Apartment co-owner, whereupon the entire unpaid balance of the annual assessment shall become due upon the date stated in the notice which shall not be less than ten (10) days after the date of the notice. In the event any assessment, installment, or accelerated assessments are not paid within twenty (20) days after their due date, the Association, through its Board, may proceed to enforce and collect the said assessments against the Apartment co-owner owing the same in any manner provided for by the Act, including the right of foreclosure and sale. When in default, the delinquent assessment or delinquent installment thereof due to the Association shall bear interest at the highest rate allowed by law until such delinquent assessment or installment thereof and all interest due thereon has been paid to the Association. If any assessment or installment thereof is not paid when due, the Board may assess such late fees and interest as it deems appropriate from time to time;

(g) The co-owner or co-owners of each Apartment shall be personally liable to the Association for the payment of all assessments, regular or special, which may be levied by the Association while such party or parties are co-owner or co-owners of an Apartment in the Regime. In the event that any co-owner or co-owners are in default in payment of any assessment or installment thereof owed to the Association, such co-owner or co-owners of any Apartment shall be personally liable for interest on such delinquent assessment or installment thereof as above provided, and for all costs of collecting such assessment or installment thereof and interest thereon, including a reasonable attorney's fee, whether suit is brought or not.

(h) No co-owner may exempt himself from liability for any assessment levied against such co-owner and his Apartment by waiver of the use or enjoyment of any of the General Common Elements, by abandonment, or in any other manner.

(i) Recognizing that the necessity for providing proper operation and management of the project entails the continuing payment of costs and expenses therefor which results in benefit to all of the co-owners of Apartments and that the payment of such common expense represented by the assessments levied and collected by the Association is necessary in order to preserve and protect the investment of the co-owner of each Apartment, the Association is hereby granted a lien upon such Apartment and its appurtenant undivided interest in General Common Elements, which lien shall secure and does secure the monies due for all assessments now or hereafter levied against the

co-owner of each Apartment, such lien shall also secure interest, if any, which may be due on the amount of any delinquent assessments owing to the Association and all costs and expenses, including a reasonable attorney's fee, which may be incurred by the Association in enforcing this lien upon said Apartment and its appurtenant undivided interest in the General Common Elements. The lien granted to the Association may be foreclosed in the same manner as mortgages may be foreclosed in the State of South Carolina. In any suit for the foreclosure of said lien, the Association shall be entitled to rental from the co-owner of any Apartment from the date on which the payment of any assessment or installment thereof became delinquent and shall be entitled to the appointment of a receiver for said Apartment. The rental required to be paid shall be equal to the rental charged on comparable type of Apartments in North Myrtle Beach, South Carolina. 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. The Association shall further be entitled to interest at the highest rate allowed by law on any such advance made for such purpose. All persons, firms, or corporations who shall acquire, by whatever means, any interest in the ownership of any Apartment, are hereby placed on notice of the lien granted to Association and shall acquire such interest in any Apartment expressly subject to such lien. The lien shall be subordinate to all mortgages or other liens duly recorded prior to the filing of the lien encumbering the Apartment;

(j) The lien herein granted unto Association shall be effective from and after the time of recording in the public records of Horry County, South Carolina, a claim of lien stating the description of the Apartment encumbered thereby, the name of the record co-owner, the amount, and the date when due. The lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorney 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;

(k) In the event that any person, firm, or corporation shall acquire title to any Apartment and its appurtenant undivided interest in General Common Elements by virtue of any foreclosure, judicial sale, or deed in lieu of foreclosure, such person, firm, or corporation so acquiring title shall only be

liable and obligated for assessments as shall accrue and become due and payable for said Apartment and its appurtenant undivided interest in General Common Elements subsequent to the date of acquisition of such title and shall not be liable for the payment of any assessments which were in default and delinquent at the time it acquires such title. In the event of the acquisition of title to an Apartment by foreclosure, judicial sale, or deed in lieu of foreclosure, any assessment or assessments as to which the party so acquiring title shall not be liable shall be absorbed and paid by all co-owners of all Apartments as part of the common expense, although nothing herein contained shall be construed as releasing the party liable for such delinquent assessment from the payment thereof or the enforcement of collection of such payment by means other than foreclosure;

(l) Whenever any Apartment may be sold or mortgaged by the co-owner thereof, which sale shall be concluded only upon compliance with other provisions of these By-Laws, Association, upon written request of the co-owner of such Apartment, shall furnish a statement verifying the status of payment of any assessment which shall be due and payable to Association by the owner of such Apartment to the proposed purchaser or mortgagee. Such statement shall be executed by an officer of the Association and any purchaser or mortgagee may rely upon such statement in concluding the proposed purchase or mortgage transaction, as Association shall be bound by such statement. Any holder of any mortgage on any Apartment shall have the right at all reasonable times and frequency to inquire as to the past due status of any assessment payments. The Association shall, upon request, promptly notify any such mortgagee when any assessment payment becomes more than sixty (60) days past due or when any default in the performance of any obligation required by the Master Deed or these By-Laws as to such Apartment is not cured within sixty (60) days;

(m) In the event that an Apartment is to be sold or mortgaged at the time when payment of any assessment against the co-owner of said Apartment is due to the Association, such Apartment shall be in default, whether or not a claim of lien has been recorded by the Association. Then the proceeds of such purchase or mortgage shall be applied by the purchaser or mortgagee first to payment of any then delinquent assessment or installment thereof due to the Association before the payment of any proceeds of purchase or mortgage proceeds to the co-owner of any Apartment who is responsible for payment of such delinquent assessment;

(n) Institution of a suit at law to attempt to effect the collection of payment of delinquent

assessments shall not be deemed to be an election by the Association which shall prevent its thereafter seeking enforcement of the collection of any sums remaining owing to it by foreclosure, nor shall proceeding by foreclosure to attempt to effect such collection be deemed an election precluding the institution of suit at law to attempt to effect collection of any sums then remaining owing it; and

(o) Notwithstanding anything in these By-Laws to the contrary, it is declared that until December 31, 2001, but no later than sixty (60) days after conveyance by Grantor of the first Apartment to a co-owner, each Apartment shall be exempt from the assessment created herein until such time as the Apartment is conveyed by the Grantor to a Co-owner. Except as expressly provided herein, no Apartment and its appurtenant percentage interest shall be exempt from said assessment.

#### 10. MANAGER

(a) Employment. The Board shall employ a professional Manager to assist in or take charge of the administration of the Council and the Property. The Board shall solicit competitive bids for such management.

(b) Authority and Duties. The Manager shall have such authority and duties as may be determined by the Board and shall report to the Board or to the President, as the Board may determine.

(c) Compensation. The Manager shall receive such compensation as the Board may determine.

#### 11. DEFINITIONS

The definitions contained in § 27-31-20 S. C. Code Ann. (1976), are hereby incorporated herein and made a part hereof by reference. The word "Unit" shall have the same meaning as "Apartment".

#### 12. CONFLICTS

In the event of any conflict between the provisions of the Master Deed and the provisions of these By-Laws, the provisions of the Master Deed shall control.

#### 13. SEVERABILITY

The provisions of these By-Laws are severable, and the invalidity of one or more provisions thereof shall not be deemed to impair or affect in any manner the enforceability or effect of the remainder hereof.

14. CAPTIONS

The captions herein are inserted only as a matter of convenience and or reference and in no way define, limit, or describe the scope of these By-Laws or the intent of any provision hereof.

15. GENDER AND NUMBER

All pronouns used herein shall be deemed to include the masculine, the feminine, and the neuter, as well as and the singular and the plural whenever the context requires or permits.

16. AMENDMENT TO BY-LAWS

Amendments to these By-Laws shall be proposed and adopted in the following manner:

(a) Amendments to these By-Laws may be proposed by the Board acting upon vote of the majority of the directors, or by members of the Association owning a majority of the total value of the property in the Regime, whether meeting as members or by instrument in writing signed by them;

(b) Upon any amendment or amendments to these By-Laws being proposed by said Board or members, such proposed amendment or amendments shall be transmitted to the President of the Association, or other officer of the Association in absence of the President, who shall thereupon call a special joint meeting of the members of the Board and the membership for a date not sooner than twenty (20) days or later than sixty (60) days from receipt by such officer of the proposed amendment or amendments, and it shall be the duty of the Secretary to give to each member written or printed notice of such meeting in the same form and in the same manner as notice of the call of a special meeting of the members is required as set forth herein;

(c) In order for amendment or amendments to become effective, the same must be approved by an affirmative vote of the members owning not less than two-thirds (2/3) of the total value of the property in the Regime and the vote of any Mortgagees as required by the Master Deed. Thereupon, such amendment or amendments to these By-Laws shall be transcribed, certified by the President and Secretary of the Association, and a copy thereof recorded in the public records of Horry County, South Carolina, within ten (10) days from the date on which any amendment or amendments have been affirmatively approved by the directors and members. The Grantor may amend the By-Laws as necessary to add Stage II without the approval of the members or mortgagees;

(d) At any meeting held to consider such amendment or amendments to the By-Laws, the written vote of any member of the Association shall be recognized if such member is not in



attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association at or prior to such meeting; and

(e) Notwithstanding the foregoing provisions of this Article 16, no amendment to these By-Laws which shall abridge, amend or alter the right of The Grantor to designate and select members of the Board, as provided in Article 4 hereof, may be adopted or become effective without the prior written consent of the Grantor. No amendment shall be effective until all the requirements of the Master Deed have been met.

17. RIGHT TO NOTICE AND COMMENT.

Before the Board adopts or amends Rules, whenever the Master Deed or By Laws or Articles of Incorporation require that an action be taken after "Notice and Comment," and at any other time the Board determines, the Co-owners have the right to receive notice of the proposed action and the right to comment orally or in writing. Notice of the proposed action shall be given to each Co-owner in writing and shall be delivered personally or by mail to all Co-owners at such address as appears in the records of the Association or published in a newsletter or similar publication routinely circulated to all Co-owners. The notice shall be given not less than five (5) days before the proposed action is to be taken. It shall invite comment to the Board orally or in writing before the scheduled time of the meeting. The right to Notice and Comment does not entitle a Co-owner to be heard at a formally constituted meeting.

18. RIGHT TO NOTICE AND HEARING.

Whenever the Master Deed or By Laws or Articles of Incorporation require that an action be taken after "Notice and Hearing," the following procedure shall be observed: The party proposing to take the action (e.g., the Board, a committee, an officer, the Manager, etc.) shall give written notice of the proposed action to all Co-owners or Occupants of Apartments whose interest would be significantly affected by the proposed action. The notice shall include a general statement of the proposed action and the date, time, and place of the hearing. At the hearing, the affected person shall have the right, personally or by a representative, to give testimony orally, in writing, or both (as specified in the notice), subject to reasonable rules of procedure established by the party conducting the meeting to assure a prompt and orderly resolution of the issues. Such evidenced shall be considered in making the decision, but shall not bind the decision makers. The affected person shall



be notified of the decision in the same manner in which notice of the meeting was given. Failure to provide such notice shall not invalidate any action taken.

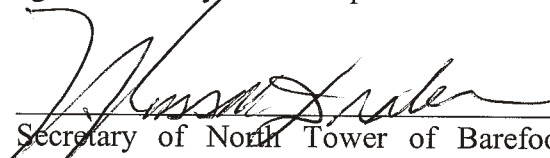
19. APPEALS.

Any person having a right to Notice and Hearing shall have the right to appeal to the Board from a decision of persons other than the Board by filing a written notice of appeal with the Board within ten (10) days after being notified of the decision. The Board of shall conduct a hearing within thirty (30) days, giving the same notice and observing the same procedures as were required for the original meeting.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

**[SIGNATURE PAGE FOLLOWS]**

The foregoing is the original set of By-Laws adopted this 17th day of June, 2002.

A handwritten signature in black ink, appearing to read "Kassia Drake", is written over a horizontal line.

Secretary of North Tower of Barefoot Resort Condominium  
Association

POOL CONSTRUCTION AND USE EASEMENT

FILED  
HORRY COUNTY, S.C.

2001 JUL 25 PM 4:22

EMENT ("Easement") is made and entered into this 24<sup>th</sup> day of DECEMBER, 2001, by and between SILVER CAROLINA DEVELOPMENT COMPANY, L.L.C., a Delaware limited liability company (hereinafter called "Grantor"), and DRAKE DEVELOPMENT BF LLC, a South Carolina limited liability company (hereinafter called "Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner of Parcels I, V, and IX (collectively, the "Subject Property"), Parcel I and Parcel V are shown on a Bonded Final Plat entitled "Subdivision of Lot 2 Revised, Barefoot Resort" prepared for Silver Carolina Development Company, L.L.C. by DDC Engineers, Inc. dated February 12, 2001 and revised March 26, 2001, recorded in the Horry County Register of Deeds Office on July 9, 2001 in Plat Book 178 at Pages 86 and 86A ("Bonded Final Plat"), incorporated by reference herein, and Parcel IX is shown on that certain Corrective Plat entitled "MAP OF PARCELS IX, X AND THE MARINA PARCEL, NORTH MYRTLE BEACH, HORRY COUNTY, SOUTH CAROLINA," prepared for Silver Carolina Development Company, LLC, by DDC Engineers, Inc., dated July 18, 2001, recorded in the Horry County Register of Deeds Office on July 24, 2001 in Plat Book 178 at Page 145 ("Corrective Plat"), incorporated by reference herein, and

WHEREAS, Grantor is conveying to Grantee Parcel I and Parcel V (collectively, the "Drake Parcels"), and Grantee intends to construct thereon the North Tower of Barefoot Resort Horizontal Property Regime (the "Project") containing 118 Residential Units and 1 Commercial Unit in accordance with the Amended and Restated Contract of Sale and Option by and between Grantor and Grantee dated July 24, 2001 (the "Contract of Sale"); and

WHEREAS, Grantee is to construct certain amenity improvements on Parcel IX, including but not limited to the first phase of a pool complex (the "Pool Complex"), substantially in accordance with Plans prepared by Price Carolina Aquatech Pools dated January 9, 2001 (the "Pool Plans"), incorporated by reference herein, in accordance with the Contract of Sale. Said improvements are to be made available to the owners of condominium units in the Project in accordance with the terms of the Contract of Sale, and the Pool Plans may be changed or modified by consent of Grantor and Grantee, which consent shall not be unreasonably withheld; and

WHEREAS, Grantor intends to grant to Grantee certain easements over Parcel IX for the benefit of the Drake Parcels in accordance with the terms of the Contract of Sale.

NOW THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) in hand paid, the covenants herein contained and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, it is hereupon understood and agreed as follows:

1. Grant of Utility Easements.

- (a) Grantor does hereby grant to Grantee for the benefit of the Drake Parcels a perpetual, nonexclusive easement to (i) tap into, hook up to, or connect to and use the underground sanitary sewer, water, gas, telephone, electric and cable utility lines and facilities now located or hereafter constructed on Parcel IX in

order to provide the necessary utility service to Parcel IX and to serve the Project, (ii) construct on Parcel IX underground sanitary sewer, water, gas, telephone, electric and cable utility lines and related facilities and improvements necessary to provide utility service to and from the Project and to Parcel IX and public utility facilities, and (iii) drain surface storm water from Parcel I and Parcel V into drainage facilities located from time to time on Parcel IX. The utility lines and facilities contemplated in this paragraph 1 shall be constructed and maintained in a good and workmanlike manner.

- (b) The construction of all sanitary sewer, water, gas, telephone and electric utility lines and related facilities contemplated by this paragraph 1 shall be in accordance with all applicable laws, ordinances, codes, rules, and regulations of all governmental authorities having jurisdiction over the Subject Property.
- (c) The location of the utility lines and facilities contemplated in this paragraph 1 shall be determined by mutual agreement and consent of Grantor and Grantee when final civil engineering plans for the Pool Complex are completed, which consent shall not be unreasonably withheld.

2. Grant of Ingress and Egress Easements.

- (a) Grantor does hereby grant to Grantee for the benefit of the Drake Parcels, or any portions thereof (including condominium units), and the owners from time to time of the Drake Parcels, and such owners' tenants, subtenants, occupants, customers, invitees, agents, and contractors, a perpetual, nonexclusive right of way and easement over the entire Parcel IX, for the purposes of providing vehicular (including, without limitation, construction and delivery vehicles and equipment) ingress and egress to, from and between the Drake Parcels and Parcel IX, through and across any streets, driveways, and roadways, constructed or hereafter constructed on Parcel IX as generally shown on the Pool Plans.
- (b) Grantor does hereby grant to Grantee for the benefit of the Drake Parcels, or any portions thereof (including condominium units), and the owners from time to time of the Drake Parcels, and such owners' tenants, subtenants, occupants, customers, invitees, agents, and contractors, a perpetual, nonexclusive right of way and easement over the entire Parcel IX, for the purposes of providing pedestrian ingress and egress to, from and between the Drake Parcels and Parcel IX.
- (c) The owners from time to time of the Drake Parcels, or any portions thereof (including condominium units), and such owners' tenants, subtenants, occupants, customers, invitees, agents, and contractors, shall act responsibly in the use of the ingress and egress easements granted in this paragraph 2 and shall repair any damage caused by their use of such easements. The easements granted in this paragraph 2 as to Parcel IX are expressly subject to the terms and conditions set out in the Declaration of Covenants, Conditions and Restrictions for Barefoot Resort Nonresidential Properties, dated July \_\_, 2001, and recorded in Book \_\_, Page \_\_, of the Horry County Registry (the "Nonresidential Declaration"), including the rules, regulations and assessments of the members of the Barefoot

Nonresidential Owners Association ("Nonresidential POA"), and the use of the easements set out in this paragraph 2 is expressly subject to the remedial measures set out in the Nonresidential Declaration or incorporated therein by reference.

3. Grant of Use Easements.

- (a) Grantor does hereby grant to Grantee for the benefit of the Drake Parcels, or any portions thereof (including condominium units), and the owners from time to time of the Drake Parcels, and such owners' tenants, subtenants, occupants, customers, invitees, agents, and contractors, a perpetual, nonexclusive use easement over the entire Parcel IX to use, operate and maintain all improvements thereon including, but not limited to, the Pool Complex and Landscaping. The Grantor hereby restricts the use of the Pool Complex and Landscaping to the Grantee, the members of the Nonresidential POA, and the members of the Barefoot Residential Property Owners Association ("Residential POA").
- (b) The owners from time to time of the Drake Parcels, or any portions thereof (including condominium units), and such owners' tenants, subtenants, occupants, customers, invitees, agents, and contractors, shall act responsibly in the use of the use easements granted in this Paragraph 3 and shall repair any damage caused by their use of such easements. The easements granted in this paragraph 3 as to Parcel IX are expressly subject to the terms and conditions set out in the Nonresidential Declaration including the rules, regulations and assessments of the members of the Nonresidential POA, and the use of the easements set out in this paragraph 3 is expressly subject to the remedial measures set out in the Nonresidential Declaration or incorporated therein by reference.

4. Grant of Temporary Construction Easements. Grantor does hereby grant and convey to Grantee, a temporary nonexclusive easement on, over, and across Parcel IX, including, without limitation all amenities, roads, drives, parking areas and walkways for pedestrian and vehicular access over Parcel IX to and from the Drake Parcels, as is necessary for construction of the Pool Complex on Parcel IX and for construction on the Project or any portion thereof. Said easement shall include the right to transport and place construction equipment and materials over, across and through Parcel IX, including, but not limited to, the right to locate construction cranes on and over Parcel IX for purposes of construction of the Project. Grantor further grants a temporary easement or license in favor of Grantee to conduct such construction activities on Parcel IX as are necessary to permit the Project to be attached to or tied into any improvements to be constructed on Parcel IX, including without limitation, constructing or removing walls or supports, and tapping into existing utility facilities in the Project. Grantor further grants a temporary easement in favor of Grantee permitting use of air rights above Parcel IX for construction activities including, without limitation, operation of construction cranes. The construction easements granted herein shall remain in full force and effect until the termination of such easements by a writing executed by Grantee and Grantor and recorded in the Horry County, South Carolina public records. Damage caused to the Subject Property by Grantee as a result of its use of the easements contained in this paragraph 4 shall be the responsibility of Grantee and said damaged portions of the Subject Property shall be restored to their original condition at the expense of Grantee. The Grantee agrees to



terminate such construction easements described in this paragraph 4 once the improvements to be constructed by the Grantee on Parcel IX and the improvements to be constructed by the Grantee on the Drake Parcels have been completed.

5. Grant of Permanent Easements.

- (a) Grantor does hereby grant and convey to Grantee a perpetual nonexclusive easement for the passage of water from, to, and between Parcel IX and a portion of Lot 2 immediately to the west of Parcel IX, such portion being shown as "Parcel VIII" ("Parcel VIII") on that certain "Preliminary Site Plan" prepared by DDC Engineers, Inc., dated October 20, 2000 (the "Site Plan"), as is necessary for the operation of the Pool Complex. Said easement shall also include the right to operate and maintain water pumping and related Pool Complex equipment located on Parcel IX and Parcel VIII and the right to construct on Parcel IX the portion of the Phase II Pool Complex and attach or connect same to the Phase I Pool Complex. The final size, shape, and location of the easements contemplated in this paragraph 5(a) shall be determined by mutual agreement and consent of Grantor and Grantee when final civil engineering plans for the Pool Complex are completed, which consent shall not be unreasonably withheld.
- (b) Grantor does hereby reserve to itself, its successors and assigns, a perpetual exclusive right to provide all commercial and retail services on the Pool Complex, including, without limitation, the sale of food, beverages, towels, and suntan lotions. In conjunction with the provision of such commercial and retail services, Grantor reserves for the benefit of itself, its successors and assigns, a non-exclusive easement of ingress and egress over and across the Pool Complex for pedestrian and vehicular traffic. This easement is an easement in gross for commercial purposes. Grantor shall have the obligation to competently provide said commercial and retail services and to maintain in a good and presentable condition and repair the commercial and retail services and related facilities. Grantor shall comply with all of the rules, regulations and requirements of the Nonresidential Declaration and the Nonresidential POA, the City of North Myrtle Beach, and the State of South Carolina in the construction, operation, use, repair, replacement and maintenance of the commercial and retail services. If Grantor fails to satisfy the aforesaid obligations of this paragraph 5(b), the POAs (hereinafter defined) shall provide written notice to Grantor and Grantor shall have a period of thirty (30) days from the receipt of said notice to cure such failure or in the case of matters that cannot be cured in such time to commence and diligently proceed to cure such failure. In the event Grantor fails to cure such failure after such notice, the POAs shall have the right to terminate this easement right, replace Grantor, and choose a different entity to operate and collect profits from the commercial and retail services.

6. Expansion of and Conveyance of Pool Complex. All easements contained herein shall extend to include any and all planned expansion of the Pool Complex, including expansion planned on Parcel VIII as set forth in the Contract of Sale. Grantee shall upon execution of this Easement convey to the Nonresidential POA and to the Residential POA (collectively, the "POAs") Parcel IX subject to this Easement and subject to Grantor's and Grantee's rights to establish, construct, operate, and collect profits from all



commercial facilities within the Pool Complex, including but not limited to, bars, restaurants, cafes, chair rental businesses, and any other pool-related enterprise or facility.

7. No Restrictions on Development. Notwithstanding any other provision contained in this Easement, the easements and rights of way set forth herein shall not restrict the abilities of the Grantee and Grantor to improve or develop their respective parcels.
8. Ownership of Pool Complex. The Pool Complex and other improvements to Parcel IX by Grantee shall be owned by the POAs and shall be maintained by the POAs upon completion of construction.
9. Successors and Assigns. All easements contained herein shall be perpetual, run and be appurtenant to the lands herein described, and, except as hereinafter set forth, shall run with said lands forever and be binding upon and inure to the benefit of and be enforceable by the heirs, legal representatives, successors and assigns of the parties hereto, including without limitation the owners of condominium units within the Project and the members of the POAs. All obligations of Grantee and Grantor hereunder shall be binding upon their respective successors-in-title and assigns; provided, however, the covenants and obligations herein are only personal to and enforceable against the parties or successors-in-title, as the case may be, owning title to the respective properties at the time any liability or claim arising under this Easement shall have accrued; it being intended that upon the conveyance of title by a party, the party conveying title shall thereupon be released of any liability hereunder as to the property conveyed for any breach of this Easement or claim arising under this Easement accruing after the date of such conveyance.
10. Entire Agreement. This Easement constitutes the entire agreement of the parties hereto relating to the subject matter hereof and may not be amended, waived or discharged, except by instrument in writing executed by all parties hereto.
11. Severability. The validity of any one of the covenants, agreements, conditions or provisions of this Easement or any one of the covenants, agreements, conditions or provisions of this Easement or any portion thereof shall not affect the remaining portions thereof or any part thereof and this Easement shall be construed as if such covenants, agreement, conditions or provision had not be inserted herein.
12. Governing Law. This Easement shall be governed by and construed in accordance with the laws of the State of South Carolina.
13. Multiple Counterparts: This Easement may be executed in counterparts, each of which shall for all purposes be deemed an original, and all of such counterparts will together constitute one and the same agreement.

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[SIGNATURES FOLLOW ON THE NEXT TWO PAGES]

IN WITNESS WHEREOF, the party hereto has caused its hand and seal to be put hereunto as of the day and year first above written.

WITNESSES:

C. Joyce Saban  
Print Name: C. JOYCE SABAN

Yvonne M. Koerner  
Print Name: Yvonne M. Koerner

GRANTOR:

SILVER CAROLINA DEVELOPMENT  
COMPANY, L.L.C., a Delaware limited liability  
company

By [Signature]  
Name: SAMUEL W. PAGLIA  
Title: MANAGER

STATE OF SOUTH CAROLINA  
COUNTY OF HORRY ) SS.

BEFORE ME, the subscriber, duly commissioned and acting as Notary Public in and for said County and State, personally appeared SAMUEL W. PAGLIA the MANAGER of SILVER CAROLINA DEVELOPMENT COMPANY, L.L.C., a Delaware limited liability company, who acknowledged and signed his name to the foregoing instrument as his act and deed.

Given under my hand and official seal this 24<sup>th</sup> day of JULY, 2001

C. Joyce Saban  
Notary Public For South Carolina  
My Commission Expires 4/28/2007

230 11484

STORM WATER DRAINAGE EASEMENT

FILED  
HORRY COUNTY, S.C.

THIS EASEMENT ("Easement") is made and entered into this 27 day of July, 2001, by and between **SILVER CAROLINA DEVELOPMENT COMPANY, L.L.C.**, a Delaware limited liability company (hereinafter called "Grantor"), and **DRAKE DEVELOPMENT BF LLC**, a South Carolina limited liability company (hereinafter called "Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner of property described as PARCEL I, PARCEL V, PARCEL IX, PARCEL X, MARINA PARCEL, and REMAINDER OF LOT 2 ("Subject Property"), Parcel I, Parcel V, and Remainder of Lot 2 are shown on Bonded Final Plat entitled "Subdivision of Lot 2 Revised, Barefoot Resort" prepared for Silver Carolina Development Company, L.L.C. by DDC Engineers, Inc., dated February 12, 2001 and revised March 26, 2001, recorded in the Horry County Register of Deeds Office on July 9, 2001 in Plat Book 178 at Pages 86 and 86A ("Bonded Final Plat"), incorporated by reference herein, and Parcel IX, Parcel X, and Marina Parcel are shown on that certain Corrective Plat entitled "MAP OF PARCELS IX, X AND THE MARINA PARCEL, NORTH MYRTLE BEACH, HORRY COUNTY, SOUTH CAROLINA," prepared for Silver Carolina Development Company, LLC, by DDC Engineers, Inc., dated July 18, 2001, recorded in the Horry County Register of Deeds Office on July 24, 2001 in Plat Book 178 at Page 145 ("Corrective Plat"), incorporated by reference herein, and the Subject Property is more particularly shown on a survey entitled "Exhibit of Temporary Easements" prepared for Drake Development BF LLC by DDC Engineers, Inc., dated July \_\_, 2001, recorded in the Horry County Register of Deeds Office on July \_\_, 2001 in Plat Book \_\_ at Page \_\_ ("Easement Survey"), incorporated herein by reference; and

WHEREAS, Grantor is conveying to Grantee Parcel I, Parcel V, and a Pool Construction and Use Easement with regard to Parcel IX (collectively, "Drake Parcels"), and Grantee intends to construct thereon the North Tower of Barefoot Resort Horizontal Property Regime (the "Project") containing 118 Residential Units and 1 Commercial Unit and a pool complex in accordance with the Amended and Restated Contract of Sale and Option by and between Grantor and Grantee dated July 24, 2001 (the "Contract of Sale"); and

WHEREAS, Grantor has, of even date herewith, granted certain drainage easements for the benefit of the Drake Parcels for the purpose of directing storm water drainage from the Drake Parcels to an existing drainage basin shown on the Easement Survey and more particularly described in the attached Exhibit "A" ("Existing Drainage Easement Area"), it being the intention of Grantor to incorporate the storm water drainage from the Drake Parcels into a master drainage plan ("Master Drainage Plan") and subsequently fill the existing drainage basin and relocate the storm water drainage from the Drake Parcels to the Master Drainage Plan. The Master Drainage Plan shall be subject to change from time to time, as the remaining areas of the master drainage plan easement area, which is all of Lot 2 of Final Master Plat, Barefoot Resort, recorded in the Horry County Register of Deeds Office on March 10, 2000 in Plat Book 168 at Pages 119 through 119H ("Master Drainage Plan Easement Area"), are developed, and Grantor shall continue to be obligated to incorporate the storm water drainage from the Drake Parcels into the Master Drainage Plan, as it is changed from time to time.

NOW THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) in hand paid, the covenants herein contained and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, it is hereupon understood and agreed as follows:

1. Grant of Storm Water Drainage Easements.

- (a) Grantor does hereby grant to Grantee for the benefit of the Drake Parcels a permanent, nonexclusive easement to drain surface storm water from the Drake Parcels into drainage facilities located from time to time on the Master Drainage Plan Easement Area. The initial easement shall be in accordance with the Easement Survey, however, Grantor reserves the right to relocate said drainage facilities to another location within the Master Drainage Plan Easement Area at its cost, including but not limited to the costs of obtaining any necessary permits related to the relocation. If the location of said drainage facilities is moved by Grantor, the eventual outfall of the Master Drainage Plan Facilities into which the drainage facilities are incorporated must run from the Drake Parcels into the Atlantic Intracoastal Waterway or some other public drainage system.
- (b) The storm water drainage facilities contemplated in this paragraph 1 shall be constructed and maintained in a good and workmanlike manner. Said construction and maintenance shall be the sole responsibility of Grantor until such time as storm water drainage facilities are dedicated to the City of North Myrtle Beach, or in the alternative, to the Barefoot Non-residential Owners Association and/or the Barefoot Residential Owners Association.
- (c) The construction of all storm water drainage facilities by Grantor contemplated by this paragraph 1 shall be in accordance with all applicable laws, ordinances, codes, rules, and regulations of all governmental authorities having jurisdiction over the Subject Property.
- (d) The storm water drainage easements granted herein shall remain in full force and effect until the termination of such easements by a writing executed by Grantee and Grantor and recorded in the Horry County Register of Deeds Office. The Grantee agrees to terminate such storm water drainage easements described in this paragraph 1 if Grantor dedicates the storm water drainage system serving the Drake Parcels to a governmental entity or municipality.

2. No Restrictions on Development. Notwithstanding any other provision contained in this Easement, the easements and rights of way set forth herein shall not restrict the abilities of the Grantee and Grantor to improve or develop their respective parcels.

3. Successors and Assigns. All easements contained herein shall be permanent, run and be appurtenant to the lands herein described, and, except as hereinafter set forth, shall run with said lands forever, and be binding upon and inure to the benefit of and be enforceable by the heirs, legal representatives, successors and assigns of the parties hereto, including without limitation the owners of condominium units within the Project. All obligations of Grantee and Grantor hereunder shall be binding upon their respective successors-in-title and assigns; provided, however, the covenants and obligations herein are only personal to and enforceable against the parties or successors-in-title, as the case

may be, owning title to the respective properties at the time any liability or claim arising under this Easement shall have accrued; it being intended that upon the conveyance of title by a party, the party conveying title shall thereupon be released of any liability hereunder as to the property conveyed for any breach of this Easement or claim arising under this Easement accruing after the date of such conveyance.

4. Entire Agreement. This Easement constitutes the entire agreement of the parties hereto relating to the subject matter hereof and may not be amended, waived or discharged, except by instrument in writing executed by all parties hereto.
5. Severability. The validity of any one of the covenants, agreements, conditions or provisions of this Easement or any portion thereof shall not affect the remaining portions thereof or any part thereof and this Easement shall be construed as if such covenants, agreement, conditions or provision had not be inserted herein.
6. Governing Law. This Easement shall be governed by and construed in accordance with the laws of the State of South Carolina.
7. Multiple Counterparts. This Easement may be executed in counterparts, each of which shall for all purposes be deemed an original, and all of such counterparts will together constitute one and the same agreement.

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[SIGNATURES FOLLOW ON THE NEXT TWO PAGES]



IN WITNESS WHEREOF, the party hereto has caused its hand and seal to be put hereunto as of the day and year first above written.

WITNESSES:

C. Joyce Saban  
Print Name: C. JOYCE SABAN

Yvonne M. Roemer  
Print Name: Yvonne M. Roemer

GRANTOR:

SILVER CAROLINA DEVELOPMENT  
COMPANY, L.L.C., a Delaware limited liability  
company

By [Signature]  
Name: SAMUEL W. PUGLIA  
Title: MANAGER

STATE OF SOUTH CAROLINA ) SS.  
COUNTY OF HORRY )

BEFORE ME, the subscriber, duly commissioned and acting as Notary Public in and for said County and State, personally appeared SAMUEL W. PUGLIA the MANAGER of SILVER CAROLINA DEVELOPMENT COMPANY, L.L.C., a Delaware limited liability company, who acknowledged and signed his name to the foregoing instrument as his act and deed.

Given under my hand and official seal this 24<sup>th</sup> day of JULY, 2001.

C. Joyce Saban  
Notary Public For South Carolina  
My Commission Expires 4/28/2007



WITNESSES:

Print Name: Michael Eisenbach

Print Name: Clara J. [Signature]

GRANTEE:

DRAKE DEVELOPMENT BF LLC, a South Carolina limited liability company

By: [Signature]

Name: W. Russell Drake

Title: MANAGER

STATE OF South Carolina )  
COUNTY OF Richland ) SS.

BEFORE ME, the subscriber, duly commissioned and acting as Notary Public in and for said County and State, personally appeared W. Russell Drake, the Manager of Drake Development BF LLC, a South Carolina limited liability company, who acknowledged and signed his name to the foregoing instrument as his act and deed.

Given under my hand and official seal this 24<sup>th</sup> day of July, 2001.

Notary Public [Signature]

My Commission Expires 3-08-2009

Exhibit "A"

(Legal Description of Existing Drainage Easement Area)

Existing Drainage Easement Area as shown on plat prepared of Lot 2 Revised Barefoot Resort, prepared for Drake Development BF LC dated July 17, 2001, and having the following metes and bounds; to find the Point of Beginning begin at a monument found Sta 712+00 190' o/s as shown on plat and running N67°22'58"E for a distance of 205.36 feet to the **POINT OF BEGINNING** thence turning and running N25°15'05"W for a distance of 160.22 feet; thence turning and running on a bearing of S73°04'08"W for a chord distance of 49.66 feet; thence turning and running N22°37'53"W for a distance of 10 feet; thence turning and running S67°22'07"W for a distance of 29.76 feet; thence turning and running N15°51'27"W for a distance of 434.91 feet; thence turning and running N71°37'11"E for a distance of 98.45 feet; thence running N44°48'26"E for a distance of 29.33 feet; thence turning and running N22°30'51"W for a distance of 39.92 feet; thence turning and running S67°02'58"W for a distance of 139.14 feet; thence turning and running along the right of way of Bridge View Court N22°57'02"W for a distance of 40.00 feet; thence turning and running N67°02'58"E for a distance of 179.44 feet; thence turning and running S22°30'51"E for a distance of 90.91 feet; thence S06°49'57"E for a distance of 104.47 feet; thence S21°35'39"E for a distance of 292.03 feet; thence S07°31'30" for a distance of 64.99 feet; thence S25°15'05"E for a distance of 148.39 feet; thence turning and running along the Atlantic Intracoastal Waterway S67°22'58"W for a distance of 40.04 feet to the **POINT OF BEGINNING**, be all measurements a little more or less.

WITNESSES:

Print Name:

Michael Eisenbach

Print Name:

Clinton J. Yarbrough

GRANTEE:

DRAKE DEVELOPMENT BF LLC, a South  
Carolina limited liability company

By:

Name:

Title:

W. Russell Drake  
W. Russell Drake  
manager

STATE OF South Carolina )

) SS.

COUNTY OF Richland )

BEFORE ME, the subscriber, duly commissioned and acting as Notary Public in  
and for said County and State, personally appeared W. Russell Drake, the  
Manager of Drake Development BF LLC, a South Carolina limited liability  
company, who acknowledged and signed his name to the foregoing instrument as his act and deed.

Given under my hand and official seal this 24<sup>th</sup> day of July, 2001.

Notary Public

My Commission Expires 3-08-2009

WITNESSES:

Print Name:

Michael Eisenbach

Print Name:

Clinton J. Yarbrough

GRANTEE:

DRAKE DEVELOPMENT BF LLC, a South  
Carolina limited liability company

By:

Name:

Title:

W. Russell Drake  
W. Russell Drake  
manager

STATE OF South Carolina )

) SS.

COUNTY OF Richland )

BEFORE ME, the subscriber, duly commissioned and acting as Notary Public in  
and for said County and State, personally appeared W. Russell Drake, the  
Manager of Drake Development BF LLC, a South Carolina limited liability  
company, who acknowledged and signed his name to the foregoing instrument as his act and deed.

Given under my hand and official seal this 24<sup>th</sup> day of July, 2001.

Notary Public

My Commission Expires 3-08-2009

of providing vehicular parking for the Project while construction of the Parking Decks on Parcel V and (if the Grantee purchases Parcel III) on Parcel IV occur.

- (b) Grantor does hereby grant to Grantee for the benefit of the Drake Parcels and the owners from time to time of the Drake Parcels, and such owners' tenants, subtenants, occupants, customers, invitees, agents, and contractors, a temporary exclusive right of way and easement over the entire Parcel VI, for the purposes of providing pedestrian and vehicular ingress and egress to, from and between the Drake Parcels and Parcel VI as it relates to vehicular parking for the Project.
- (c) The owners from time to time of the Drake Parcels and such owners' tenants, subtenants, occupants, customers, invitees, agents, and contractors, shall act responsibly in the use of the parking and ingress and egress easements granted in this paragraph 1 and shall repair any damage caused by their use of such easements. Grantor hereby agrees to indemnify Grantee for any loss, cost or expense arising from Grantor's use of the property.

2. Successors and Assigns. All easements contained herein shall be temporary and exclusive, run and be appurtenant to the lands herein described, and shall run with said lands and be binding upon and inure to the benefit of and be enforceable by the heirs, legal representatives, successors and assigns of the parties hereto, including without limitation the owners of condominium units within the Project. All obligations of Grantee and Grantor hereunder shall be binding upon their respective successors-in-title and assigns; provided, however, the covenants and obligations herein are only personal to and enforceable against the parties or successors-in-title, as the case may be, owning title to the respective properties at the time any liability or claim arising under this Easement shall have accrued; it being intended that upon the conveyance of title by a party, the party conveying title shall thereupon be released of any liability hereunder as to the property conveyed for any breach of this Easement or claim arising under this Easement accruing after the date of such conveyance.
3. Terms of Easement. The easements granted herein shall continue until such time as the earlier of: (i) the expiration of the option to purchase Parcel II upon the failure of Grantee to exercise same or close on the purchase of Parcel II; (ii) the expiration of the option to purchase Parcel III upon the failure of Grantee to exercise same or close on the purchase of Parcel III; or (iii) the issuance of a certificate of occupancy for Building III.
4. Entire Agreement. This Easement constitutes the entire agreement of the parties hereto relating to the subject matter hereof and may not be amended, waived or discharged, except by instrument in writing executed by all parties hereto.
5. Severability. The validity of any one of the covenants, agreements, conditions or provisions of this Easement or any one of the covenants, agreements, conditions or provisions of this Easement or any portion thereof shall not affect the remaining portions thereof or any part thereof and this Easement shall be construed as if such covenants, agreement, conditions or provision had not be inserted herein.
6. Governing Law. This Easement shall be governed by and construed in accordance with the laws of the State of South Carolina.

7. Multiple Counterparts: This Easement may be executed in counterparts, each of which shall for all purposes be deemed an original, and all of such counterparts will together constitute one and the same agreement.

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**[SIGNATURES FOLLOW ON THE NEXT TWO PAGES]**



IN WITNESS WHEREOF, the party hereto has caused its hand and seal to be put hereunto as of the day and year first above written.

WITNESSES:

Coupe Saban  
Print Name: COUPE SABAN

Yvonne M. Koerner  
Print Name: Yvonne M. Koerner

GRANTOR:

SILVER CAROLINA DEVELOPMENT  
COMPANY, L.L.C., a Delaware limited liability  
company

By [Signature]  
Name: SAMUEL W. PUGLIA  
Title: MANAGER

STATE OF SOUTH CAROLINA  
COUNTY OF HORRY ) SS.

BEFORE ME, the subscriber, duly commissioned and acting as Notary Public in and for said County and State, personally appeared SAMUEL W. PUGLIA MANAGER of SILVER CAROLINA DEVELOPMENT COMPANY, L.L.C., a Delaware limited liability company, who acknowledged and signed his name to the foregoing instrument as his act and deed.

Given under my hand and official seal this 24<sup>th</sup> day of JULY, 2001.

Coupe Saban  
Notary Public FOR SOUTH CAROLINA  
My Commission Expires 4/28/2004

WITNESSES:

Print Name:

Michael Eisenwald

Print Name

Clinton J. Yarbrough

STATE OF South Carolina )

) SS.

COUNTY OF Richland )

BEFORE ME, the subscriber, duly commissioned and acting as Notary Public in and for said County and State, personally appeared W. Russell Drake, the Manager of Drake Development BF LLC, a South Carolina limited liability company, who acknowledged and signed his name to the foregoing instrument as his act and deed.

Given under my hand and official seal this 24<sup>th</sup> day of July, 2001.

GRANTEE:

DRAKE DEVELOPMENT BF LLC, a South Carolina limited liability company

By:

Name:

Title:

W. Russell Drake

Manager

Notary Public

My Commission Expires 3-05-2009

WITNESSES:

Print Name: Clinton J. Yarbrough

R. M. Ungert  
Print Name: R. M. Ungert

STATE OF South Carolina

COUNTY OF Richland ) SS.

BEFORE ME, the subscriber, duly commissioned and acting as Notary Public in and for said County and State, personally appeared W. Russell Drake, the Manager of Drake Development BF LLC, a South Carolina limited liability company, who acknowledged and signed his name to the foregoing instrument as his act and deed.

Given under my hand and official seal this 24 day of July, 2001.

R. M. Ungert  
Notary Public  
My Commission Expires 2-2-2004

GRANTOR:

DRAKE DEVELOPMENT BF LLC, a South Carolina limited liability company

By: W. Russell Drake

Name: W. Russell Drake

Title: MANAGER

2392/11-8

PARKING GARAGE EASEMENT

FILED  
HORRY COUNTY, S.C.

THIS EASEMENT ("Easement") is made and entered into this 24<sup>th</sup> day of July, 2001, by 2001 JUL 25 PM 4:22  
**DRAKE DEVELOPMENT BF LLC**, a South Carolina limited liability company (hereinafter  
called "Grantor"), and **SILVER CAROLINA DEVELOPMENT COMPANY, L.L.C.**, a  
Delaware limited liability company (hereinafter called "Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner of Parcels I and V as shown on a Bonded Final Plat entitled "Subdivision of Lot 2 Revised, Barefoot Resort" prepared for Silver Carolina Development Company, L.L.C. by DDC Engineers, Inc. dated February 12, 2001 and revised March 26, 2001, recorded in the Horry County Register of Deeds Office on July 9, 2001 in Plat Book 178 at Pages 86 and 86A ("Bonded Final Plat"), incorporated by reference herein; and

WHEREAS, Grantor intends to construct on Parcel I the North Tower of Barefoot Resort Horizontal Property Regime (the "North Tower") consisting of a building containing 118 Residential Units and one Commercial Unit on Parcel I ("Building I") with ground level parking lot on Parcel V (the "Surface Parking Lot") in accordance with the Amended and Restated Contract of Sale and Option by and between Grantor and Grantee dated July 24, 2001 (the "Contract of Sale"); and

WHEREAS, under the Contract of Sale, Grantee has granted Grantor options (the "Options") to purchase Parcel II and Parcel III, which are portions of the remaining portion of Lot 2 as shown on the Bonded Final Plat, and to construct thereon Building II and Building III respectively, all as provided in the Contract of Sale (Building I, Building II and Building III being referred to collectively herein as the "Entire Project"); and

WHEREAS, if Grantor does not exercise the Option to purchase Parcel II, Grantee desires the ability to develop Building II and in connection therewith to construct a parking garage on Parcel V that would serve the Entire Project (the "Parking Garage");

NOW THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) in hand paid, the covenants herein contained and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Exercise of Easement Rights; Benefitted Owners. The easement rights granted to Grantee herein shall be exercised only if Grantor does not exercise the Option to purchase Parcel II. Such easement rights shall be solely for the benefit of Grantor and its successors in title to Parcels II and III as described in the Contract of Sale, including all owners of condominium units constructed on Parcels II and III and their tenants, subtenants, occupants, customers, invitees, agents and contractors (collectively, the "Building II and III Owners") and by the owners of certain

commercial space in the Parking Garage (the "Commercial Space"). If Grantor exercises the Option to purchase Parcel II and closes on the purchase of Parcel II, this Easement shall automatically terminate.

2. Easement to Build Parking Garage. Subject to the provisions of paragraph 1, Grantor grants to Grantee an easement to build the Parking Garage on Parcel V at Grantee's expense and to use the Parking Garage as provided in this Agreement, including such easements as are necessary for lateral and vertical support of the Parking Garage and ingress egress and access to the Parking Garage on, over, under across and through Parcel V. The final plans and specifications for the Parking Garage (the "Garage Plans") shall be subject to the approval of Grantor, such approval not to be unreasonably withheld or delayed. The Garage Plans must be approved by all governmental agencies having jurisdiction over the Parking Garage. The Garage Plans must also be approved by any entity having rights of approval under recorded covenants and restrictions to include, without limitation the Barefoot Resort Nonresidential Owners Association, Inc. The Parking Garage may contain the Commercial Space to be used or leased by Grantor or Grantee.
3. Joint Use of Parking Garage. Should Grantee exercise its easement rights hereunder and construct the Parking Garage, the Parking Garage shall be used by the Building II and III Owners, by the owners or tenants of the Commercial Space, and by all owners of condominium units constructed on Parcel I and their tenants, subtenants, occupants, customers, invitees, agents and contractors (collectively, the "Building I Owners"). The number of parking spaces in the Parking Garage reserved for use by the Building I Owners shall be the greater of (i) the number of spaces that were available in the Surface Parking Lot, or (ii) a pro rata share of the spaces in the Parking Garage, based on the total number of condominium units in Building I compared to the total number of condominium units in the Entire Project. Spaces shall be allocated on each floor of the Parking Garage on a pro rata basis or as close thereto as possible.
4. Utility Easement. Should Grantee exercise its easement rights hereunder, Grantor also grants to Grantee a non-exclusive perpetual easement to install, use, maintain, repair and replace utility systems on Parcel V to serve the Parking Garage, all to be constructed in accordance with the Garage Plans, and to connect the same to any such lines located on Parcel I, provided that the locations of such connection shall be subject to Grantor's approval, not to be unreasonably withheld or delayed.
5. Exclusive Use Until Easements Exercised. Until and unless Grantee exercises its easement rights hereunder, Grantor and its successors and assigns as owners of Parcel I shall have the exclusive right to use the Surface Parking Lot on Parcel V. During construction of the Parking Garage, the Building I Owners shall be entitled to exercise temporary parking rights on the adjacent Parcel VI pursuant to the Temporary Parking Easement executed by Grantee of even date herewith.



6. Compliance with Governing Laws and Regulations. Grantee shall construct the Parking Garage in accordance with all applicable laws and regulations and shall cooperate with Grantor such that the temporary parking provided for Building I Owners during construction shall be in compliance with applicable laws and regulations.
7. Maintenance of the Parking Garage. Upon completion of the Parking Garage, Grantee shall maintain in a good and presentable condition and repair the Parking Garage. The Building I Owners, through the owners association for the North Tower, shall reimburse Grantee for their pro rata share of the cost of such maintenance, repair replacement of the Parking Garage and casualty and liability insurance thereon based upon the number of parking spaces reserved for Building I Owners compared to the total number of parking spaces in the Parking Garage, with a fair allocation of a portion of such costs to the Commercial Space. It is the intent of the parties that each of the Buildings in the Project, as well as the owners of the Commercial Space, shall pay a pro rata share of the cost of the maintenance, repair, replacement and insurance of the Parking Garage, based on the number of parking spaces allocated to the use of each Building, with a fair allocation of a portion of such costs to the Commercial Space. Grantee shall comply with all of the rules, regulations and requirements of the Declaration of Covenants, Conditions and Restrictions for the Barefoot Resort Nonresidential Properties and the Barefoot Resort Nonresidential Owners Association, Inc. and the City of North Myrtle Beach in the construction, operation, use, repair, replacement and maintenance of the Parking Garage.
8. Supplemental Agreement. When the Garage Plans are finalized, the parties shall enter into a supplemental agreement describing in more detail the easement rights of Grantee, allocating parking spaces and providing for allocation of maintenance and insurance costs for the Parking Garage, consistent with the terms of this Agreement.
9. No Restrictions on Development. Notwithstanding any other provision contained in this Easement, the easements and rights of way set forth herein shall not restrict the abilities of the Grantee and Grantor to improve or develop their respective parcels or lots. Any increase in the number of benefitted parties or the kinds of uses of the Parking Garage and the corresponding increase in the burden to Parcel V shall not affect the enforceability of the easements herein granted. The parties acknowledge that the easements granted hereunder may involve certain temporary disruptions, including, without limitation, dust, noise and redirection of pedestrian and vehicular traffic and interruptions of utility services. The easement rights herein granted include the right to cause such temporary disruptions to Parcel I, Parcel V and Lot 2.
10. Easement Appurtenant. The easements provided herein are appurtenant and run with the land. All obligations of Grantee and Grantor hereunder shall be binding upon their respective successors-in-title and assigns; provided, however, the covenants and obligations herein are only personal to and enforceable against the parties or successors-in-title, as the case may be, owning title to the respective properties at the



time any liability or claim arising under this Easement shall have accrued; it being intended that upon the conveyance of title by a party, the party conveying title shall thereupon be released of any liability hereunder as to the property conveyed for any breach of this Easement or claim arising under this Easement accruing after the date of such conveyance. The easements granted herein are easements in gross for commercial purposes.

11. Entire Agreement. This Easement constitutes the entire agreement of the parties hereto relating to the subject matter hereof and may not be amended, waived or discharged, except by instrument in writing executed by all parties hereto. The parties agree to execute amendments hereto or grant additional easements as are necessary to effect the intent of the foregoing.
12. Severability. The validity of any one of the covenants, agreements, conditions or provisions of this Easement or any one of the covenants, agreements, conditions or provisions of this Easement or any portion thereof shall not affect the remaining portions thereof or any part thereof and this Easement shall be construed as if such covenants, agreement, conditions or provision had not be inserted herein.
13. Governing Law. This Easement shall be governed by and construed in accordance with the laws of the State of South Carolina.
14. Multiple Counterparts: This Easement may be executed in counterparts, each of which shall for all purposes be deemed an original, and all of such counterparts will together constitute one and the same agreement

IN WITNESS WHEREOF, the party hereto has caused its hand and seal to be put hereunto as of the day and year first above written.

WITNESSES:

Yvonne M. Kanner  
Print Name: Yvonne M. Kanner

C. Joyce Sagan  
Print Name: C. JOYCE SAGAN

**GRANTEE:**

SILVER CAROLINA DEVELOPMENT  
COMPANY, L.L.C., a Delaware limited  
liability company

By [Signature]  
Name: Samuel W. Puglia  
Title: Manager

STATE OF South Carolina )  
 ) SS.  
COUNTY OF Horry )

BEFORE ME, the subscriber, duly commissioned and acting as Notary Public in and for said County and State, personally appeared Samuel W. Puglia, the Manager of SILVER CAROLINA DEVELOPMENT COMPANY, L.L.C., a Delaware limited liability company, who acknowledged and signed his name to the foregoing instrument as his act and deed.

Given under my hand and official seal this 24<sup>th</sup> day of July, 2001.

Yvonne M. Kanner  
Notary Public For South Carolina  
My Commission Expires 02-19-08

2491 / 89-94

State of South Carolina )  
County of Horry )

Easement

FILED  
HORRY COUNTY, S.C.  
2002 JUN 17 PM 4:18  
REGISTER OF DEEDS

THIS EASEMENT ("Easement") is made and entered into this 17<sup>th</sup> day of June, 2002, by **SILVER CAROLINA DEVELOPMENT COMPANY, L.L.C.**, a Delaware limited liability company (hereinafter called "Grantor"), and **DRAKE DEVELOPMENT BF LLC**, a South Carolina limited liability company (hereinafter called "Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner of the parcel or land known as "Existing Asphalt Drive," 37.0' access easement 12,886.74 sq. ft., 0.29 ac., shown on a Plat entitled "Map of Parcels 1 & V, Lot 2 Revised, Asbuilt Survey & Recombination Plat" prepared for Drake Development BF LLC by DDC Engineers, Inc. dated June 3, 2002, recorded in the Horry County Register of Deeds Office on June 17, 2002 in Plat Book 184 at Page 29 incorporated by reference herein (the "Plat"); and described as follows and hereafter referred to as "Tract 1" or the Easement Premises:

Beginning at a 1/2" iron pin on the right of way of Harbor Pointe Drive (66" r/w) and the northeastern boundary of the easement and running along the right of way of Harbor Pointe Drive 37 feet to a calculated point; thence turning and running along Remainder of Lot 2 S22° 57'02"E for a distance of 371.79 feet to a calculated point; thence turning and running N67° 02'58"E for a distance of 24.00 feet to a calculated point; thence turning and running N22° 57'02"W for a distance of 68.39 feet to a calculated point; thence turning and running N 67° 02'58"E for a distance of 13.00 feet to a calculated point; thence turning and running N 22° 57'02"W for a distance of 303.37 feet; to the point of beginning.

WHEREAS, Grantee is the owner of the parcels of land known as Parcel I and Parcel V on said above referenced plat, and described as follows and hereafter referred to as "Tract 2" or the dominant tenement:

Beginning at and iron pin at the northwesternmost corner of subject parcel and the "Existing Asphalt Drive," and running along the right of way of Harbor Pointe Drive (66' r/w) N67°02'58"E for a distance of 384.36 feet to a 1/2 iron pin; thence turning and running along the along the curve of the right of ways of Harbor Pointe Drive and Bridge View Court (50' r/w), said curve having a chord bearing of S67°57'02"E, a chord distance of 35.36 feet, a radius of 25.00 feet for a distance of 39.27 feet to a point; thence continuing along the right of way of Bridge View Court S22°57'02"E for a total distance of 328.37 feet to a 1/2 iron pin; thence running along the curve of the right of way of Bridge View Court said curve having a chord bearing of S38°53'59"E, a chord distance of 27.48 feet, a radius of 50.00 feet for a distance of 27.84 feet to a point; thence running along Parcel IX on said plat S02°41'36"E for a distance of 51.47 feet; thence turning and continuing along Parcel IX S67°02'58"W for a distance of 412.09 feet to a point; thence turning and running along "Remainder of Lot 2 and existing asphalt drive" N22°57'02"W for a distance of 124.71 feet to a point; thence turning and continuing along "existing asphalt drive" N67°02'58"E for a distance of 13.00 feet to a point; thence turning and running along "Existing Asphalt Drive" N22° 57'02"W for a distance of 303.37 feet to the point of beginning.

The Grantor wishes to grant and the Grantee wishes to receive a thirty seven foot (37') easement over, under and across Tract 1.

NOW THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) in hand paid, the covenants herein contained and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, it is hereupon understood and agreed as follows:

1. GRANT OF EASEMENT. The Grantor hereby grants to the Grantee, its successors and assigns, for the benefit of Tract 2 and the owners from time to time of Tract 2, or any portions thereof (including condominium units), and such owners' tenants, subtenants, occupants, customers, invitees, agents, and contractors, an easement appurtenant to Tract 2, a perpetual non-exclusive commercial easement for ingress and egress over, under and across Tract 1 or the Easement Area for the purpose of connecting and giving animals, vehicular and pedestrian access, ingress and egress to Grantee's property described as Tract 2 with a road designated as "Harbor Pointe Drive" on the Plat and for planting, maintaining landscaping approved by Grantee to the existing Asphalt Drive.

2. USE OF EASEMENT PREMISES. Use of Tract 1 is not confined to present uses of Tract 2, or present means of transportation. The installation or maintenance by the Grantee of pipes, conduits, or wires, under, upon or along Tract 1 for works or public utilities is permitted, including replacement of such public utility lines. Grantee shall have the right to use Tract 1 for ingress and egress for any purpose, including but not limited to the construction on its property, or access for development or sale of its property. Exclusive use of Tract 1 is not hereby granted. The non-exclusive right to use Tract 1, likewise for ingress or egress is expressly reserved by the Grantor. Grantor further reserves the right to make any other use of Tract 1 so long as such use does not unreasonably interfere with Grantee's use of Tract 1 as set forth above. Grantor further reserves the right to connect intersecting roads and driveways at such points as may be selected by the Grantor from time to time.

3. MAINTENANCE OF EASEMENT PARCEL. The maintenance cost of the said road shall be borne one-half by owner of the remainder of Lot 2 shown on the Plat and one-half by the North Tower of Barefoot Resort Condominium Association.

4. LOCATION OF DUMPSTER. Currently there is a concrete pad for the dumpster located on Tract 1 for the benefit of Tract 2. It is understood and agreed by and between the parties that the dumpster is located in this Easement and can remain in its current location on the area shown on the Plat and described as "CONC." Located on the southern end of Tract 1.

5. ADDITIONS TO DOMINANT TENEMENT. Said easement is also appurtenant to any land that may hereafter come into common ownership with Tract 2 aforesaid and that is contiguous to Tract 2.

6. DIVISION OF DOMINANT TENEMENT. If Tract 2 or any contiguous tract is hereafter divided into parts by separation of ownership or by lease, all parts shall enjoy the benefit of the easement hereby created. Division of the dominant tenement into any number of parts shall not be deemed an unlawful increase of burden.

7. PARKING. Both parties covenant that vehicles shall not be parked on Tract 1.

8. WARRANTIES OF TITLE. Grantor warrants that it has good and indefeasible fee simple title to Tract 1 free and clear of liens and encumbrances other than those liens that have been subordinated to this Easement.

9. RELOCATION OF EASEMENT. Grantor reserves the right to relocate the Easement Premises as follows:

a. Grantor shall first notify the Grantee of the proposed relocation by mailing notice to the Grantee at its last known address furnished pursuant hereto showing the proposed relocation, probable commencement and completion dates, all by mailing same, postage prepaid, at least thirty (30) days prior to commencement of relocation.

b. The relocation must not change the terminus entering the Grantee's property (unless changed with the consent of both parties) and the point where the Easement Premises connect with Harbor Pointe Drive.

c. Grantor shall improve the new Easement Premises with an asphalt driveway similar to the one replaced.

d. At the completion of the work, Grantor shall record an easement grant in the same form granting the new easement to the Grantee, shall cause the same to be delivered to the Grantee, and shall furnish the Grantee evidence of title satisfactory to the Grantee showing an unencumbered easement in such Grantee, whereupon the change in location of the Easement Premises shall become effective, and appropriate releases of the prior location shall be executed in recordable form and exchanged between the parties hereto, their successors or assigns.

10. RUNNING OF BENEFITS AND BURDENS. All provisions of this instrument, including the benefits and burdens, run with the land and are binding upon and inure to the heirs, assigns, successors, and tenants of the parties hereto. The easement contained herein shall be perpetual, non-exclusive, run and be appurtenant to the lands herein described, and shall run with said lands forever and be binding upon and inure to the benefit of and be enforceable by the heirs, legal representatives, successors and assigns of the parties hereto, including without limitation the owners of condominium units within the Tract 2.

11. NOTICE. Grantor's address is Post Office Box 1665, North Myrtle Beach, South Carolina 29598 and Grantee's address is 1813 Hampton Street, Columbia, South Carolina 29202, with copy to Richard M. Unger, Esq., Rogers Townsend & Thomas, PC, P. O. Box 100200, Columbia, South Carolina 29202-3200. Either party may lodge written notice of change of address with the other. All notices shall be sent by U.S. mail or commercial courier such as Federal Express to the addresses provided for in this paragraph and shall be deemed given two days after being placed in the mail or delivered to the commercial courier. The affidavit of the person depositing the notice in the U.S. Post Office or the commercial courier receptacle shall be evidence of such mailing or delivery.

12. GOVERNMENTAL AGENCIES. Grantor agrees and binds itself and its successors and assigns that if requested by Grantee or any federal, state or county governmental agency to transfer a thirty-seven foot (37') right of way over the easement area to such agency upon request.

13. ENTIRE AGREEMENT. This Easement constitutes the entire agreement of the parties hereto relating to the subject matter hereof and may not be amended, waived or discharged, except by instrument in writing executed by all parties hereto.

14. CONTROLLING LAW. This Easement shall be governed by and construed in accordance with the laws of the State of South Carolina.

**[REMAINDER OF PAGE INTENTIONALL LEFT BLANK]  
SIGNATURE PAGES FOLLOW**



IN WITNESS WHEREOF, the party hereto has caused its hand and seal to be put hereunto as of the day and year first above written.

WITNESSES:

Crystal L. New  
Print Name: CRYSTAL L. NEW

Jesse Simpson  
Print Name: Jesse Simpson

GRANTOR:

SILVER CAROLINA DEVELOPMENT  
COMPANY, L.L.C., a Delaware limited liability  
company

By: [Signature]  
Name: ROBERT S. GUYTON  
Title: VICE PRESIDENT

STATE OF South Carolina )  
 ) SS.  
COUNTY OF Horry )

BEFORE ME, the subscriber, duly commissioned and acting as Notary Public in and for said County and State, personally appeared Robert S. Guyton, the Vice President of SILVER CAROLINA DEVELOPMENT COMPANY, L.L.C., a Delaware limited liability company, who acknowledged and signed his name to the foregoing instrument as his act and deed.

Given under my hand and official seal this 17th day of June, 2002.

Patricia D. Smith  
Notary Public  
My Commission Expires: my Commission Expires July 10, 2008

WITNESSES:

[Signature]  
Print Name: Michael Eisenraud

[Signature]  
Print Name: R. M. Hagg ETC

STATE OF South Carolina )  
 ) SS.  
COUNTY OF Horry )

BEFORE ME, the subscriber, duly commissioned and acting as Notary Public in and for said County and State, personally appeared W. Russell Drake, the Manager of Drake Development BF LLC, a South Carolina limited liability company, who acknowledged and signed his name to the foregoing instrument as his act and deed.

Given under my hand and official seal this 17<sup>th</sup> day of June, 2002.

[Signature]  
Notary Public

My Commission Expires: 3-08-2009

