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RECORDED AND VERIFIED  
REBECCA P. TUCKER  
REGISTER OF DEEDS  
NEW HANOVER CO. NC

STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER  
Jul 31 4 19 PM '89

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
UPPER REACH  
PHASE I

This Declaration, made the 31<sup>st</sup> day of July, 1989, by RBJ, Inc., a North Carolina corporation, hereinafter referred to as "Declarant";

WITNESSETH:

Whereas, Declarant is the owner of certain real property in Masonboro Township, New Hanover County, North Carolina, (hereinafter referred to as the "Properties") which is more specifically described as follow:

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Being all of Phase I, Upper Reach as shown on the plat thereof recorded or to be recorded in the Office of the Register of Deeds of New Hanover County, North Carolina in Book 30, at Page 51-54, to which plat reference 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

SECTION 1. Association shall mean and refer to Upper Reach HOA, 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 Upper Reach 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 a 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 Upper Reach, Phase I, as described above, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

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**SECTION 4. Additional Properties** shall mean and refer to any lands adjoining the Properties which are now owned or may be hereafter acquired or developed by 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.

**SECTION 5. Built Upon Area** shall mean that portion of each lot that is covered by impervious or partially impervious cover, including building, pavement, recreational facilities, etc., but not including decking. The built upon area for each lot shall not exceed 6,000 square feet, unless and until, the State of North Carolina shall revise its stormwater runoff regulations to permit a greater built upon area for each lot.

**SECTION 6. 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 includes only the 50-foot right-of-way of Upper Reach Drive and the portion of McKenzie Drive which is south of Upper Reach Drive, and the other areas so designated on the aforementioned plat.

**SECTION 7. Lot** shall mean and refer to any of the numbered lots in Upper Reach, Phase I.

**SECTION 8. Declarant** refers to RBJ, Inc., a North Carolina corporation, its successors and assigns, if such successors or assigns should acquire undeveloped Property from the Declarant for the purpose of development.

**SECTION 9. Declaration** shall mean this instrument as it may be from time to time amended or supplemented.

**SECTION 10. Membership** shall mean and refer to the rights, benefits, duties and obligations, evidenced by an appropriate certificate, which shall inure to the benefit of and burden each member of the Association.

**SECTION 11. Member** shall mean and refer to every person or entity who has a membership in the Association.

## ARTICLE II

### PROPERTY RIGHTS

**SECTION 1. 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 by 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 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 vote of at least two-thirds (2/3) of the members 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.

**SECTION 2. Property Lines.** The Declarant reserves the right to change the lot lines in the subdivision of lots which it owns, subject to approval of appropriate governmental authorities which have the responsibility of approving such changes.

**SECTION 3. Re-Subdivision.** No Lot, as shown on the official plan of Upper Reach, Phase I, shall be re-subdivided unless such part of the subdivided lot becomes a part of another whole lot and the remainder of the subdivided lot becomes a part of another whole lot.

### ARTICLE III

#### EASEMENTS

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

**SECTION 2.** Declarant hereby reserves unto itself, its successors and assigns, perpetual, alienable easements over all streets and common areas as necessary to provide access, ingress and egress to the remaining undeveloped property owned by Declarant and to the property adjoining Upper Reach, Phase I, in the event the Declarant, its successors or assigns should acquire or develop any property adjoining Upper Reach, Phase I and annex the same to this development as herein provided.

**SECTION 3.** An easement is hereby granted to all police, fire protection, ambulance and all similar persons, companies or agencies performing emergency services to enter upon the lots and common area in the performance of their duties.

**SECTION 4.** In case of any emergency originating in or threatening any lot or the common areas, regardless whether any lot owner is present at the time of such emergency, the Board of Directors or any other person authorized by it, shall have the right to enter any lot for the purpose of remedying or abating the causes of such emergency and making any other necessary repairs not performed by the lot owners, and such right of entry shall be immediate.

**SECTION 5.** The Declarant reserves unto itself, its successors and assigns, a perpetual, alienable and releasable easement and right, on, over and under the ground with 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 Declarant to be necessary in order to maintain reasonable standards of health, safety and appearance. These easements and rights 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. It 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 6.** The Declarant reserves unto itself, its successors and assigns, the right to subject the real property in the Subdivision to a contract with Carolina Power & Light Company, or its successors or assigns, for installation of street lighting, which contract requires or will require a continuing monthly payment to Carolina Power & Light Company, or its successors or assigns, by each residential customer for street lighting service.

**SECTION 7.** All easements and rights described herein are easements appurtenant, running with the land, and shall inure to the benefit of and be binding on the undersigned, its successors and assigns, and any owner, purchaser, mortgagee and other person having an interest in said land, or any part or portion thereof, regardless of whether or not reference to said easement is made in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Declaration.

#### ARTICLE IV.

##### UTILITIES

**SECTION 1. Water Service.** Water service for Upper Reach, all Phases, shall be provided by a utility company of the Declarant's choice, its successors or assigns. Not lot owner may drill or otherwise construct a water well on any lot in Upper Reach, or use any other source of water supply for household use, except for irrigation purposes.

**SECTION 2. Sewer Service.** All lots will be tied into the New Hanover County Sewer System. All sewer tap fees and monthly charges for sewer service will be the responsibility of each individual lot owner.

#### ARTICLE V.

##### MEMBERSHIP AND VOTING RIGHTS

**SECTION 1.** Every Owner of a Lot in the Properties shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

**SECTION 2.** Each member shall be entitled to one vote in the affairs of the Association 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.

#### ARTICLE VI

##### 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 90% of the lots in Phase I and 90% of the undeveloped property in adjoining Sections owned by Declarant have been sold and conveyed by the Declarant to purchasers or until December 31, 1994, whichever occurs first. Management and control may be transferred to the lot owners at any time but in all events, not later than 120 days after the happening of the earlier of the above events.

#### ARTICLE VII

##### COVENANTS FOR ASSESSMENTS

**SECTION 1. Creation of Lien and Personal Obligation of Assessments.** The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, 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; and
- B. Special assessments for capital improvements, such assessments to be established and collected as hereinafter provided; and
- C. A pro rata share of ad valorem taxes levied against the Commons Area.

The annual and special 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 his 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 improvements and maintenance of all easements, streets, utilities and the Common Areas. The funds arising from said assessments or charges, may be used for any or all of the following purposes: Payment of Utility bills incurred in connection with the common areas, e.g., street lighting; maintenance and improvement of the common areas, streets, roads, drives,

drainage and utility easements and rights of way; 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 Upper Reach.

**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 maximum annual assessment may be increased each year not more than five percent (5%) above the maximum 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 above five percent (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 maximum; provided that the Board of Directors may increase the amount of the annual assessment to a maximum of Two Hundred Dollars (\$200.00) per Lot notwithstanding the provisions of subparagraphs A and B above, and thereafter the limitations set forth in said subparagraphs shall apply to any annual increase.

**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 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 members who are voting in person or by proxy at a meeting duly called for this purpose.

**SECTION 5. 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 Section 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 percent (60%) of all the votes of each class of membership shall

constitute a quorum. The required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**SECTION 6. 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 7. 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.

**SECTION 8. 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, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

**SECTION 9. Subordination of the Lien to Mortgages.** 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 VIII

### ARCHITECTURAL CONTROL

**SECTION 1. Declarant's Rights.** All duties and responsibilities conferred upon the Architectural Control Committee by this Declaration or the By-Laws of the Association shall be exercised and performed by the Declarant or its Designee, so long as Declarant shall own any lot in the Properties or any additions annexed thereto by Supplemental Declaration or Amendment to this Declaration.

**SECTION 2. Building and Site Improvements.** No dwelling, fence, wall or other structure shall be commenced, erected, or maintained upon any lot in the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, heights, materials, colors and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Declarant, or its designee, or, after the sale of all lots by Declarant, by the Board of Directors of the Association, or by an architectural control committee composed of three (3) or more representatives appointed by the Board. In the event the Declarant, or its designee, or, if applicable, the Board, or its designated committee, fails to approve or disapprove such design and location within twenty (20) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Refusal of approval of any such plans, locations or specification may be

based upon any ground, including purely aesthetic and environmental considerations, that in the sole and uncontrolled discretion of the Declarant or Architectural Control Committee shall seem sufficient. One copy of all plans and related data shall be furnished to the Declarant or Architectural Control Committee, as the case may be, for its records. Neither the Declarant nor the Architectural Control Committee shall be responsible for any structural or other defects in plans or specifications submitted to it or any structure erected according to such plans and specifications.

**SECTION 3. Removal of Trees and Other Vegetation.** No trees exceeding three inches (3") in diameter measured one (1) foot above the ground, bushes, shrubs or other vegetation whatever may be removed from any lot without prior written approval of the Declarant based upon a site plan, landscaping plan or planting plan submitted to Declarant. This restriction shall become void twenty (20) years from the date of this Declaration.

**SECTION 4. Approval of Plans:**

A. No house plans will be approved unless the proposed house shall have a minimum of 1800 square feet of enclosed dwelling area. The term "enclosed dwelling area" as used in the minimum requirements shall be the total enclosed areas within a dwelling, provided, however, that such term does not include garages, terraces, decks, open porches, and like areas; provided, further, that shed type porches, even though attached to the house are specifically excluded from the definition of the aforesaid term "enclosed dwelling area".

B. Since the establishment of inflexible building setback lines for location of houses on lots tends to force construction of houses directly to the side of other homes with detrimental effects on privacy, view, preservation of important trees and other vegetation, ecological and related considerations, no specific setback lines are established by this Declaration. In order to assure, however, that the foregoing considerations are given maximum effect, the site and location of any house or dwelling or other structure upon any lot shall be controlled by and must be approved absolutely by the Declarant or the Architectural Control Committee, as the case may be. Provided, however, that no dwellings shall be constructed closer than 10 feet to an adjoining property line.

C. The exterior of all houses and other structures must be completed within twelve (12) months after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the owner of builder, due to strikes, fires, national emergency or natural calamities.

D. No structure shall be erected, altered, placed or permitted to remain on any lot, except one single family dwelling not to exceed two and one-half (2-1/2) stories in height, and one or more small accessory buildings (which may include a detached private garage) provided the use of such dwelling or accessory building does not in the opinion of the Declarant or Architectural Control Committee overcrowd the site, and provided further, that such buildings are not used for any activity normally conducted as a business.

E. All service utilities, fuel tanks, clothes lines, wood piles and trash and garbage accumulations are to be enclosed within a fence, wall or plant screen of a type and size approved by the Declarant or the 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.

**SECTION 5. Maintenance By Association.** The Association at its expense shall be responsible for maintaining, repairing and replacing the planting easement areas, the stormwater drainage system, including the detention 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 the need for maintenance, repair or replacement (other than said 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 repairs, shall be added to and become a part of the assessment to which such Lot is subject.

## ARTICLE IX.

### USE RESTRICTIONS

**SECTION 1. Land Use and Building Type.** No lot in Upper Reach, Phase I shall be used except for residential purposes. All lots in Upper Reach, Phase I, shall be restricted for construction of single family dwelling only. Any building erected, altered, placed or permitted to remain on any lot shall be subject to the provisions of Article VII of this Declaration relating to architectural control. Different Land Use Restrictions and Architectural Control Guide Lines may be established for adjoining properties to be developed by Declarant. No commercial use shall be made of any Lot.

**SECTION 2. Nuisances.** No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. There shall not be maintained any plants or animals, nor device or thing of any sort whose normal activities or existence are in any way noxious, dangerous, unsightly, unpleasant or other nature as may diminish or destroy the enjoyment of other property in the neighborhood by the owners thereof. It shall be the responsibility of each lot owner to prevent the development of any unclean, unsightly or unkept condition of buildings or grounds on such lot which would tend to substantially decrease the beauty of the neighborhood as a whole or the specific area.

**SECTION 3. Lot Maintenance.** In the event that any lot owner shall fail or refuse to keep such premises free from weeds, underbrush or refuse piles, or unsightly growth or objects, then, after thirty days notice from the Architectural Control Committee, the Association or its designee shall enter upon such lands and remove the same at the expense of the lot owner, and such entrance shall not be deemed a trespass, and in the event of such removal a lien shall arise

and be created in favor of the Association and such amounts shall be due and payable within thirty (30) days after the owner is billed therefor. Such lien shall be enforceable by Court proceedings as provided by law for enforcement of liens.

**SECTION 4. Building Maintenance.** Each lot owner shall keep all structures in a clean, neat and sightly condition. Failure to do so will give rise to a cause of action under Article XI, Section 1 of this Declaration.

**SECTION 5. Temporary Structures.** No structure of a temporary character, trailer, mobile home, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot any time as a residence either temporarily or permanently.

**SECTION 6. Recreational Vehicles.** No camper, trailer, motor or mobile homes, or similar type vehicle shall be permitted to remain on any lot or on any street in the Properties at any time without the written consent of the Association or its designee.

**SECTION 7. Animals.** No animals, livestock or poultry of any kind shall be kept or maintained on any lot or in any dwelling except that dogs, cats or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes.

**SECTION 8. Outside Antennas.** No outside radio or television antennas shall be erected on any lot or dwelling unit within the Properties unless and until permission for the same has been granted by the Board of Directors of the Association or its Architectural Control Committee.

**SECTION 9. Exterior Lights.** All light bulbs or 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 bulbs.

**SECTION 10. Junk Vehicles and Tractor-Trailers.** No inoperable vehicle or vehicle without current registration and insurance, and no tractor-trailers will be permitted on the premises. The Association shall have the right to have all such vehicles towed away at the owner's expense.

**SECTION 11. Water and Sewer Service.** All lot owners shall be required to use water and sewer supplied by the Companies servicing the Properties for all household uses; a separate water system for the purpose of watering lawns, gardens and other outdoor uses shall not be permitted without the consent of the Declarant, its successors and assigns.

**SECTION 12. Water and Sewer Taps.** Declarant reserves the right to charge separate water and sewer tap fees for each lot sold which fee will be paid directly to Declarant.

#### ARTICLE X.

#### ANNEXATION OF ADDITIONAL PROPERTIES

**SECTION 1. By Others than Declarant.** 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 duly 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.

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**SECTION 2. By Declarant.** If the Declarant, its successors or assigns, shall develop all or any lands adjoining the Properties, said additional tracts 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 only single family dwellings. 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, conditions, covenants, 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 Stormwater Runoff Regulations.** The State of North Carolina is hereby made a beneficiary of this Declaration to the extent necessary to enforce its stormwater 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 this Declaration, and as the Declaration may be amended from time to time. 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.

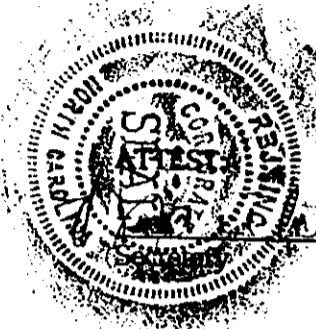
**SECTION 5. Amendment of Declaration.** Except as provided elsewhere the covenants and restrictions of this Declaration may be amended only by an instrument duly recorded in the Office of the Register of Deeds of New Hanover County executed by the duly authorized officers of the Association upon the vote of not less than sixty percent (60%) 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.

IN WITNESS WHEREOF, RBJ, Inc., a North Carolina corporation, the Declarant herein, has caused this Declaration to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by the authority of its Board of Directors, all on the day and year first above written.

RBJ, INC.  
A North Carolina Corporation

By: [Signature]  
President



[Signature]

(CORPORATE SEAL)

STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

I, Elinor Gallaher, a Notary Public of the County and State aforesaid, certify that Rebecca James personally appeared before me this day and acknowledged that he is the Secretary of RBJ, Inc., and that by the authority duly given and as the act of said corporation the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by himself as its Secretary.

WITNESS my hand and official stamp or seal, this the 31 day of July, 1989.

Elinor Gallaher  
Notary Public

My commission expires: 9/28/91

Notary Seal  
RECORD OF POOR QUALITY DUE TO  
CONDITION OF ORIGINAL DOCUMENT  
G.S. 161-14



STATE OF NORTH CAROLINA  
New Hanover County  
The Foregoing/Annexed Certificate of

Elinor Gallaher  
Notary(Notaries) Public is/are certified  
to be correct.  
This the 31 day of July 19 89

Rebecca P. Tucker, Register of Deeds

By: [Signature]  
Deputy/Assistant