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NEW HANOVER COUNTY, NC

TAMMY THEUSCH PIVER

REGISTER OF DEEDS

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**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
SEAGATE POINT**

*RETURN TO: STEVEN CAMPBELL*

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
SEAGATE POINT**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SEAGATE POINT (the "Declaration") made as of the 11 day of June, 2021, by Three Feathered Friends, LLC, a North Carolina limited liability company (hereinafter referred to as "Declarant").

**WITNESSETH:**

WHEREAS, Declarant is the owner of that certain real property, comprising a part of a residential subdivision, to be known as Seagate Point, and as more particularly described on Exhibit "A" attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, Declarant desires to insure the attractiveness of the Property and to preserve the values and amenities thereof; to establish a general plan of development as herein set out; to restrict the use and occupancy of the Property; and to provide for a method for the maintenance, repair, replacement and operation of the Common Area (as defined below).

NOW, THEREFORE, Declarant hereby declares that the Lots (as defined below) and other property comprising the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions and easements set forth in this Declaration which are for the purpose of protecting the value and desirability of the Property, and which shall run with the Property and be binding on all parties owning any right, title, or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE I**

**PROPERTY SUBJECT TO THIS DECLARATION  
ADDITIONS THERETO**

Section 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration, irrespective of whether there may be additions thereto as hereinafter provided, is located in New Hanover County, North Carolina, and is more particularly described on Exhibit "A" attached hereto and incorporated herein (the "Existing Property").

**ARTICLE II**

**DEFINITIONS**

Section 1. "Association" means Seagate Point HOA, Inc., its successors and assigns.

Section 2. "Common Area" means any real property and property rights owned by the Association for the common use and enjoyment of the Owners and/or designated as "Common Area" on the

Map of the Property, together with all improvements and facilities installed upon or used in connection with such real property and property rights. The Common Areas shall include, without limitation, the Association's rights (if any) in and to the Private Streets.

Section 3. "Declarant" means Three Feathered Friends, LLC, and any successor thereof so designated as a Declarant hereunder, which successor has purchased all remaining Lots not theretofore sold by Three Feathered Friends, LLC (or any successor Declarant) to third party purchasers. At any time, there shall be only one Declarant hereunder. At any time prior to Declarant's sale of the last lot, Declarant may relinquish any one or more of the rights granted to or reserved in favor of Declarant in this Declaration by written instrument recorded in the New Hanover County Public Registry, and from and after the recording of any such instrument, the Association shall thereafter have the power to exercise such right and shall thereafter be responsible for all obligations and liabilities with respect to such right. Declarant shall cease to be a Member of the Association once the last lot is conveyed to a third party. At such time as Declarant ceases to be a Member of the Association, all rights granted to or reserved in favor of Declarant shall be deemed transferred to and exercisable by the Association, and the Association shall from and after such time be liable for all actions taken in the exercise of such rights, with the exception of the right of architectural control provided for in Article m of this Declaration, which shall be relinquished by Declarant only in the manner and at the time set forth in such Article.

Section 4. "Lot" means any plot of land, with delineated boundary lines, shown upon the Map and any other subdivision map of the Property recorded after the Map is recorded. In the event any Lot is increased or decreased in size by a resubdivision or through recordation of new subdivision plats, any such newly plotted lot shall thereafter constitute a Lot for the purpose of this Declaration.

Section 5. "Map" means that certain map of the Existing Property as recorded in Map Book 69 at Page 371 in the New Hanover County, North Carolina, Public Registry, and the map(s) of any additions to the Existing Property which may be recorded by Declarant in the New Hanover County, North Carolina, Public Registry.

Section 6. "Member" means every person or entity who holds membership in the Association.

Section 7. "Mortgage" means any mortgage or deed of trust constituting a recorded first lien on a Lot.

Section 8. "Mortgagee" means the owner and holder of a Mortgage at the time such term is being applied.

Section 9. "Owner" means the record owner, whether one or more person or entity, of fee simple title to any Lot which is a part of the Property, including contract sellers and owners of any equity of redemption, but excluding those having such interest in a Lot solely as security for the performance of an obligation.

Section 10. "Private Streets" means any streets and alleys marked as such on any Map of the Property and/or designated by Declarant as Private Streets. The Private Streets shall include all paved portions of such streets, adjoining curbs and gutters, irrigation systems, all storm drains, sanitary sewer lines, and other utility facilities installed therein or thereunder, all landscaped medians therein, and adjoining landscaped areas within the full width of the rights-of-way of the Private Streets as shown on any Map or as designated in writing by Declarant.

Section 11. "Property" means the "Existing Property" described in Article I, Section 1 hereof, and any additions thereto, as are or shall become subject to this Declaration and any Supplementary Declaration under the provisions of Article I, Section 2 hereof.

### ARTICLE III

#### ARCHITECTURAL CONTROL

Section 1. Duration of Control. Declarant shall retain the right of architectural control as provided for in this Article III for as long as Declarant owns a lot. However, the Declarant may, at its sole option, surrender such right of architectural control at any time by a duly recorded written instrument, and, at such time, the Association shall have the power through an additional duly recorded written instrument to appoint an architectural review board (the "Architectural Review Board"), which Architectural Review Board, if so appointed, shall have the right of architectural control as described in this Article, and shall retain such right until said Architectural Review Board is terminated by a duly recorded written instrument executed by the Association.

Section 2. Extent of Control. No building, garage, fence, wall, sidewalk, hedge, mass planting, change in grade or slope, site preparation, swimming pool, tree house, children's play house, sign, exterior illumination, monument or marker, driveway, utility facility, mailbox, well, tennis court, patio, deck, shrubbery, landscaping, or any other structure or improvement ("Improvements") shall be commenced, erected or maintained upon any Lot nor shall any exterior addition, change or alteration therein (including change of color) be made without the prior written approval of Declarant in its sole discretion. The areas over which Declarant shall have control shall include, but shall not be limited to, the size and plan of the principal residential structure, the location of the principal residential structure on the Lot, the size and plan of any attached or unattached garage or other building, the location and manner of construction of any driveway, swimming pool, utility facility, patio, mailbox, driveway and landscaping monuments and markers or any other exterior improvements, the composition and color of all material used on the exterior of any structure and the location and type of any shrubbery. Declarant shall also have control over the removal of any tree or other vegetation from any Lot and no party shall grade, excavate upon or otherwise alter the topography of any Lot or remove any tree or other vegetation therefrom without obtaining the prior written approval of Declarant in accordance with its general plan of development. The Declarant reserves the right to control absolutely and solely and decide the precise site and location of any house or dwelling or other structure upon all Lots, provided however, that such locations

shall be determined only after reasonable opportunity is afforded the Lot Owner to recommend a specific site.

**Section 3. Procedure.** Any party requiring approval of any proposed Improvements to any Lot shall submit to Declarant plans and specifications showing in such detail and manner as Declarant shall require the nature, shape, height, color, material and location of any such Improvements. Declarant, in its sole and absolute discretion, may require in particular instances that such plans and specifications be accompanied by a plat prepared by a registered surveyor showing the location of the proposed Improvements on the Lot. All decisions by Declarant shall be based on Declarant's discretionary determination as to whether any particular Improvement is suitable and harmonious with the development of the Property. Declarant's approval or disapproval of any proposed Improvement shall be in writing. In the event that Declarant fails to approve or disapprove any such proposed Improvement within thirty (30) days after plans and specifications in such detail as Declarant may require have been received by it, such plans and specifications shall be deemed approved. Subsequent to the approval of any plans and specifications, the Owner shall have the responsibility for making such Improvements in accordance with the plans and specifications as approved. Approval by Declarant of any proposed Improvements shall not constitute or be construed as approval of the structural stability, design, or quality of any Improvement or the compliance of any such Improvement with applicable laws and codes. Refusal or approval of plans, specifications or location may be based upon any grounds, including purely aesthetic considerations, which in the opinion of and the sole and uncontrolled discretion of Declarant shall be deemed sufficient.

In the event any Owner violates the terms of this Section, Declarant or its duly appointed agent shall, after thirty (30) days written notice to Owner to cure such violation and failure of Owner to so cure, be entitled to enter upon the Lot(s) of Owner and cure such defect including the removal of any Improvements built in violation hereof; all at the cost and expense of Owner. Any costs and expenses incurred by Declarant or such duly appointed agent in connection with the cure of any such violation shall be a lien upon such Lot(s), and upon the failure of such-Owner to reimburse Declarant or such agent for such costs and expenses upon demand, Declarant or such agent may enforce such lien against such Lot(s) in the same manner as is provided for enforcement of the Association's lien for non-payment of assessments as provided for in Article VII, Section 8, hereinbelow. This right of the Declarant or its agent shall be in addition to all other general enforcement rights which the Declarant may have for a breach or violation of the terms of this Declaration and shall not be deemed a trespass by Declarant or its agent. Declarant reserves the right for reasonable needs, but shall not be obligated, to waive in writing any violation of this provision.

## ARTICLE IV

## COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

Section 1. Rules and Regulations. The Board of Directors of the Association shall have the power to formulate, amend, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the common areas. Such rules and regulations, along with all policy resolutions and policy actions taken by the Board of Directors, shall be recorded in a Book of Resolutions which shall be maintained in a place convenient to the Owners and available to them for inspection during normal business hours.

Section 2. Use of Lots. All lots and buildings shall be single-family residential lots and shall be used for residential purposes. The Developer may use one or more homes for offices and/or models for sales purposes. The foregoing shall not be construed to limit or prohibit offices within the home provided said offices are not open to the public or held out to be for public visitation, use or convenience.

Section 3. Subdivision of Lots. No Lot shall be subdivided by sale or otherwise so as to reduce the total Lot area shown on the Map, except by and with the written consent of the Declarant and provided same is also permitted under applicable governmental regulations and private restrictions affecting said Lot.

Section 4. Resale of Unimproved Lot. In order to promote the uniform and harmonious development of the subdivision, it is the intention of Declarant to sell any "unimproved Lot", as hereinafter defined, only to Owners who will build residential structures thereon either for resale or for use by such Owners as their personal residence, and not to Owners who will hold such Lots for resale without improvement. Therefore, before any unimproved Lot may be sold to any person, firm or corporation (other than a sale by or to the Declarant), the Owner of such unimproved Lot must first offer in writing to sell the unimproved Lot to Declarant at the same price for which said Owner originally purchased the unimproved Lot from Declarant. If (1) the Declarant fails to accept or reject such offer in writing within twenty (20) days after receipt of the same, or (2) the Declarant rejects such offer in writing with twenty (20) days after receipt of the same, then the Owner of such unimproved Lot shall have the right to sell the unimproved Lot without any further or additional offer to Declarant. If the Declarant accepts such offer in writing within twenty (20) days after receipt of the same, then Declarant shall purchase and the Owner shall sell such unimproved Lot to Declarant for cash within thirty (30) days after acceptance of such offer at a time and place designated by Declarant. For purposes of this Section 4, a Lot shall be considered an "unimproved Lot" until the Owner thereof has completed all site preparation and actually commenced construction of a residential dwelling thereon; it being expressly understood, however, that this provision shall not prevent any Owner from entering into a contract to construct and sell a residence on a then "unimproved Lot". The rights reserved in favor of Declarant in this Section 4 shall automatically terminate with respect to all unimproved Lots twenty (20) years from the date

of filing of this Declaration or when, in its sole discretion, Declarant so determines and declares in a recorded instrument.

**Section 5. Reserved Easements.** In addition to the easements reserved on the Map, the Declarant reserves for itself, and its successors and assigns, a permanent easement in and the right at any time in the future to grant a permanent right of way over, under and along an area uniformly ten (10) feet in width along the rear and front lines and five (5) feet in width along the side lines of each Lot for the installation and maintenance of poles, lines, conduits, pipes and other equipment necessary or useful for furnishing electrical power, gas, water, sewer, telephone service and other utilities and drainage facilities. Within such areas no structures, plantings, fences or other material shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities or which may obstruct or retard the flow of water through drainage channels in such areas. The area of each Lot containing the easement and all improvements thereon shall be maintained continuously by the Owner of the Lot except for those improvements for which a public authority or utility company is responsible. In the event that any Lot is subdivided pursuant to Section 3 hereof, an easement uniformly ten (10) feet in width shall exist both along the rear and front lines and five (5) feet in width along the side lines of the Lot both as shown on the Map and along the rear, front and side lines as exist upon the Lot as so subdivided; provided, however, that upon request by the Owner of the subdivided Lot, the Declarant may release the easement reserved along the rear, front or side line of the Lot if doing so would not interfere with the installation or maintenance of any utilities or the drainage within the Property. In the event two or more Lots are combined into one Lot with the residence to be constructed over the common interior Lot lines, the side line easements reserved along the common interior Lot lines shall be released provided that the easements have not previously been used for the installation of utilities and their release shall not interfere with the drainage within the Property.

**Section 6. Street Lighting.** The Declarant reserves the right, at its option, to subject the Property, or any portion thereof, to a contract with Carolina Power and Light Company which may require a continuing monthly payment to Carolina Power and Light Company by the Association.

**Section 7. Easements Reserved for the Association.** The Association is hereby granted an easement for the installation and maintenance of all of the Common Areas, as shown on the Map.

**Section 8. Impervious Surfaces.**

**HIGH DENSITY RESIDENTIAL SUBDIVISION  
DEED RESTRICTION & PROTECTIVE COVENANTS**

In accordance with Article 14, Division II of the City of Wilmington Land Development Code, deed restrictions and protective covenants are required for High Density Residential Subdivisions where lots will be subdivided, and solum and runoff will be treated in an engineered stormwater control facility. Deed restrictions and protective covenants are necessary to ensure that the development maintains a "build-upon" area consistent with the design criteria used to size the stormwater control facility.

**Project name: SeaGate Point**

**Owner/Developer: Three Feathered Friends, LLC**

1. The following covenants are intended to ensure ongoing compliance with the city of Wilmington Stormwater Management Permit Number 2020006, as issued by the city of Wilmington/Engineering.
2. The City of Wilmington is made a beneficiary of those covenants to the extent necessary to maintain compliance with the stormwater management permit.
3. These covenants are to run with the land and be binding on all persons and parties claiming under them.
4. The covenants pertaining to stormwater may not be altered or rescinded without the express written consent of the City of Wilmington.
5. Alteration of the drainage as shown on the approved plan may not take place without the concurrence of the City of Wilmington.
6. The maximum allowable build upon area per lot, in square feet is as listed below:

Lot #	BUA	Lot#	BUA	Lot#	BUA
1	1800	2	2000	3-6	1500

NO additional lot BUA information has been attached.

This allotter amount includes any built-upon area constructed within the lot property boundaries, and that portion of the right-of-way between the front lot line and the edge of the pavement. Build upon area includes, but is not limited to structures, asphalt, concrete, compacted gravel, brick, stone, slate, coquina, and parking areas, but does not include raised open wood decking, washed gravel excluding fines, or the water surface of swimming pools. Note; sidewalk improvements allocated as right-of-way BUA shall not count against deeded lot restricted BUA.

Note: sidewalk improvements allocated as right-of-way BUA shall not count against deeded lot restricted BUA.

7. All runoff from the build-upon areas on the lot must drain into the permitted system. This may be accomplished through a variety of means including roof drain gutters which drain to the street, grading the lot to drain toward the street, or grading perimeter swales to collect the lot runoff and directing them into a component of the stormwater collection system. Lots that will naturally drain into the system are not required to provide these additional measures.

**Section 9. Minimum Size of Dwelling.** Single family dwellings shall contain not less than a minimum of one thousand eight hundred (1800) square feet of finished ground floor area for single level dwellings, and not less than two thousand (2000) square feet of finished floor area, with a minimum of one thousand (1000) square feet of finished ground floor area, exclusive of garage, carport, unheated storage areas and non-living space, for multi-level dwellings. The minimum finished ground floor area herein referred to shall not include basements, attached or detached garages, unheated areas, carports or open porches of any type.

**Section 10. Building Restrictions.** No building on a lot shall be located nearer to either sideline of such Lot or nearer to the rear line thereof or nearer to the front thereof than the building setback lines approved by Declarant in accordance with Article III hereinabove. For the purposes of this covenant, eaves and stoops shall not be considered as a part of a building; provided, however, this shall not be construed to be deemed to permit encroachment of any improvement onto another Lot.

**Section 11. Outbuilding and Similar Structures.** No trailer, camper or other structure of a temporary nature shall be erected or allowed to remain upon any Lot and no trailer, camper, shack, tent, garage, barn, or other structure of a similar nature shall be used as a residence either temporarily or permanently upon any Lot; provided, however, that this Section shall not be construed to prevent the Declarant from permitting any party building a structure upon any Lot to erect temporary structures during construction.

**Section 12. Nuisances and Unsightly Materials.** No noxious, offensive, or illegal activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or become an annoyance to the neighborhood. No rubbish, trash, leaves, tree branches or other debris shall be burned on a Lot at any time. No person may keep any animal upon any part of the Lot except that any Owner then occupying a residence upon a Lot may keep customary household pets upon such Lot provided that such pets are not kept, bred or maintained for any commercial purposes or in such a manner as to become a nuisance to the other Owners or residents of the subdivision and provided that such pets are kept in accordance with county ordinances and leash laws. No domesticated farm animal or fowl shall be kept on any part of the Property. No hunting for any bird or animal shall be permitted on any part of the Property.

**Section 13. Maintenance of Lots.** Each Owner shall keep his Lot in an orderly condition and shall keep the Improvements thereon in a first class and suitable state of repair promptly repairing any damage thereto by fire or other casualty. No clothesline may be erected or maintained on any Lot. No Lot shall be used in whole or in part for storage of rubbish of any character whatsoever or for the storage of any property or thing that will cause any noise that will disturb the peace and quiet of the occupants of surrounding Lots, and no trash, rubbish, stored materials, wrecked or inoperable vehicles or similar unsightly items shall be allowed to remain on any Lot outside an enclosed structure; provided, however, that the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish or other debris for collection by governmental or other similar garbage and trash removal units. Each Owner shall provide suitable receptacles for trash, rubbish, garbage or ashes, and such receptacles shall be located in a screened area not generally visible

from the road, the adjoining Lots or from Common Areas. In the event that any Owner fails or refuses to comply with any of the foregoing, the Declarant may demand that the Owner promptly comply with the same by mailing a notice thereof to the Owner at his address specified in the records of the Association and by posting such notice on the Lot. If the Owner has not complied therewith within five (5) days thereafter, the Declarant may enter and correct the same at Owner's expense. Each Owner, by acquiring a lot(s) subject to these restrictions, agrees to pay such cost promptly upon demand by Declarant. Such cost shall be a lien upon such Owner's Lot(s), and upon the failure of such Owner to pay such cost to Declarant upon demand, Declarant may enforce such lien against such Lot(s) in the same manner as is provided for enforcement of the Association's lien for non-payment of assessments as provided for in Article VII, Section 8, hereinbelow. No such entry as provided herein shall be deemed a trespass.

Section 14. Mailboxes. Each Lot shall have only one (1) mailbox and one (1) paper box which shall be mounted on a single post; all such boxes must be approved by Declarant. Such boxes may be provided by the Declarant or building contractor. Any such boxes shall be considered an improvement and must remain with the Lot, and shall be maintained by the Association. Boxes damaged beyond repair shall be replaced by the Association at the expense of the Owner of the Lot.

Section 15. Signboards. No signboard, billboard, or advertising sign of any description shall be displayed upon or above any Lot by an Owner, any building contractor or other party with the exception of the following signs, none of which may be affixed to a tree:

- a. Signs stating "For Sale" which signs shall not exceed two feet by three feet in dimension, shall refer only to the Lot on which displayed and shall be limited to one sign per Lot, and
- b. Signs stating the name of the resident of any Lot and the street address, the design of which shall be furnished to Declarant and shall be subject to approval by Declarant.
- c. During the period of construction, the general contractor's sign, but no subcontractor's sign, shall be allowed.

Section 16. Antennae. No satellite dishes or similar structure nor any radio or television aerial or antenna or any other external electronic equipment or devices may be installed or maintained on any exterior portion of any structure erected on a Lot or elsewhere upon any Lot or within the Property without the prior written approval of Declarant.

Section 17. Construction. No party shall be employed as a general contractor for the construction of Improvements on any Lot without the prior written approval of Declarant. Each Owner shall cause its approved general contractor, and all subcontractors, suppliers, and materialmen, to abide by the terms and provisions of this Declaration and by such rules and regulations regarding

construction activities as are imposed by Declarant. No building construction on any Lot shall commence prior to 8:00 o'clock a.m. on weekdays or 9:00 o'clock a.m. on Saturdays. No construction shall be permitted on Sundays. Declarant reserves the right, but shall not be obligated, to waive in writing any violation of the foregoing requirement. No rubbish, trash or debris shall be allowed to accumulate at any construction site and no rubbish, trash, debris or mud shall be allowed to accumulate on any Street adjoining a construction site, and each contractor will maintain a trash dumpster on site until the completion of construction. No building materials or other construction material shall be stored on a Lot nearer a property line of such Lot than the building setback lines and side lines shown on the Map. No rubbish, trash, leaves, free branches, or other debris shall be burned on a Lot at any time. The construction site shall be maintained on a daily basis in a neat and orderly fashion, and no loud music shall be permitted. A \$500.00 refundable construction deposit must be submitted by each Owner to Declarant at the time the final plans and specifications for the construction of improvements on the Lot are returned to the Owner approved by the Declarant. Such deposit shall be utilized, after written notice to the Owner, to repair any damage caused by construction personnel or equipment to adjacent property, roadways, drives, structures, or amenities, or to maintain the construction site in a clean condition if not so maintained by the Owner or its contractor. Owner will be held responsible for any sums expended by the Declarant in excess of the \$500.00 deposited. Any funds not used as above provided will be returned to the Owner upon completion of construction.

Section 18. Lease of Homes. No dwelling unit on any Lot shall be leased for transient or hotel purposes, nor may any Owner lease less than the entire dwelling unit, nor shall any lease be for any period of less than six (6) months. The Association, acting by its Board of Directors, may adopt additional Rules and Regulations relating to the lease of homes. Any lease must be in writing and provide that the terms of the lease and occupancy of this dwelling shall be subject in all respects to the provisions of the Declaration, the By-Laws and Rules and Regulations of the Association and that any failure of any lessee to comply with the terms of such documents shall constitute a default under the lease.

Section 19. Parking Rights and Restrictions. Adequate off-street parking shall be provided by the Owner of each Lot for automobiles and other vehicles owned and controlled by such Owner, members of the Owner's family or guests and invitees of the Owner. No automobiles, trucks, boats, jet skis, trailers or other vehicles shall be parked on the streets or the yards, including front, side and back yards of the Lots. All such vehicles and other property shall be required to be parked within the designated driveway and parking areas, except that all boats, vessels, jet skis or similar type item must be stored in an enclosed garage or in such other location that is not visible to the owners of other Lots, or the users of a street or common area.

## ARTICLE V

## THE ASSOCIATION

Section 1. Association Membership. Every Owner of a Lot shall be a Member of the Association which Declarant may organize at a time of its choosing. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Section 2. Availability of Documents. The Association shall maintain current copies of the Declaration, the By-Laws and other rules and regulations concerning the Property as well as its own books, records, and financial statements, available for inspection by all Owners, Mortgagees, and insurers and guarantors of Mortgages, upon reasonable notice and during normal business hours. In addition, any Mortgagee may, at its own expense, have an audited statement prepared with respect to the finances of the Association.

## ARTICLE VI

## COMMON AREA

## PROPERTY RIGHTS AND OBLIGATIONS

Section 1. Owner's Easements of Enjoyment, Every Owner shall have a right of enjoyment and easement in and to all Common Areas, which right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to and in accordance with the terms and provisions of this Declaration, including without limitation the following provisions:

(a) the right of the Association to suspend the voting rights and enjoyment rights 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 dedicate or transfer all or any part of the Common Area 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 unless the Members entitled to at least a majority of the votes appurtenant to all Lots agree to such dedication or transfer and signify their agreement by a signed and recorded written document, provided that this subsection shall not preclude the Board of Directors of the Association from granting easements for the installation and maintenance of sewerage, utilities and drainage facilities upon, over, under and across the Common Area without the assent of the membership when such easements, in the opinion of said Board, are requisite for the convenient use and enjoyment of the Property.

(c) the right of the Association, with the assent of Members entitled to at least two-thirds (2/3) of the votes appurtenant to all Lots, to mortgage, pledge, deed in trust, or otherwise

hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

#### Section 2. Delegation of Use.

(a) Family. The right and easement of enjoyment granted to every Owner in Section 1 of this Article may be exercised by any members of the Owner's family who occupy the residence of the Owner within the Property as their principal residence in New Hanover County, North Carolina.

(b) Tenants or Contract Purchasers. The right and easement of enjoyment granted to every Owner in Section 1 of this Article may be delegated by the Owner to his tenants or contract purchasers who occupy a residence within the Property as their principal residence in New Hanover County, North Carolina.

Section 3. Maintenance Responsibility of Association. The Association shall have the responsibility of maintaining in good condition all common areas deeded to the Association, including any improvements or other facilities constructed thereon, and shall be responsible for adopting rules and regulations governing utilization of such areas. The Association shall further be responsible for maintenance, but not replacement, of mailboxes and paper boxes, as provided in Article W, Section 14 hereof. The Association shall be obligated to accept ownership of all common areas designated on the Map or any other Property which, by Supplementary Declaration are made subject to 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 Green Cottages.

The Association shall have no obligation to maintain the exterior of any building, or any other improvements on any Lot. The Owner of each Lot shall have an affirmative obligation to maintain the exterior appearance of all buildings, structures, and improvements as provided in Article IV, Section 12 hereof.

Section 4. Private Streets. As is indicated hereinabove, the Private Streets shall be part of the Common Area. The Private Streets have been initially constructed by Declarant and are intended for the use and benefit of all Owners, their guests, employees, tenants and invitees for the purpose of ingress, egress and regress from portions of the Property to public streets by vehicle or otherwise. Neither the inclusion of the Private Streets on the Map nor the dedication of the Private Streets for the use and benefit of the Owners shall be construed to be an offer to dedicate the Private Streets for public use. The Association shall, at its own expense, operate, repair, maintain, and reconstruct the Private Streets, including all paved portions thereof, all curb and gutter, all irrigation systems, and all storm drains, sanitary sewer lines, and other utility facilities installed therein or thereunder, all street signs and related improvements, and all landscaped medians therein. The Association shall have the right to establish rules and regulations governing the use of the Private Streets, including establishing speed limits thereon.

## ARTICLE VII

## COVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Every 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: (1) general assessments or charges and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney fees, shall also be the personal or corporate obligation of the person(s), firm(s), or corporation(s) owning such Lot at the time when the assessment fell due, but such personal obligation shall not be imposed upon such Owner's successors in title unless expressly assumed by them.

Section 2. Purpose of Assessment. The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents of the Property and in particular for the operation and maintenance of the Common Areas. The assessments shall also be used for the acquisition, improvement and maintenance of properties, services, utilities and facilities related to the use and enjoyment of the Property, the Lots and in particular, the Common Areas, including, but not limited to: the cost of all repair, replacement and additions thereto; the cost of operating and maintaining the Private Streets; the cost of labor, including the cost for providing a guard for a guardhouse if a guardhouse is built by or for the Association as a capital improvement with a special assessment as provided in Section 4 hereof; equipment, materials, management and supervision thereof; the payment of taxes assessed against the Common Areas; the procurement and maintenance of insurance as permitted or required under the terms of this Declaration or the By-Laws, including without limitation casualty insurance on the Common Area, or any portion thereof, general liability insurance with respect to the Property, and directors' and officers' liability insurance for the directors and officers of the Association, any or all of which coverages the Association is hereby expressly authorized to obtain and maintain in such amounts as the Board of Directors shall deem prudent and reasonable; the employment of attorneys to represent the Association when necessary; payments of principal and interest on funds borrowed for Association purposes; and such other needs as may arise.

Section 3. Initial General Assessment. The initial general assessment, due and payable to the Association, shall be Nine hundred ( 900 ) Dollars and paid at the time of closing of the purchase of a Lot by an Owner, so that all payments thereafter shall be due on January 1 of each year or the due date(s) which may be set by the Board of Directors as is more fully set forth in Section 7 of

this Article. All general assessments shall be fixed at a uniform rate for all Lots. The General Assessment for monthly dues shall be fifty ( 50 ) dollars per month

Section 4. 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 that year only for the purpose of defraying, in whole or in part, the cost of any construction, repair, or replacement of any common amenities, private utility facilities, or capital improvements, repayment of indebtedness or interest thereon, borrowing of funds to make property comply with zoning ordinances, borrowing of money for capital improvement or pledging or mortgaging of Association property as security for loans, including fixtures and personal property related thereto, provided that any such assessment shall be approved by no less than a majority of the votes of the Members of the Association. All special assessments shall be fixed at a uniform rate for all Lots.

Section 5. Notice and Quorum for Any Action Authorized Under Section 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 4 hereof 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 owning one-half( $\frac{1}{2}$ ) of the Lots, or of persons holding proxies entitled to cast one-half ( $\frac{1}{4}$ ) of all the votes appurtenant to all Lots, shall constitute a quorum. If the required quorum is not present, subsequent meetings maybe called subject to the same notice requirement, until the required quorum is present. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Date of Commencement of General Assessments and Due Dates. The general assessments provided for herein shall commence as to each Lot on the date of conveyance of each Lot to an Owner other than Declarant. Each Lot owned by Declarant shall be exempt from any assessment unless a residence is constructed thereon, in which case an assessment shall be due from and after the date of issuance of a certificate of occupancy for such residence. The first general assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the general assessment against each Lot at least 30 days in advance of each general assessment period. Written notice of the general assessment shall be sent to every Owner. The due dates shall be established by the Board of Directors. The Board of Directors shall require the general assessments to be paid at least annually but may require the general assessments to be paid more often. 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.

Section 7. Effect of Nonpayment of Assessments: Remedies of the Association. My assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the highest rate allowed by law. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against such Owner's Lot in the same manner as is provided in the North Carolina General Statutes for foreclosure of mortgages under power of sale, and reasonable attorney's fees of such action or foreclosure shall be added to the amount of such