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REGISTER OF DEEDS

NEW HANOVER CO. NC.

STATE OF NORTH CAROLINA

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COUNTY OF NEW HANOVER

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PROTECTIVE COVENANTS BISHOPS PARK  
AT PORTERS NECK PLANTATION

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THIS DECLARATION OF PROTECTIVE COVENANTS, RESTRICTIONS AND EASEMENTS, dated for purposes of reference only this 19th day of November, 1993, by PORTERS NECK COMPANY, INC., a North Carolina corporation (hereinafter "Declarant").

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RECITALS:

Declarant is engaged in the subdivision and development of a resident community, with amenities, generally known as Porters Neck Plantation. The area generally referred to as Porters Neck Plantation has been and is being developed by individual subdivisions, managed and governed by separate homeowners associations, determined primarily upon the relationship of such areas to the state maintained primary roads providing access to Porters Neck Plantation. Prior to the recordation of these Protective Covenants, Declarant has caused to be incorporated a homeowners association named Porters Neck Homeowners Association, Inc., which association has responsibilities relating to properties subjected to protective covenants recorded in Book 1555, Page 0957 et seq. (as amended). Declarant has further caused to be incorporated a homeowners association named Creekside Maintenance Association, Inc., which association has responsibilities relating to those properties described in the Declaration of Restrictions recorded in Book 1392, Page 1254, et seq., New Hanover County Registry (as amended). It is the purpose of these Protective Covenants to create a third section of the Porters Neck Plantation referred to as Bishops Park at Porters Neck Plantation ("Bishops Park"), and to establish a plan for management and preservation of such subdivision.

Declarant has, by recordation of a Bishops Park subdivision plat, subdivided certain property shown on said plat into lots intended for utilization for construction of single family homes. The subdivision plat is recorded in Map Book 33, Page 224, New Hanover County Registry, and all property shown thereon is hereinafter referred to as the "Subdivision." Each numbered lot shown on the recorded plat is referred to herein as a "Lot." The name of the subdivision is Bishops Park at Porters Neck Plantation.

Within the Subdivision and as shown on the recorded plat, there has been privately dedicated one or more street rights of way, and there will be or has been constructed within each such right of way, in accordance with applicable construction standards of the State of North Carolina, a subdivision road. Access to each Lot within the Subdivision is over one or more streets shown on the recorded plat of the Subdivision.

This Instrument Re-Recorded For The Purpose of Adding Exhibit "A" Hereto. This the 20th day of February, 1997.

Douglas A. Fox  
Douglas A. Fox, Attorney

RETURNED TO K. J. Archer  
yc+P

KIRKMAN & WHITFORD, P.A.  
ATTORNEYS AT LAW  
1000 WEST OFFICE DR. SUITE 1107  
MOREHEAD CITY, NORTH CAROLINA 28557-1247

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In order to maintain the streets providing access to the Subdivision as shown on the recorded plat, to own, manage and maintain common areas and utilities as more fully set out hereinafter, and to enforce these Protective Covenants and to provide an organization for the benefit of the owner of each Lot within the Subdivision, Declarant has chartered a North Carolina nonprofit corporation named Bishops Park Homeowners Association, Inc. (the "Association"). The owner of each Lot is a member of the Association, and the owner of each Lot is obligated to pay dues and assessments to the Association for the benefit of the Association and the owner of each Lot within the Subdivision. The organization and operation of the Association is described in these Protective Covenants and in the By-Laws of the Association.

It is the desire and intention of Declarant, for its benefit and with the intent of preserving the value of each Lot, to restrict the utilization of and improvements on each Lot within the Subdivision in accordance with guidelines established herein. Therefore, Declarant hereby subjects the property described hereinafter to the terms and provisions of these Protective Covenants for the use and benefit of all present and future Lot owners within the Subdivision.

1. DESCRIPTION. This Declaration shall run with the land and shall bind and inure to the benefit of the owner of each Lot within the Subdivision, and the property made subject to these Protective Covenants is all of the property shown on that plat of Bishops Park recorded in Map Book 33, Page 224, New Hanover County Registry, as the same may be amended from time to time.

2. ADDITIONAL PROPERTIES. Declarant reserves the right to subject additional properties to the terms and provisions of these Protective Covenants. The property which may be made subject to the terms and provisions of these Protective Covenants is described on Exhibit A attached hereto, but may include additional adjacent properties thereto (adjacent being defined as inclusive of properties across a right-of-way or water body). All or any part of such property may be subjected hereto; such property may be subjected hereto in one or more phases. However, to the extent that any portion of such property has not been subjected to the terms and provisions of these Protective Covenants by recordation of an amendment to these Protective Covenants in the office of the Register of Deeds of New Hanover County Registry, which amendment specifically exercises such right, on or before December 31, 2005, this right shall terminate. Lots made subject to the terms and provisions of these Protective Covenants by amendment shall be liable for payment of dues as specified in such amendment; but in no event shall dues be payable later than the conveyance by Declarant of any lot within a given phase or section to a third party.

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Any amendment hereto may alter the minimum square footage of any structure to be constructed on property subject to such amendment, and, to the extent that such amendment subjects single family Lots less than 15,000 square feet in size to the provisions of these Protective Covenants, said amendment shall specify any changes allowed in the specific construction standards included herein as to those properties, but no such amendment shall alter the relationship of such properties, and the structures to be constructed thereon, with the Association and its Architectural Control Committee, and no such amendment shall in any way change the authority of the Association to impose and collect dues and assessments (both regular and special) from the owners of such Lots. For purposes of voting, the owner of each such Lot shall be considered a member of the Association, and shall be entitled to one (1) vote.

3. SINGLE FAMILY UTILIZATION. This Protective Covenant restricts all numbered Lots subjected to its terms to use only for single family residential purposes. No home or other structure constructed within the Subdivision shall be utilized for commercial purposes, except that Declarant or its assigns shall be entitled to use any structure located within the Subdivision for purposes of assisting in the sale of Lots within the Subdivision. Each amendment shall specify, as set out in Paragraph 2 above, the specific building and site restrictions applicable to the property described in such amendment.

4. BUILDING AND SITE RESTRICTIONS. The Architectural Control Committee must give prior approval of any removal of any tree of a size of four inches in diameter or greater from any Lot or the construction of any improvement or structure on any Lot in accordance with the procedures described in Paragraph 5 of these Protective Covenants. In addition, the following restrictions shall apply:

(a) No detached garage, storage shed, or carport shall be permitted unless architecturally compatible with the primary dwelling structure on the Lot.

(b) No more than one (1) single family house shall be allowed per Lot.

(c) All homes must be constructed substantially on site, and no modular home shall be located within the Subdivision and no homes constructed elsewhere shall be allowed to be conveyed into and located on a Lot within the Subdivision. No temporary structures shall be allowed.

(d) No sign shall be allowed on any Lot so as to be visible from any street right of way or any adjoining Lot, except as to the following signs, which shall be allowed:

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(1) a sign, no greater than four square feet in size, specifying the general contractor actually constructing a structure on a Lot. Such sign must be removed upon issuance of a certificate of occupancy for the structure;

(2) a sign identifying the property upon which such sign is placed only by the name of the owner and a street number. Such sign must be constructed at a size, and to specifications and styles established by the Architectural Control Committee, and must be located on the Lot in a place specified by the Architectural Control Committee;

(3) a single project sign for any townhome, which sign shall not exceed in size ten square feet, and which shall specify only the name of the development and the name and location of the selling agent;

(4) street or directional signs erected by the Association;

(5) any sign required to be constructed by any governmental agency; and

(6) identification and informational signs constructed by Declarant or the Association, installed in places other than on Lots, the purpose of which is to assist Declarant or the Association in identifying the project and the location of sales offices, amenities, sales models or other nonresidential uses within the Subdivision.

All permitted signs, except those required to be constructed by governmental entity, shall be constructed of materials, in a style, of colors and in a location established and approved by the Architectural Control Committee.

(e) The minimum square footage of heated, enclosed living space for each approved residential structure shall be 1,650 square feet for all single-level homes and 1,900 square feet for all two-level homes; a minimum of 1,400 square feet of such space must be located in the first living floor of the residential structure. Carports, garages, attics, porches, patios and decks shall not be considered heated, enclosed living space.

(f) There are no absolute building setback requirements other than those that may be imposed by a local government or those shown on the recorded plat of the Subdivision. However, no structure will be allowed within 25 feet of any street right of way, 10 feet of any side Lot line, 35 feet of any rear Lot line and 25 feet from a common recreational property, unless alternatives are approved by the Architectural Control Committee. NOTWITHSTANDING ANY SUGGESTED SETBACK, THE ARCHITECTURAL CONTROL COMMITTEE SHALL HAVE COMPLETE AUTHORITY TO DETERMINE THE

APPROPRIATE BUILDING SITE ON EACH AND EVERY LOT. THERE IS NO PRESUMPTION THAT SUCH APPROVED BUILDING LOCATION SHALL BE WITHIN THE SUGGESTED SETBACKS SET OUT HEREIN BEFORE.

(g) The heights of structures shall be subject to approval of the Architectural Control Committee in accordance with the standards set out in Paragraph 5 hereunder, but no structures may exceed in height the height limitations imposed by New Hanover County.

(h) Fences are subject to the complete jurisdiction of the Architectural Control Committee as to location, style, materials and height. As used herein, fences shall include walls, barricades, shrubbery or other impediments to reasonable mobility and visibility. The Architectural Control Committee shall only approve the construction of a fence upon a determination that the fence is aesthetically pleasing; does not detract from the reasonable value of any Lot and does not unreasonably impede the view of any attractive feature from any other Lot.

(i) No satellite receiving dish, radio antennae or other similar device shall be located on any Lot. The Architectural Control Committee shall approve the location of such device only upon making an affirmative finding that the location of the device on the Lot is in the area of minimum visibility from any surrounding Lot or from any street, and upon a further finding that the proposed location will not significantly detract from the aesthetic values of the Subdivision.

(j) No boat, boat trailer, other trailer, camper, recreational vehicle, utility vehicle or truck (to the extent that a truck is rated as a one ton truck or larger), unless in a parking area designated for such purpose by the Association, shall be allowed to remain on any street right of way or on any Lot or on any common property overnight unless it is enclosed within a garage that has been constructed in accordance with the provisions of these Protective Covenants.

(k) The Association shall have authority to adopt rules and regulations prohibiting or restricting the location of temporary or permanent clotheslines, the number of vehicles that may be parked on any Lot and the number, type and location of trash receptacles and trash receptacle enclosures.

(l) No activity, whether active or passive, that is reasonably considered a nuisance by the Association shall be allowed on any Lot. This prohibition includes any activities within any structure, on any Lot or on any street or common area. The Association is specifically authorized by Paragraph 15 of these Protective Covenants to adopt rules regarding conduct and use of any Lot; however, the Association may find any conduct or use of a Lot to be a nuisance notwithstanding the fact that such conduct is

not specifically prohibited by these Protective Covenants or by an adopted rule. If any conduct is deemed by the Association to be a nuisance, and to the extent that such conduct is not specifically prohibited by the provisions of these Protective Covenants or by an adopted rule, the Association shall give written notice to the offending owner specifying the nature of the nuisance, and requesting that such nuisance be terminated. If any nuisance is not terminated within a reasonable time thereafter, the Association may, in addition to any other remedy, impose a fine in the amount of \$100.00 per violation. If the nuisance is of a continuing nature, a separate violation shall be considered made each day the nuisance continues. All such fines may be collected in the same manner as an assessment as more fully specified herein, and all attorney's fees incurred may be collected as allowed by Paragraph 7 herein.

(m) New Hanover County requires that a 30 foot buffer zone be retained on each Lot that is adjacent to Porters Neck Road and Futch Creek Road. The purpose of the restriction is to maintain a natural and rural perimeter along such roads. There shall be no alteration of the natural vegetation within 30 feet of either road except as approved by the Architectural Control Committee. The owner of each Lot shall be allowed reasonable vehicular access through such buffer by the Architectural Control Committee.

(n) In accordance with the North Carolina Coastal Stormwater Regulations, no lot, without prior permission of the Department of Environmental Management of the State of North Carolina, shall have placed or constructed thereon in excess of 5,080 square feet of impervious surface. Impervious surface shall be defined in accordance with the regulations of the State of North Carolina implementing the Coastal Stormwater Regulations enforced by the Department of Environmental Management.

5. ARCHITECTURAL CONTROL COMMITTEE PROCEDURES. At least thirty (30) days prior to the anticipated commencement of any landscaping or construction of any structure or improvement on any Lot, the owner of such Lot (or his duly appointed agent) shall submit to the Chairman of the Architectural Control Committee a survey of the Lot, which survey shall show each Lot corner. There shall further be shown on said survey the proposed location of all proposed and existing structures or improvements, including driveways, bulkheads, piers, patios, decks and walkways, and further including a specific delineation of the proposed location of all improvements that will result in the creation of impervious surfaces as defined by the Department of Environmental Management of the State of North Carolina in accordance with the North Carolina coastal stormwater regulations. There shall further be provided to the Architectural Control Committee sufficient building elevations and other site plans, including a statement of exterior building materials and proposed exterior colors, to allow the

Architectural Control Committee to appropriately and accurately evaluate what is proposed for construction on the Lot. The location of the proposed well and septic tank, if any, including drain fields, shall also be delineated. The survey shall be prepared by a registered or licensed land surveyor, and the building elevations and other site plans shall be prepared professionally. There shall be submitted two copies of all information required to be submitted.

The owner of each Lot shall notify the Architectural Control Committee of the identity of the contractor proposed for construction of any major improvements on any Lot. Major improvements shall be all improvements of a reasonable construction cost of \$10,000.00 or more. The owner of each Lot shall include with the name of the contractor a statement as to the classification of contractor's license held by such contractor, the address and telephone number of the contractor, and two owners of comparable properties previously constructed by such contractor, and a minimum of two financial references. This information shall be submitted to the Architectural Control Committee at time of submission of plans, if such information is available at that time; if the information is not available at that time, the information shall be submitted to the Architectural Control Committee at least thirty (30) days prior to commencement of construction.

Within thirty (30) days after receipt of all required information, the Architectural Control Committee shall submit in writing to the owner of the Lot whether or not the requested improvements are approved. Unless a response is given by the Architectural Control Committee within thirty (30) days, the plan shall be deemed approved. The response of the Association 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 thirty (30) day time for response shall only commence upon receipt of the requested additional information. If approval with conditions is granted, and construction then begins, the construction shall be deemed approval by the owner of the Lot of the conditions imposed.

The Architectural Control Committee shall approve the plans as submitted, if all required information is submitted, and the following affirmative findings are made by the Architectural Control Committee:

(a) that the improvements sought to be constructed will not have negative economic impact on any other Lot within the Subdivision;

(b) that all required specific building standards and other conditions contained within the Protective Covenants and other applicable legal documents have been complied with;

(c) that the improvements are architecturally compatible with proposed or constructed improvements on other Lots within the Subdivision;

(d) that the natural features of the Lot have been retained to the maximum extent feasible;

(e) that the improvements have been situated on the Lot within the suggested setbacks contained in paragraph 4(f) of these Protective Covenants, or location elsewhere furthers consistency with subparagraph a, b, c or d of this paragraph 5; and

(f) that the impervious surface limitation coverage proposed on each Lot is consistent with the requirements of the Department of Environmental Management coastal stormwater regulations.

In addition to plan approval, the Architectural Control Committee must approve the contractor selected by the owner of each Lot. A contractor shall be approved if the contractor has an appropriate North Carolina general contractor's license in good standing, is of good financial standing, has a good reputation in the community and has constructed to the satisfaction of the owner of property comparable structures on a regular and routine basis.

Any owner of any Lot disagreeing with the finding of the Architectural Control Committee may appeal the decision to the Board of Directors of the Association by giving written notice of appeal to the President of the Association within fifteen (15) days following receipt of notice of denial. The Board of Directors of the Association shall then review the plans, giving the Chairman of the Architectural Control Committee the opportunity to present to the Board of Directors of the Association specific reasons why the plans were denied, in the presence of the owner of the Lot or his agent, and the owner of the Lot or his agent may present information challenging the findings of the Architectural Control Committee. The decision of the Architectural Control Committee shall only be overridden by unanimous vote of the Board of Directors of the Association.

All notices required to be given herein shall be given in writing, hand-delivered or mailed postage prepaid, return receipt requested, and the Architectural Control Committee shall be obligated to specify the particular grounds upon which denial of any application is founded. One set of plans, denoted as approved (or approved with specified conditions) shall be retained by the Architectural Control Committee and the other shall be returned to the applicant.

Notwithstanding any provision to the contrary contained within these Protective Covenants, Declarant reserves unto itself all rights and obligations assigned by these Protective Covenants to

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the Architectural Control Committee until the earlier of the following:

(a) Assignment of such responsibilities to the Association by written instrument, which instrument shall be recorded in the Office of the Register of Deeds of Beaufort County; or

(b) The Association membership meeting at which the majority of the Board of Directors of the Association are selected by vote of members of the Association.

6. **ASSOCIATION.** The owner or owners of every Lot shall be a voting member of the Association. However, only one vote shall be allowed per Lot; to the extent that there is more than one owner of any one Lot, said owners shall determine among themselves, and designate, one voting member, which voting member shall cast the vote allocated to said Lot. If the owners cannot agree among themselves, the Board of Directors of the Association shall determine and designate a voting member from among the owners of the Lot. The Association shall be governed by a Board of Directors, selected in accordance with the By-Laws of the Association, and the Association shall operate and do business in accordance with the terms of its By-Laws.

The Association shall have the responsibility of maintaining in good condition all streets within the Subdivision and to maintain in good, working condition all street lights or area lights constructed within the Subdivision and constructed for common benefit, to the extent such street lights or area lights are not owned and/or maintained by a public utility. The Association shall further have the responsibility of maintaining a sightly appearance along all street rights of way and utility easements, to the extent that the same are utilized for common ingress and egress or benefit. Areas proposed as common areas are as shown on the master plan for Bishops Park, which is and shall remain available for inspection by all owners of Lots and prospective owners until such time as all subdivision phases for Bishops Park have been recorded in the Office of the Register of Deeds of New Hanover County. Declarant reserves the right to make minor changes in the location of such common areas, but Declarant warrants and represents that no substantial changes requiring substantial repairs or renovations to man-made structures shall be included within such common areas, unless designated on the master plan for Bishops Park effective as of the date of the recordation of the subdivision plat described in paragraph 1 hereof.

The Association shall have the responsibility of maintaining in good condition all common areas, and shall be responsible for adopting rules and regulations governing utilization of such common areas. The Association shall be obligated to accept ownership of all common areas designated on any recorded subdivision plat the

properties of which are made subject to the provisions of this Declaration. To the extent necessary, the Association may employ personnel necessary to perform its obligations, or needed to benefit the owners of Lots within the Subdivision.

The Association shall have the obligation to provide for itself and for the benefit of the owner of each Lot all necessary professional services to promote the proper maintenance of all streets and other common areas and to provide the smooth, proper and legal administration of the Association. These services may include services of an engineer, lawyer, accountant or other professional. The Association is specifically authorized to provide such other incidental services for the benefit of the Subdivision and in the management of the Association as deemed reasonably necessary by the Board of Directors of the Association. The Association shall also have an affirmative obligation to maintain all roads and other common elements in good condition, utilizing its funds so to do, notwithstanding the utilization or lack of utilization of such facilities by any or all Lot owners.

The Association shall have the optional authority to provide any service to the Lots it believes desirable, including, but not limited to cable television, waste collection or utility service. Such services may be provided by the Association directly, by a subsidiary owned by the Association or by contract with a third party. Assessments may be collected to pay for the provision of such services.

The Board of Directors of the Association may maintain a capital reserve fund for street replacement and maintenance if deemed necessary by said Association, but shall be under no obligation so to do if, in the reasonable opinion of the Board of Directors of the Association, annual maintenance of streets and other common areas is sufficient to make unlikely significant and unexpected expenditures within a five (5) year period from the due date of the current regular assessment. Reserve funds for other common elements need not be maintained if the Board of Directors of the Association determines that annual maintenance expenditures will be sufficient to make unlikely large expenditure for replacement in a single year.

In order to fund its obligations, the owner of every Lot is obligated and bound, whether or not expressly stated in any instrument of conveyance, to pay to the Association the following:

- (a) annual charges or dues; and
- (b) special assessments.

All such assessments, charges, and dues, together with any interest thereon, shall be a charge on the land and shall be a continuing lien upon the Lot against which such assessments are

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made. Liens shall be perfected in the manner of a mechanics or materialmens' lien under North Carolina General Statutes, and any lien for dues unpaid shall be filed within nine (9) months after the due date of the payment of such assessment. The due date shall be the first day of the fiscal year of the Association, as to annual dues; and the date established for payment of a special assessment, as more fully set out hereinafter. Any such lien may be enforced in the manner of a deed of trust with power of sale, as allowed by North Carolina General Statutes, through a foreclosure proceeding. This instrument shall be deemed to give to the President of the Association said power of sale.

The liens provided for herein shall be subordinate to the lien of any first mortgage or deed of trust and the liens of any mortgage or deed of trust in favor of Branch Banking and Trust Company including liens of Branch Banking and Trust Company referred to herein. Sale or transfer of any lot shall not affect the assessment lien or liens provided for herein. However, the sale or transfer of any lot which is subject to any such mortgage or deed of trust, pursuant to a foreclosure thereof or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to the payment thereof which become due prior to such sale or transfer. No such sale or transfer shall relieve such lot from liability for any assessments, charges or dues thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to subordinate to the lien of any mortgage or deed of trust, including the deed of trust referred to herein. Further, any lot acquired by or transferred to any beneficiary of a deed of trust or mortgagee as a result of the foreclosure respecting such lot shall not be subject to assessment, charges or dues hereunder for the period held by such mortgagee or beneficiary.

Annual assessments shall be in an amount determined by a majority vote of the Directors of the Association. The initial annual assessment shall be \$50.00 per Lot. The fiscal year of the Association shall be the calendar year; dues for the first year of the Association, prorated by date of closing, shall be payable to the Association at closing. Declarant shall pay dues for all unsold Lots beginning on the first day of the month following the first conveyance of a Lot to a third party by Declarant. Beginning with January 1 of the year following issuance of a certificate of occupancy for a home on a Lot, the dues for each such Lot for which a certificate of occupancy has been issued shall be twice the then determined assessment for each unimproved Lot. No amendment to these Protective Covenants, unless approved by Declarant and all owners of Lots within the Subdivision, shall alter the ratio of dues paid by the owner of an unimproved Lot compared to the dues paid by an owner of an improved Lot.

A special assessment may be levied from time to time by vote of a minimum of seventy percent (70%) of the total votes cast in

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any regular or special meeting, called in accordance with the By-Laws. A special assessment may be made for any purpose for which expenditures are allowed in accordance with this Declaration. The resolution approving a special assessment shall specify the date payable.

Notwithstanding any provisions of these Protective Covenants, including this Paragraph 6, the Board of Directors shall have authority to levy any special assessment if, in the sole discretion of said Directors, the assessment is reasonably required to protect properties impacted in case of an emergency, such as a storm. In such event, the Directors shall give written notice to the members so affected as promptly as possible after the determination of said assessment and the action shall be binding as though ratified by the requisite vote of the owners of Lots.

7. ENFORCEMENT. These Protective Covenants, including any amendment hereto, may be enforced by any individual Lot owner; by the Association, upon action by its Board of Directors; or by Declarant, as long as Declarant owns any Lot within the Subdivision. Appropriate remedies shall include, but are not limited to, specific performance. In any action to enforce these Protective Covenants, including any action to collect assessments, either regular or special, or to foreclose upon any real property for payment of such assessment, all costs associated with said collection, including court costs and reasonable attorney's fees, shall be collected as an additional assessment. In addition, interest at the rate of twelve percent (12%) per annum shall be collected from the due date of any assessment, until the assessment is paid in full.

The State of North Carolina is given specific authority to enforce these covenants to the extent necessary to cause compliance with the impervious surface limitations of the North Carolina coastal stormwater regulations, and the State of North Carolina is specifically granted authority to enforce these Protective Covenants for such purpose, with remedies available to the State of North Carolina including, but not limited to, the remedy of specific performance.

8. SETBACKS. All setback and building restriction areas, and allowable building areas, as shown on the recorded subdivision plat of the Subdivision, shall be incorporated herein by reference.

9. AMENDMENTS. These Protective Covenants shall continue in full force and effect until 12:00 noon on January 1, 2005, at which time it shall automatically extend for additional successive periods of ten (10) years, unless a document terminating or modifying these Protective Covenants is recorded prior to any renewal date in the office of the Register of Deeds of New Hanover County, which amendment shall require approval of sixty-seven

percent (67%) of the Lots subjected to these Protective Covenants (including any amendments hereto).

10. BINDING EFFECT. All covenants, restrictions, reservations, easements and privileges contained herein shall run with the land and the grantee, by accepting any deed to any portion of such land described herein, accepts the same subject to these Protective Covenants and its terms and conditions and agrees for himself, his heirs, successors and assigns, to be fully bound by each and all of the terms and conditions of these Protective Covenants, jointly, separately, and severally.

11. RESERVATION OF RIGHTS. Declarant hereby reserves the right to utilize all streets and roads within the Subdivision for purposes of ingress and egress to Lots within such Subdivision owned by it, or for purposes of providing access to other contiguous properties owned by it. This right shall be assignable by Declarant to successors in interest to it of other contiguous properties. Any utility easements reserved as shown on any recorded plat (and all roadways shall be deemed for this purpose a utility easement) shall be available for utilization by Declarant, authorized utility companies, or by the owner of any Lot within Bishops Park, for purposes of providing utility services or necessary drainage, but only upon approval of the Association given by its Board of Directors.

12. RESUBDIVISION. No resubdivision of any single Lot shall be allowed, if any resulting Lot will be smaller in size than any of the Lots resubdivided, prior to resubdivision, except that nothing contained herein shall prohibit the owner of a Lot from conveying by deed or easement a portion of a Lot to an adjoining Lot owner for the purpose of curing an encroachment or setback violation. Nothing contained herein shall prohibit conveyance of more than one Lot, or portions of contiguous Lots, as long as the resulting Lot or Lots are greater in size than those originally subdivided. The deed of conveyance of any such resubdivided or recombined Lots shall restrict the construction thereon to one single family residential home per redivided Lot, so that the maximum number of homes which can be constructed within each Subdivision shall not increase. Upon the recombination of any Lots to reduce the total number of allowable building Lots within a Subdivision, for purposes of membership in the Association and for purposes of the payment of dues and assessments, any recombined Lots shall be considered a single Lot. Furthermore, should any Lot be determined by Declarant to be unbuildable, and should such Lot then be deeded to the Association as common area, or dedicated by Declarant as recreation or open space area for the benefit of the Association, all by document duly recorded in the office of the Register of Deeds of New Hanover County, there shall be no further dues owed from the date of such recordation; however, any dues prepaid shall not be reimbursed.

13. UTILITY EASEMENTS. There is hereby reserved for the benefit of the Association every public utility serving the Subdivision and the owner of each Lot within the Subdivision a utility, drainage and maintenance easement running parallel to each street a width of ten (10) feet, and parallel to each side and rear Lot line a width of five (5) feet. Utilization of such easement by anyone other than the Lot owner across which such easement runs shall be made only upon approval of the Board of Directors of the Association.

14. MINOR AMENDMENT. Declarant, or its successor or assign, shall be allowed to amend these Protective Covenants, notwithstanding any other provision contained herein, and without joinder of any other party, for the purpose of correcting any discovered error contained herein, clarifying any ambiguity contained herein, or adding or deleting any incidental provisions deemed in the sole discretion of Declarant to be in the best interest of the Subdivision, and the owners therein. This right may be exercised, and shall be effective, only upon the recordation of a "Corrected Declaration" in the office of the Register of Deeds of New Hanover County, which Corrected Declaration shall specifically reference this document, and the provision impacted.

15. RULES. The Board of Directors may from time to time establish rules for use of any property within the Subdivision in order to protect the value of Lots, the aesthetic qualities of the Subdivision and the tranquillity of the owners of Lots. Said rules may include, but are not limited to, reasonable restrictions on pets, rental use of homes, and parking of cars, trailers, boats, campers and other vehicles on Lots and streets. All such rules shall be effective after written notice of adoption is mailed to the record owners of all Lots. All such rules shall be enforceable as though set out within these Protective Covenants.

16. PORTERS NECK COUNTRY CLUB. The owner of each Lot acknowledges that memberships entitling use of the Porters Neck Country Club recreational facilities ("Club Facilities") will be offered by the owner of the Club Facilities in accordance with such terms and conditions as established from time to time in the sole discretion of the owner of the Club Facilities. When memberships are made available, the owner of each Lot may apply for membership on the terms made available by the owner of the Club Facilities. The owner of each Lot acknowledges that, by purchasing or paying for a Lot, or by acquiring membership in the Association, the purchaser does not acquire any vested right or easement, prescriptive or otherwise, to use the Club Facilities, nor does Purchaser acquire any ownership or membership interest in the Club Facilities. Furthermore, the Association has no vested right or easement, prescriptive or otherwise, or any ownership interest in the Club Facilities. The Club Facilities include specifically, but are not limited to, the Porters Neck Golf Course. Lot owners electing membership shall be charged the same dues and assessments

as may be assessed from time to time against members owning lots within other sections of Porters Neck Plantation.

17. MERGER. The Board of Directors of the Association may, upon approval of a simple majority of the owners of Lots within the Subdivision (including Lots owned by Declarant) effectuate a legal merger or a contractual arrangement with any other homeowners association within the area generally known as Porters Neck, which other association has jurisdiction over residential lots within Porters Neck Plantation, and which association has been created, and administers, restrictive covenants substantially similar to those imposed by this Declaration. Any such merger or other agreement shall be effective upon the date determined by the two associations. Upon approval of any such merger or arrangement, properties owned by or subject to maintenance by either of such associations may be maintained by the survival entity, and all dues and assessments collected from all members of both associations may be used for all purposes authorized under the applicable governing documents of each association.

18. SECURITY. The Board of Directors is specifically authorized, but is not required, to provide security gates, security personnel and other traffic control within any private streets subject to the maintenance jurisdiction of, or owned by, the Association. Any expenses thereof shall be an authorized common expense of the Association.

19. FEEES AND BONDS. The Board of Directors is specifically authorized, but is not required, to charge application or processing fees for approval of plans, and to require the posting of reasonable bonds or deposits prior to commencement of construction to protect the Association against damage to streets or other common areas or costs incurred in causing correction of any construction or site work performed otherwise and in accordance with approved plans.

20. JOINDER. Branch Banking and Trust Company joins in the execution of these Protective Covenants for Porters Neck Plantation for the sole purpose of consenting to the terms and conditions contained herein, and for the purpose of subordinating, except as herein set forth, that Deed of Trust recorded in Book 1721, Page 244, et seq., as the same may have been modified from time to time, to the provisions of these Protective Covenants, and by affixing its duly authorized signature, under seal, hereto, Branch Banking and Trust Company, does hereby specifically subordinate, except as herein set forth, said Deed of Trust recorded in Book 1721, Page 244, to the terms of these Protective Covenants, but except for said subordination, the lien of said Deed of Trust shall remain in full force and effect until released by Branch Banking and Trust Company, by instrument duly recorded in the Office of the Register of Deeds of New Hanover County. As set forth in paragraph 6