

# Brandywine Bay Storage Yard User Agreement

## STATEMENT OF PURPOSE:

Brandywine Owners Association, Inc. (BOA) and Brandywine Bay Association, Inc. (BBA) are joint owners of a tract of land located at 496 Highway 24 in Carteret County, NC as tenants in common which they both utilize as a storage area (the "Storage Area"). Authorized Parties, termed (Users), are homeowners in either BOA or BBA and are Association members in good standing. A renter of a home is not deemed to be an Authorized Party (User). This Agreement is designed to establish the relationship between the Associations and the various authorized parties requesting to store qualified personal property within the Storage Area.

The Parties agree as follows:

1. **Storage:** The Association shall provide and make available to the User One (1) storage space. The Association reserves the right to re-assign the User to a different space based on the size and/or maneuverability of the items stored in the space or in other spaces within the storage area. A user can only store one (1) item in a space. Users must keep their areas clean and orderly.

The storage area is enclosed by a wire fence and is accessed through a locked gated entrance. The user will be provided with a key to the gate lock which he/she agrees to keep personal and confidential. The Associations provide no insurance coverage. The Associations are not responsible in any way for vandalism, storm damage, theft or any other loss. The Owner's utilization of the space and the storage area is at his/her own risk. This agreement shall not create any type of bailment relationship between the parties.

2. **Term:** The term of this agreement shall commence as of the date a space is assigned to a User by the respective Storage area Administrator and shall terminate on the 31<sup>st</sup> day of December each year unless the User renews their space rental or there is a change to this agreement requiring the User to sign the new version.

It is the current policy of the Associations to provide the User with the ability to renew the agreement year to year for so long as he/she remains an authorized party and owns a qualified item and the Associations agree to renew. The Associations reserve the right to change the current policy of renewal. Notwithstanding the above or to the contrary stated herein, it is agreed and understood that this agreement shall terminate immediately upon the Owner ceasing to be an authorized party to use the storage area

3. **Fees:** The User agrees to pay a fee annually to the Associations for his/her assigned space. The current User fee is \$65.00 per year. The fee may be adjusted from time to time by the Boards of the Associations. In addition, there will be a one time \$10.00 non-refundable key charge upon initial assignment of a space to any User. There is a \$10.00 fee for a replacement key. Any User fees not paid within 30 days of the due date will be subject to a paragraph 9 default in this agreement. Fees are due immediately upon payment and there shall be no refunds.
4. **Use:** Users shall be entitled to access the storage area for the sole and exclusive purpose of using the assigned space for the storage of boats, trailers and RV's (canoes, kayaks, paddle boards and surf boards are not qualified storage items) that are specifically identified on their Storage Area Use Form. The User shall not use the premises for any other purpose whatsoever. Any User that does not use their assigned storage space during the Term of the agreement, will not be eligible for renewal at expiration of the Term. Users must provide proof of ownership of the identified personal property and agree to provide said information when requested by the Associations. Any items stored within an assigned space must be maintained and kept in good repair and be mobile (no tongue locks on trailers). Any stored items determined to be derelict by the Storage Yard Administrator, must be removed from the storage yard by the User within 30 days after being given notice by the Administrator, or such stored items will be removed and stored or disposed of by a third party at the User's expense. Stored personal property must have State registration. The User agrees that all registrations, inspection stickers or license plates will be kept current as required by law. The User shall keep his/her space, stored items and adjacent fence clean and clear of debris.
5. **Transfer:** No rights to usage of storage area spaces will convey with the sale or rental of a residential property. The assigned storage space must be vacated and the key to the entrance gate returned to the Association within 30 days of closing the sale of residential property. Should a resident dispose of a stored property, the resident must relinquish their key and space immediately, unless adequate intent to replace the property is provided. The replacement property must be available for storage within no more than 120 days.
6. **Release and Indemnity:** User, for himself/herself, their heirs, successors and assigns, hereby releases and forever Discharges the Association, its directors, officers, members, agents, successors and assigns from any and all claims, and demands arising out of or in any way relating to any damage, loss, destruction or injury to property or person occurring on or about the storage property. The User shall indemnify the Association and hold it harmless from and against all losses, expenses,

claims arising out of injury to, or damage to property of, the User, its heirs, successors or assigns or any other person on or about the storage area. This indemnity provision shall include the Association's reasonable attorney's fees.

7. **Compliance with Legal Requirements:** The User shall not store any hazardous materials or substances within the storage area. The User shall comply with all legal requirements of any governmental or quasi-governmental body, including City, County, State or Federal boards having jurisdiction in respect to the storage of any personal property placed upon, in or about the space or storage area. The user shall neither create nor permit the creation of any nuisance upon, in or about the space or storage area and the User shall further comply with any law, ordinance, regulation that would apply to the storage area.
8. **Default:** In the event of failure by the User to perform any obligation imposed upon him/her hereunder, whether expressed or implied, within ten (10) days following written notice of such default, the Association shall have the absolute legal right, with or without process to immediately terminate this agreement, to remove stored property and to pursue and seek judgment in the courts of the State of North Carolina against the User for any damages caused by the default. The Association shall also be entitled to enjoin any breach by the User of any Covenant or condition hereunder and may invoke any right or remedy allowed by law or in equity or by statute or otherwise without being restricted to those remedies provided for in this agreement and each right and remedy provided for in this Agreement shall be cumulative, and not alternative, and may be exercised in addition to every other right or remedy provided for in this Agreement now or hereafter existing at law or in equity by any right or otherwise; and the exercise of any right or the pursuit of any remedy by the Association shall not preclude the simultaneous or later exercise or pursuit by the Association of any other right or remedy. Notice deemed given when sent by the Association, whether actually received or not the relationship between the User shall be deemed that of landlord and tenant and it is stipulated that the remedy of summary ejectment pursuant to Article 3 of Chapter 42 of the North Carolina General Statutes is available to the Association. Upon termination of this Agreement entry upon the storage area by the User shall constitute a trespass and subject the User to civil and criminal penalties applicable to a trespass.

Notwithstanding anything to the contrary contained herein, the parties agree that any property left within the storage area for more than thirty (30) days after written notice to the User to remove the same, shall be conclusively deemed as abandoned by the Owner.

In the event the Association brings a suit in law or equity to enforce this Agreement, or recover damages for its breach, the Association shall be entitled to recover its reasonable attorneys' fees and court costs incurred in the prosecution of such legal action.

BOA  
Jerry Garner  
204 Slow Lane  
Morehead City, NC 28557

BBA  
Jack Ashley  
102 Webb Drive  
Morehead City, NC 28557

9. **Modification:** This Agreement may not be changed or modified orally, but only by an agreement in writing signed by the party against whom enforcement, waiver, change, modification or discharge is sought.
10. **Waiver:** No failure by the Association to exercise any rights hereunder to which it may be entitled shall be deemed a waiver of such right to subsequently exercise the same.
11. **Entire Agreement:** This Agreement contains the entire agreement and understanding of the parties, and there are no oral understandings, terms or conditions, and neither Association nor Owner has relied upon any representation, express or implied, not contained herein.

User Signature \_\_\_\_\_

Date \_\_\_\_\_