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REGISTER OF DEEDS
NEW HANOVER CO. NC.

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

BOOK

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

RESTRICTIONS OF ENGLISH MOOR AT WEST BAY ESTATES

THIS DECLARATION, made the 17th day of June, 1994, by DALLAS HARRIS REAL ESTATE-CONSTRUCTION, INCORPORATED, a North Carolina corporation, hereinafter referred to as "Declarant";

Whereas, Declarant is the owner of certain property in New Hanover County, North Carolina, which is more particularly described as follows:

BEING all of ENGLISH MOOR AT WEST BAY ESTATES, as the same is shown on a map thereof recorded in Map Book 94, Page 3 in the Office of the Register of Deeds of New Hanover County, North Carolina, reference to which is hereby made for a more particular description.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I.

DEFINITIONS

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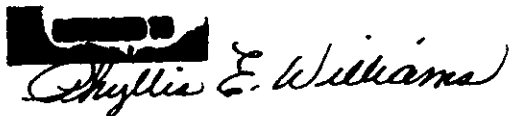
As used herein, the following terms shall mean:

Section 1. ASSOCIATION shall mean and refer to ENGLISH MOOR AT WEST BAY ESTATES ASSOCIATION, INC., a North Carolina non-profit corporation, its successors and assigns, the owners' association organized for the mutual benefit and protection of the Properties. All property owners of lots in ENGLISH MOOR AT WEST BAY ESTATES and any adjoining areas hereafter developed and subjected to this Declaration, if any, shall be members of the Association, which membership shall be appurtenant to and may not be separated from the ownership of such single family or multi-family lot.

Section 2. OWNER shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. PROPERTIES shall mean and refer to all of ENGLISH MOOR AT WEST BAY ESTATES as described above, and any of the additional properties that may hereafter be brought within the jurisdiction of the Association as herein provided.

Section 4. ADDITIONAL PROPERTIES shall mean and refer to any lands adjoining the Properties or within a one mile radius thereof which are now owned or may be hereafter acquired or developed by the Declarant and annexed to and made a part of the Properties by the Declarant and subjected to this Declaration without the assent or vote of the owners of lots as hereinafter provided. The annexation of such Additional Properties shall become effective by the recording by the Declarant of an amended declaration for each new section annexed.


Thyllis E. Williams

Section 5. COMMON AREA shall mean and refer to all real property owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot shall be all the area designated as "Common Area" on the plat of ENGLISH MOOR AT WEST BAY ESTATES, if any, recorded or to be recorded in the New Hanover County Registry.

Section 6. LOT shall mean and refer to any numbered lot shown upon the recorded plat of any section of ENGLISH MOOR AT WEST BAY ESTATES, now or hereafter recorded in the New Hanover County Registry.

Section 7. DECLARANT shall be used interchangeably with Developer (which designations shall include singular, plural, masculine and neuter as required by the context) to mean and refer to DALLAS HARRIS REAL ESTATE-CONSTRUCTION, INCORPORATED, and its successors and assigns, if such successors and assigns should acquire undeveloped property from the Declarant for the purpose of development.

Section 8. DECLARATION shall mean this instrument as it may be from time to time amended or supplemented.

Section 9. MEMBERSHIP shall mean and refer to the rights, privileges, benefits, duties and obligations which shall inure to the benefit of and burden each member of the Association.

Section 10. MEMBER shall mean and refer to every person or entity who has a membership in the Association.

ARTICLE II.

PROPERTY RIGHTS

Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area, if any, which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

- a. The right of the Association to suspend the voting rights and privileges of an owner for any period during which any assessment against his lot remains unpaid and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;
- b. The right of the Association to mortgage or convey the Common Area, or to dedicate or transfer all or part of the Common Area, if any, to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective until approved by a vote of at least two-thirds (2/3) of the members, excluding the developer, as indicated in an instrument executed by the corporation and recorded in the New Hanover County Registry;
- c. The right of the Association to impose regulations for the use and enjoyment of the Common Area, if any, and improvements thereon, which regulations may further restrict the use of the Common Area.

ARTICLE III.

EASEMENTS

Section 1. Perpetual, alienable easements are reserved as necessary in the Properties and the Common Areas thereof for installation and maintenance of underground facilities and drainage facilities.

Section 2. The Declarant reserves unto itself, its successors and assigns, a perpetual, alienable and releasable easement and right of way, on, over and under the ground for men and equipment to erect, maintain, inspect, repair and use electric and telephone poles, wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water or other public conveniences or utilities on, in or over each lot and such other areas as are shown on the plat of the Properties recorded or to be recorded in the office of the Register of Deeds of New Hanover County; provided further, that the Declarant may cut drainways for surface water whenever such action may appear to the Developer to be necessary in order to maintain reasonable standards of health, safety and appearance. These easements and rights of way expressly include the right to cut any trees, bushes or shrubbery, make any grading of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. The Declarant further reserves the right to locate wells, pumping stations, and tanks within residential areas on any walkway, or on any residential lot now or subsequently designated for such use or to locate same upon any lot with the permission of the owner of such lot. Such rights may be exercised by any licensee of the Declarant, but this reservation shall not be considered an obligation of the Declarant to provide or maintain any such utility or service.

Section 3. The Developer reserves the right to subject the real property in this subdivision to a contract with Carolina Power and Light for the installation of underground electric cables and/or street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to Carolina Power and Light Company by the owner of each lot.

Section 4. Sewer Service All lots will be connected to the New Hanover County Sewer System. All monthly charges for sewer service will be the responsibility of each individual lot owner. Water will be provided from Cape Fear Utilities.

ARTICLE IV.

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot.

Section 2. The Association shall have two classes of voting memberships:

- a. CLASS "A": Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any lot.
- b. CLASS "B": Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:
 - (1) when the total votes outstanding in Class A membership equals the total votes outstanding in the Class B membership, or,
 - (2) on December 31, 1999.

MANAGEMENT AND CONTROL

Management of the affairs of the Association shall be the right and responsibility of its Board of Directors in accordance with the Declaration and the By-Laws; **PROVIDED, HOWEVER**, that all of the powers and duties of the Board of Directors may be exercised by the Declarant until such time as 75% of the lots have been sold and conveyed by the Declarant to purchasers or until December 31, 1999, whichever occurs first. Management and control may be transferred to the lot owners at any time but no later than 120 days after the happening of the earlier of the above events.

ARTICLE VI**COVENANTS FOR ASSESSMENTS**

Section 1. Creation of the Lien and Personal Obligation for Assessments. The Declarant, for each lot owned within the properties, hereby covenants and agrees to pay and each owner of any lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- a. Annual assessments or charges in the initial sum of \$420.00 per year to be paid quarterly, and
- b. Special assessments for capital improvements, such assessments to be established and collected as hereinafter provided, and
- c. Insurance assessments as hereinafter provided, and
- d. To the appropriate governing taxing authority, a pro rata share of ad valorem taxes levied against the Common Area, if any.

The annual, special and insurance assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to the lot owner's successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the properties and for the improvement and maintenance of all easements, utilities and the Common Area. The funds arising from said assessments or charges may be used for any or all of the following purposes: Maintenance and improvement of the common areas, streets, roads, drives, drainage and utility easements and rights of way and enforcing these restrictions; and, in addition, doing any other things necessary or desirable in the opinion of the Association to keep the property in neat and good order and to provide for the health, welfare and safety of owners and residents of **ENGLISH MOOR AT WEST BAY ESTATES.**

Section 3. Annual Assessments. Annual assessments shall be in an amount to be fixed from year to year by the Board of Directors which may establish different rates from year to year as it may deem necessary for the purposes set forth in Section 2 above. The amount of the annual assessment against each lot for any given year shall be fixed at least 30 days in advance of the

annual assessment period; provided, however, that the first annual assessment shall be set prior to the conveyance of the first lot to an owner and written notice to the owners to be subjected thereto shall be delivered to the owners at or prior to the closing of their lots. Written notice of each annual assessment thereafter shall be sent to every owner subject thereto. The due date shall be established by the Board of Directors and the Board of Directors shall have the authority to require the assessments to be paid in pro rata monthly installments. The Association shall, upon demand, and for a reasonable charge furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid.

- a. From and after January 1 of the year immediately following the conveyance of the first lot to an owner, the annual assessment may be increased each year not more than five per cent (5%) above the assessment for the previous year without a vote of the membership, except as herein provided.
- b. From and after January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum annual assessment may be increased each year above five per cent (5%) by a vote of two-thirds (2/3) of the members who are voting in person or by proxy at a meeting duly called for this purpose.
- c. The Board of Directors may fix the annual assessment at an amount not in excess of the assessment for the previous year plus an increase of five percent (5%).

Section 4. Working Capital Assessment. At the time title is conveyed to an owner, each owner shall contribute to the Association as a working capital reserve an amount equal to a two months estimated common area assessment which is Forty Dollars (\$70.00). Such funds shall be used solely for initial operating and capital expenses of the Association. Amounts paid in the working capital fund are not to be considered as advance payment of regular assessments. Any working capital funds remaining at the end of the first full operating year shall be transferred to and become part of the general funds of the Association, in the discretion of the Board of Directors.

Section 5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to the year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 6. Insurance. The Board of Directors on behalf of the Association, as a common expense, shall at all times keep the property of the Association, if any, insured against loss or damage by fire or other hazards and other such risks, including, but not limited to, directors' liability and public liability insurance, upon such terms and for such amounts as may be reasonably necessary from time to time to protect the Properties and Common Area, which insurance shall be payable in case of loss to the Association for all members. The Association shall have the sole authority to deal with the insurer in the settlement of claims. Such insurance shall be obtained without prejudice to the right of each member to insure his personal property for his own benefit at his own expense. In no event shall the insurance coverage obtained by the Association be brought into contribution with insurance purchased by members or their mortgagees.

Section 7. Insurance Assessments. All insurance policy premiums on the Common Area for the benefit of the Association purchased by the Board of Directors or its designee and any deductibles payable by the Association upon loss shall be a common expense and the Association shall levy against the owners equally as an additional annual assessment, (herein called "Insurance Assessment") which shall be in addition to the amounts provided for under Section 3 above, an amount sufficient to pay the annual cost of all such insurance premiums and deductibles.

Section 8. Notice and Quorum for any action authorized under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 and 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty per cent (60%) of all the votes of each class of membership shall constitute a quorum.

Section 9. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots and may be collected on a monthly basis.

Section 10. Commencement of Assessments. Assessments for each lot shall commence upon the date of acceptance by an owner of a deed from Declarant. Declarant shall not be required to pay maintenance assessments on unsold lots retained by the Declarant, except for those lots retained for rental purposes for which Declarant shall pay maintenance assessments which shall commence upon the date the same are occupied by a tenant. Provided, however, that for any lots retained by Declarant for other than rental purposes, Declarant shall pay to the Association annually, in lieu of any other assessments, the pro rata share of insurance assessments attributable to the lots owned by Declarant, as the same become due.

Section 11. Effect of Nonpayment of Assessments and Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the highest rate allowable by law. The Association may bring an action at law against the owner personally obligated to pay the same, and/or foreclose the lien against the property and may pursue any other legal or equitable remedy available. No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or by abandoning his Lot.

Section 11. Subordination of the Lien to Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VII.

MAINTENANCE BY ASSOCIATION

The Association, at its expense, shall be responsible for maintaining, repairing and replacing the planting easement areas, the storm water drainage system, including the retention pond, all drainage lines, pipes and ditches which are located on the properties, except those constructed by individual lot owners and located within individual lots. The Association shall have the right to go onto the lots at reasonable times for the purpose of maintaining, repairing and replacing all utility and drainage

lines and pipes which might be located on such lots; and each owner hereby grants permission to the Association to enter his lot for such purposes.

In the event that such need for maintenance, repair or replacement (other than such being caused by fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles, and smoke, as the foregoing are defined and explained in North Carolina Standard Fire and Extended Coverage Insurance Policies) is caused through the willful, or negligent act of the owner, his family, guests or invitees, the cost of such maintenance, replacement, or repair, shall be added to and become a part of the assessment to which such lot is subject. Notwithstanding the foregoing, the Association shall have the right to recover through legal action the cost of such maintenance, replacement or repair, including interest, court costs and a reasonable attorney's fee, from those persons legally responsible for causing damage to the property of the Association.

The Association shall maintain all Common Area, including roadways, plantings and shrubbery, boardwalks or walkways, located thereon, and lighting fixtures and shall pay all costs of operation thereof including premiums associated with general liability insurance insuring the Association from liability arising from ownership and operation thereof.

In order to enable the Association to accomplish the foregoing there is hereby reserved to the Association the right to unobstructed access over, on, upon, through and across each lot and the structures and improvements thereon and its limited common area, if any, at all reasonable times to perform the maintenance and repair required under this Article.

In the event that any maintenance or repair of the lot, and any structures and improvements thereon, is required to be done or performed as a result of the negligent or willful acts of the Owner, as determined by the Board of Directors of the Association, or the family, tenants, contract purchasers, guests or invitees of the owner, or is caused by fire, wind, rain, blowing water, lightning, smoke or other hazard or casualty, then, in the sole discretion of the Board of Directors the costs of such maintenance or repairs, not fully covered by insurance, may be levied as a special assessment against only the lot sustaining such damage which the owner shall pay to the Association within fifteen (15) days of the date of written notice to the owner from the Association requesting such payment. Ordinary wear and tear is not contemplated as being within the coverage of this paragraph.

ARTICLE VIII.

USE RESTRICTIONS

Section 1. Land Use. All lots shall be known as single family residential lots and shall be used for residential purposes only.

Section 2. Building Approval. The Developer reserves the right to control and/or approve the site and location of any house or dwelling or other structure upon any lot. All building plans and site locations for residences must be approved by the Developer prior to the commencement of construction, so long as the Developer shall own any lot in the properties or any additions annexed thereto by supplemental declaration or amendment to this declaration. A plot plan shall be furnished to the developer for approval prior to the beginning of construction on any lot. No house shall be erected closer than 40 feet to the front lot line or nearer to any side line than the minimum distances established by applicable governmental agencies and

ordinances. On corner lots, the side having the least frontage shall be considered the front lot line.

Section 3. Building Type. No residence smaller than 1250 square feet of heated floor space, exclusive of porches, steps, walks, garages, carports, and storage areas will be permitted. In addition, at least a one car garage must be constructed at the time the main structure is constructed. In the case where the heated floor space is not more ten percent below the minimum set out above, the developer or its designated agents may, at their option, approve the construction of the dwelling if it is in conformity with the general development of the subdivision.

Section 4. No more than 30% of any lot shall be covered by structures and/or paved surfaces, including walkways, driveways or patios of brick, stone, slate or similar materials, all of which constitutes effective impervious cover which is controlled by North Carolina Coastal Stormwater Regulations.

Section 5. No concrete block, concrete brick, asbestos siding, aluminum siding, cinder block or tar paper composition may be used for the exterior of any residence constructed on any building lot. Only conventional frame, brick, wood, vinyl, masonite-type hardwood, clay brick or stucco exteriors will be authorized.

Section 6. No house trailer, mobile home, travel trailer or other recreational vehicle, tent, shack, or temporary structure of any nature shall be located on any lot or used at any time as a residence, temporarily or permanently. The developer reserves the right to approve site locations of all storage buildings to be constructed on any lot prior to beginning construction of said building. Boats shall be parked or stored so as to not be visible from the street. No satellite dishes shall be allowed upon any lot in the subdivision without the express written consent of the Developer.

Section 7. No fence or hedge shall be erected on any lot, unless written approval has first been obtained from the Developer. No fence shall be permitted nearer the front lot line than the back corner of the house constructed on said lot. All fences must be constructed of pressure treated wood and must remain natural in color. Any fence installed by an owner, builder or the Developer must be inspected annually and maintained by the owner of the lot.

Section 8. Modular or prefabricated homes and previously constructed houses may not be erected or placed on any lot, without the express written consent of the Developer.

Section 9. No advertising signs or bill boards shall be erected on any lot or displayed to the public on any lot, except one sign of not more than five square feet used to advertise a completed dwelling for sale and one sign of not more than five square feet to identify the builder/general contractor. This restriction does not apply to signs erected by the Developer to identify and advertise the subdivision as a whole.

Section 10. No fuel tanks or storage receptacles may be exposed to view.

Each lot owner shall provide receptacles for garbage and all cans, carts and bags must be kept in a secured area and not visible from the street except on garbage pick-up days.

Section 11. All water to be used in said subdivision for any purpose whatsoever shall be obtained from the "community" water system, unless other sources are approved by the County Board of Health and the owner of the "community" water system. An eight foot radius from each water meter shall be an easement

for maintenance and repair.

Lot owners may drill shallow wells for irrigation purposes and for non-domestic use, provided such wells are not visible from the street.

Sewage disposal shall be only by tapping onto the County sewer system.

Each lot is subjected to a sewer maintenance easement across the front 10 feet of each lot.

Section 12. No yard sales or garage sales shall be permitted upon any vacant lot in this subdivision. No clothes lines shall be permitted on any lot.

Section 13. No noxious or offensive activity shall be carried on or maintained on any lot or part of any lot nor shall any use be made of any portion of said property which may be or may become an annoyance or nuisance to the neighborhood. No domesticated farm animal or fowl shall be kept on the property. In the event yards are not properly maintained they shall be cleaned up at the owner's expense. Unsightly inoperative, unlicensed cars and like eyesores cannot be maintained on the property either prior to or after the residence has been erected.

Section 14. The buyer or purchaser of each lot shall keep the lot mowed regularly, including that area from the lot line to the edge of the paved street clear of unsightly objects and in the event the buyer or purchaser of any lot breaches the restriction the Developer reserves the right to enter upon the said lot and mow the grass, clean up the lot and remove unsightly structures and objects at the owners' expense. Ditch banks, washouts and/or erosion on the lots shall be properly tended to by the respective lot owner.

Section 15. The owner of each lot shall keep the lot, including that area from the lot line to the edge of the paved street, mowed regularly and clear of unsightly objects. In the event, the owner of any lot breaches this restriction, the Developer reserves the right to enter upon the lot to collect and dispose of such trash within 10 days after receiving written notice from the Developer, the Developer may collect and dispose of such rubbish and trash at the lot owners' expense.

Section 16. No lot shall be subdivided or its boundary line changed without the written consent of the Developer. The Developer, however, reserves the right to replat any lot or lots or to change the alignment or placement of any road.

Section 17. All maps, plans, and restrictions are purely for planning purposes and are not to be relied upon as any promise or covenant of any kind or nature. Developer shall be obligated for only those plans, plats and restrictions that are recorded.

Section 18. Each lot must have a paved driveway at a location approved by the Developer. Off-street parking for not less than four automobiles must be provided on each lot prior to the occupancy of any residence constructed on said lot. Parking areas and driveways shall be constructed of concrete or brick.

Section 19. Construction must be substantially completed within one year of the original lot closing date. Dwelling must be approved for occupancy, its exterior finished and landscaping completed within that period. All driveways, steps and walkways must also be completed in addition to other items mentioned within these restrictions.

Section 20. Window Coverings. All drapes, curtains, or

other similar materials hung at windows, or in any manner as to be visible from the outside, of any building erected upon any lot shall be of a white or neutral background material.

Section 21. Exterior Lights. All light bulbs and other lights installed in any fixture located on the exterior of any building or any lot shall be clear, white or non-frost lights or yellow bug bulbs.

Section 22. Alterations. No person shall undertake, cause, or allow any alteration of construction in or upon any portion of the Common Area except at the direction or with the express written consent of the Association. This restriction shall not apply to the Developer.

Section 23. All service utilities, fuel tanks, clothes lines, and wood piles are to be enclosed within a wall or plant screen of a type and size approved by the Declarant or Architectural Control Committee, so as to preclude the same from causing an unsightly view from any highway, street or way within the subdivision, or from any other residence within the subdivision. All mail and newspaper boxes shall be uniform in design. Design for mail and newspaper boxes shall be furnished by Declarant. No fences shall at any time be placed or permitted to remain on any lot without approval of the Declarant or Architectural Control Committee.

ARTICLE IX.

RIGHTS OF INSTITUTIONAL LENDERS

Section 1. "Institutional Lender" or "Institutional Lenders", as the terms are used herein, shall mean and refer to banks, savings and loan associations, savings banks, insurance companies, the Veterans Administration, the Federal Housing Authority, the Federal National Mortgage Association and other reputable mortgage lenders and guarantors and insurers of such first mortgages. So long as any Institutional Lender or Institutional Lenders shall hold any mortgage upon any lot, or shall be the owner of any lot, such Institutional Lender or Institutional Lenders shall have the following rights:

- a. To be furnished with at least one copy of the Annual Financial Statement and Report of the Association, including a detailed statement of annual carrying charges or income collected and operating expenses, such financial statement and report to be furnished by April 15 of each calendar year.
- b. To be given notice by the Association of the call of any meeting of the membership to be held for the purpose of considering any proposed Amendment to the Declaration, or the Articles of Incorporation and By-Laws of the Association, which notice shall state the nature of the amendment being proposed, and to be given permission to designate a representative to attend all such meetings.
- c. To be given notice of default in the payment of assessments by any owner of a lot encumbered by a mortgage held by the Institutional Lender or Institutional Lenders, such notice to be given in writing and to be sent to the principal office of such Institutional Lender or Institutional Lenders, or to the place which it or they may designate in writing to the Association.
- d. To inspect the books and records of the Association and the Declaration, By-Laws and any Rules and Regulations during normal business hours, and to obtain copies thereof.
- e. To be given notice by the Association of any substantial

damage to any part of the Common Area.

- f. To be given notice by the Association if any portion of the Common Area is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority.

Section 2. Whenever any Institutional Lender, guarantor or insurer desires the benefits of the provisions of this section requiring notice to be given or to be furnished a financial statement, such lender shall serve written notice of such fact upon the Association by registered mail or certified mail addressed to the Association and sent to its address stated herein, or to the address of the property, identifying the lot upon which any such Institutional Lender or Institutional Lenders hold any mortgage or mortgages, or identifying any lot owned by them, or any of them, together with sufficient pertinent facts to identify any mortgage or mortgages which may be held by it or them, and which notice shall designate the place to which notices are to be given by the Association to such Institutional Lender.

ARTICLE X.

ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Except as provided in Section 2 below, annexation of additional property shall require the assent of two-thirds (2/3) of the members at a meeting called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting.

Section 2. If the Declarant, its successors or assigns shall develop all or any portion of the Additional Properties, said Additional Properties or any portion thereof may be annexed to said Properties without the assent of the members, provided however, the development of the Additional Properties permits no more than 50 additional dwelling units. Annexation provided for in this section shall become effective upon the filing by the Declarant of a supplemental or amended declaration in the Office of the Register of Deeds of New Hanover County.

ARTICLE XI.

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, covenants, conditions, reservations liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by an owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Enforcement of Storm Water Runoff Regulations. The State of North Carolina is hereby made a beneficiary of this Declaration to the extent necessary to enforce its storm water runoff regulations as the same may be amended from time to time.

Section 3. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 4. Lots Subject to Declaration. All present and future owners, tenants and occupants of lots and their guests or invitees, shall be subject to, and shall comply with the provisions of the Declaration, and any amendments. The acceptance of a deed of conveyance or the entering into of a lease or the entering into occupancy of any lot shall constitute

an agreement that the provisions of the Declaration are accepted and ratified by such owner, tenant or occupant. The covenants and restrictions of this Declaration shall inure to the benefit of and be enforceable by the Association, or the owner of any lot, their respective legal representatives, heirs, successors and assigns, and shall run with and bind the land and shall bind any person having at any time any interest or estate in any lot, as though such provisions were made a part of each and every deed of conveyance or lease, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years.

Section 5. Amendment of Declaration. Except as provided in Article XI, Section 2 above, Section 6 below, and elsewhere herein, the covenants and restrictions of this Declaration may be amended only by an instrument duly recorded in the Office of the Register of Deeds of New Hanover County executed by the duly authorized officers of the Association upon the vote of not less than two-thirds (2/3) of the Lot Owners; provided that no amendment shall alter any obligation to pay ad valorem taxes or assessments for public improvements, as herein provided, or affect any lien for the payment thereof established herein. In no event may the Declaration be amended so as to deprive the Declarant of any rights herein granted or reserved unto Declarant.

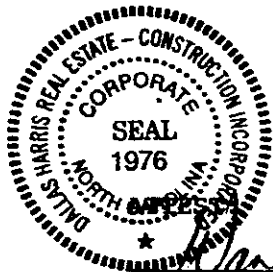
Section 6. Amendments by the Declarant. The following amendments may be effected by the Declarant, or the Board, as the case may be, without consent of the members:

- a. Prior to the sale of the first lot, this Declaration may be amended by the Declarant.
- b. Declarant may amend this Declaration upon annexation of additional lands as specified in Article XI, Section 2, herein.
- c. The Board may amend this Declaration to correct any obvious error or inconsistency in drafting, typing or reproduction.
- d. The Declarant, so long as it shall retain control of the Association, shall have the right to amend this Declaration to conform to the requirements of any law or governmental agency having legal jurisdiction over the Property or to qualify the Property or any lots and improvements thereon for mortgage or improvement loans made, insured or guaranteed by a governmental agency or to comply with the requirements of law or regulations of any corporation or agency belonging to, sponsored by, or under the substantial control of the United States Government or the State of North Carolina, regarding purchase or sale of such lots and improvements, or mortgage interests therein, as well as any other law or regulation relating to the control of property, including, without limitation, ecological controls, construction standards, aesthetics, and matters affecting the public health, safety and general welfare. A letter from an official of any such corporation or agency, including, without limitation, the Veterans Administration, the United States Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Corporation, or the Federal National Mortgage Association requesting or suggesting an amendment necessary to comply with the requirements of such corporation or agency shall be sufficient evidence of the approval of such corporation or agency, provided that the changes made substantially conform to such request or suggestion.
- e. The Declarant, for so long as it shall retain control of the Association, and, thereafter, the Board of Directors, may

amend this Declaration as shall be necessary, in its opinion, and without the consent of any owner, to qualify the Association or the Property, or any portion thereof, for tax-exempt status.

f. The Declarant for so long as it has control of the Board may amend this Declaration to include any platting change of the Property as permitted herein.

IN WITNESS WHEREOF, DALLAS HARRIS REAL ESTATE-CONSTRUCTION, INCORPORATED, a North Carolina corporation, the Declarant herein, has caused this Declaration to be executed in its corporate name and its corporate seal affixed by its duly authorized officers, this the 17th day of June, 1994.



DECLARANT:

DALLAS HARRIS REAL ESTATE-CONSTRUCTION, INCORPORATED

BY: Dallas T. Harris
PRESIDENT

Wanda B. Harris
SECRETARY

(CORPORATE SEAL)

STATE OF NORTH CAROLINA

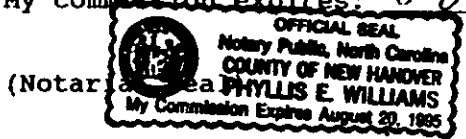
COUNTY OF NEW HANOVER

I, Phyllis E. Williams, a Notary Public in and for the county aforesaid do hereby certify that WANDA B. HARRIS came before me this day and acknowledged that she is Secretary of DALLAS HARRIS REAL ESTATE-CONSTRUCTION, INCORPORATED, a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by her as its Secretary.

Witness my hand and official stamp or seal, this the 17th day of June, 1994.

Phyllis E. Williams
Notary Public

My commission expires: 8-20-95



STATE OF NORTH CAROLINA
New Hanover County
The Foregoing / Annexed Certificate(s) of
Phyllis E. Williams

Notary (Notaries) Public is/ are certified to be correct.
This the 20th day of June, 1994
Mary Sue Oots, Register of deeds
by [Signature]
Deputy / Assistant