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SURF MOTEL CONDOMINIUM  
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DECLARATION

RECORDED AND VERIFIED  
REBECCA P. TUCKER  
REGISTER OF DEEDS  
NEW HANOVER CO. NC

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RETURNED TO *B. B. B. Bankew*

STATE OF NORTH CAROLINA

DECLARATION OF CONDOMINIUM  
SURF MOTEL CONDOMINIUM

COUNTY OF NEW HANOVER

DALLAS HARRIS REAL ESTATE-CONSTRUCTION, INCORPORATED, a North Carolina corporation, hereinafter called "DECLARANT" being the owner in fee simple of the property hereinafter described, hereby submits said property to condominium ownership pursuant to Chapter 47A of the General Statutes of North Carolina as amended, known as the "Unit Ownership Act", and to that end does hereby publish and declare that all of the said property to be known as "SURF MOTEL CONDOMINIUM" is and shall be held, conveyed, hypothecated, encumbered, used, occupied, and improved subject to the following conditions, covenants, restrictions, uses, limitations and obligations, all of which shall be deemed to run with the land and shall be a burden and benefit to DECLARANT, its successors and assigns, and any person acquiring or owning an interest in the property and improvements, their grantees, successors, heirs, executors, administrators, devisees and assigns.

1. DEFINITIONS. Unless it is plainly evident from the context that a different meaning is intended, as used herein:

A. "Act" or "Unit Ownership Act" means the statutory provisions set forth in Chapter 47A of the North Carolina General Statutes under which the condominium is established.

B. "Assessment" means a share of the funds required for the payment of common expenses which from time to time is assessed against the unit owner by the Association.

C. "Association" means the entity responsible for the operation of the condominium pursuant to the Act, which entity includes all of the unit owners acting as a group in accordance with the By-Laws and Declaration.

D. "Board of Directors" or "Board" means the Board of Directors of the Association, and "Director" means a member of the Board.

E. "By-Laws" means the by-laws for the government of the condominium as they exist from time to time.

F. "Common Areas and Facilities" means the portion of the condominium property owned, in undivided interest, by all of the owners, as more specifically set forth herein.

G. "Common Expenses" include the expenses of administration, maintenance, operation, repair and replacement (including a capital reserve for repair maintenance and replacement), of the common area and facilities, and other expenses declared by the Association to be common expenses, as further defined in the Act.

H. "Common Profits" means the balance of all revenue of the Association remaining after deduction of common expenses.

I. "Condominium Documents" means this Declaration, the By-laws, the Rules and Regulations, and all other Exhibits attached hereto and all other documents, and regulations promulgated pursuant to the authority created herein and in the Act, and as such documents shall be amended from time to time.

J. "Declaration" means this instrument as it may be from time to time amended or supplemented.

K. "Limited Common Areas and Facilities" means and includes those common areas and facilities which are reserved for the use of a certain unit or units to the exclusion of other units, as more specifically defined herein.

L. "Management Firm" shall mean the company or firm responsible for the management of the condominium under a Management Agreement with the Association. The terms "Managing Agent" and "Management Agent", as used herein, shall be synonymous with the term "Management Firm" as herein defined.

M. "Property" means and includes the land described in Exhibit "A", attached hereto and incorporated herein by reference, together with any buildings and improvements located thereon, and such other land, together with any buildings and improvements as may be subjected to this Declaration pursuant to the provisions hereinafter set forth.

N. "Unit" or "Condominium Unit" means a part of the property which is to be subject to private ownership, as designated on the exhibits attached to this Declaration and as further defined in the Act. The words "apartment" or "motel room", if used herein are synonymous with the word "unit" as defined herein.

O. "Unit Owner" or "Owner" means a person or entity, or any combination thereof, who owns a unit.

P. "Motel" means the building to be constructed on the premises consisting of forty-five (45) or more units, all contiguous, having a lobby, registration desk, and provision for furnishings, baths, lights, linens and maid service and utilized for lodging by guests for a more or less indefinite period of time.

2. DESCRIPTION OF PROPERTY. All that certain tract or parcel of land with the buildings and improvements thereon erected or to be erected, situate, lying and being in Wrightsville Beach Township, County of New Hanover, State of North Carolina, and more particularly described in Exhibit "A" attached hereto and by reference made a part hereof.

3. DESCRIPTION OF BUILDING. The DECLARANT has constructed or will construct, upon the property described in Exhibit "A" attached hereto, one multi-unit building with condominium units to be used for lodging accommodation purposes as a motel. A plat of survey of property by Jack G. Stocks, showing the location of said building is attached hereto and made a part hereof as Exhibit "A". The building is more particularly described in the plans thereof, a copy of which plans is attached hereto as Exhibit "B" and made a part hereof, showing all particulars of the building as required by law. The ground floor has a lobby, a utility room, and office space for the Association and Managing Agent. In addition, there are nine (9) condominium units on the ground floor. The other three (3) floors will contain twelve (12) condominium units each. The building is constructed of "Type I Fireproof" construction as defined by the North Carolina Building Code and consists principally of reinforced

concrete, concrete block and masonry. The building has a gross area of approximately thirty-eight thousand, eight hundred (38,800) square feet divided into forty-five (45) individual condominium units and common areas consisting of halls and walkways, elevators and sun decks. In addition, the building has common outside parking areas, swimming pool, landscaped areas and other appurtenances and facilities.

4. UNIT DESIGNATION AND DESCRIPTION.

A. DESIGNATION. The unit designation of each unit, its location and type of floor plan, is set forth in Exhibit "B" hereto attached and made a part hereof.

B. DESCRIPTION. The legal description of each unit shall consist of the identifying number of such unit as shown on the plat hereto attached as Exhibit "B". Each unit is bounded both as to horizontal and vertical boundaries by the interior surface of its perimeter walls, ceilings and floors which are shown on said plans, subject to such encroachments as are contained in the building, whether the same now exist or may be caused or created by construction, settlement or movement of the buildings, or by permissible repairs, construction or alteration. The floor plan of the four floors of the building, hereto attached as Exhibit "B" shows the location and arrangement of each of the units. There are basically two (2) types of floor plans designated as Motel Suite 1 or Motel Suite 2, which are more particularly described as follows:

(1) A Motel Suite 1 unit shall have an approximate gross floor area of five hundred eight two (582) square feet and shall consist of the following rooms: one bedroom, one bathroom, and a combination kitchen-living-dining room.

(2) A Motel Suite 2 unit shall have an approximate gross floor area of four hundred eighty two (482) square feet and shall consist of the following rooms: one bedroom, and a combination kitchen-living-dining room.

5. COMMON AREAS AND FACILITIES.

A. The common areas and facilities consist of the following:

(1) The land submitted to condominium ownership on which the building is erected and all lands surrounding the buildings as is described in Paragraph 2 above.

(2) All foundations, columns, girders, beams, supports, roofs, concrete floors, main walls, exterior walls and interior walls, except those non-load bearing partition walls, non-common chases and suspended ceilings wholly within a unit.

(3) The halls, corridors, lobbies, stairs, stairways, entrances and exits of the building.

(4) The elevators, elevator shafts, tanks, pumps, motors, fans, compressors and control equipment.

(5) The storage spaces, laundry rooms, yards, roads, driveways, and parking areas.

(6) All central and appurtenant installations facilities for utility services, including but not limited to, power, water, gas, refrigeration, heating, air conditioning, telephone, sewer, irrigation, trash disposal and incineration (including all pipes, ducts, wires, cables and conduits used in connection therewith, whether located in common area or units) and all other mechanical equipment spaces.

(7) All other parts of the property and all apparatus and installations existing in the building or upon the property for common use or necessary or convenient to the enjoyment, existence, maintenance or safety of the property, including but not limited to the swimming pool, and specifically including units 104, 105 and 106.

B. (1) The undivided share in the common elements or common areas which are appurtenant to a unit shall not be separated therefrom and shall pass with the title to the unit, whether or not separately described.

(2) A share in the common areas appurtenant to a unit cannot be conveyed or encumbered except together with the unit.

(3) The shares in the common areas appurtenant to units shall remain undivided, and no action for partition of the common elements shall lie.

C. The undivided interest of each unit owner in such common areas and facilities is set forth in Exhibit "C" and is attached hereto and made a part hereof.

6. LIMITED COMMON AREAS AND FACILITIES. The limited common areas and facilities appurtenant to each unit are as follows:

A. The surface areas and railings of any decks or balconies accessible by normal means solely from the unit.

B. All non-load bearing walls located entirely within the unit.

C. All materials, including, but not limited to, studs, sheetrock, plywood, carpet, paint, paneling, tile, vinyl or brick, attached to, or on, the inside surfaces of perimeter walls, floors and ceilings of the unit.

D. All doors, windows, screens, ventilation fans and vents located entirely within the unit or extending into the unit from the perimeter walls, floors or ceilings thereof.

E. All air handling units, ducts and components and all water, power, telephone, television and cable television, electricity, plumbing, gas and sewage lines located in the unit; provided, however, that the portion of said lines located in a common compartment for, or installation of, such lines shall be general common areas and facilities as described above.

F. The limited common areas and facilities which are appurtenant to any unit(s) shall not be separated therefrom and shall pass with title to any unit(s), whether or not separately described.

7. USE. The building and each of the units shall be used for lodging accommodation purposes as a motel, which shall include the rental of individual units by the owner(s) thereof for lodging accommodations and other uses reasonably incidental thereto, including meetings by persons owning or occupying such units, model apartments and offices for the sale or rental of units and their furnishings. For the purpose of this Declaration, the term "motel" shall mean the building to be constructed on the premises consisting of 45 or more units, all contiguous, having a lobby, registration desk, and provision for furnishings, baths, lights, linens and maid service and utilized for lodging by guests for a more or

less indefinite period of time. There shall be no obstruction of the common area. Nothing shall be stored in the common area without the prior consent of the Managing Agent or Board of Directors. Nothing shall be done or kept in any unit or in the common area which will increase the rate of insurance on the common area, without the prior written consent of the Management Firm or Board of Directors. No sign of any kind shall be displayed to the public view on or from any unit or the common area without the prior consent of the Management Firm or Board of Directors. No animals, livestock, or poultry of any kind shall be raised, bred or kept in any unit or in the common area except as may be permitted by the rules and regulations adopted by the Association. No noxious or offensive activity shall be carried on in any unit or in the common area, nor shall anything be done therein which may be or become an annoyance to the other owners. There shall be no violation of the rules for the use of the common area adopted by the Board of Directors.

8. PROCESS AGENT. Gordon Frieze, or his successor as designated by the Board of Directors, whose business address is: 711 South Lumina Avenue, Wrightsville Beach, New Hanover County, North Carolina, 28480, is hereby designated as the person to receive service of process in any action provided for in the Act. The Board of Directors may change the process agent by filing a Declaration of Change in the Office of the Register of Deeds of New Hanover County, North Carolina.

9. MAINTENANCE.

A. All plumbing, air conditioning, floor and wall coverings, heating, electrical, telephone, cabinetry, partition walls, suspended ceilings, and other fixtures and equipment located within the unit, and all windows or doors opening into the unit, shall be maintained (and, if owner desires, insured) by the owner. Any replacements or substitution of such fixtures and equipment shall be compatible with any common areas and facilities affected thereby. The Association shall not be responsible for repairing, maintaining, or insuring such fixtures and equipment.

B. The owner of a dwelling unit to which a deck or balcony is appurtenant shall be responsible for the upkeep, repair and maintenance of the surface floor area and the railings of the deck or balcony. No change in color, material or finish shall be made, and no additions or fixtures shall be made without express written approval of the Board of Directors, based on actual samples and drawings of the proposed change. All remaining structural portions of said deck or balcony shall be considered common areas and facilities as provided for in the remaining sections of this Declaration, including specifically the maintenance, repair and upkeep of same.

C. All parts of a condominium unit shall be kept in good condition and repair by and at the expense of the owner. The unit shall be maintained by the owner in a clean and safe condition, free of nuisance. Each unit owner will promptly comply with any requirements of the insurance underwriters of the insurance for the common areas and facilities when so requested in writing by the Board or its designated agent. Any failure of an owner to repair, maintain or replace as may be required pursuant to the Condominium Documents or a determination by the Board or its designated agent that such failure will endanger or impair the value of the common areas and facilities or any unit, or the limited common areas and facilities belonging to another owner, may be, upon written notice to the owner of the nature of the required repair, maintenance or replacement, repaired or replaced by the Association at the expense of the unit owner, to be collected by special assessment as provided herein and in the By-Laws. Such assessment may include the cost to the Association incurred in the abatement of any nuisance maintained by the unit owner therein.

**10. EASEMENTS.**

A. Each unit owner shall have an easement in common with the other owners of all other units to use all pipes, wires, ducts, cables, conduits, public utility lines and other common facilities located in any of the other units and serving his unit. Each unit shall be subject to an easement in favor of the owners of all other units to use the pipes, ducts, cables, wires, conduits, public utility lines and other common facilities serving such other units and located in such unit. The Association shall have the right to be exercised by the Board of Directors or the Management Firm, to enter each unit from time to time at reasonable hours as may be necessary for the operation of the Project to inspect the same, to remove violations therefrom and to maintain, repair or replace the common facilities, if any, contained therein or elsewhere in the building.

B. Each unit and all common areas and facilities and limited common areas and facilities are hereby subjected to an easement for the repair, maintenance, expansion, reduction, inspection, removal, relocation or other service of or to all gas, electricity, television, telephone, water, plumbing, sewer, utility, drainage or other lines or other common areas and facilities, whether or not the cause of any or all of those activities originates in the unit in which the work must be performed.

C. Easements are hereby declared and granted, and the Board may hereafter declare, grant or assume easements for utility purposes for the benefit of the property, including the right to install, lay, maintain, repair and replace water lines, pipes, sewer lines, gas mains, telephone and television wires and equipment and electrical conduits, and wires over, under, along and on any portion of the common areas; each unit owner hereby grants the Board, or the Management Firm, an irrevocable power of attorney to execute, acknowledge and record for and in the name of the Association or each unit owner such instruments as may be necessary to effectuate the foregoing.

D. In the event that by reason of the construction, reconstruction, settlement or shifting of the building, any portion of the common areas and facilities encroaches upon any unit, or any unit encroaches upon any other unit, or any unit encroaches upon the common areas and facilities, (whether the same now exists or may be caused or created by existing construction, settlement or movement of the buildings, or by permissible repairs, construction or alteration), valid easements for the maintenance of such encroachment are hereby established and shall exist for the benefit of such unit or common elements so encroaching so long as all or any part of the building containing such unit or common elements so encroaching shall remain standing; provided, however, that in no event shall a valid easement for any encroachment be created in favor of the owner of any unit or in favor of the owners of the common elements if such encroachment occurred due to the willful conduct of said owner or owners.

E. All easements and rights described herein are easements appurtenant, running with the land, and shall inure to the benefit of and be binding on the undersigned, its successors and assigns, and any owner, purchaser, mortgagee and other person having an interest in said land, or any part or portion thereof, regardless of whether or not reference to said easement is made in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Declaration.

11. PARTITIONING. The common area and facilities shall remain undivided, and no unit owner or any other person shall have the right to bring any action to partition any part thereof, unless the property has been removed from the provisions of the Act. Nothing herein contained, however, shall be deemed to prevent ownership of a dwelling unit by the entireties, jointly, or in common, or in any other form permitted by law.

12. COMMON EXPENSES, COMMON PROFITS. The unit owners are bound to contribute pro rata, in the percentages computed according to Chapter 47A of North Carolina General Statute which percentages are set forth in Exhibit "C" hereto attached, toward the expenses of administration and of maintenance and repair of the general and limited common areas and facilities, and toward any other expenses lawfully assessed by the Association. No unit owner may exempt himself from contributing toward such expense by waiver of the use or enjoyment of the common areas and facilities or by the abandonment of the unit belonging to him.

The common profits of the property, if any, after payment of all expenses of operation and maintenance of the property and the establishment of a sinking fund or other reserve funds or any other matters reasonably necessary and appropriate for the maintenance of the property as determined by the Board of Directors or the Management Firm in accordance with the Condominium Documents, shall be distributed among the unit owners according to the percentages for each unit set forth in Exhibit "C".

13. TAXES. Each Condominium Unit and its percentages of undivided interest in the common areas and facilities set forth in Exhibit "C" hereto attached, shall be deemed to be a separate parcel and shall be separately assessed and taxed for all types of taxes authorized by law, including, but not limited to, special ad valorem levies and special assessments. Each unit holder shall be liable solely for the amount of taxes against his individual unit and shall not be affected by the consequence resulting from the tax delinquency of any other unit holders. Neither the building, the property, nor any of the common areas and facilities shall be deemed to be a separate parcel for purposes of taxation.

14. LIENS.

A. With the exception of liens which may result from the initial construction of this condominium, no liens of any nature may be created subsequent to the recording of this Declaration against the condominium property as a whole (as distinguished from an individual unit, together with its undivided common interest in the common areas and facilities) except with the unanimous consent of the unit owners and the holders, if any, of prior liens thereon.

B. No labor performed or materials furnished to the common elements shall be the basis for a lien thereon unless authorized by the Condominium Documents or expressly authorized by the Board, in which event, same might be the basis for the filing of a lien against all condominium units in the proportions for which the owners thereof are liable for common expenses.

C. Unless otherwise provided by law, in the event a lien against one or more condominium units becomes effective, each owner thereof may relieve his condominium unit of the lien by paying the proportionate amount attributable to his condominium unit. Upon such payment, it shall be the duty of the lienor to release the lien of record for such condominium unit.

D. Assessments against unit owners by the Association made pursuant to the By-laws shall, if not paid when due, bear interest at such rate as is determined by the Board, not to exceed the maximum rate allowed by law, and shall create a lien to the extent of such assessment, together with interest thereon, in favor of the Association against the unit of the defaulting owner as provided by the Unit Ownership Act, and shall be collected as therein provided.

E. All liens provided for herein shall be subordinate, and are hereby subordinated, to the lien of any first mortgage given to any lender to secure a loan, the proceeds of which are used to finance the purchase of any unit or units, unless any such lien provided for herein shall have been recorded in the Office of the Clerk of Superior Court prior to the recordation of said first lien mortgage in the Office of the Register of Deeds of New Hanover County, North Carolina.

15. NATURE OF INTEREST IN UNIT.

A. Every unit together with its undivided common interest in the common areas and facilities, shall for all purposes be a separate parcel of real property, and the unit owner thereof shall be entitled to the exclusive ownership and possession of such unit subject only to the Condominium Documents and the covenants, restrictions, easements, regulations, resolutions and decisions adopted pursuant thereto.

B. The owner shall be entitled to use the common areas and facilities in accordance with the purpose for which they are intended, but no such use shall hinder or encroach upon the lawful rights of the owners of other units.

16. INSURANCE.

A. Securing Policies. All insurance policies upon the property (except personal property within a unit and limited common areas and facilities) shall be secured by the Board or by the Managing Agent if so designated by the Board, who shall have the authority to, and shall, obtain such insurance against (1) loss or damage by fire or other hazards normally insured against, and (2) such other risks, including public liability insurance, as from time to time shall be customarily required for other property similar in construction, location and use as the property and the improvements thereon, all under such terms and for such amounts as the responsible authority shall determine. The foregoing shall not preclude the Board from obtaining insurance coverage on all or a portion of the limited common areas and facilities, and the furnishings, furniture and appliances conveyed with each unit. In obtaining such coverage, the responsible authority shall consider the reasonable requirements of holders of first liens on individual units.

B. Premiums. All insurance policy premiums on the property and for the benefit of the Association purchased by the Board or the Managing Agent and any deductibles payable by the Association upon loss shall be a common expense.

C. Proceeds. All insurance policies purchased pursuant to these provisions shall provide that all proceeds thereof shall be payable to the Board as insurance trustee or to such attorney at law or institution with trust powers as may be approved by the Board of Directors. The sole duty of insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purpose elsewhere stated herein or stated in the By-laws and for the benefit of the unit owners in accordance with the Act.

17. DISTRIBUTION OF INSURANCE PROCEEDS. Proceeds of insurance policies shall be distributed to or for the benefit of the beneficial owners in the following manner:

A. Expense of Trust. All reasonable expenses of the insurance trustee shall be first paid or provision made therefor.

B. Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, in accordance with the Act, the remaining proceeds shall be paid to defray the cost thereof as provided in Paragraph 17 hereof. Any proceeds remaining after defraying such cost shall be distributed to the beneficial owners, including lienholders of record, or retained by the Association for such common expenses or purposes as the Board shall determine.

C. Failure to Reconstruct or Repair. If it is determined, as provided in Paragraph 17 hereof, that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners, including lienholders of record.

18. DAMAGE AND DESTRUCTION. Except as hereinafter provided, damage to or destruction of the common areas and facilities, and to the extent insurance proceeds are available, limited common areas and facilities, shall be promptly repaired and restored by the Board using the proceeds of any insurance available for those purposes, and the unit owners of all units shall be liable for assessment of any deficiency, in accordance with their undivided interests in the common areas and facilities; provided, however, if the building be more than two-thirds destroyed by fire or other casualty and the owners of three-fourths of the units resolve not to proceed with reconstruction or restoration, then in that event, the property shall be either (a) sold or otherwise transferred as hereinafter provided, or (b) deemed to be owned as tenants-in-common by the unit owners, and subject to the provisions of Section 47A-25 of the Act as the same exists at the date hereof or as amended hereafter. Any reconstruction or repair shall be in accordance with the plans and specifications of the original building and improvements, unless other plans and specifications are approved by the Board and any governmental authorities whose approval may be necessary.

19. RECOMMENDATION OF RENTAL AGENTS At the annual meeting of the Association, or such other meeting of the Association as is designated by the Board, the Board may, upon notice to the owners, recommend for the approval of the Association one or more agents for the rental of units during the forthcoming year. Prior to recommending agents for the approval of the Association, the Board shall have authority to require any agent desiring to qualify as an approved agent to submit a copy of the proposed rental agreement to be used by such agent, together with such other information as the Board may reasonably require. The Board may require, as a condition of approval, that all rental agreements incorporate such standard procedures as may be required to minimize problems of security, maintenance, quality and operation of the common areas and facilities of the property. Neither the Association nor the Board shall have, or attempt to impose as a condition of approval, any control over the commission schedule or fees charged by any approved rental agent, or the permissible period of rental, all of which shall be for the sole determination of the approved rental agent and any owner selecting such agent. Each owner shall have the absolute right to enter into any direct rental, lease or sales arrangement with renters, lessees and purchasers which shall be consistent with the Declaration, By-laws of the Association and such other regulations as may from time to time be promulgated by the Association and/or Board. Nothing herein shall be construed as creating or authorizing any rental pooling or as requiring

the rental of a unit by an owner or as restricting the owner's use of his unit. If any court of law, governmental regulatory body having appropriate jurisdiction or approved legal counsel to the Association determines that any portion of this provision is unlawful or would require registration of the offering of any unit as a security, then such portion of this provision shall be invalid until such requirement is eliminated.

20. MANAGEMENT AGENT.

A. Interim Management Agent and Assessments. From the date of the first conveyance of title by the DECLARANT to an owner until the date of the first Association meeting, the DECLARANT or its designee shall serve as the interim Management Agent with responsibility for coordinating all normal management services of the Association. During the period from conveyance of title by DECLARANT to an owner of a unit, until the first Association meeting (the time of determination by the Association of the new operating budget), the interim Management Agent shall receive a management fee from such owner of \$5.00 per month. During such period, the owner shall pay monthly to the interim Management Agent an assessment equal to the unit's percentage of undivided interest, as set forth in Exhibit "C" to this Declaration, of the estimated total operating expenses of the property, including the above management fee, as set forth in Exhibit "C", to this Declaration. Any actual Association operating expenses in excess of the total assessments received from owners for operating expenses prior to the first Association meeting shall be paid by DECLARANT.

B. Regular Management Agent and Assessments. Upon selection by the Association of a regular Management Agent and the adoption of the new annual Association operating budget, any excess of interim assessments over total, actual Association operating expenses shall be deposited by DECLARANT to the account of the Association. The interim Management Agent shall provide to the regular Management Agent an accounting of operating revenues and expenses. After adoption of the new annual Association budget, the DECLARANT shall be subject to regular assessments for any units still owned by DECLARANT.

C. Time of Payment. Each owner's pro rata share of the operating expenses for the first year shall be payable at the time of conveyance of title to the owner by the DECLARANT. Subsequent payments shall be due monthly or annually thereafter as determined by the Board of Directors. Payments not received when due shall bear interest at the maximum permissible legal rate until paid.

21. UNITS SUBJECT TO CONDOMINIUM DOCUMENTS. All present and future owners, tenants and occupants of units and their guests or invitees, shall be subject to, and shall comply with the provisions of the Condominium Documents, and as the Condominium Documents may be amended from time to time. The acceptance of a deed of conveyance or the entering into of a lease or the entering into occupancy of any dwelling unit shall constitute an agreement that the provisions of the Condominium Documents are accepted and ratified by such owner, tenant or occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such unit as though such provisions were made a part of each and every deed of conveyance or lease. Failure to comply with the provisions of the Condominium Documents shall entitle the Association or any other owner to seek legal and/or equitable relief, including costs and reasonable attorney's fees incurred in enforcing such compliance.

22. AMENDMENT OF DECLARATION. This Declaration may be amended by the vote of not less than sixty per cent (60%) in common interest of all unit owners, cast at a meeting duly held in accordance with the provisions of the By-laws. No such amendment shall be effective until recorded in the Office of the Register of Deeds for the County wherein the property is located. The By-laws may be amended in accordance with the procedure set forth in such By-laws.

23. INCORPORATION OF ASSOCIATION. It is the intention of DECLARANT that all rights of the Association shall be vested in a non-profit or a business corporation known as SURF MOTEL ASSN., INC., which shall be or has been formed pursuant to the laws of the State of North Carolina and the applicable Federal laws. Such corporation shall be formed and operated in accordance with this Declaration and the By-laws attached hereto and incorporated herein, and all governing laws, as they shall be amended from time to time.

24. INVALIDITY. The invalidity of any provision of this Declaration shall not impair or affect the validity and enforceability of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included.

25. WAIVER. No provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

26. LAW CONTROLLING. This Declaration and the By-laws attached hereto shall be construed under and controlled by the laws of the State of North Carolina.

27. WARRANTIES. DECLARANT acknowledges that all contractual warranties set forth in the building's construction contract, of material and equipment in the unit, shall accrue to the benefit of the owner of such unit, along with all warranties, if any, provided by the manufacturer or supplier of appliances, air conditioning, heating and utility systems in the unit. THE CLOSING OF TITLE OR OCCUPANCY OF THE UNIT SHALL CONSTITUTE AN ACKNOWLEDGMENT BY THE UNIT OWNER THAT DECLARANT MAKES NO OTHER IMPLIED OR EXPRESS WARRANTIES RELATING TO THE UNIT OR THE COMMON AREAS AND FACILITIES, EXCEPT FOR SUCH WARRANTIES AS ARE SET FORTH IN THE GENERAL WARRANTY DEED TO THE UNIT.

IN TESTIMONY WHEREOF, the DECLARANT has caused this Declaration to be signed in its corporate name and duly attested and sealed with its corporate seal, this the 15th day of July, 1981.



DECLARANT:

DALLAS HARRIS REAL ESTATE-CONSTRUCTION,  
INCORPORATED

BY: *Paul L. Harris*  
President

ATTEST:

*Charmaine S. Williams*  
Assistant Secretary

STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

I, a Notary Public of the County and State aforesaid, certify that Cassandra I. Williams, personally came before me this day and acknowledged that she is Assistant Secretary of DALLAS HARRIS REAL ESTATE-CONSTRUCTION, INCORPORATED, a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by herself as its Assistant Secretary.

WITNESS my hand and official stamp or seal, this 15th day of July, 1981.



Mary Ellen Phelps  
Notary Public

My Commission Expires: November 25, 1984

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STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

The foregoing certificate of Mary Ellen Phelps, a Notary Public, is certified to be correct.

This 20th day of July, 1981.

REBECCA P. TUCKER, REGISTER OF DEEDS  
FOR NEW HANOVER COUNTY

BY: Mary Sue Osta  
Assistant/Deputy

EXHIBIT "A"TODECLARATION OF CONDOMINIUMFORSURF MOTEL CONDOMINIUM

BEGINNING at a point in the Southeastern right of way line of South Lumina Avenue (30 feet from the center line thereof), said point being the dividing corner between Lots 12 and 13 of the Mrs. E. I. Bear Division as shown on map recorded in Book 273 at Page 439 of the New Hanover County Registry; running thence from said beginning point with the Southeastern right of way line of South Lumina Avenue, North 44° 58' East 297.6 feet to a point; running thence South 45° 07' East 66.1 feet to a point; running thence North 44° 58' East 5.5 feet to a point; running thence South 56° 00' East 78.32 feet to a point in the building line on the Atlantic Ocean; running thence with said building line South 40° 55' West 288.06 feet to a point, the same being the Northeastern most corner of Lot 13 of the above mentioned Mrs. E. I. Bear Division; running thence with the Northern line of 13, North 56° 00' West 166.25 feet to the point of Beginning. The same being Lots 8, 9, 10, 11 and 12 and part of Lots 6 and 7 of the above mentioned Mrs. E. I. Bear Division.

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