

HIDDEN COVE

MASTER DECLARATION OF HIDDEN COVE
IN OAK BLUFFS, COUNTY OF DUKES, MASSACHUSETTS
RESERVATIONS AND RESTRICTIONS

This Master Declaration of Hidden Cove made this 20th day of March, 1980, by Peter Van Rosbeck, Trustee of Hidden Cove Realty Trust (hereinafter called the Declarant), being the registered owner of approximately eighty (80) acres of land situated in the Town of Oak Bluffs, County of Dukes County, Massachusetts, hereinafter more particularly described and specified WITNESSETH that:

WHEREAS, the Declarant intends to create a residential community on said land, together with recreational and other appropriate facilities and amenities therein, areas of trees and fields, footpaths, tennis courts, public and private ways for circulation and access to residences, and utility services; and

WHEREAS, in furtherance thereof it is desired to establish common and mutual covenants, conditions, reservations and restrictions, and an association of property owners (hereinafter referred to as the "Hidden Cove Property Owners Association" or the "Association") to administer the same;

NOW THEREFORE, the Declarant hereby declares, provides and covenants as follows:

ARTICLE I
SUBJECT PROPERTY

The land situated within Oak Bluffs, County of Dukes County, Commonwealth of Massachusetts, more particularly described as being all of the land shown on the Land Court Plans Nos. 11405H, 11405L, 11405M, 11405N, 11405-0, 11405P, and any and all re-subdivisions thereof, all being or to be duly filed with the Dukes County Registry District of the Land Court, to which plans reference is hereby made for a more particular description. There may also be included hereafter such contiguous parcels of land as may be so designated by the Declarant in his sole discretion.

ARTICLE II
LAND CLASSIFICATIONS
PROPERTY USE AND RESTRICTIONS

SECTION 2.01 Land Classifications:

The land within Hidden Cove is hereby divided into the following use classifications:

A. Residence Areas. Referring to the parcel designations set forth in Article I hereof, each of the parcels numbered and designated as Residence Lots.

B. Common Areas. Referring to the parcels now designated or to be hereinafter designated by the Declarant in his sole discretion, being situated within the subject property described in Article I above. Specifically included, however, are the following:

Lot Nos. 869, 871, 873, 875, 884, 885 and 891.

C. Vehicular Access Areas. Referring to the streets and ways as designated and shown on all of the plans referred to in Article I above, all of the same being shown as and designated as Vehicular Access Areas, together with the way as presently exists and constructed over and across Lot No. 868 shown on said Land Court Plan No. 11405M, said way connecting "Majors Cove Lane" shown on Land Court Plan No. 11405K to "Hayway Road" shown on said Land Court Plan No. 11405M.

SECTION 2.02 Residence Areas: Permitted Uses and Restrictions.

Each Residence Lot shall be for the exclusive use and benefit of the owner or owners thereof, subject, however, to all of the following limitations and restrictions:

A. Residential Use. No buildings or other structures of any kind shall be erected, placed or allowed to stand on a Residence Lot except a single family residential dwelling house as permitted under applicable law, together with accessory buildings and structures normally appurtenant to such a dwelling situated in Oak Bluffs. No garage shall be used for the storage of heavy commercial vehicles or construction equipment. No business activities of any nature shall be conducted upon any Residence Lot, and no advertising signs shall be displayed thereon, except that a lawyer, physician, architect, dentist, real estate broker, or insurance agent residing in a dwelling house thereon may maintain therein an office for his professional use and may display a small professional nameplate. Nothing herein shall be deemed to prevent the leasing of a Residence Lot from time to time by the owner thereof subject to all of the provisions of this Declaration.

B. Animals. No pets or other animals or birds shall be kept or maintained on any Residence Lot of such type or in such number as to be noisome or offensive, and no such pet, animal or bird shall be allowed to pass onto or enter land in Hidden Cove other than the Residence Lot of the owner thereof unless such pet, animal or bird is suitably leashed, caged or otherwise controlled.

C. Improvements and Alterations. No buildings or fences or other structures of any kind or additions thereto or driveways shall be erected, placed or allowed to stand upon any Residence Lot until the size, plans, specifications and locations thereof shall have been approved in writing by the Approval Committee provided for in Article IV hereof. No loam, sand, gravel, or other soil material, except the resulting from customary landscaping or from construction permitted and approved hereunder, shall be removed from Hidden Cove. The erection of any approved structure on a Residence Lot, once begun, shall be carried forward to completion with reasonable diligence. Temporary buildings or structures used during the construction of a dwelling on a Residence Lot shall be removed immediately after the completion of construction. No trees or heavy brush shall be planted or allowed to grow on Residence Areas or Common Areas which would materially obstruct pre-existing or established water views within the Hidden

Cove area. However, no vegetation shall be removed or altered to maintain said waterviews until plans identifying the specific vegetation to be affected, the work areas, and method by which the work is to be performed thereof shall have been approved in writing by the Approval Committee.

D. Temporary Occupancy. No trailer, mobile home, camper, temporary building or structure of any kind, shall be used for a residence, either temporarily or permanently.

E. Trailers and Tents. No trailer, mobile home, heavy commercial vehicle, construction equipment, camper, permanent tent or similar structure, shall be kept, placed or maintained upon any Residence Lot or on any vehicular access areas in such a manner as to be visible from neighboring property; provided, however, that the provisions of this paragraph shall not apply to temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any improvement approved by the Approval Committee.

F. Nuisances. No rubbish, debris, dead trees or heavy brush of any kind shall be placed or permitted to accumulate upon or adjacent to any Residence Lot which will or may render the same or any portion thereof unsanitary, unsightly, offensive or detrimental to any other Residence Lot, and no activity shall be conducted or maintained which is or may be offensive or detrimental to any other Residence Lot in the vicinity thereof or to its occupants.

G. Repair of Buildings. No building or structure upon any Residence Lot shall be permitted to fall into disrepair, and such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished.

H. Trash Containers and Collection. Trash, rubbish and garbage shall be kept in covered containers which shall be properly screened and/or enclosed so as not to be visible from neighboring properties, except for such necessary periods when said containers are made available for collection.

I. Clothes Drying Facilities. No outside clothes lines or other outside facilities for drying or airing clothes which are visible from neighboring property shall be erected or maintained on any Residence Lot.

J. Lighting. Upon completion of a residential dwelling a freestanding outside electric light shall be installed by the owner on a post adjacent to the junction of the driveway and access road. Said light shall be equipped with an automatic timing device so as to turn the said light on at dusk and off at dawn.

K. Restrictions on Further Subdivision. No Residence Lot shall be further subdivided. No portion of any Lot nor any easement or license shall be conveyed by any owner without the prior written approval of the Approval Committee.

L. Signs. No signs shall be erected or maintained on any Residence Lot except:

- (1) Such signs as may be required by law;
- (2) A residential identification sign having a total face area not larger than seventy-two (72) square inches;

- (3) During the time of construction of any building or other improvement, one job identification sign not larger in area than three (3) square feet;
- (4) A "For Sale" or "For Rent" sign, of reasonable type, size and appearance but only if attached to the building (and not free standing or attached to any pole or tree); and
- (5) Informational or directional signs erected or maintained by the Hidden Cove Property Owners Association.

M. Access Limitation. No direct access shall be provided or permitted from over or through any Residence Lot onto the Edgartown-Vineyard Haven Road.

N. Greenbelt Area. No building or structure shall be constructed or permitted within sixty (60) feet of the northeasterly boundary line of the Edgartown-Vineyard Road. No residential dwellings shall be constructed or permitted within one hundred (100) feet of the mean water level of Majors Cove and/or Sengekontacket Pond.

SECTION 2.03 Residence Areas: Construction of Improvements and Alterations.

A. Application for Approval of Improvements and Alterations. Any owner of a Residence Lot proposing to make any improvement which, under Section 2.02 hereof, requires the prior written approval of the Approval Committee shall apply for approval by delivering to the Approval Committee a written application describing the nature of the proposed improvement together with such of the following documents and information as are pertinent, in such number of copies as the Approval Committee may require:

- (1) A plot plan of the affected property showing the location of existing and proposed improvements and alterations;
- (2) Floor plans;
- (3) Drawings showing all elevations;
- (4) A description of exterior materials and colors, with color samples; and
- (5) The owner's proposed construction schedule.

B. Basis for Approval of Improvements and Alterations. The Approval Committee shall, after consideration of the items set forth in the foregoing paragraph A and such other matters as it deems necessary, grant the requested approval if the Approval Committee determines that:

- (1) The proposed improvement or alteration conforms to the provisions of this Declaration, the restrictions herein set forth and the Approval Committee Rules as defined in Section 3.04 in effect at the time the application for approval was submitted; and

- (2) The proposed improvement or alteration is reasonably compatible with the standards of Hidden Cove and the purposes of this Declaration as to quality of workmanship and materials, as to harmony of external design with existing structures and as to location with respect to vegetation, topography, finished grade, and waterviews from other buildings and building sites; and
- (3) The proposed improvement or alteration complies with all applicable laws, specifically including the zoning by-laws and building code requirements of the Town of Oak Bluffs.

C. Form of Approval. All approvals given under the foregoing paragraph shall be in writing, provided, however, that any such application for approval which has not been acted upon within thirty (30) days from the date of submission thereof to the Approval Committee shall be deemed approved, and a Certificate to that effect signed by any member of the Approval Committee or the President or Secretary of Hidden Cove Property Association and shall be conclusive evidence of approval. One set of plans as finally approved shall be retained by the Approval Committee as a permanent record.

D. Proceeding with Work. Upon receipt of approval from the Approval Committee or upon the lapse of thirty (30) days without action as provided in Paragraph C of this Section 2.03 the owner of the Residence Lot shall, as soon as practicable, commence and diligently proceed with the construction, refinishing, alterations and excavation in accordance with the owner's proposed construction schedule set forth in the documents accompanying his application for approval.

E. Failure to Complete Work. In the event that the construction, reconstruction, refinishing, or alteration of any improvement is not completed within a reasonable time, or having been completed does not comply with the approval therefor given by the Approval Committee, the Approval Committee shall report the matter to the Board of Trustees of the Association, and the Board after hearing may direct the owner to remedy the non-compliance or remove the improvement. If the owner does not comply with the order of the Board within the period set forth in the order, the Board may either remove the non-complying improvement or remedy the non-compliance and the owner shall reimburse the Hidden Cove Residence Association, upon demand, for all reasonable expenses incurred in connection therewith.

SECTION 2.04 Common Areas: Permitted Uses, Construction of Improvements and Alterations.

The Declarant shall convey the Common Areas and Easements and the facilities thereof and thereon to the Association, and shall so convey the same on or before (a) the expiration of three (3) years after the date of the execution of the first Purchase and Sale Agreement by which a Residence Lot is sold by the Declarant, or (b) the date on which thirty (30) percent of the Residence Lots have been sold, whichever of said (a) or (b) shall first occur. Common Areas shall be used for outdoor recreation and conservation purposes. No improvement, excavation or work which in any way alters any Common Area or Easement from its natural or existing state on the date such area was conveyed to the Residents Association shall be made or done except within the restrictions and limitations of this Section 2.04.

A. Limitation on Construction. No person other than the Declarant or the Association shall construct, reconstruct, refinish, alter or maintain any road or improvement upon, or shall make or create any excavation or fill upon, or shall change the natural or existing drainage of, or shall destroy or remove any tree, shrub, or other vegetation from any Common Area or Easement. The Association shall have the right, at any time, to plant, replace, maintain and cultivate shrubs, trees, grass and plantings and to construct, reconstruct, refinish, alter and maintain any recreational facility or improvement on any portion of the Common Areas. However, only structure or improvements enhancing the natural recreational amenities of Hidden Cove shall be constructed or allowed on or within the Common Areas.

B. Declarant's Plans and Specifications. The Declarant shall from time to time file with the Approval Committee such plans and specifications as the Declarant may have for the purpose of maintaining a permanent record of improvements or alterations on any portion of the Common Areas.

SECTION 2.05 Vehicular Access Areas: Permitted Uses and Restrictions.

The fee title to the Vehicular Access Areas shall remain in the Declarant until (a) the expiration of three (3) years after the date of the execution of the first Purchase and Sale Agreement by which a Residence Lot is sold by the Declarant, or (b) the date on which thirty (30%) percent of the Residence Lots have been sold, whichever of said (a) or (b) shall first occur, and thereupon the Declarant shall convey all of the same to the Association. Said streets and ways shall in any event and at all times be subject to a permanent appurtenant easement for the benefit of all owners of Residence Lots, in common with others lawfully entitled thereto, or use the same for all purposes for which streets and ways are now or may hereafter customarily be used in said town, specifically including the right to install, maintain and repair underground utility systems. All maintenance, repair and improvements of said streets and ways (including snow removal) shall be done by the Association and the cost thereof shall be included in the expenses of the Hidden Cove Property Owners Association subject to assessment pursuant to Section 5.02.

SECTION 2.06 Footpath Areas: Permitted Uses and Restrictions.

Residence Lot owners shall have the appurtenant perpetual right and easement to travel by foot along and over the most direct and convenient route over those portions of Lot Nos. 861 and 862 lying between Lot Nos. 891 and 869 (Common Areas), together with the same rights over those portions of Lot Nos. 861 and 862 which are shown as being approximately twenty (20) feet wide leading to and from "Calves Pasture Lane" for access to and from said Common Areas.

Residence Lot owners shall also have the appurtenant perpetual right and easement to travel by foot along and over the "10' wide walkway easement" over Lot No. 890 as shown on Land Court Plan No. 11405P for access to and from "Harvester Way" and Lot No. 891 (Common Area).

SECTION 2.07 Tennis Area.

The Declarant shall cause to be constructed at his sole expense two (2) tennis courts and appurtenances thereto within the area shown as Lot No. 871 on Land Court Plan No. 11405-0. Construction of said tennis courts shall be completed within thirty (30) months from the date hereof. The design and specifications of said tennis courts shall be at the sole discretion of the Declarant.

The Residence Lot owners shall have the appurtenant perpetual right and easement to use said tennis courts. However, said right shall be subject to the appurtenant perpetual right and easement of the Residence Lot owners of "Majors Cove" (Land Court Plans 11405E, 11405J and 11405K) to also use same. The said use of the tennis courts shall be consistent with the appropriate rules and regulations to be established jointly by the Hidden Cove and Majors Cove Property Owners Associations. The cost of maintenance, repair and operation of the said tennis courts shall be shared between the Hidden Cove and Majors Cove Property Owners Associations on a pro rata basis based on the relative number of residence lots contained within each respective subdivision.

The Residence Lot owners of said Majors Cove shall have as a means of access to and from the said tennis courts a perpetual right and easement over "Hayway Road" and the said connecting road to "Majors Cove Lane" as it exists over Lot No. 868 to travel by foot and/or vehicle.

ARTICLE III
APPROVAL COMMITTEE

SECTION 3.01 Organization, Power of Appointment and Removal of Members.

- A. Committee Composition. The Approval Committee shall consist of three (3) members.
- B. Initial Members. The Declarant shall appoint the three (3) initial members.
- C. Terms of Office. The terms of office of the initial members of the Approval Committee shall expire on the date on which thirty (30%) percent of the Residence Lots have been sold (by entry of Purchase and Sale Agreement whether or not the closing or settlement thereunder has then been completed). After the expiration of such initial terms, the terms of the Approval Committee members first appointed thereafter shall be for such periods of three (3) years or less as specified by the Board of Trustees, so that such terms shall expire on December 31st in three (3) successive years. Thereafter the term of each Approval Committee member appointed shall be for a period of three (3) years or until his successor shall have been appointed. Any new member appointed to replace a member who has resigned or been removed shall serve such member's unexpired term.
- D. Appointment and Removal. The right to appoint and remove all members of the Approval Committee shall be vested solely in the Board of Trustees acting on behalf of the Association, provided, however, that no member may be removed from the Approval Committee except by the vote or written consent of four-fifths of all of the members of the Board. Exercise

of the right of appointment and removal, as set forth herein, shall be the Secretary of the Association identifying the new member appointed to the Approval Committee and the member whose membership on the Approval Committee has terminated.

E. Resignations. Any member of the Approval Committee may at any time resign from the Approval Committee by giving written notice thereof to the Board.

SECTION 3.02 Duties.

It shall be the duty of the Approval Committee to consider and act upon any and all applications for improvements or alterations submitted to it pursuant to Section 2.03 hereof, to inspect newly completed improvements and alterations, to adopt Approval Committee rules, to perform other duties delegated to it by the Board, and to carry out all other duties imposed upon it by the provisions of this Declaration.

SECTION 3.03 Meetings and Compensation.

The Approval Committee shall meet from time to time as necessary to perform its duties hereunder. The vote or written consent of any two regular members, at a meeting or otherwise shall constitute the act of the Approval Committee unless the unanimous decision of the Approval Committee is specifically required by any provision of this Declaration. The Approval Committee shall keep and maintain a written record of all actions taken. Members of the Approval Committee shall be entitled to reimbursement from the Association for all reasonable expenses incurred by them in the performance of any Approval Committee functions, but shall not be entitled to compensation unless specifically authorized by the Board.

SECTION 3.04 Approval Committee Rules.

The Approval Committee may, from time to time, adopt, amend and repeal by unanimous vote rules and regulations to be known as "Approval Committee Rules".

SECTION 3.05 Approval Committee Certificate.

Within thirty (30) days after written demand is delivered to the Approval Committee by any owner of a Residence Lot, the Approval Committee shall deliver to the owner a certificate in recordable form executed by one of its members, certifying (with respect to such Residence Lot) that as of the date thereof either (a) all improvements made and other work done upon or within said Residence Lot complies with the provisions of this Declaration and plans and specifications approved thereunder; or (b) such improvements or work do not comply, in which event the certificate shall also identify the noncomplying improvements or work and set forth the nature of such non-compliance. All persons shall be entitled to rely on said certificate with respect to the matters therein set forth such matters being conclusive as between the Association, the Declarant, and all Owners of Residence Lots, and those claiming or deriving any interest by, through or under them.

SECTION 3.06 Liability.

Neither the Approval Committee nor any member thereof shall be liable to the Association, any owner of a Residence Lot, or to any other party, for any damage or loss suffered or claimed on account of (a) the approval or disapproval of any plans, drawings or specifications; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications; (c) the development of any property; or (d) the execution, recording or filing of a certificate pursuant to Section 3.05 hereof, whether or not the facts therein are correct. This provision shall not be construed to relieve the Approval Committee or any member thereof from individual liability for actions not conducted in good faith.

ARTICLE IV
HIDDEN COVE PROPERTY OWNERS ASSOCIATION

SECTION 4.01 Organization.

The Association. The Hidden Cove Property Owners Association (herein referred to as the Association) is a non-profit Massachusetts corporation, organized under provisions of Chapter 180 of the Massachusetts General Laws, charged with the duties and invested with the powers prescribed by law and set forth in the Articles (Exhibit A), By-Laws (Exhibit B), and this Declaration. Neither the Articles nor By-Laws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with the provisions of this Declaration. The terms of office of the initial members of the Board of Trustees of the Association shall not in any event extend beyond (a) the expiration of three (3) years after the date of the execution of the first Purchase and Sale Agreement by which a Residence Lot is sold by the Declarant, or (b) the date on which thirty (30) percent of the Residence Lots have been sold, whichever of said (a) or (b) shall first occur.

SECTION 4.02 Membership.

Qualifications, Rights and Duties. The owner or owners from time to time of each Residence Lot shall be members of the Association, and one Membership shall be appurtenant to each Residence Lot. The qualifications of such Membership and the rights, duties, privileges and liabilities of members shall be as set forth in this Declaration and in the By-Laws of the Association.

SECTION 4.03 Voting.

A. Each Membership (i.e., each Residence Lot) shall be entitled to one vote, regardless of the number of owners of such Residence Lot, provided, however, that:

1. Each Membership shall be held and exercised as a unit and shall not be divided among several owners of any Residence Lot. To that end, whenever any Residence Lot is owned of record by more than one person, the several owners of such Residence Lot shall (a) determine and designate which one of such owners shall be authorized and entitled to cast votes, execute instruments and otherwise exercise the right appertaining to such Residence Lot hereunder, and (b) notify the Secretary of the Association of such designation by a notice in writing signed by all of the record owners

of such parcel. Any such designation shall take effect upon receipt by the Secretary and may be changed at any time and from time to time by notice as aforesaid. In the absence of any such notice of designation, the Secretary may designate any one such owner for such purposes; and

2. From and after (a) the expiration of three (3) years after the date of the execution of the first Purchase and Sale Agreement by which a Residence Lot is sold by the Declarant, or (b) the date on which thirty (30) percent of the Residence Lots have been sold, whichever of said (a) or (b) shall first occur, the voting power of the Declarant, regardless of how many Residence Lots the Declarant then and thereafter owns, shall be limited to a number of votes which is no greater than one (1) less than the number of votes to which owners of Residence Lots other than the Declarant are then and thereafter from time to time entitled.

SECTION 4.04 Duties of the Corporation.

The Association shall have the obligation, subject to and in accordance with the provisions of this Declaration, the Articles and the By-Laws to perform the following duties for the benefit of the owners of Residence Lots.

A. Operation of Common Vehicular Access Areas. To operate and maintain or provide for the operation and maintenance of all Common Areas and the facilities thereof and thereon and to keep all improvements of whatever purpose from time to time located thereon in good order and repair; and to maintain the streets and ways until such time as they are accepted by the town.

B. Payment of Taxes. To pay all real and personal property taxes and assessments levied upon any property owned by the Association. Such taxes and assessments may be contested or compromised.

C. Public Service. To contract for or provide (to the extent adequate services are not provided by a public authority) such buildings and grounds maintenance, snowplowing service, and other services and facilities of a public or quasi-public nature as may be deemed necessary or desirable for the effectuation of the purposes of this Declaration. In providing such facilities and services, the Association may contract with or delegate its duties to any entity organized for such purposes.

D. Insurance. To obtain and maintain in force such insurance as the Board shall deem necessary to protect the Association from loss by reason of fire or other casualty and from liability for personal injury and property damage and to obtain and maintain such fidelity and other bonds as the Board shall deem appropriate to protect the Association.

E. Other. To carry out the duties of the Association as set forth in this Declaration, the Articles and the By-Laws.

SECTION 4.05 Powers and Authority of the Association.

The Association shall have all of the powers of a non-profit corporation organized under Chapter 180 of the General Laws of the Commonwealth of Massachusetts, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the By-Laws and this Declaration. It shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Association under and by virtue of this Declaration, the Articles and the By-Laws, and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Association. Without in any way limiting the generality of the foregoing provisions, the Association shall have the power and authority at any time:

A. Assessments. To levy assessments on the owners of Residence Lots, and to receive and collect payment of such assessments, in accordance with the provisions of Article V hereof.

B. Easements and Rights-of-Way. To grant easements and rights-of-way, and such fee titles as may be required by governmental agencies or utility companies, for the purpose of constructing, erecting, operating or maintaining (1) the streets and ways contained in the Vehicular Access Areas, and (2) pipes, lines, cables, conduits and other facilities for the provision of water, electric, telephone, drainage, sewage disposal and other utility services in, on, under and through the Common Areas and the Vehicular Access Areas.

C. Employment of Agents. To employ a manager and such other employees as are necessary to carry out the responsibilities and duties of the Association.

SECTION 4.06 Rules.

A. Rulemaking Power. Subject to the provisions of this Declaration, the Board may from time to time adopt, amend and repeal rules and regulations governing, among other things, use of any Common Areas and Vehicular Access areas under the jurisdiction of the Association. Said rules may restrict and govern the use of the Common Areas and Vehicular Access Areas. Said rules may also include parking restrictions and limitation, limitations upon vehicular travel, restrictions on the type or types of vehicles which may be permitted to enter or use such Vehicular Access and/or Common Areas, and restrictions on the maintenance or landscaping or other improvements on any Residence Lot which may obstruct the vision of motorists or which create a hazard for vehicular or pedestrian traffic.

B. New Recordation of Rules. A copy of the Rules, as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Residence Lot owner and may, but need not, be recorded or filed. Upon such mailing, other delivery or recordation and filing, said Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration.

SECTION 4.07 Liability of Board Members and Manager.

No member of the Board, the manager, or other employee of the Association shall be personally liable to any Residence Lot owner, or to any other party, for any damage, loss or

prejudice suffered or claimed on account of any act or omission of the Association, the Board, the manager or any other representative or employee of the Association or the Approval Committee, provided, however, that such actions were conducted in good faith.

ARTICLE V
FUNDS AND ASSESSMENTS

SECTION 5.01 Operating Fund.

The Board shall establish an operating fund for the Association into which shall be deposited all monies paid to the Association and from which disbursements shall be made in performing the functions of the Association under this Declaration, the Articles and the By-Laws.

SECTION 5.02 Operation and Maintenance Assessments.

A. Regular Assessments. At least thirty (30) days prior to the commencement of each fiscal year, the Board shall prepare and adopt a budget for the Association reflecting the estimate of the expenses to be incurred by the Association during such fiscal year in performing its functions under this Declaration, the Articles and the By-Laws. The estimate of expenses so determined shall be divided by the total number of Residence Lots (including those, if any, which may then be owned by Declarant) and the resulting amount shall be assessed as of the first day of such fiscal year to the owners of each Residence Lot (including the Declarant).

B. Special Assessments. If, at any time during any fiscal year, the regular assessment proves inadequate for any reason, the Board may levy a special assessment as of such date as it may determine in the amount of such actual or estimated inadequacy, which amount shall be assessed to the owners of all Residence Lots.

C. Payment of Assessments. All assessments shall be due and payable within thirty (30) days after the date of assessment unless otherwise authorized by the Board.

D. Obligations of Owners. All owners of Residence Lots shall be liable for all assessments levied upon them pursuant to this Declaration, the Articles and By-Laws.

SECTION 5.03 Reimbursement Assessment.

The Board shall levy a reimbursement assessment against any owner of a Residence Lot where, as a result of that owner's failure to comply with the provisions of this Declaration, the Articles, the By-Laws, the Rules or the Approval Committee Rules, monies are expended by the Association to cure the non-compliance. Such an assessment shall be limited to the amount so expended including reasonable attorney's fees, and shall be due and payable to the Association when levied.

SECTION 5.04 Enforcement of Assessments.

Assessments levied hereunder together with interest thereon and all reasonable costs of collection thereof, including reasonable attorney's fees, shall be a charge on the Residence Lot

and shall constitute a continuing lien upon said property against which such assessment is made, and shall also be the personal obligation of the owner or owners from the time the payment thereof became due.

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the then prime rate of interest established by the First National Bank of Boston.

The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. The Association may enforce each such lien by selling any Residence Lot subject thereto, and to satisfy the same, in the manner provided by law for the foreclosure of mortgages containing a power of sale, provided that notice of the commencement of such proceedings is filed for recording in the Dukes County Registry of Deeds within two years of the date on which payment becomes due and so long as said assessment or any portion thereof remains unpaid.

The lien for the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Residence Lot shall not affect the assessment lien. However, the sale or transfer of any Residence Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien or such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Residence Lots or Owners thereof from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VI **MISCELLANEOUS PROVISIONS**

SECTION 6.01 Amendment and Duration.

A. Amendment. Except as otherwise herein expressly provided, this Declaration may be amended at any time by:

1. A vote adopting, or written consent to, the proposed amendment by (a) a three-fifths majority of the Board and (b) a three-fourths majority of the owners of Residence Lots. Such amendment shall not be effective until there has been filed and recorded a certificate signed by the Secretary or Assistant Secretary of the Association setting forth the amendment and the facts relating to its adoption by the Board and the Residence Lot owners. However, no such amendment shall be adopted that substantially derogates from the original intent and purposes of this Declaration.

B. Duration of Restriction. Subject to the provisions of paragraph A of Section 6.01 hereof, the restrictions set forth in this Declaration shall continue and remain in full force and effect in all events until thirty (30) years from this date, and may thereafter be extended and continued in full force and effect for further periods of twenty (20) years each in the manner provided in Massachusetts General Laws Chapter 184, Section 28, as it may be amended from time to time.

SECTION 6.02 Enforcement and Non-Waiver.

A. Right of Enforcement. The restrictions set forth in this Declaration are for the benefit of all the land described herein and shall run with the land. Except as otherwise provided herein, any owner of any Residence Lot, the Declarant or the Association (irrespective of whether the Declarant or the Association then owns any of the Residence Lots) shall have the right to enforce any or all of the provisions of this Declaration, including without limitation, the restrictions herein set forth.

B. Violation of Law. Any violation of any applicable local, state or federal law or governmental regulation pertaining to the ownership, occupation or use of any property within Hidden Cove is hereby declared to be a violation of this Declaration and of the restrictions herein set forth and subject to any or all of the enforcement procedures set forth in the Declaration.

SECTION 6.03 Delivery of Notices and Documents.

Any written notice or other document relating to or required by this Declaration may be delivered either personally or by mail. If by mail, it shall be deemed to have been delivered forty-eight (48) hours after a copy of same has been deposited in the United States mail, certified or registered mail, postage prepaid, return receipt requested.

SECTION 6.04 Construction and Severability: Singular and Plural.

A. Provisions Severable. Each of the provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

B. Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall include the masculine, feminine and neuter.

C. Captions. All captions or titles used in this Declaration are intended solely for convenience or reference and shall not affect that which is set forth in any of the provisions hereof.

D. Definitions. Whenever the context so permits all references to the term "Residence Lot" contained within this Declaration shall include each Residence Unit situated on Lot No. 893 which is held under a condominium form of ownership.

AMENDMENT TO THE MASTER DECLARATION
OF HIDDEN COVE IN OAK BLUFFS,
COUNTY OF DUKES COUNTY,
MASSACHUSETTS, RESERVATIONS AND RESTRICTIONS

I, E. PETER MULLANE, hereby certify pursuant to Article VI, Section 6.01(A) of the above Master Declaration of Hidden Cove filed with Dukes County Registry District of the Land Court as Document No. 12952 that:

- (a) I am the duly elected Secretary of Hidden Cove Property Owners Association, Inc.
- (b) The following amendment to the said Master Declaration of Hidden Cove has been approved by the written consent of all of the members of the Board and over three-fourths (3/4ths) of all of the owners of Residence Lots.
- (c) The said Master Declaration of Hidden Cove is hereby amended by inserting in Section 6.04 thereof the following paragraph:

E. Definitions. Whenever the context so permits all references to the term "Residence Lot" contained within this Declaration shall include each Residence Unit situated on Lot No. 893 which is held under a condominium form of ownership.

IN WITNESS WHEREOF, the said E. PETER MULLANE, duly authorized Secretary of Hidden Cove Property Owners Association, Inc., has caused these presents to be signed, acknowledged and delivered in its behalf, this 15th day of January, in the year One Thousand Nine Hundred Eighty-One.

HIDDEN COVE PROPERTY OWNERS
ASSOCIATION, INC.

By: _____
Secretary

COMMONWEALTH OF MASSACHUSETTS

DUKES, SS.

January 15, 1981

Then personally appeared the above named E. Peter Mullane and acknowledged the foregoing instrument to be the free act and deed of Hidden Cove Property Owners Association, Inc., before me

Notary Public

My Commission expires: 11/20/81

AMENDMENT TO THE MASTER DECLARATION
OF HIDDEN COVE IN OAK BLUFFS,
COUNTY OF DUKES COUNTY,
MASSACHUSETTS, RESERVATIONS AND RESTRICTIONS

I, E. PETER MULLANE, hereby certify pursuant to Article VI, Section 6.01 (A) of the above Master Declaration of Hidden Cove filed with Dukes County Registry District of the Land Court as Document No. 12952 that:

- (a) I am the duly elected Secretary of Hidden Cove Property Owners Association, Inc.
- (b) The following amendment to the said Master Declaration of Hidden Cove has been approved by the written consent of all of the members of the Board and over three-fourths (3/4ths) of all of the owners of Residence Lots.
- (c) The said Master Declaration of Hidden Cove is hereby amended by deleting in Section 2.01, Paragraph B, the reference to Lot No. 884 which was originally inserted therein as the result of typographical error.

IN WITNESS WHEREOF, the said E. PETER MULLANE, duly authorized Secretary of Hidden Cove Property Owners Association, Inc., has caused these presents to be signed, acknowledged and delivered in its behalf, this 14th day of September, in the year One Thousand Nine Hundred Eighty-One.

HIDDEN COVE PROPERTY OWNERS
ASSOCIATION, INC.

By: _____
Secretary

COMMONWEALTH OF MASSACHUSETTS

DUKES, SS.

September 14, 1981

Then personally appeared the above named E. Peter Mullane and acknowledged the foregoing instrument to be the free act and deed of Hidden Cove Property Owners Association, Inc., before me

Notary Public

My Commission expires: 12/31/82

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