

**AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR INDIGO PLANTATION
SOUTHPORT, NORTH CAROLINA**

October 9, 2004

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THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (hereinafter "Declaration"), is made this ninth day of October, 2004, by Indigo Plantation Property Owners' Association, Inc. on behalf of itself and all Owners of parcels, real property or lots described herein who have approved this Declaration through separate written execution.

The Indigo Plantation Property Owners' Association, Inc., on behalf of itself and all Property Owners who have executed this instrument, do hereby declare in consideration of the premises and intending to be legally bound: BEING ALL of that certain real property located in the City of Southport, Brunswick County, North Carolina, as shown on the plats of survey for Indigo Plantation Subdivision, Sections One, Two and Three, recorded in Map Book P, Pages 379, 380 and 381 of the Office of the Register of Deeds for Brunswick County, North Carolina, including that tract of land designated "Parcel A" on said plats, but specifically excluding those tracts of land designated "Parcel B" and "Parcel D", shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the real property. These easements, covenants, restrictions and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described Properties or any part thereof, and shall inure to the benefit of each Owner thereof.

It is the intent of the undersigned that this AMENDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR INDIGO PLANTATION shall revoke, supersede and replace the covenants and restrictions recorded in Book 0621, Page 0668, of the Brunswick County Registry, and as amended and recorded in Book 969, page 121, and in Book 970, page 76, and in Book 1415, page 1226.

ARTICLE 1 INTRODUCTION

Indigo Plantation is a coastal residential community with areas consisting of salt marsh and maritime forest.

While each Property Owner's individual style and preference needs to be respected, so does the natural environment. The purpose and intent of this document is to set guidelines for building standards that are compatible with both the owners preferences and the existing natural environment. This document, along with the bylaws, also includes rights, rules and regulations for conducting all business pertinent to Indigo Property Owners Association, Inc.

**ARTICLE 2
DEFINITIONS**

Amenities means the facilities constructed, erected or installed on the Common Area for the use, benefit and enjoyment of Members.

Architectural Review Board or **ARB** means the review board which has delegated authority from the Board of Directors over all construction on any portion of the Properties. Members are appointed by the Board.

Assessable Property means and refers to any lot, parcel, multi-family unit or site which is subject by covenants of record to assessment by the Association.

Association means Indigo Plantation Property Owners' Association, Inc., its successors and assigns.

Board of Directors or **Board** means those persons elected or appointed and acting collectively as the Directors of the Association.

Bylaws mean the Bylaws of Indigo Plantation Property Owners' Association, Inc.

Common Area means all real property and facilities owned by the Association for the common use and enjoyment of all Members of the Association, including greenways and recreational areas.

Common Expenses means and includes:

- (a) All sums lawfully assessed by the Association against its members;
- (b) Expenses of administration, maintenance, repair or replacement of the Common Areas;
- (c) Expenses declared to be common expenses by the provisions of this Declaration or the Bylaws of the Association;
- (d) Hazard, liability, or such other insurance premiums as the Declaration or Bylaws of the Association may require the Association to purchase.

Declaration means this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Indigo Plantation Property Owners' Association, Inc.

Improved Unit means a Unit with a completed structure built upon it for which the City of Southport has issued a certificate of occupancy.

Lot means and refers to any numbered plot of land or unit restricted to residential use shown upon the last recorded subdivision map or maps of the Subject Property on which such plot appears.

Member means and refers to any person or entity that holds membership in the Association.

Owner means and refers to the record Owner, whether one or more persons or entities, of a fee simple title to any Unit, which is a part of the Properties, including contract sellers.

Person means and refers to any individual, corporation, partnership, association, trustee, or other legal entity.

Properties or Subject Property means and refers to that certain real property located in the City of Southport, Brunswick County, North Carolina, as shown on the plats of survey for Indigo Plantation Subdivision, Sections One, Two and Three, recorded in Map Book P, Pages 379, 380 and 381 of the Office of the Register of Deeds for Brunswick County, North Carolina, including that tract of land designated "Parcel A" on said plats, but specifically excluding those tracts of land designated "Parcel B" and "Parcel D".

Quorum means members, voting in person or by proxy at a meeting duly called. Written notice shall be sent to all members not less than thirty (30) days or more than sixty (60) days in advance of the meeting, setting forth the time, place and purpose of the meeting. The presence at the meeting of Members or of proxies entitled to cast thirty-five (35%) percent of the votes shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called within sixty (60) days thereafter. The required quorum of the subsequent meeting shall be one-half (1/2) of the required quorum of the preceding meeting.

Unimproved Unit means a vacant Unit with no completed structure built upon it.

Unit means a portion of the Properties, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use and occupancy.

**ARTICLE 3
ANNEXATION OF ADDITIONAL PROPERTIES**

ANNEXATION BY MEMBERS. Additional lands may be added and annexed to the Properties with membership approval. A meeting shall be duly called for this purpose, as provided in Article 2, Quorum.

**ARTICLE 4
MEMBERSHIP**

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot, or multi-family site, (hereinafter "Assessable Property") which is subject by covenants of record to assessments by the Association, including contract purchasers, shall be a member of the Association. Ownership of such Assessable Property shall be the sole qualification for membership. Membership shall be appurtenant to and may not be separated from ownership of any Assessable Property which is subject to assessment by the Association. The Board of Directors may make reasonable rules relating to the proof of ownership of an Assessable Property in this subdivision.

**ARTICLE 5
VOTING RIGHTS/MEETINGS**

Section 1. VOTING. The Association shall have one class of voting membership. Members shall be entitled to one vote for each Lot, Unit or other Assessable Property in which they hold the interest required for membership by Article 4. When more than one Person holds such interest in any Assessable Property, all such Persons shall be Members. The vote for each Assessable Property shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any single Assessable Property, and no fractional vote be cast with respect to any Assessable Property. The right of any Member to vote may be suspended by the Board of Directors for just cause pursuant to its rules and regulations according to the provisions of Article 8.

Section 2. MEETING OF MEMBERSHIP. Meeting of the Membership shall be conducted as described in the by-laws, with the exception of the quorum requirement. For the purpose of conducting business at the annual members' meetings and as far as practical at other members' meetings, thirty-five percent of the total number of members of the corporation, present in person or represented by written proxy or by duly authorized absentee ballot, shall be requisite to and

shall constitute a quorum for transaction of business. Special Meetings and Board of Directors meetings shall be conducted as described in the by-laws.

ARTICLE 6 BOARD OF DIRECTORS

A Board of Directors will manage the Association, with powers and duties as enumerated in the Articles of Incorporation and Bylaws of the Indigo Plantation Property Owner's Association Inc.. The Board of Directors shall consist of five persons elected by the membership. Each Director will serve two-year terms staggered as defined in the By-Laws.

ARTICLE 7 PROPERTY RIGHTS

Section 1. MEMBER'S EASEMENT OF ENJOYMENT. Every Member shall have a right and easement of enjoyment in and to the Common Area, and such easement shall be appurtenant to and shall pass with the title to every parcel of Assessable Property, subject to each of the following provisions:

- (a) The right of the Association to charge reasonable assessments for maintenance and upkeep of any portions of the Common Area;
- (b) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage the Common Area, or any portion thereof, and the rights of such mortgages in said Properties shall subordinate to the rights of the homeowners hereunder; provided, however, that if any Common Area is mortgaged, the execution of such mortgage shall require the same approval of the membership which is required for special assessments for capital improvements as set forth in Article 8, of this Declaration.
- (c) The right of the Association to suspend the voting rights and the right to use of the Common Areas by a Member or any Person to whom he has delegated his right or enjoyment for any period during which any assessment against his Assessable Property remains unpaid; and for a period not to exceed thirty (30) days, for any infraction of its published rules and regulations.
- (d) The right of the Association to dedicate or transfer all, or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless approved by a majority vote of

the membership at a duly called meeting, and unless written notice of the proposed action is sent to every member not less than thirty (30) days in advance. The instrument effecting such dedication, transfer or conveyance shall be sufficient if executed by appropriate officers of the Association, and contains a recital of the approval of the members.

- (e) The right of the Association to formulate, publish and enforce rules and regulations as provided in Article 9.

Section 2. DELEGATION OF USE. Any member may delegate, in accordance with the Association Bylaws, his right of enjoyment to the Common Area and facilities to the members of his immediate family, his guests, tenants, lessees or contract purchasers who occupy the property.

ARTICLE 8 ASSESSMENTS

Section 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. Every Owner of any Assessable Property, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association:

- (a) Annual assessments of charges;
- (b) Special assessments for capital improvements, and such assessments that shall be fixed, established, and collected from time to time as hereinafter provided.

The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot and improvements against which each such assessment is made. Each such assessment, together with such interest and costs and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Owner of the Lot at the time the assessment fell due. The personal obligation of an Owner for delinquent assessments shall not pass to his successor in title unless expressly assumed by them, but shall continue to be a lien upon the property.

Section 2. ASSESSMENTS PURPOSE AND RATE. The assessments as levied by the Association shall be used exclusively for the purpose of promoting the beautification of the Properties, the recreation, health, safety, and welfare of the residents in the Properties, the enforcement of these covenants and the rules of the Association; and, in particular, for the improvement and maintenance of the

Common Areas, including the road shoulders, and amenities, and providing the services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas. Nothing herein shall mean that assessments may not be used for the maintenance and beautification of areas within the subdivision but which are not part of the Common Areas, such as entrance signs, access easements crossing private property, median strips within street rights of way or the interior of cul-de-sacs.

Section 3. ANNUAL ASSESSMENTS. The basic annual assessment shall be determined by the Board of Directors of the Association, without a vote of the membership, based upon an annual budget of expenditures for authorized purposes, including reasonable reserves for major repairs, replacements and working capital. Each Lot within the subdivision will pay the same amount of annual dues. The Assessment shall not exceed an amount necessary to fund the budget of the Indigo Plantation Property Owners' Association, Inc. to maintain the property and amenities at a level commensurate to Indigo Plantation as of date of this restatement.

Section 4. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS. In addition to the annual assessments authorized above, the Board of Directors may levy in any assessment year a Special Assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any new construction, acquisition of land, buildings or equipment, reconstruction of capital improvements or unexpected repair or replacement of capital improvements upon the Common Area, including the necessary fixtures and personal property related thereto; provided that any such assessments shall be adopted by majority affirmative vote of Members, voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days or more than sixty (60) days in advance of the meeting, setting forth the time, place and purpose of the meeting. At a meeting called for the purpose stated hereof, the presence at the meeting of Members or of proxies entitled to cast thirty-five (35%) percent of the votes shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in this Section.

Section 5. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS: DUE DATES. The Board of Directors shall fix the amount of the annual assessment against each Assessable Property at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates and appropriate penalties for late payment shall be established by the Board of Directors.

Section 6. EFFECT OF NONPAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION. Any assessments which are not paid when due shall be delinquent. If the assessments are not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the higher of

the prevailing prime lending rate at North Carolina banks or twelve (12%) percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien created herein against the Property in the same manner as prescribed by the laws of the State of North Carolina for the foreclosures of Deeds of Trust, and interest, costs and reasonable attorney's fees for representation of the Association in such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the Common Area or abandonment of his Assessable Property.

Section 7. SUBORDINATION OF THE LIEN TO MORTGAGES. The lien of the assessments provided for herein on any lot shall be subordinate to the lien of any first mortgage or mortgages on such Lot, Unit or other Assessable Property. Sale or transfer of any Lot shall not affect the assessment lien; however, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE 9 BUILDING GUIDELINES

Section 1. RULES AND REGULATIONS. No structures, buildings, improvements or construction, which shall include within its definition bush hogging, clearing, grading, excavation and other site work, will be commenced upon any Unit or the Properties, until the plans and specifications have been submitted to and approved in writing by the ARB according to the provisions of this Article. Any Owner may remodel, paint or redecorate the interior of his Unit without approval. No approval shall be required to repaint the exterior of a structure in accordance with the approved color scheme or to rebuild in accordance with approved plans.

Section 2. ARCHITECTURAL REVIEW.

- (a) Responsibility for review of all applications for construction and modifications under this Article will be handled by the Architectural Review Board (ARB). The members of the ARB will be Members of the Association.
- (b) The ARB will consist of at least three (3) persons appointed by the Board beginning on January 1 of each year and will have delegated authority from the Board of Directors over all construction.

Section 3. SUBMISSION OF PLANS AND SPECIFICATIONS.

- (a) **No construction or improvements as defined above will be commenced until the plans and specifications have been submitted to and approved by the ARB. The plans will show site layout, structural design, exterior elevations, exterior materials, colors, landscaping and drainage plans.**
- (b) **In reviewing each submission, the ARB will consider for approval the following:**
- 1. Suitability of the proposed building or improvements.**
 - 2. Structure.**
 - 3. Landscaping.**
 - 4. Building materials.**
 - 5. The proposed site and placement thereon.**
 - 6. Visual aesthetics.**
 - 7. Natural platforms and finish grade elevations.**
 - 8. Harmony of external design with nearby structures, property and environment.**
 - 9. Location in relation to surrounding structures, property and plant life.**
 - 10. Location of any driveway.**
- (c) **The ARB will have the right to refuse to approve any Plans which, based on this Article 9, are not suitable or desirable, provided such approval is not unreasonably withheld.**
- (d) **Review Process.**
- 1. To initiate the review process, the Owner, his builder, or his architect will obtain and complete the Architectural Questionnaire (AQ) for the preliminary stage and review by the ARB.**
 - 2. The ARB will conduct an initial hearing to review the AQ for conformance with the building guidelines.**
 - 3. The final hearing will review final detailed drawing, site plans, clearing and tree removal plans and what measures are planned to protect existing vegetation.**
 - 4. In the event the ARB fails to advise the submitting party by written notice within forty-five (45) days of either the approval or disapproval of the plans, then approval will be deemed to have been given.**
 - 5. The ARB will advise the party submitting the plans, of (1) the approval of the plans, or (2) the segments or features of the plans**

which are deemed by the ARB to be inconsistent or not in conformity with this Declaration, or (3) denial of the plan.

6. An ARB representative will be present as site preparation begins. At any time in the building process, the ARB may conduct an on-site inspection with the Property Owner or his representative to review conformance with the approved plan.
7. When the structure is seventy (70%) percent complete a landscape plan must be submitted to the ARB for approval.

- (e) If construction does not commence on a project for which plans have been approved within 24 months of such approval, such approval will be deemed withdrawn, and it shall be necessary for the Owner to resubmit the plans for reconsideration.
- (f) An applicant of any Unit disagreeing with the finding of the ARB may appeal the decision to the Board of Directors by giving written notice of appeal to the president of the Association within fifteen (15) days following receipt of notice of denial.

Section 4. VARIANCE. Variance must be applied for in writing. The ARB may authorize in its discretion reasonable variances or adjustments from compliance with any of its guidelines and procedures in order to alleviate practical difficulties and hardship in their enforcement and operation. Such variances may only be granted, however, when unique circumstances dictate..

Section 5. LIMITATION OF LIABILITY. Review and approval of any application pursuant to this Article will be made on the basis of this Article only and the ARB will not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Association, the Board, nor the ARB will be held liable for any injury, damages, or loss arising out of the review and approval of any application. This includes, but is not limited to, the granting of a variance, the manner or quality of construction, defects in any plans, deficiencies in kind or quality of materials used, or for ensuring compliance with building codes and other governmental requirements.

- (a) Any structure placed or improvement made in violation of this Article will be deemed to be non-conforming. Upon written request from the Board, Owner shall, at its own cost and expense, remove such structure or improvement and restore the land to substantially the same condition which existed prior to the non-conforming work. Should an Owner fail to remove and restore as required, the Board will have the right to enter the property, remove the violation, and restore the property to substantially the same condition, as it previously existed. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the Unit Owner

and the benefited Unit and collected as a special assessment in accordance with the provisions of Article 8.

- (b) The Association shall have the authority to establish fines for violations of this ARTICLE, including fines for continuing violations. If the fines are not paid, the Association may establish a Special Assessment in accordance with the provisions of ARTICLE 8.
- (c) In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available, including injunctive relief and proceedings for contempt, to enforce the provisions of this ARTICLE and the decisions of the ARB in accordance with the provisions of ARTICLE 8.

Section 6. SITE PLACEMENT. All purchased lots shall be used for single-family residential purposes only. Any auxiliary building must be compatible architecturally with the home and connected with an architectural element such as roof, fence, wall, trellis, etc. The ARB will have the right of approval of the precise site and location of any structure, house or dwelling or other structure upon all the properties.

- (a) Any setback or any allowed building pad shown on any recorded subdivision plat are incorporated herein by reference.
- (b) On all single family Lots no homes shall be located within 35 feet of the property line bordering any street and/or within 15 feet of the side or the rear of said Lots. A variance may be given for side and rear setbacks on accessory buildings.

Section 7. GENERAL BUILDING RESTRICTIONS.

(a) It is the intention of these covenants to encourage home design that will capture the spirit and character of the Southport tradition. For example, widow's walk, vertical window proportions, wrap-around porches, gable ends, use of siding, and underpinnings to relate first floor level to ground are suggested. Construction on single-family Lots within the development shall be governed by the following general minimum requirements:

1. Buildings shall be constructed to State of North Carolina's Coastal Area Management Act's minimum finished floor level flood requirements. The Association's intent in this is to limit as much as possible the first floor elevation above grade of the homes built in

Indigo Plantation. Garages and storage buildings, approved as set out above, may be on ground level.

- 2. All single family residences will have a maximum height of forty (40) feet measured from the lowest natural point on the ground beneath a building pad.**
- 3. Except as provided herein, single-family residences will have a minimum square footage of sixteen hundred (1600) square feet of enclosed heated living space.**
- 4. All homes shall have a covered front porch of 100 square feet minimum size, integrated or attached to building mass.**
- 5. All roof pitches, except porches, shall have a minimum 6/12 pitch. Roof shingles shall be 300-pound composition asphalt weight, wood or metal, or other acceptable material.**
- 6. All homes shall provide two non-stacking parking spaces aside from garage space. No garages or workshops shall be placed such that the front opens to the street side of the property.**
- 7. These covenants prohibit use of exposed masonry block, and /or exposed metal structural elements except for chimneys and lower foundation.**
- 8. Building siding shall be of wood: lap siding, vertical board and batten or shingles. Hardiplank is an acceptable material. Plywood shall not be permitted. Any other fascia or outside materials must first be approved in writing in accordance with these restrictions.**

(b) No temporary structures, such as trailers, tents, canopies or mobile homes, will be placed on any Unit within the Properties. The contractor or builder may have shelters or storage sheds used in the course of the construction and for no other purpose, which will be removed from the premises within ten days after the completion of the building. No tents or canopies will be placed on any Unit without the written consent of the Association. The builder will be held responsible for returning common areas to pre-construction condition.

(c) Once construction of a dwelling or other improvements is started on any Unit, the exterior improvements, including painting and landscaping must be completed in accordance with the approved plans and specifications within eighteen (18) months from the date of commencement. Failure to complete construction within eighteen (18) months from commencement date may result in

a fine being imposed in the minimum amount of \$500.00 per month, which shall be payable to the Association. The fine imposed under this Section will be a Special Assessment enforceable in accordance with Article 8. Commencement date will be the date of the issuance of the building permit.

(d) Buildings must in all particulars meet the requirements of the Brunswick County Health Department regulations and the building code and ordinances of the Town of Southport.

(e) All buildings must hook up to water and sewer service at the time of construction.

(f) The Board may adopt specific guidelines governing any non-residential structure located within, annexed to, or merged with the Properties.

ARTICLE 10 USE RESTRICTIONS

Section 1. RULES AND REGULATIONS. Subject to the terms of this Article 10, the Board will implement and manage the use restrictions through rules and regulations, which adopt, modify, cancel, limit, create exceptions to, or expand the use restrictions.

Section 2. ACKNOWLEDGMENT OF OWNERS. All Owners and all the Properties are subject to the use restrictions and are given notice that, (1) their ability to use their privately owned Property is limited thereby, and (2) the Board may add, delete, modify, create exceptions to, or amend the use restrictions in accordance with Section 1.

Section 3. RESTRICTIONS.

- (a) **Single Family Utilization.** No home or other structure constructed within the described area will be utilized for commercial purposes, except that home offices will be permitted as long as such offices do not induce traffic, require signage, require outdoor storage of equipment, inventory, or vehicles.
- (b) **Parking Rights.** The Association may regulate the parking of vehicles, boats, trailers and other such items on the Common Area or the Properties. No vehicles, boats, trailers or other similar types of equipment shall be parked within the traffic lane of any street.
- (c) **Parking Restrictions.** Each Owner will provide off-street parking space for his Unit. Off-street parking spaces may be established by the Association at various places for access to selected Common Areas. No boat, watercraft of

any kind, and no trailer will be allowed to be parked overnight on any Unit or Common Area unless screened. Any vehicle violating this restriction may be removed and impounded by the Association and towing charges assessed. Mobile homes, trailers, vans, etc. brought by a guest to a Property may remain at the Property for no longer than two weeks.

- (d) **Quiet Enjoyment.** No illegal, improper, obnoxious, or offensive activity will be carried on upon the properties which may be or may become a nuisance or annoyance to the neighborhood or Owners.
- (e) **Prohibited Uses.** It is the intent and purpose of the Association to maintain the Indigo Plantation as an exclusive residential and water oriented community of the highest quality and at the same time endeavor to retain the natural, unspoiled beauty now existing on the Property, and to that end the following uses are prohibited and limitations are placed on all Lots within Indigo Plantation.
- (1) No fuel tanks or storage receptacles will be exposed to public view and will either be located and kept in an accessory building, underground receptacles or screened from view. Trash and garbage receptacles will be enclosed or screened from view.
 - (2) No open or exposed storage, including abandoned items of personal property, will be; maintained on any Unit. No trash or refuse, including leaves, will be burned in an open incinerator within the Properties.
 - (3) No animals, livestock or poultry of any kind will be raised, bred or kept within the Properties except household pets, which may not be kept, bred or maintained for any commercial purpose. Pets must be kept under control by the Owner at all times and attended as required by the ordinances of the City of Southport. The Owner will be responsible to remove all pet excrement deposited on the Properties.
 - (4) The use of septic tanks or equivalent systems for the disposal of sewage is prohibited.
 - (5) There will be no visible storage of inoperative vehicles for more than (60) sixty days.
- (f) **Signs.** Commercial signs, including “for rent,” “for sale” and other similar signs shall not be erected or maintained within Indigo Plantation without the written approval by the Association. The Association has approved the use of one Realtor’s “for sale” plastic flyer box per lot, not to exceed 9½ inches wide and 12½ inches high. No other “for sale” or “for rent” signage is authorized without specific approval of the Board.
- (g) **Construction.** The Association will adopt standards for construction sites for the purpose of reasonably controlling the aesthetics, trash, and noises

resulting from construction. The Association must approve all identification signs. Only one construction sign will be allowed per Unit.

- (h) **Lot Changes.** No Lot within the development shall be subdivided or its boundary lines changed. However, any two property owners may jointly purchase and divide a Lot between their respective Lots, but in such event, such Lot then ceases in perpetuity to be a Lot in the development and is merged into the ownership of the respective adjoining property owner in the ratio of their division and such division must be recorded in writing with Brunswick County. The total number of Lots, as indicated on the current maps shall not be increased. This section shall not preclude the addition of Lots by subsequent annexation of additional areas.
- (i) **Preparation of Lots for Resale.** Lot owners or their representative can only use hand-clearing methods without ARB approval in the preparation of a lot for resale. If bushhogging or clearing is desired then the ARB must approve the clearing plan.
- (j) When construction or improvements of any kind cause damage or alteration to a common area it shall be the responsibility of the property owner to repair and return those areas to its prior condition.

ARTICLE 11 LANDSCAPING

Section 1. GUIDELINES. A set of guidelines for Owners to follow in developing a landscape plan and maintaining their grounds in an environmentally sound and aesthetically pleasing manner is available. All Owners are requested to study the guidelines, share them with any professionals who may be employed to help with their landscaping, and adhere to them in the initial design, lot preparation, planting and maintenance phases.

Section 2. FENCE. Fences must harmonize with the character and color of the house. The fence should attempt to define and create spaces rather than be used as a property delineator.

Section 3. REMOVAL OF TREES. No trees measuring three inches or more in diameter (outside bark to outside bark) at four feet above ground level may be removed without prior written approval of the ARB. Variance will be granted for accepted fire prevention practices.

**ARTICLE 12
EASEMENTS**

Section 1. GRADING AND DRAINAGE EASEMENT. The Association reserves unto itself, its successors and assigns, perpetual, alienable and releasable easements within the development and the right on, over and under the ground to cut drainways for surface water and make any grading of the soil whenever such action may appear to the Association to be necessary to maintain reasonable standards of health, safety and appearance. To effectuate this easement, the Association reserves the right to utilize 10 feet running along the front, rear and sides of each parcel.

Section 2. EASEMENT FOR OWNER'S INGRESS AND EGRESS Every Owner and User shall have a perpetual non-exclusive easement and right of ingress and egress over and across any of the private roads and sidewalks located or to be located within the properties, as shown on any recorded plats of the property, for the purpose of providing vehicular and pedestrian access to and from the properties.

**ARTICLE 13
DURATION, AMENDMENT AND TERMINATION**

Section 1. AGREEMENT TO COMPLY. All present and future Owners and Users, shall be subject to, and shall comply with the covenants, conditions, restrictions and affirmative obligations set forth in this Declaration, and as the Declaration may be amended from time to time. The acceptance of a deed of conveyance, the entering into a lease, or the entering into occupancy or the visiting of any unit will constitute an agreement that the provisions of this Declaration are accepted and ratified by such Owner and User and that they will fully comply with the terms and conditions of this Declaration. The covenants, restrictions, conditions and affirmative obligations of this Declaration shall run with and bind the land and shall bind any Person having at any time any interest or estate in any Unit as though such provision were made a part of each and every deed of conveyance or lease.

Section 2. AMENDMENT. This Declaration may be amended by vote of the majority of those present and voting in person or voting by proxy at a meeting of the Members in which a quorum of thirty-five (35%) percent has been established. An instrument which has attached as an exhibit, a certified copy of the resolution adopting the amendment and which has been signed by the president of the

Association and attested to by its secretary, must be recorded within thirty days in the Brunswick County Registry for such an amendment to be effective.

The Association through a vote of the majority of its Board of Directors will be allowed to amend this Declaration, notwithstanding any other provision contained herein, and without joinder of any other party, to correct any discovered error contained herein, to clarify any ambiguity contained herein, or to add or delete any incidental provisions deemed in the sole discretion of Association to be in the best interest of the Association. This right may be exercised, and will be effective, only upon the recordation of a "Corrected Declaration" in the office of the Register of Deeds of Brunswick County. The Corrected Declaration shall specifically reference this document, and the provision impacted.

ARTICLE 14

COMPLIANCE WITH THIS DECLARATION, THE ARTICLES, THE BYLAWS, AND THE RULES AND REGULATIONS OF THE ASSOCIATION

In the case of failure of an Owner or User to comply with the terms and provisions contained in this Declaration, the Articles, the Bylaws, of Rules and Regulations, the following relief shall be available:

Section 1. ENFORCEMENT. The Association, any Owner, any aggrieved Owner in Indigo Plantation on behalf of the Association, or any Owner on behalf of all the Owners in Indigo who are Members of the Association shall have the right to enforce by any proceeding at law or in equity, all of the conditions, covenants and restrictions of this Declaration and the Articles, Bylaws, Rules and Regulations of the Association, and any and all laws hereinafter imposed pursuant to the terms of this Declaration. The prevailing party will be entitled to collect all costs thereof, including reasonable attorneys' fees.

Section 2. SUSPENSION OF RIGHTS. For any violation of any provision of this Declaration, the Articles, the Bylaws, or the Rules and Regulations, by an Owner or his User, including, but not limited to, the nonpayment of any General Assessment or Special Assessment, the Association shall have the right to suspend the offending Owner's voting rights and/or the use by such Owner and his/her Users of the Common Area and recreational facilities and Amenities for any period during which a violation continues.

Section 3. FINES. The Association may establish a schedule of fines for the violation of this Declaration, the Articles, Bylaws and rules and regulations. If an Owner does not pay the fine within fifteen (15) days the fine shall be a special assessment against the Owner's Unit and may be enforced by the Association in accordance with this document.

Section 4. REMEDIES CUMULATIVE. The remedies provided by this Article are cumulative, and are in addition to any other remedies provided by law.

Section 5. WAIVER. No provision contained in this Declaration, the Articles, the Bylaws, or the rules and regulations, will be deemed to have been waived, abandoned, or abrogated by reason of failure to enforce them on the part of any Person or the Association as to the same or similar future violations, no matter how often the failure to enforce is repeated. The Association will not be liable to any Owner or other aggrieved party for failure to enforce any provision of this Declaration, the Articles, Bylaws, or rules and regulations.