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JOYCE M. SWICEGOOD
REGISTER OF DEEDS
PENDER COUNTY, NC

Recorded and Verified
Joyce M. Swicegood
Register of Deeds
Pender County, NC

DECLARATION OF COVENANTS,
RESTRICTIONS AND EASEMENTS
FOR MANDALAY BAY

Prepared by:  Dan Rizzo
P.O. Box 2676
Surf City, NC 28445

STATE OF NORTH CAROLINA
COUNTY OF PENDER

THIS DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS is made this 4th day of March, 2005, by MANDALAY BAY, LLC, a North Carolina limited liability company ("Declarant").

WHEREAS, Declarant is the owner of a certain tract of land located in Topsail Township, Pender County, North Carolina, and being more particularly described in Article I.C. of this Declaration.

AND WHEREAS, Declarant is, or will be, constructing on a portion of the Property a "residential subdivision" which will consist of single residential dwellings;

AND WHEREAS, Declarant desires to provide for the preservation and enhancement of the property values and improvements located thereon, and to this end desires to subject the Property to the covenants, restrictions and easements, as are hereinafter set forth, each and all of which are for the benefit of said real property and each present and future owner thereof;

NOW THEREFORE; It is hereby declared that the Property described herein is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions and easements hereinafter set forth;

Article 1. Definitions:

A. "Declarant" shall mean and refer to MANDALAY BAY, LLC, a North Carolina limited liability company, its successors and assigns.

B. "Declaration" shall mean and refer to this instrument, as may from time to time be amended.

C. "Property" or "Properties" shall mean and refer to all that tract of land situated in Topsail Township, Pender County, North Carolina and more particularly described on a plat entitled "Final Plat Showing Mandalay Bay (Revised)" dated November 15, 2004, prepared by John L. Pierce & Associates, P.A. and recorded in Map Book 38, Page 115, Slide 518, in the office of the Register of Deeds of Pender County, North Carolina (herein referred to as the "Property").

D. "Lot" shall mean and refer to separately delineated plot of land shown upon any recorded subdivision map of the Property and includes any improvements thereon, if any.

E. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Article 2. Architectural Control Committee:

Section A. Except for original and initial construction and subsequent modification of improvements by the Declarant on any Lot which such construction is and shall be exempt from the provisions of this provision, no building, wall, fence, landscaping, berm or hedge which act as a fence or privacy including structure, ornamentation, or other structure or improvements of any nature shall be erected, placed or altered on any Lot, nor shall any exterior addition to or change or alteration thereon be made, until the construction plans and specifications and a plan showing the nature, kind, shape, height, material and location of the structure, and landscaping as may be required by the Architectural Control Committee, have been approved in writing by the Architectural Control Committee. Each building, wall, fence, or other structure or improvements of any nature, together with any ornamentation or landscaping, shall be erected, placed or altered upon the Property only in accordance with the plans and specifications and plot plan so approved. Refusal of approval of plans, specifications and plot plans, or any of them, may be based on any ground, including purely aesthetic grounds, which in the sole and uncontrolled discretion of said Architectural Control Committee deem sufficient. Any change in the appearance of any building, wall, fence or other structure or improvements and any change in the appearance of the landscaping (excepting the planting of flowers and shrubs indigenous to the area), shall be deemed an alteration requiring approval. The Architectural Control Committee shall have the power to promulgate such rules and regulations as it deems necessary to carry out the provisions and intent of this paragraph.

Section B. (a) Within 30 days after receipt of all required information, the Architectural Control Committee shall submit in writing to the owner of the Lot a response stating whether or not the requested improvements are approved. Unless a response is given by the Architectural Control Committee within 30 days, the plan shall be deemed approved. The response of the Architectural Control Committee may be an approval, a denial, an approval with conditions or a request for additional information. A request for additional information shall be deemed a determination that the information submitted was inadequate and the 30 day time period for response shall only commence upon the receipt of the requested information. Conditional approvals may be granted and if approval with conditions is granted and thereafter construction begins, the construction shall be deemed approved by the owner of the Lot of the conditions imposed.

(b) Refusal of approval of plans, specifications and plot plans or any of them may be based upon any ground, including purely aesthetic grounds, which in the sole and uncontrolled discretion of the Architectural Control Committee shall deem sufficient. The Architectural Control Committee shall make the following affirmative findings before any plans are approved:

- (1) That the improvements sought to be constructed will not have a negative economic impact on any other Lot within the subdivision.
- (2) That all required specific buildings standards and other conditions contained within the Declaration and other subdivision documents have been met.
- (3) That the improvements are architecturally compatible with proposed or constructed improvements on other Lots within the subdivision.
- (4) That the natural features of the Lot have been retained to the maximum extent possible.

Section C. The roof, vinyl siding, paint, coating, stain and other exterior finishing colors on all buildings may be maintained as that originally installed, without prior approval of the Architectural Control Committee, but prior approval by the Architectural Control Committee shall be necessary before any such exterior roof modification (including color of shingles), siding modification or finishing color is changed.

Section D. Until such time as the sale of the last numbered Lot in the subject Property is evidenced by the recordation of a deed therefore, all rights, privilege, powers and authority granted herein to the initial Architectural Control Committee, to whom the specific power to act hereunder is expressly conveyed, shall be exercised by the Declarant, their successors or assigns. Upon the sale of the last numbered Lot in the Property, the Declarant shall assign its powers hereunder to an Architectural Control Committee to be composed of three (3) Lot Owners, who shall serve until their death, disability, resignation or transfer of ownership of all interest in the Property. Thereafter, all representatives shall be appointed by a majority vote of the Lot Owners. In the event of death, disability or resignation of any member of the

Architectural Control Committee, or a transfer of all interest in the Property by such member, the remaining members shall have full authority to designate a successor, until such time as a replacement is elected by a majority of the Lot Owners.

Section E. A majority of the Architectural Control Committee may take any action said Committee is empowered to take, may designate a representative to act for the Architectural Control Committee, and may employ personnel and consultants to act for it. The members of the Architectural Control Committee shall not be entitled to any compensation for services performed pursuant to this covenant.

Article 3. General Restrictions:

a.(I) Residential Use: No lot, lots, or portions thereof shall be put to any use other than for residential purposes, except that any Lot may be used by the Declarant for a street or roadway.

No structure shall be erected, altered, placed or permitted to remain on any Lot other than one single family townhouse dwelling, not to exceed two and one-half stories in height, a private garage and such other outbuildings as may be reasonably appurtenant to the dwelling, provided that the same are constructed in line with general architectural design and construction standards used as the dwelling itself. This covenant shall not be construed as prohibiting the use of a new dwelling as a model home for sales purposes.

(II) Dwelling quality and size: The ground floor area of the main structure, exclusive of open porches and garages, shall not be less than 800 square feet of enclosed heated area.

b. Prohibited Structure: No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence either temporary or permanently. No trailer, mobile home, camper or like vehicle, or any other structure which is finished or partially finished at a manufacturing unit or plant and transported for quick assembly or which is designed to be disassembled and relocated shall be used as a residence at anytime. It is specifically the intention and purpose of this covenant to prohibit the location of mobile homes, trailers, modular houses, relocatable houses, or similar type structures on the property for use as a residence. This covenant shall not be construed as prohibiting the use of such a structure as a sales/rental model or office or construction site facility.

c. Nuisances: No noxious, offensive, or illegal activity shall be carried on or conducted upon any Lot nor shall anything be done on any Lot that shall be or become an unreasonable annoyance or nuisance to the neighborhood. All Lots, whether occupied or unoccupied, shall be well maintained and no unattractive growth or accumulation of rubbish or debris shall be permitted to remain on a Lot. No automobile, other vehicle(s), motorcycle(s) or other similar items shall be repaired or placed "on blocks" or stands except in an enclosed garage. Declarant, or Association, their successors or assigns, reserve the right to enter upon and cut grass, weeds, or undergrowth on any Lot or easement, but shall be under no obligation to do so.

d. Animals: No animals, livestock, or poultry of any kind shall be kept or maintained on any Lot or in any dwelling except that household pets may be kept provided that said pet shall not exceed 90 pounds in weight and are not kept for breeding or commercial purposes. Any such household pet shall not be allowed off the Lot of the Owner of said pet unless said pet is attended and on a leash, Owners shall be solely and absolutely liable for the acts of any pet kept on their Lot.

e. Garbage and Refuse Disposal: No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be burned or disposed of on any Lot and shall be kept except in sanitary containers approved by the Architectural Committee. All equipment for the storage prior to disposal of such material shall be kept in a clean and sanitary condition. The placement of containers shall be approved by the Architectural Committee and, in any event, shall be kept in an enclosed area not subject to view from any person, from any direction.

f. Exterior Lights: All light bulbs or other lights installed in any fixture located on the

exterior of any dwelling, building or other structure located on any Lot shall be clear or white lights or bulbs. No mercury vapor or similar wide area lighting similar to street lights shall be allowed without prior Architectural Committee approval.

g. Sight Distance at Intersections: No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadway of Waters Drive at the intersection of NC Highway 210 shall be placed or permitted to remain on any Lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

h. Mailboxes: All mailboxes shall retain the same style, design, color and location of the mailbox as originally provided at construction of any residence. The Architectural Committee reserves the right to approve the style, design, color and location prior to any original installation or replacement. Application shall be made to the Architectural Committee prior to installation or replacement. By accepting a deed to any subject property, owner gives the Architectural Committee the right to remove any non-approved mailbox in a reasonable manner; all costs for same shall be paid by owner, and all damages against the Architectural Committee are waived.

i. Signs: No sign, billboard, or other advertising of any kind, including without limitation "professionally prepared "for sale" and "for rent" signs, shall be placed or erected on any Lot, save and except a professionally prepared "for sale" or "for rent" sign not to exceed six (6) square feet in size. Although approval by the Architectural Committee is not required prior to the display of such signs, the Architectural Committee may itself remove, have removed, or require the removal of any such sign which in its opinion would not otherwise be allowed under paragraph 6 of this Declaration. A valid easement shall exist on any Lot for such removal by the Architectural Committee or its agents. Provided, however, nothing shall prohibit or limit in any manner "construction" signs designating the job site and builder which may be placed upon a Lot during the period of the construction of a residential dwelling on the Lot but must be immediately removed upon final completion of such construction. Notwithstanding the above, any additions to the Project Property in the Development area may be further limited in regard to signs, billboards or advertising as set out in any Supplemental Declaration. Nothing herein shall prohibit any sign erected by the Declarant or their assigns.

j. Antennas: There shall be no exterior antennas of any kind for receiving and/or sending of television, radio or other signals unless same have first been approved by the Architectural Committee.

k. Driveways/Parking: All driveways constructed on any Lot shall be paved with either asphalt or concrete. The use or construction of a headwall or other ornamental structure, gravel, rock or other material at or around the driveway culvert shall be prohibited. The earthwork extending from the driveway to each end of the culvert shall be gently sloped and sodded, as approved in each case.

l. Vehicles, Boats, Storage, Travel Trailers, etc: No vehicle without current inspection sticker, shall be parked overnight on any lot. No automobile, other vehicle(s), motorcycle(s) or other similar items shall be repaired or placed "on blocks" or stands.

m. Clotheslines: Clotheslines shall be not more than six (6) feet in height from the ground and shall not be viewable from the street or shall be surrounded by a privacy fence approved by the Architectural Control Committee.

n. Fence Minimum Requirements: No fences over 6 feet in height shall be constructed on any lot. No fence shall be erected between any building and the street right of way unless such fence shall be of an ornamental nature. Brick and split-rail fences shall be deemed to meet the requirements of this restriction. Any portion of any fence which can be viewed from

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the street right of way shall be of an ornamental nature. The term fence shall include but not be limited to, a wall, fence, landscaping, berm, or hedge which act as a fence or privacy or security inducing structure. Architectural review requirements must be met prior to construction of any fence.

Article 4. **Street Lighting Agreement:** The Declarant reserves the right to subject the real property to a contract with an electric utility company for the installation of underground electric cables and/or the installation of street lighting, either or both which may require an initial payment and/or a continuing monthly payment to an electric utility company by the owner of Lot.

Article 5. **Restrictions on Further Subdivision:** No Lot which has been designated as such by Declarant by recorded plat shall be further subdivided or separated into smaller Lots. This restriction shall not apply, however, to Declarant.

Article 6. **Easements:**

a. **Utility Easements:** There is hereby reserved by the Declarant, their successors and assigns, the utility easements as shown on the recorded plats of the Property. Said easements may be used for the purpose of installing, maintaining, repairing and replacing all utility service lines and systems including, but in no way limited to, those for water, sewer, gas, telephone, electricity and cable television.

In addition to the above, there is hereby reserved for the benefit of each owner, an easement over each parcel or lot of each other owner a blanket easement and right of way on, over and under the ground within a parcel or lot for the purpose of installing, maintaining, repairing and replacing all utility service lines and systems including, but in no way limited to, those for water, sewer, gas, telephone, electricity, cable television and garbage or refuse collection and pick up.

b. **Mandalay Court and Driveway Right of Way Easements:** There is hereby reserved for each Owner, family members and invited guests, easements for ingress, egress and regress over and upon those areas of the Property designated as Mandalay Court (20' Ingress & Egress & Utility Easement) and "Driveway Right of Way & Utility Easement as shown on the recorded plat of the Property. Provided, however, the easement hereby reserved shall not be deemed to entitle the Owner of any Lot to park any motor vehicle upon the Lot of any other Owner.

c. **Easement to Correct Drainage:** For a period of two (2) years from the date of conveyance of the first Lot in a Parcel, the Declarant reserve a blanket easement and right of way on, over and under the ground within a Lot to maintain and correct drainage of surface water in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary. Following such action the Declarant shall restore the affected property to its original condition as near as practical. The Declarant shall give reasonable notice of its intent to take such action to all affected Owners, unless in the opinion of the Declarant an emergency exists which precludes such notice.

Article 7. **Variances:** The Architectural Control Committee may allow reasonable variances and adjustments of the restrictions set forth in this Declaration in order to overcome practical difficulties and prevent unnecessary hardships in the application of the provisions contained herein; provided, however, that any such variance granted must be done in conformity with the intent and purposes of the general development scheme and provided also that in every instance such variance or adjustment shall not materially be detrimental or injurious to other property or improvements within the Property.

Article 8. **Building Plans and Specifications:** No dwelling or other building shall be erected or permitted to remain on any lot unless the plans and specifications meet or exceed the requirements of "minimum property standards for one and two living units", FHA No. 300, Federal Housing Administration.

Article 9. **Remedies:** In the event of a violation or breach of any of these restrictions, covenants, agreements and conditions by any person or concern claiming by, through or under

the undersigned, or by virtue of any judicial proceedings, the owners of the number lots in the subdivision, or any of them, jointly or severally, shall have the right to proceed at law or in equity to compel compliance with the terms thereof or to prevent the violation or breach of any of them. The failure to enforce any right, reservation, restriction or condition contained herein, however long continued, shall not be deemed a waiver of the right to do so thereafter as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement.

Article 10. Stormwater Management: (A) No more than 1,663 square feet of any Lot shall be covered by structures or Impervious materials. Impervious materials include, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, coquina or similar materials, but does not include raised, open wood decking or the water surface of swimming pools. The overflow from the storage area must pass through a 50 foot vegetated filter prior to discharge.

(B) Swales shall not be filled in, piped or altered except as necessary to provide driveway crossings.

(C) Built-upon area in excess of the permitted amount requires a state stormwater management permit modification prior to construction.

(D) All permitted runoff from outparcels or future development shall be directed into the permitted stormwater control system. These connections to the stormwater control system shall be performed in a manner that maintains the integrity and performance of the system permitted.

(E) The stormwater management system shall be constructed in its entirety, vegetable and operational for its intended use prior to the construction of any built-upon surface.

(F) During construction, erosion shall be kept to a minimum and any eroded areas of the system will be repaired immediately.

(G) The facilities shall be constructed as shown on the approved plans, Permit Number SW8040702 shall become voidable unless the facilities are constructed in accordance with the conditions of the permit, the approved plans and specifications, and other supporting data.

(H) Declarant shall at all times provide the operation and maintenance necessary to assure the permitted stormwater system functions at optimum efficiency. The approved Operation and Maintenance Plan must be followed in its entirety and maintenance must occur at the scheduled intervals including, but not limited to:

- a. Semiannual scheduled inspections (every 6 months).
- b. Sediment removal.
- c. Mowing and revegetation of slopes and the vegetated filter.
- d. Immediate repair of eroded areas.
- e. Maintenance of all slopes in accordance with approved plans and specifications.
- f. Debris removal and unclogging of storage basin, Sidewinder Infiltrator units, vegetated filter, bypass structure, catch basins and piping.
- g. A clear access path to the storage basin, vegetated filter and Sidewinder Infiltration area must be available at all times.

(I) Records of maintenance activities must be kept and made available upon request to authorized personnel of DWQ. The records will indicate the date, activity, name of person performing the work and what actions were taken.

(J) Upon completion of construction, prior to issuance of a Certificate of Occupancy, and prior to operation of this permitted facility, a certification must be received from an appropriate designer for the system installed certifying that the permitted facility has been installed in accordance with this permit, the approved plans and specifications, and other supporting documentation. Any deviations from the approved plans and specifications must be noted on the Certification. A modification may be required for those deviations.

(K) If the stormwater system was used as an Erosion Control device, it must be restored to design condition prior to operation as a stormwater treatment device, and prior to occupancy of the facility.

(L) Access to the stormwater facilities shall be maintained via appropriate easements at all times.

(M) Declarant shall submit to the Director and shall have received approval for revised plans, specifications, and calculations prior to construction, for any modification to the approved plans, including, but not limited to, those listed below:

- a. Any revision to any item shown on the approved plans, including the stormwater management measures, built-upon area, details, etc.
 - b. Project name change.
 - c. Transfer of ownership.
 - d. Redesign or addition to the approved amount of built-upon area or to the drainage area.
 - e. Further subdivision, acquisition, lease or sale of all or part of the project area. The project area is defined as all property owned by Declarant, for which Sedimentation and Erosion Control Plan approval or a CAMA Major permit was sought.
 - f. Filling in, altering, or piping of any vegetative conveyance shown on the approved plan.
- (N) Declarant shall submit final site layout and grading plans for any permitted future areas shown on the approved plans, prior to construction.
- (O) A copy of the approved plans and specifications shall be maintained on file by the Declarant for a minimum of ten years from the date of the completion of construction.
- (P) The Director may notify the Declarant when the permitted site does not meet one or more of the minimum requirements of the permit. Within the time frame specified in the notice, Declarant shall submit a written time schedule to the Director for modifying the site to meet minimum requirements. Declarant shall provide copies of revised plans and certifications in writing to the Director that the changes have been made.

The covenants and restrictions set forth in this Article 10 are intended to insure continued compliance with state stormwater management permit number SW8 040702 as issued by the Division of Water Quality and may not be changed or deleted without the consent of the State of North Carolina. The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the stormwater management permit.

Each Lot Owner shall be responsible for maintaining any swales or ditches on his/her/their respective Lot required to insure continued compliance with said stormwater management permit. Alteration of the drainage as shown on the approved plan may not take place without the concurrence of the Division of Water Quality. These covenants are to run with the land and shall be binding on all persons and parties claiming under them.

Article 11. Provisions Relating to Wetlands: All of the properties subject to these Restrictive and Protective Covenants shall also be subject to the following Special Provisions Relating to Wetlands. In developing the subject real property, the Declarant has agreed with the Department of the Army Corps of Engineers (pursuant to a permit issued by the Corps of Engineers) to restrict and prohibit any future filling or other detrimental activities in the wetland areas, which presently exist within the identified areas of the property. Accordingly, all wetlands shown and delineated on the recorded plat of the subdivision set forth in Article I hereof, shall be maintained in perpetuity in their natural or mitigated condition. No person or entity shall perform any of the following activities on such conservation area: (a) fill, grade, excavate or perform any other land disturbing activities; (b) cut, mow, burn, remove or harm any vegetation; (c) construct or place any roads, trails, walkways, buildings, mobile homes, signs, utility poles or towers or any other permanent or temporary structures, (d) drain or otherwise disrupt or alter the hydrology or drainage ways of the conservation area; (e) dump or store soil, trash, or other waste; (f) allow animal grazing or watering or use for any other agricultural or horticultural purpose on such conservation areas. This covenant is intended to ensure continued compliance with the mitigation condition of authorization issued by the United States of America, U.S. Army Corps of Engineers, Wilmington District, and therefore may be enforced by the United States of America. This covenant is to run with the land and shall be binding on the Declarant, the owner of any lot in the subdivision and all persons or entities claiming under them.

This Article 11 cannot be amended or modified without the express written consent of the U.S. Army Corps of Engineers, Wilmington District, or its authorized successor.

Article 12. Amendment: Except as provided in Article 10 above, these restrictions are subject to being altered, modified, cancelled or changed at any time as to said subdivision as a whole or as to any subdivided lot or part thereof during the first twenty (20) year period by written document executed by the Declarant or their successors in title and by the owner of not less than sixty percent (60.0%) of the subdivided lots or parts of said subdivision to which these restrictions apply, and recorded in the office of the Register of Deeds of the County in which this Declaration is recorded. After the expiration of the initial twenty (20) year period, these restrictions are subject to being altered, modified, cancelled or changed at any time as to said subdivision as a whole or as to any subdivided lot or part thereof by written document executed by not less than seventy-five percent (75%) of the Lot Owners, and recorded in the office of the Register of Deeds of the County in which this Declaration is recorded. In the event the Declarant owns sixty percent (60.0%) or more of the Lots, the Declarant may alter, modify or change these restrictions without the consent of any other Lot Owner.

Article 13. Declarant's Rights:

Any or all of the special rights and obligations of the Declarant may be transferred to other persons or entities, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the county in which this Declaration is recorded.

The Declarant shall have the rights (I) to use portions of the Property for parking for prospective purchasers or lessees of Lots and such other parties as the Declarant determine; (ii) to erect and display signs, billboards and placards and store and keep the same on the Property; and (iii) to use or permit to be used any Lot which it owns or leases as a sales and/or rental office, management office or laundry and maintenance facility.

So long as Declarant continue to have rights under this paragraph, no person or entity shall record any declaration of restrictions and protective covenants or similar instrument affecting any portion of the Property without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of restrictions and protective covenants or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant.

This provision may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this provision shall terminate upon the earlier of (a) fifteen (15) years from the date this Declaration is recorded, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

Article 14. General Provisions:

A. Duration: The covenants and restrictions set forth herein shall run with and bind the Property for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall automatically be extended for successive ten (10) year periods unless otherwise terminated by a vote of seventy-five percent (75%) of the then record Owners of all Lots within the Properties.

B. Severability: Invalidation of anyone of the covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

C. Captions: The captions used in this Declaration are inserted solely as a matter of convenience and shall not be relied upon or used in construing the effect or meaning of any of the text of this Declaration.

D. Construction: Whenever the context so requires, the use herein of any gender shall be deemed to include the plural and the plural shall include the singular.

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Article 15. Mandalay Bay Homeowners Association:

All purchasers of lots in Mandalay Bay as described herein shall, and by their acceptance of Deeds conveying such lots do, for themselves, their heirs, successors and assigns agree to become members of the Mandalay Bay Homeowners Association. The Homeowners Association shall assume responsibility for all improvements and maintenance of any common areas as shown on said recorded plat.

Each member of the Homeowners Association as described herein, by acceptance of the Deed of each lot, whether or not it shall be expressed in such Deed, is deemed to and does hereby, covenant and agree, on behalf of himself, his heirs, successors and assigns, to pay assessments to the Homeowners Association for the expenses incurred. The initial assessment for the Mandalay Bay Homeowners Association shall be Six Hundred and No/100 Dollars (\$600.00) per year for each lot.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, have caused this instrument to be executed this the 4th day of March, 2005.

MANDALAY BAY, LLC, a North Carolina
Limited Liability Company

BY: [Signature]
Gerard R. Brewer, Manager

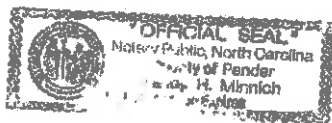
STATE OF NORTH CAROLINA
COUNTY OF PENDER

The undersigned, a Notary Public in and for said County and State, do hereby certify that Gerard R. Brewer personally came before me this day and acknowledged that he is Manager of MANDALAY BAY, LLC, a North Carolina Limited Liability Company, and that by authority duly give and as the act of the limited liability company, the foregoing instrument was signed in its name by him as its Manager.

Witness, my hand and official stamp or seal, this 4th day of March, 2005.

My commission expires:
10-9-05

[Signature]
Notary Public



NORTH CAROLINA - PENDER COUNTY: The foregoing (or annexed) certificate of [Signature] is certified to be correct. This 14 day of March A.D. 2005
JOYCE M. SWICEGOOD - Pender County Register of Deeds
By: [Signature] Deputy/Assistant
Register of Deeds

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JOYCE M. SWICEGOOD
REGISTER OF DEEDS
PENDER COUNTY, NC

Recorded and Indexed
Joyce M. Swicegood
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STATE OF NORTH CAROLINA
COUNTY OF PENDER

AMENDMENT TO DECLARATION
OF COVENANTS, RESTRICTIONS
AND EASEMENTS FOR MANDALAY
BAY

THIS AMENDMENT is made this 7th day of July, 2005, by MANDALAY BAY, LLC, a North Carolina limited liability company ("Declarant").

WHEREAS, Declarant previously executed and recorded a document entitled, "Declaration of Covenants, Restrictions and Easements for Mandalay Bay", said document dated March 4, 2005 and recorded March 7, 2005 at 3:00 p.m. in Book 2601, Page 134, Pender County Registry; and

WHEREAS, Declarant desires to amend Article 6.a of said document and Brewer-Rizzo Development, LLC, the owner of a portion of the Mandalay Bay property has consented to said amendment.

NOW, THEREFORE, Article 6 of the original document as described above is hereby amended to read as follows:

ARTICLE 6. Easements:

- a. Utility Easements: There is hereby reserved by the Declarant, its successors and assigns, the utility easements as shown on the recorded plat of the Property. Said easements may be used for the purpose of installing, maintaining, repairing and replacing all utility service lines and systems including, but in no way limited to, those water, sewer, gas, telephone, electricity and cable television. It is agreed that if any repairs become necessary to either the water or sewer lines located on the property, the Town of Surf City will contract to have said repairs made and the Mandalay Bay Homeowners Association will reimburse the Town of Surf City for said repairs.

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In addition to the above, there is hereby reserved for the benefit of each owner, an easement over each parcel or lot of each other owner a blanket easement and right of way on, over and under ground within a parcel a parcel or lot for the purpose of installing, maintaining, repairing and replacing all utility service lines and systems including, but in no way limited to, those for water, sewer, gas, telephone, electricity, cable television and garbage or refuse collection and pickup.

But for the amendment as set out above to Article 6.a the original documents, the original document shall remain unchanged.

IN WITNESS WHEREOF, the undersigned has caused this amendment to be executed this the 7th day of July, 2005.

MANDALAY BAY, LLC, A North Carolina
Limited Liability Company

By: 
Gerard R. Brewer, Manager

Brewer-Rizzo Development, LLC, a North Carolina Limited Liability Company consents to the Amendment as set forth herein.

BREWER-RIZZO DEVELOPMENT, LLC, A
North Carolina Limited Liability Company

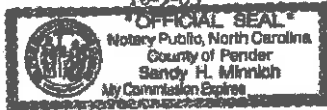
By: 
Gerard R. Brewer, Manager

STATE OF NORTH CAROLINA
COUNTY OF PENDER

The undersigned, a Notary Public in and for said County and State, do hereby certify that Gerard R. Brewer personally came before me this day and acknowledged that he is Manager of MANDALAY BAY, LLC, a North Carolina Limited Liability Company, and that by authority duly given and as the act of the limited liability company, the foregoing instrument was signed in its name by him as its Manager.
Witness, my hand and official stamp, this the 7th day of July, 2005.

My commission expires:

10-9-05

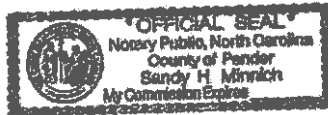


Sandy H. Minnick
NOTARY PUBLIC

STATE OF NORTH CAROLINA
COUNTY OF PENDER

The undersigned, a Notary Public in and for said County and State, do hereby certify that Gerard R. Brewer personally came before me this day and acknowledged that he is Manager of BREWER-RIZZO DEVELOPMENT, LLC, a North Carolina Limited Liability Company, and that by authority duly given and as the act of the limited liability company, the foregoing instrument was signed in its name by him as its Manager.
Witness, my hand and official stamp, this the 7th day of July, 2005.

My commission expires:



Sandy H. Minnick
NOTARY PUBLIC

NORTH CAROLINA - PENDER COUNTY: The foregoing (or annexed) certificate of *Sandy H. Minnick* is certified to be correct. This *27* day of *July*, A.D. 2005
JOYCE M. SWICEGOOD - Pender County Register of Deeds
By: *A. J. [Signature]* Deputy/Assistant
Register of Deeds

Rizzo
★

FILED

BK 2742 PG 101

05 AUG -9 PM 2: 19

JOYCE M. SWICEGOOD
REGISTER OF DEEDS
PENDER COUNTY, NC

Recorded and Verified
Joyce M. Swicegood
Register of Deeds
Pender County, NC

STATE OF NORTH CAROLINA
COUNTY OF PENDER

AMENDMENT TO DECLARATION
OF COVENANTS, RESTRICTIONS
AND EASEMENTS FOR MANDALAY
BAY

THIS AMENDMENT is made this 9th day of August, 2005, by MANDALAY BAY, LLC, a North Carolina limited liability company ("Declarant").

WHEREAS, Declarant previously executed and recorded a document entitled, "Declaration of Covenants, Restrictions and Easements for Mandalay Bay", said document dated March 4, 2005 and recorded March 7, 2005 at 3:00 p.m. in Book 2601, Page 134, Pender County Registry; and

WHEREAS, Declarant desires to amend Article 6 of said document by adding paragraph d. and Brewer-Rizzo Development, LLC, the owner of a portion of the Mandalay Bay property has consented to said amendment.

NOW, THEREFORE, Article 6 of the original document as described above is hereby amended to add paragraph d. to read as follows:

d. Dock easement: Those owners of Lots 7, 8, 9, 10, 11, 12, 13, 14 and 15 shall have a 20 foot easement from the center of their respective lot to the sound for access to any boat dock which might be permitted to said individual lot owner. If boat docks are permitted and built by said individual lot owners of the above referred to lots, the Homeowners Association will have no responsibility for the maintenance or upkeep of said docks, if any.

But for the amendment as set out above to Article 6 by adding paragraph d. the original documents, the original document shall remain unchanged.

BK2742PG102

IN WITNESS WHEREOF, the undersigned has caused this amendment to be executed this the 9th day of August, 2005.

MANDALAY BAY, LLC, A North Carolina
Limited Liability Company

By: 
Gerard R. Brewer, Manager

Brewer-Rizzo Development, LLC, a North Carolina Limited Liability Company consents to the Amendment as set forth herein.

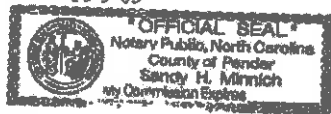
BREWER-RIZZO DEVELOPMENT, LLC, A
North Carolina Limited Liability Company

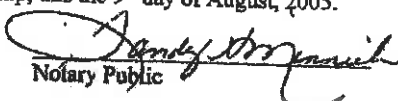
By: 
Gerard R. Brewer, Manager

STATE OF NORTH CAROLINA
COUNTY OF PENDER

The undersigned, a Notary Public in and for said County and State, do hereby certify that Gerard R. Brewer personally came before me this day and acknowledged that he is Manager of MANDALAY BAY, LLC, a North Carolina Limited Liability Company, and that by authority duly given and as the act of the limited liability company, the foregoing instrument was signed in its name by him as its Manager. Witness, my hand and official stamp, this the 9th day of August, 2005.

My commission expires:
10-9-05



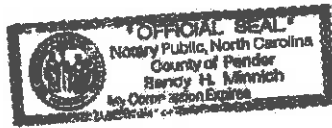

Notary Public

STATE OF NORTH CAROLINA
COUNTY OF PENDER

The undersigned, a Notary Public in and for said County and State, do hereby certify that Gerard R. Brewer personally came before me this day and acknowledged that he is Manager of BREWER-RIZZO DEVELOPMENT, LLC, a North Carolina Limited Liability Company, and that by authority duly given and as the act of the limited liability company, the foregoing instrument was signed in its name by him as its Manager.

Witness, my hand and official stamp, this the 9th day of August, 2005.

My commission expires: 10-9-05



Randy H. Minnich
NOTARY PUBLIC

NORTH CAROLINA - PENDER COUNTY: The foregoing
(or annexed) certificate of Randy H. Minnich
certified to be correct. This 9 day of August, A.D. 2005
JOYCE M. SWICEGOOD - Pender County Register of Deeds
By: Joyce M. Swicegood Deputy/Assistant
Register of Deeds

13. ASSOCIATION RESPONSIBLE FOR PAYMENTS. Upon termination of or withdrawal from this Agreement by either party, the Association shall assume the obligations of any contract or outstanding bill executed by Agent under this Agreement for and on behalf of the Association and responsibility for payment of all unpaid bills. In addition, the Association shall furnish Agent security, in an amount satisfactory to Agent, against any obligations or liabilities which Agent may have properly incurred on the Association's behalf under this Agreement. Agent may withhold funds for **ninety (90) days** after the end of the month in which this Agreement is terminated, in order to pay bills previously incurred but not yet invoiced and to close accounts. Agent shall deliver to the Association, within **ninety (90) days** after the end of the month in which this Agreement is terminated, any balance of monies due the Association which were held by Agent with respect to the Property, as well as a final accounting reflecting the balance of income and expenses with respect to the Property as of the date of termination or withdrawal, and all records, contracts, leases, receipts for deposits, and other papers or documents which pertain to the Property.

14. RELATIONSHIP OF AGENT TO THE ASSOCIATION. The relationship of the parties to this Agreement shall be that of Principal and Agent, and all duties to be performed by Agent under this Agreement shall be for and on behalf of, in the name of and for the account of the Association. In taking any action under this Agreement, Agent shall be acting only as Agent for the Association, and nothing in this Agreement shall be construed as creating a partnership, joint venture, or any other relationship between the parties to this Agreement except that of Principal and Agent, or as requiring Agent to bear any portion of losses arising out of or connected with the ownership or operation of the Property. Nor shall Agent at any time during the period of this Agreement be considered a direct employee of the Association. Neither party shall have the power to bind or obligate the other except as expressly set forth in this Agreement, except that Agent is authorized to act with such additional authority and power as may be necessary to carry out the spirit and intent of this Agreement.

15. INDEMNIFICATION SURVIVES TERMINATION. All representations and warranties of the parties contained herein shall survive the termination of this Agreement. All provisions of this Agreement that require the Association to have insured or to defend, reimburse, or indemnify Agent shall survive any termination; and if Agent is or becomes involved in any proceeding or litigation by reason of having been the Association's Agent, such provisions shall apply as if this Agreement were still in effect.

16. HEADINGS. All headings and subheadings employed within this Agreement are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Agreement.

17. FORCE MAJEURE. Any delays in the performance of any obligation of Agent under this Agreement shall be excused to the extent that such delays are caused by wars, national emergencies, natural disasters, strikes, labor disputes, utility failures, government regulations, riots, adverse weather, and other similar causes not within the control of Agent, and any time periods required for performance shall be extended accordingly.

18. COMPLETE AGREEMENT. This Agreement, including any specified attachments, constitutes the entire agreement between the Association and Agent with respect to the management and operation of the Property and supersedes and replaces any and all previous management agreements entered into or/and negotiated between the Association and Agent relating to the Property covered by this Agreement. No change to this Agreement shall be valid unless made by supplemental written agreement executed and approved by the Association and Agent. Except as otherwise provided herein, any and all amendments, additions, or deletions to this Agreement shall be null and void unless approved by the Association and Agent in writing. Each party to this Agreement hereby acknowledges and agrees that the other party has made no warranties, representations, covenants or agreements, express or implied, to such party, other than those expressly set forth herein, and that each party, in entering into and executing this Agreement, has relied upon no warranties, representations, covenants or agreements, express or implied, to such party, other than those expressly set forth herein.

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NORTH CAROLINA

ONSLOW COUNTY

**EXCLUSIVE HOMEOWNERS ASSOCIATION
MANAGEMENT AGREEMENT**

Association Name: Mandalay Bay HOA, Inc

Agent: Advantage Gold Realty

This Exclusive Property Management Agreement is entered by and between, The Board of Directors of the Association, on behalf of Mandalay Bay HOA, Inc ("Association") and Advantage Gold Realty ("Agent").

In consideration of the mutual covenants and promises set forth herein, The Board of Directors of the Association, on behalf of the Association, contracts with Agent, and Agent hereby contracts with the Association, to manage the association/property described below, in accordance with all applicable laws and regulations, upon the terms and conditions contained herein.

ASSOCIATION/PROPERTY: Mandalay Bay HOA, Inc
and all common areas owned and managed by the Association, including the limited common areas, if any

1. DURATION OF AGREEMENT. This Agreement shall be binding when it has been signed and dated below by the President and Secretary of the Board of Directors and Agent. It shall become effective on October 1, 2013 and shall be for an initial term of **12 months**. Not less than 90 days prior to the conclusion of the initial term, either party may notify the other party in writing of its desire to terminate this Agreement, in which case it shall terminate at the conclusion of the initial term. If not so terminated, this Agreement shall automatically renew for successive terms of **12 months** each unless either party gives the other party written notice of its desire to terminate this Agreement at least 90 days prior to the conclusion of any such renewal term, in which case this Agreement shall terminate at the conclusion of such term.

2. AGENT'S COMPENSATION. For services performed hereunder, the Association shall compensate Agent in the following manner: The Association shall pay Agent a management fee of **\$12.00 per unit a month** earned on all lots, in all sections and phases. 19 units at \$12.00 per unit = **\$228.00 per month**. (\$2736.00 per year). Agent's management fee will be broken into **(twelve) (12) monthly** installments paid in advance on the **1st of each month**. The Association shall pay Agent a onetime startup fee of \$250.00. No further charge shall be made by Agent for Agent's services and other services of Agent's professional staff, except as otherwise expressly provided in this Agreement. Any clerical services performed for the Association, such as preparation and circulation of notices and newsletters and general correspondence of the Association, shall be at the Association's expense, including postage and other expenses. Agent shall be compensated for specific services as stated in Section 3.

3. SERVICES OF AGENT. Agent shall manage the Association to the extent, for the period, and upon the terms of this Agreement. Agent shall perform the following services in the name of and on behalf of the Association, and the Association hereby gives Agent the authority and powers required to perform these services.

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3.1 COLLECTION OF ASSESSMENTS. Agent shall collect (and give receipts for, if necessary) all monthly and other assessments and other monies that are due the Association. Agent shall institute and prosecute such proceedings in small claims court as may be necessary and advisable. At the direction of the Board of Directors, Agent shall recover assessments and other sums due to the Association. Agent will not have the authority to settle, compromise or release any and all claims without direction from the Board of Directors. The Association shall pay Agent and administrative fee of **\$25.00** for each Complaint for Money Owed Filing.

3.2 RECORDS OF INCOME AND EXPENDITURES. Agent shall maintain records of all income and expenses relating to the Property, and shall submit to the Association on or before the **15th day** of the following month, a statement of receipts and disbursements for the preceding month, including a statement of the balance in the operating account for the Property.

3.3 PREPARATION OF ANNUAL BUDGET. Fifteen (15) days prior to the beginning of each fiscal year, which begins on January 1st. Agent shall prepare and submit to the Board a recommended Annual Budget for the next year showing anticipated income and expenses for such year. Agent shall submit a Budget as part of the management transition process.

3.4 SUBMISSION OF ANNUAL REPORT. Within 31 days after the end of each fiscal year, Agent shall submit to the Association a summary of all receipts and disbursements relating to the Property for the preceding year. HOWEVER, submission of such annual report shall not be construed to require Agent to supply an audit. Any audit required by the Association shall be prepared at the Association's expense by an auditor(s) of its selection.

3.5 MAINTENANCE OF COMMON ELEMENTS. Subject to the direction of the Board, at the expense of the Association and in accordance with the Association's approved budget, Agent shall cause the common elements of the Property to be maintained according to appropriate standards of maintenance consistent with the character of the Property.

3.6 UTILITIES AND SERVICES CONTRACTS. Subject to the direction and approval of the Board and on behalf of the Association, Agent shall negotiate contracts for water, electricity, gas, telephone, and such other services as may be necessary or advisable for the common elements of the Property. Agent shall also purchase on behalf of the Association such equipment, tools, appliances, materials, and supplies as are necessary for the proper operation and maintenance of the Property. All such contracts and purchases shall be executed in the name of the Association by its Board of Directors and at its expense.

3.7 PAYMENT OF EXPENSES. From the funds of the Association, Agent shall pay all expenses of the Property, including taxes, building inspection fees, water rates and other governmental charges, and all other charges or obligations incurred by the Association or by Agent on behalf of the Association with respect to the maintenance or operation of the Property or pursuant to the terms of this Agreement or pursuant to other authority granted by the Board on behalf of the Association.

3.8 SALES DOCUMENTATION/DISCLOSURE INFORMATION. If the agent is to provide disclosure information as requested by the current homeowner, a fee of **\$25.00** will be accessed to the current homeowner and be paid for by the current homeowner at closing. If the property does not close then the current homeowner will still be accessed the charge. The agent will be entitled to this fee when collected.

3.9 RECORDS OF INSURANCE. Agent shall maintain appropriate records of all insurance coverage for the Property carried by the Association as specified in Section 10.2. Agent shall cooperate with the Board in investigating and reporting all accidents or claims for damage relating to the ownership, operation, and maintenance of the common elements of the Property, including any damage or destruction to them.

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4. LIMITATION ON EXPENDITURES BY AGENT. In discharging its responsibilities under Section 3 of this Agreement, Agent shall not make any unbudgeted expenditures or incur any nonrecurring contractual obligation exceeding **\$500.00**, without the prior consent of the Association through the Board. **HOWEVER**, no such consent shall be required to repay any advances made by Agent under the terms of Section 6. Notwithstanding these limitations, Agent may, on behalf of the Association and without prior consent of the Board, expend any amount or incur a contractual obligation in any amount required to deal with emergency conditions which may involve a danger to life or property or which may threaten the safety of the Property or the individual owners and occupants or which may threaten the suspension of any necessary service to the Property.

5. AGENT NOT RESPONSIBLE FOR MAINTENANCE OF INDIVIDUAL UNITS. Agent shall have no authority or responsibility for maintenance or repairs to individual units in the Property. Such maintenance and repairs shall be the sole responsibility of the owners individually.

6. DISPOSITION OF FUNDS. Agent shall, on behalf of the Association, deposit collections and pay expenses of the Property as stated below.

6.1 DEPOSIT OF COLLECTIONS. Agent shall deposit all monies collected on behalf of the Association in a bank or other financial institution whose deposits are insured by the federal government or such other depository as directed by the Association in writing. The funds of the Association shall at all times be maintained separate and apart from Agent's own funds and from the funds of any others. Agent's designees shall be the only parties authorized to draw upon such accounts. Such operating account can bear interest. Interest on any such amounts shall belong to the Association.

6.2 PAYMENT OF EXPENSES. Agent shall pay all expenses of operation and management of the Property from the Association's funds held in account by Agent. Any amounts owed to Agent, in relation to services covered in this agreement shall be paid by the Association from such account at any time without prior notice to the Association. Any other amounts shall require prior notice and approval from the Association.

6.3 AGENT NOT REQUIRED TO ADVANCE FUNDS. Agent shall have no obligation to advance funds to the Association for any purpose whatsoever. Any funds advanced to the Association by Agent shall be repaid to Agent immediately from the Association's funds. Any sums due Agent under any provision of this Agreement, and not paid within thirty (30) days after such sums have become due, shall bear interest at the rate of eight percent (8%) per annum.

7. ATTENDANCE AT BOARD MEETINGS. Agent, or a designated employee or other representative of Agent, shall attend 1 regular meeting of the Board each Quarter and the annual meeting of the Association. Upon not less than **sixty (60) day notice**, Agent or its designated representative shall attend meetings of the Board or of the Association as requested, provided that the Association shall pay Agent **\$15.00 per hour** after the first **90 minutes**, for that individual's attendance at each meeting. Agent or its representative shall be custodian of the official records of the Board and the Association. **HOWEVER**, neither Agent nor its representative shall be required to record the minutes of such meetings. Board Meetings shall be held Monday through Thursday and start no later than **6:30 p.m.** and last no longer than **90 minutes**. If a board decides to change the starting time, extend the meeting length or hold additional meetings, the association will be charged the manager's hourly overtime rate or **\$15.00 per hour** whichever is greater.

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8. ONE BOARD MEMBER TO DEAL WITH AGENT. The Board shall designate one of its members who shall be authorized to deal with Agent on any matter relating to the management of the Property. Agent shall not accept directions or instructions with regard to the management of the Property from anyone else. In the absence of any other designation by the Board, the President of the Board shall be deemed to have this authority. Agent may, but is not required to, submit any matter, direction, instruction or the like to the Board and shall then follow the direction of the Board.

9. LIMITATION OF AGENT'S AUTHORITY AND RESPONSIBILITY. Agent's authority to act and responsibility for the Property shall be subject to the limitations set forth below.

9.1 STRUCTURAL CHANGES. Agent shall have no authority to make any structural changes in the Property or to make any major alterations or additions in or to any building or equipment therein, except such emergency repairs as may be required because of danger to life or property or which are immediately necessary for the preservation and safety of the Property or for the safety of the individual owners and occupants or which are required to avoid the suspension of any necessary service to the Property.

9.2 BUILDING COMPLIANCE. Agent shall not be responsible for the compliance of the Property or any of its equipment with the requirements of any building codes or with any statutes, ordinances, laws, rules, or regulations (including those relating to the existence and disposal of solid, liquid, and gaseous wastes, and toxic or hazardous substances) of any city, county, state, or federal governments or agencies, or any public authority or official thereof having jurisdiction over it. HOWEVER, Agent shall notify the Association promptly or forward to the Association promptly any complaints, warnings, notices, or summonses received by Agent relating to such matters. The Association represents that to the best of its collective knowledge the Property complies with all such requirements, and the Association authorizes Agent to disclose the ownership of the Property to any such officials and agrees to indemnify, defend, and hold Agent, its representatives, servants, and employees, harmless of and from all loss, cost, expense, and liability whatsoever which may be imposed on them by reason of any present or future violation or alleged violation of such laws, ordinances, rules, or regulations.

9.3 AGENT ASSUMES NO LIABILITY. Agent assumes no liability whatsoever for any acts or omissions of the Board or the Association, or any previous boards or current or previous owners of the Property, or any previous management or other agent of either. Agent assumes no liability for any failure of or default by any individual unit owner in the payment of any assessment or other charges due the Association or in the performance of any obligations owed by any individual unit owner to the Association, pursuant to any lease or otherwise. Agent likewise assumes no liability for any failure of or default by concessionaires in any rental or other payments to the Association. Nor does Agent assume any liability for previously unknown violations of environmental or other regulations which may become known during the period this Agreement is in effect. Any such regulatory violations or hazards discovered by Agent shall be brought to the attention of the Association in writing, and the Association shall promptly cure them.

10. OBLIGATIONS OF THE ASSOCIATION. The Association shall insure the Property, Agent, and itself against liability and bear the expense of any and all litigation against the Property, Agent, and the Association as stated below. In addition, the Association shall provide for an initial deposit and contingency reserve and, through its Board, approve an Annual Budget for the Property.

10.1 SAVE AGENT HARMLESS FROM LIABILITY SUITS. The Association shall indemnify, defend, and save Agent harmless from all suits or other claims including, but not limited to, those alleging any negligence of Agent or its employees in connection with the Property or the management thereof and from liability for damage to property and injuries to or death of any employee or other person. The Association shall pay all expenses incurred by Agent including, but not limited to, all attorneys' fees, costs, and expenses incurred to represent Agent in regard to any claim, proceeding, or suit involving alleged negligence of Agent or its employees in connection with or arising out of the management of the Property.

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10.2 ESTABLISH AND MAINTAIN LIABILITY INSURANCE. The Association shall carry at its own expense public liability, fire and extended coverage, and workers' compensation insurance, and such other insurance as may be necessary or appropriate. Such insurance policies shall name both the Association and Agent as insured's, and their coverage shall be adequate to protect the interests of both parties and in form, substance, and amounts reasonably satisfactory to Agent. The Association shall provide Agent with certificates evidencing such insurance or with duplicate copies of such policies within **thirty (30) days** from the date of execution of this Agreement; or Agent may, but shall not be obligated to, place said insurance and charge the cost thereof to the account of the Association. Said policies shall provide that notice of default or cancellation shall be sent to Agent as well as to the Association and shall require a minimum of **thirty (30) days** written notice to Agent before any cancellation of or changes to said policies.

10.3 PAY ALL EXPENSES OF ANY LITIGATION. The Association shall pay all expenses incurred by Agent including, but not limited to, Agent's costs and time, any liability, fines, penalties or the like, settlement amounts, and attorneys' fees for counsel employed to represent Agent or the Association in any proceeding or suit involving any alleged or actual violation by Agent or the Association or the Board, or any combination of all of them, of any law or regulation of any governmental body pertaining to environmental protection, fair housing, or fair employment, including, but not limited to, any law prohibiting or making illegal discrimination on the basis of race, sex, creed, color, religion, national origin, family status, or mental or physical handicap. **HOWEVER**, the Association shall not be responsible to Agent for any such expenses in the event Agent is finally adjudged to have personally, and not in a representative capacity, violated any such law. Nothing contained in this Agreement shall obligate Agent to employ legal counsel to represent the Board or the Association in any such proceeding or suit.

10.4 APPROVE ANNUAL BUDGET. Within **thirty (30) days** of receipt of the recommended Annual Budget prepared by Agent, the Board shall either approve the budget as submitted or provide Agent with written notice setting forth those items which are unacceptable to the Board or provide agent with written notice advising Agent what additional information is required. Failure to provide such notice to Agent within said **thirty (30) day** period shall be deemed as approval of the Annual Budget by the Board. Upon approval, Agent shall be authorized to operate and manage the Property in accordance with the Annual Budget.

11. TERMINATION BY AGENT FOR CAUSE. Agent shall have the right to cancel this Agreement at any time in the event that any insurance required of the Association is not maintained without any lapse. Agent shall also have the right to cancel this Agreement at any time in the event it is alleged or charged that the Property or any equipment therein or any act or failure to act by the Board or the Association with respect to the Property or the sale, rental, or other disposition thereof or is in violation of any requirement of any constitutional provision, statute, ordinance, law, or regulation of any governmental body or any order or ruling of any public authority or official thereof having or claiming to have jurisdiction over it, and Agent in its sole and absolute discretion considers that the action or position of the Association or the Board with respect thereto may result in damage or liability to Agent, or disciplinary proceeding with respect to Agent's license. Agent shall provide written notice to the Association of its election to terminate this Agreement and stating the reason for termination, in which case termination shall be effective upon the service of such notice.

12. TERMINATION BY THE ASSOCIATION; CANCELLATION FEE. The Association may cancel this Agreement 90 day prior to its renewal date. If the Association desires to terminate before the 90 days of the renewal date, the Association must accompany the termination notice with payment to Agent of a cancellation fee in an amount equal to the remaining management fee for a period of **twelve (12) months**. For this purpose, the monthly management fee shall be presumed to be the same as that of the last month prior to service of the notice of cancellation. Notwithstanding anything to the contrary contained herein, the Association may terminate this contract without notice and without cause and without reason in its sole discretion during the 1st year initial term. If so terminated during the first 1st year initial term no cancellation fees or any other costs except those incurred prior to the giving of notice shall be due from the Association.

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19. RIGHTS CUMULATIVE; NO WAIVER. No right or remedy herein conferred upon or reserved to either of the parties to this Agreement is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given under this Agreement or now or hereafter legally existing upon the occurrence of an event of default under this Agreement. The failure of either party to this Agreement to insist at any time upon the strict observance or performance of any of the provisions of this Agreement, or to exercise any right or remedy as provided in this Agreement, shall not impair any such right or remedy or be construed as a waiver or relinquishment of such right or remedy with respect to subsequent defaults. Every right and remedy given by this Agreement to the parties to it may be exercise from time to time and as often as may be deemed expedient by those parties.

20. APPLICABLE LAW AND PARTIAL INVALIDITY. The execution, interpretation, and performance of this Agreement shall in all respects be controlled and governed by the laws of the State of North Carolina. If any part of this Agreement shall be declared invalid or unenforceable, either Parties shall have the option to terminate this Agreement by notice to the Association.

21. NOTICES. Any notice required or provided for in this Agreement shall be in writing and shall be addressed as indicated below or to such other address as Agent or the Association may specify hereafter in writing.

21.1 TO AGENT

Advantage Gold Realty
301 Western Blvd. Suite C
Jacksonville, NC 28546

21.2 TO THE ASSOCIATION

President of the Board

21.3 DELIVERY OF NOTICES. Notices or other communications between the parties to this Agreement may be mailed by United States registered or certified mail, return receipt requested, postage prepaid, and may be deposited in a United States Post Office or a depository regularly maintained by the post office. Such notices may also be delivered by hand or by any other receipted method or means permitted by law. For purposes of this Agreement, notices shall be deemed to have been "given" or "delivered" upon personal delivery thereof or forty-eight (48) hours after having been deposited in the United States mails as provided herein.

22. AGREEMENT BINDING ON SUCCESSORS AND ASSIGNS. Association agrees that at any time during the term of this Agreement, Agent may either assign Agent's rights and responsibilities hereunder to another real estate agency, or transfer to another such assignment or transfer, this Agreement shall continue in full force and effect: provided, that any assignee or transferee must be licensed to engage in the business of real estate brokerage in the State of North Carolina. In the event of any such assignment or transfer, the Association may, in addition to all other termination rights hereunder, terminate this Agreement without cause on sixty (60) days' prior written notice to the assignee or transferee of the Associations' intent to terminate this agreement. In the event of such sale, Agent shall be released from all liability under this Agreement upon the express assumption of such liability by its assignee.

THE AGENT SHALL CONDUCT ALL BROKERAGE ACTIVITIES IN REGARD TO THIS AGREEMENT WITHOUT RESPECT TO THE RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, HANDICAP OR FAMILIAL STATUS OF ANY PARTY OR PROSPECTIVE PARTY TO THE AGREEMENT.

Currently Signed by: Fluteh B Baker (SEAL) DATE: 11/12/13
President Mandalay Bay HOA, Inc

Currently Signed by: Sherri Mayes (SEAL) DATE: 12/3/13
By: Sherri Mayes # 214350 AGENT: ADVANTAGE GOLD REALTY

Proposal by:



Mandalay Bay HOA, Inc

Estimated Rate Sheet

Accounting Services

Accounting services beyond normal bookkeeping covered in contract	\$60/hr
Collection fee if using collection agency (bill to be placed on owners account)	\$25.00 each plus cost
Small Claims Filing	\$25.00 each plus cost of court
Lien filing/releasing (bill to be placed on delinquent account)	\$150.00 each plus attorney fees

Management Services

Management Representation at Board/Association Meetings ****Meeting should be held Monday, Wednesday and Thursday, and start no later than 6:30 p.m. and last no longer than 90 minutes.	\$15/hr (5 meetings allocated)****
Minute Taker	\$20.00/hr
Admin Fee for Newsletter Copies provided by Board of Directors	\$75.00 Admin Fee
Compliance Inspections	\$50 each
Special projects beyond normal management	TBD
Web page and monthly updating	\$25/month****

**** No charge if www.advantagegoldrealty.com is used

Escrow Transactions

Governing documents (Covenants, By-Laws, Articles of Inc, and Rules) ****These documents will be online for homeowners to view and print.	\$.20/page****
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Product/Supplies

Postage	Current U.S. Mail Rate
Standard photocopies	\$.10/page
Color photocopies	\$.40/page
Envelopes (#10 or less)	\$.20/envelope
Envelopes (above #10)	\$.50/envelope

Mandalay Bay HOA, Inc

Fletcher B Balise J (SEAL) DATE: 11/12/13
President

AGENT: ADVANTAGE GOLD REALTY

Sherri Mayes (SEAL) DATE: 12/3/13
By: Sherri Mayes License # 214380

The above list is meant to identify services and costs not specifically provided under our management agreement or cost adjustments as allowed per the management contract. There may be some charges incurred by the Association not listed above. Agent will strive to provide cost estimates to the Association prior to commencing additional services not already indentified. The above fees may be subject to change with prior notice to the Association.

Proposal by:



Mandalay Bay HOA, Inc

Monthly/Yearly Management Services

Board of Directors Meetings

- Notice of Meeting
- Agenda/Packets
- Prior Board Meeting Minutes
- YTD Financial Statements
- Meeting Attendance
- Management Report

Annual Association Meeting

- Notice of Meeting
- Proxy Form
- Agenda
- Prior Annual Meeting Minutes
- YTD Financials
- Present Proposed Budget
- Quorum Status
- Proxy Validation
- Registration of Owners
- Election/Mailing Certification

Minutes

- Duplication
- Provide Minute-Taker (See Estimated Rate Sheet)

Property Tours

- Restrictive Covenants Compliance Inspections
- Fine Assessment

Fiscal Management (Yearly)

- Provide Dues Invoices
- Late Notices/Fine Assessments
- Bill Approval/Payment
- Reconciliation of Bank Statements
- Financial Statements Annually
- Tax Return Assistance (Certified Public Account will prepare Tax Return)
- Annual Corporation Report Filing
- Budget Preparation

Administrative

- Distribution of Welcome Packet
- Solicit Maintenance and Service Contracts
- Coordinate all maintenance and repairs
- Assist Homeowners regarding questions and issues

Collect Assessments (Dues)

Track Delinquencies

Mandalay Bay HOA, Inc. - BOARD OF DIRECTORS

Fletcher B. Baham (SEAL) DATE: 11/12/13
President

AGENT: ADVANTAGE GOLD REALTY

Sherril Mayes (SEAL) DATE: 12/3/13
By: Sherril Mayes License # 214350