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RECORDED & VERIFIED  
MARY SUE OOTS  
REGISTER OF DEEDS  
NEW HANOVER CO. NC

STATE OF NORTH CAROLINA  
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COUNTY OF NEW HANOVER  
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DECLARATION OF CONVENANTS AND RESTRICTIONS  
WEST WOOD AT ECHO

THIS DECLARATION, dated for purposes of reference only this 18<sup>th</sup> day of November, 1997, by ECHO GROUP LLC, a North Carolina limited liability company, hereinafter called "Developer."

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WITNESSETH:

WHEREAS, Developer is the owner of the real property described in Article II of this Declaration and desires to create therein a residential community with open spaces and other common facilities for the benefit of the said community; and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of said open spaces and other common facilities; and, to this end, desires to subject the real property described in Article II, together with such additions as may hereafter be made thereto, to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Developer had deemed it desirable for the efficient preservation of the values and amenities in said community, to create an agency to which should be delegated and assigned the powers of maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Developer has incorporated or will incorporate within one month hereafter under the laws of the State of North Carolina, as a nonprofit corporation, West Wood at Echo Townhome Association, Inc. (the "Association"), for the purpose of exercising the functions aforesaid;

NOW, THEREFORE, Developer declares that the real property described in Article II hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as ("covenants and restrictions")) hereinafter set forth.

ARTICLE I

DEFINITIONS

Section 1. The following words when used in this Declaration or any Supplements Declaration (unless the contract shall prohibit) shall have the following meanings:

- (a) "Association" shall mean and refer to West Wood at Echo Townhome Association, Inc.
- (b) "Properties" shall mean and refer to the real property described in Article II made subject to this Declaration
- (c) "Limited Common Elements" shall mean those portions of the common elements which are allocated for the exclusive use of one or more units, as more specifically defined herein.
- (d) "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of Common Properties as heretofore defined.
- (e) "Living Unit" shall mean and refer to any portion of a building situated upon the Properties designed and intended for use and occupancy as a residence by a single family, whether as owners or tenants.
- (f) "Multifamily Structure" shall mean and refer to any building containing two or more Living Units under on roof except when each such Living Unit is situated upon its own individual Lot.

This Instrument is being re-recorded for the purpose of correcting Article XII, Section 7. Roads and Streets. to read buildings 8 and 9 in lieu of buildings 6 and 8, this the 28th day of August, 1998.

539649

*Jerry A. Menden, Jr.*  
Jerry A. Menden, Jr.  
Original Draftsman

Return to Doug Fox

- (g) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Living Unit situated upon the Properties buy, notwithstanding any applicable theory of the deed of trust, shall not mean or refer to the Trustee or cestui que trust unless and until there has been a transfer of title pursuant to foreclosure of any proceeding in lieu of foreclosure.
- (h) "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article III, Section 1, hereof.
- (i) "Mortgage" shall include the noteholder or cestui que trust secured by a "deed of trust."

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION; ADDITIONS THERETO

Section 1. Properties. The real property which is, and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration, which property is more particularly described in Annex A attached hereto.

Section 2. Additions to Existing Property.

- (a) Expansion. Additional lands may become subject to this Declaration to the extent such lands are described on Annex B attached hereto. The additions authorized hereunder may be made in one or more phases. Said additions shall be made by filing of record a Supplemental Declaration of Covenants and Restrictions with respect to the additional property desired to be annexed, which Supplemental Declaration shall extend the scheme of these covenants and restrictions to such property by adopting these Covenants and Restrictions by reference. Such Supplemental Declaration may contain such complementary additions and modifications of the Covenants and Restrictions contained in this Declaration as may be necessary to reflect the difference character, if any, of the added properties and as such are not inconsistent with the scheme of this Declaration. In no event, however, shall such Supplemental Declaration revoke, modify or add to the covenants established by this Declaration as described on Annex A attached hereto. Any annexation made hereunder must be completed on or before December 31, 2005. Any such amendment shall specify the date upon which dues and assessments are payable for Lots annexed thereby.
- (b) Mergers. Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Property together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration within the Property except as hereinafter provided.

## ARTICLE III

### MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot or Living Unit or undeveloped and undesignated land which is subject covenants of record to assessment by the Association shall be a Member of the Association, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member.

Section 2. Voting Rights. The Association shall have two classes of voting membership.

Class A. Class A Members shall be all those Owners as defined in Section 1 with the exception of the Developer. Class A Members shall be entitled to one vote for each Lot or Living Unit in which they hold the interests required for membership by Section 1. When more than one

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person holds such interest or interests in any Lot or Living Unit, all such persons shall be members, and the vote for such Lot and Living Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot or Living Unit.

Class B. The Class B Member shall be the Developer. The Class B Member shall be entitled to three (3) votes for each Lot or Living Unit in which it holds interests required for membership. The Class B membership shall cease and become converted to Class A membership at the earlier occurrence of the following events:

- (a) When the total member of Class A Members equals or exceeds seventy-five (75); or
- (b) January 1, 2002

From and after the happening of the earlier to occur of these events, The Class B Member shall be deemed to be a Class A Member entitled to one vote for each Lot or Living Unit in which it holds the interests required for membership under Section 1.

#### ARTICLE IV

##### PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. Members' Easement of Enjoyment. Subject to the provisions of Section 3 of this Article IV, every Member shall have a right and easement of enjoyment in and to the Common Properties, including rights of access, ingress and egress to and from public streets and walkways and the right to park a motor vehicle in areas specifically designated for such purposes; such easement shall be appurtenant to and shall pass with the title to every Lot or Living Unit. In addition, every Class A Member shall have the right and privilege of using the designated parking spaces for the benefit of his or her Living Unit.

Section 2. Title to Common Properties. The Developer must relinquish the legal title to the Common Properties to the Association prior to the transfer of any Lot or Living Unit included within the Properties. Furthermore, Developer reserves for the benefit of Developer, and for the benefit of the Association and the owners of all Lots, the right to utilize all drainage ways, retention ponds and similar common facilities and utilities for the benefit of all of the property described in Annex B, and other adjacent properties owned by Developer.

Section 3. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

- (a) the right of the Association, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Properties and in aid thereof to mortgage said properties. In the event of a default upon any such mortgage the lender's rights thereunder shall be limited to a right, after taking possession of such properties, to charge admission and other fees as a condition to continue enjoyment by the members and, if necessary, to open the enjoyment of such properties to a wider public until the mortgage debt is satisfied, whereupon the possession of such properties shall be returned to the Association and all rights of the Members hereunder shall be fully restored;
- (b) the right of the Association to take such steps as are seasonably necessary to protect the above-described properties against foreclosure;
- (c) the right of the Association, as provided in its Articles of Incorporation and By-Laws, to suspend the voting rights of any member of any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations;
- (d) the right of the Association to charge reasonable admission and other fees for the use of the Common Properties for non-members of the Association;
- (e) the legal right of an Owner of property shown on the same plat to include portions of the Common Properties as may be necessary for said Owner to qualify under governmental requirements such as setback lines, open space, parking or other aspects which may be needed for issuance of a building permit to be secured to rebuild a damaged Living Unit; and
- (f) the right of the Association to dedicate or transfer all or any part of the Common Properties to any public agency, authority, or entity for such purposes and subject to

such conditions as may be agreed to by the Members, provided that no such dedication or transfer, determination as to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by Members entitled to cast not less than two-thirds (2/3) of the votes of each class of membership has been recorded, agreeing to such dedication, transfer, purposes or condition, and unless written notice of the proposed agreement and action thereunder is sent to every Member at least thirty (30) days in advance of any action taken.

**Section 4. Stormwater Detention.** The North Carolina Department of Environment, Health and Natural Resources has required there to be constructed a stormwater detention system for the benefit of the property described on Annex A and the property described on Annex B. The Association shall maintain in good and usable condition, and in accordance with regulations and standards adopted and/or imposed by the North Carolina Department of Environmental Management, the stormwater detention ponds and collection system located on property subjected to this Declaration. To the extent that stormwater detention ponds and collection facilities are located on property not made subject to this Declaration, but which ponds benefit properties made subject to this Declaration, the Association shall bear one-half (1/2) of the cost of such maintenance and upkeep, and shall reimburse such cost to the party owning such detention pond upon reasonable verification of the cost of maintenance or upkeep. The association shall be responsible for maintaining a maximum of 148,620 square feet of impervious improvements to be located within the boundary of the properties described in Annex A and B. The association shall also be responsible for insuring that no vegetated swales within the aforementioned properties are modified without prior approval by the North Carolina Department of Environment, Health and Natural Resources.

**Section 5. Stormwater Retention.** The North Carolina Department of Environmental Management has required there to be constructed a minimum of two (2) stormwater retention ponds for the benefit of the property described on Annex A and the property described on Annex B. The Association shall maintain in good and usable condition, and in accordance with regulations and standards adopted and/or imposed by the North Carolina Department of Environmental Management, the stormwater retention pond and distribution system located on property subjected to this Declaration. To the extent that stormwater retention ponds and distribution facilities are located on property not made subject to this Declaration, but which ponds benefit Lots made subject to this Declaration, the Association shall bear one-half (1/2) of the cost of such maintenance and upkeep, and shall reimburse such cost to the party owning such retention pond upon reasonable verification of the cost of maintenance or upkeep.

#### ARTICLE V

#### COVENANT FOR ASSESSMENTS

**Section 1. Creation of Lien and Personal Obligation for Assessments.** Declarant, for each Lot or Living Unit owned within the Properties hereby covenants, and each Owner of any Lot or Living Unit within the Properties, by acceptance of a deed for a Lot or Living Unit, whether or not it shall be so expressed in such deed, is deemed to covenant to pay to the Association:

- a. annual assessments or changes;
- b. special assessments for capital improvements and other purposes stated in this Declaration;
- c. default assessments (as hereinafter defined) which may be assessed against a lot pursuant to the Declaration and the Articles of Incorporation and Bylaws of the Association (hereinafter referred to as the "Documents") for Owner's failure to perform an obligation under the Documents or because the Association has incurred an expense on behalf of the Owner under the Documents; and
- d. to the appropriate governing taxing authority or the Association a pro rata share of ad valorem taxes levied against the Common Areas.

All assessments, together with fines, interest, costs, reasonable attorneys' (and legal assistants') fees, and other charges allowed under this Declaration, shall be a charge on the land and shall be a continuing lien upon the lot against which each such assessment is made until paid.

Each such assessment, together with fines, interest, costs, reasonable attorneys' (and legal assistants') fees, and other charges allowed under the Documents will also be the personal and

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individual obligation of the Owner of such Lot as of the time when the assessments fall due, and two or more Owners of a lot or living unit will be jointly and severally liable for such obligations. If an assessment is payable in installments, the full amount of the assessment is all lien from the first installment thereof becomes due. No Owner may except himself, herself or itself from liability for any assessments by abandonment of his lot or living unit or by waiver of the use or enjoyment of the common areas and easements.

A) Section 2. Purpose of Assessment. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare of the residents in the Properties and in particular for the improvement and maintenance (1) of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Properties and (2) of the Lots and Living Units situated upon the Properties. Without Limitation, such uses shall include satisfaction of the Association's obligations regarding the Common Properties to pay liability insurance, ad valorem taxes, the payment of governmental assessments for public and private capital improvements made to or for the benefit thereof, the repair, replacements and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof.

Section 3. Determination of Annual Assessments. Notwithstanding any provision to the contrary contained herein, should the Association's Board of Directors determine that the Annual Assessment for the next succeeding assessment period will exceed the Annual Assessment for the current assessment period by more than ten percent (10%), then, in such event, such increase in the Annual Assessment shall be approved by a vote of two-thirds (2/3) of the Owners voting in person or by proxy at a duly called meeting of the members of the Association, at which a quorum of members is present in person or by proxy, prior to its adoption by the Board of Directors of the Association.

Section 4. Basis for Computing Assessments. The Board of Directors shall categorize the purposes for which it makes assessments so that each purpose will be one which is charged in the same amount to each Owner of Lot or Living Unit.

Section 5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized by this document, the Association may levy, in an 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, reconstruction, repair or replacement of a capital improvement upon the Common Properties including fixtures and personal property related thereto, provided that any such assessment shall have the Assent of not less than two-thirds (2/3) of the votes of each class of members who are voting in person or proxy at a meeting duly called for this purpose.

Section 6. Change in Basis of Assessments. The Association may change the basis of the assessments fixed by Section 3 hereof prospectively for any such period, provided that any such change shall have the assent of not less than two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting, provided further that the limitations of Section 3 hereof shall not apply to any change in the basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation and under Article II, Section 2, hereof.

Section 7. Quorum for any Action Authorized Under Sections 4, 5, and 6. The quorum required for any action authorized by Sections 3, 4, and 5 of this Article V shall be as follows:

At the first meeting called, as provided in Section 3, 4, and 5 of this Article V, the presence at the meeting of Members, or of proxies, entitled to cast makes percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirements set forth in Sections 3, 4, and 5, and the required quorum at any such subsequent meeting shall be two-thirds of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section B. Date of Commencement of Assessments; Due Dates. The Regular assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the first Lot to an Owner. The first Regular 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 Regular assessment against each lot at least thirty (30) days in advance of each Regular assessment period. Written notice of the Regular assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. 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

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paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

**Section 9. Duties of the Board of Directors.** The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Lot or Living Unit for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

Written notice of the assessment shall thereupon be sent to every Owner subject thereto; failure to provide a written notice shall indicate that the assessment is unchanged from the previous assessment.

The Association shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

**Section 10. Effect of Nonpayment of Assessments and Remedies of the Association.** Any assessment, or installment thereof, which is not paid within thirty (30) days after its due date will be delinquent. In the event that an assessment, or installment thereof, becomes delinquent, or in the event a Default assessment is established under this Declaration, the Association, in its sole discretion, may take any or all of the following actions:

- a. assess a late charge for each delinquency at uniform rates set by the Board of Directors from time to time;
- b. charge interest from the date of delinquency at the maximum rate allowed by law;
- c. suspend the voting rights of the Owner during any period of delinquency;
- d. accelerate all remaining assessment installments for the assessment period in question so that unpaid assessments for the remainder of the assessment period will be due and payable at once;
- e. bring an action at law against any Owner personally obligated to pay the delinquent assessment charges; or
- f. file a claim of lien with respect of the lot or living unit foreclose the lien against the lot or living unit in the same manner as provided for the foreclosure of a mortgage under the statutes of the State of North Carolina.

The remedies provided under Declaration will not be exclusive and the Association may enforce any other remedies to collect delinquent assessments as may be provided by law.

If the assessment is not paid within thirty (30) days after the delinquency date or a written arrangements for payment consented to by the Association, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, will be charged a \$15.00 late fee for monthly assessments not received by the fifteenth (15<sup>th</sup>) of each month.

**Section 11. Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any first deed of trust now or hereafter placed upon the properties subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, a deed of foreclosure under power of sale or any other transfer in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments which thereafter become due, nor from the lien of any such subsequent assessment.

**Section 12. Exempt Property.** The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein; (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (b) all Common Properties as defined in Article I, Section 1, hereof.

**Section 13. Successor's Liability for Assessments.** All successors, except as provided hereinabove in Section 11, Article V, to the fee simple title of a lot will be jointly and severally liable for the prior Owner or Owners thereof for any and all unpaid assessments, fines, interest, late charges, costs, expenses, and attorney's (and legal assistants') fees against such lot without

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prejudice to any successor's right to recover from any prior Owner any amounts paid by such successor. Any successor will be entitled to rely on a written statement of status of assessments received by such successor from the Association or its managing agent. The Association agrees that it will furnish to any owner of his designate, a written statement setting forth the amount of unpaid assessments then levied against the lot in which the Owner or his designate has an interest. The information contained in such written shall be conclusive upon the Association, the Board of Directors, and every owner as to the person or persons to whom such statement is issued and who rely on it in good faith when such statement is signed by an officer of the Association or the managing agent for the Association.

**Section 14. Working Capital** At the time title is conveyed to an owner, each owner shall contribute to the Association as a working capital reserve an equal amount to a two months estimated common area assessment. Such funds shall be used solely for initial operating and capital expenses of the Association, such as pre-paid insurance, supplies and the common areas and facilities, furnishings and equipment, etc. Amounts paid into the working capital fund are not to be considered as advance payment or 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.

## ARTICLE VI

### RIGHTS OF FIRST MORTGAGES

**Section 1. Inspection of Books and Records.** First Mortgages shall have the right, upon request and during normal business hours, to examine the books and records of the Association.

**Section 2. Notice of Default.** Upon its written request, the holder of a first mortgage upon a Lot or Living Unit shall be entitled to written notification of any default by the Owner of said Lot of Living Unit in the performance of his obligations pursuant to these covenants or the By-Laws of the Association, if such default is not cured within thirty (30) days.

**Section 3. Payments by First Mortgages.** One or more first Mortgages of Lots or Living Units may, jointly or singly, in respect to the Common Properties, pay taxes or other charges which are in default and have or may become a charge against same, pay overdue hazard insurance premiums or secure new hazard insurance coverage after policy lapse. The parties making such expenditures shall be entitled to immediate reimbursement from the Association.

**Section 4. Prohibitions.** Without having first received written approval from at least seventy-five (75%) of the first Mortgaged (based upon one vote for each Mortgagee) of the Lots or Living Units, the Association may not:

- (a) fail to maintain hazard insurance on insurable improvements upon the Common Property in an amount equal to one hundred percent (100%) of the current insurable replacement cost;
- (b) use hazard insurance proceeds from losses to any Common Properties for other than the repair, replacement or reconstruction of such improvements.

## ARTICLE VII

### PARTY WALLS

**Section 1. General Rules of Law to Apply.** Each wall which is built as a part of the original construction of the Living Units upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.

**Section 2. Sharing of Repair and Maintenance.** The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in proportion to such use.

**Section 3. Destruction by Fire or Other Casualty.** If a party wall is destroyed or damaged by fire or other causality, any Owner who has used the wall must restore it as a party wall unless the other Owner agrees to the contrary in advance, and the other Owners thereafter making use of the wall shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision of a majority of all the arbitrators shall be final and conclusive of the question involved.

#### ARTICLE VIII

##### ARCHITECTURAL REVIEW COMMITTEE

Section 1. Review by Committee. No building, fence, wall or other structure nor any planting or landscaping change (including removal of any tree) shall be commenced, erected or maintained upon the Properties by other than the Developer nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, 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 Board of Directors of the Association, or by an Architectural Review Committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) 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 complied with fully. The Association shall have the right to bring an action to enjoin any activity taken in violation of this Article.

#### ARTICLE IX

##### EXTERIOR MAINTENANCE

Section 1. Exterior Maintenance. In addition to maintenance upon the Common Properties, the Association shall provide exterior maintenance upon each Lot and Living Unit which is subject to assessment under Article V hereof as follows: paint, repair, replace and care for roofs, gutters, down-spouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements. Such exterior maintenance shall not include doors, windows, window screens, door and window frames, rear decks, roof skylights, glass surfaces or landscaping inside rear courtyard areas, if any.

Section 2. Special Assessment for Capital Improvements. In addition to the annual assessments authorized by this document, the Association may levy, in an 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, reconstruction, repair or replacement for exterior maintenance of any Lot or Living Unit, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 3. Access at Reasonable Hours. For the purpose solely of performing the exterior maintenance required by this Article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot or exterior of any Living Unit at reasonable hours on any day.

#### ARTICLE X

##### USE RESTRICTIONS

Section 1. Land Use and Building Type. All lots shall be used for residential purposes except that so long as the Declarant shall retain ownership of any lots, it may utilize any such lot or lots for sales or rentals, offices, models or other usage for the purpose of selling or leasing lots within said project. The Declarant may assign this limited commercial usage right to any other person or entities as it may choose; provided, however, that when all lots have been sold, this right of commercial usage by the Declarant, its successors and assigns shall immediately cease.

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Co-ownership of lots shall not be prohibited. Any building erected, altered, placed or permitted to remain on any lot shall be subject to the provisions of Article VIII of this Declaration of Covenants, Conditions and Restrictions relating to architectural control.

**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.

**Section 3. Junk Vehicles.** No inoperable vehicles or vehicle without current registration and insurance 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 4. Outside Furniture.** No furniture shall be permitted in the common areas. No furniture shall be permitted on the front porch of each unit except porch furniture and plants. Porch furniture shall be permitted in the courtyard of each unit. All grill and accessories must be kept in the courtyard areas.

**Section 5. For Sale Signs Prohibited.** No "For Sale" signs or any other signs shall be permitted on any lot or in the common areas and facilities, except Declarant or its designee may place "For Sale" for as long as Declarant shall retain ownership of any unsold lot (s).

**Section 6. Temporary Structures.** No structure of a temporary character, trailer basement, tent, shack, garage, barn or other outbuilding shall be used on any lot any time as a residence wither temporarily or permanently.

**Section 7. Recreational Vehicles.** No boat, motor boat, camper, trailer, motor or mobile homes, or similar type vehicle, shall be permitted to remain on any lot or in parking spaces, at any time, unless by consent of the Association.

**Section 8. 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 and provided further that they are not allowed to run free and are at all times properly leashed and personally escorted. If any pet shall be determined by the Board of Directors to be a nuisance, the Board shall have full authority to have such pet permanently expelled from the properties.

**Section 9. Outside Antennas.** No outside radio or television antennas shall be erected on any lot or dwelling unit within the Properties unless permission for the same has been granted by the Board of Directors of the Association or its architectural control committee.

**Section 10. Window Coverings.** All drapes, curtains or other similar materials hung at window, or in any manner so as to be visible from the outside of any building erected upon any lot, shall be of a white or neutral background or material, unless the Board of Directors approves another color.

**Section 11. Exterior Lights.** All light bulbs or other lights installed in any fixture located on the exterior an any building or any lot shall be clear, white or non-frost lights or bulbs.

## ARTICLE XI

### COMMON AMENITIES

The Association may impose uniform standards for mail collection facilities (which may be a central facility or individual receptacles), waste disposal containers, newspaper boxes, mailboxes and such other common features typically installed on the exterior of a Living Unit, or on Common Properties. The owner of each Lot shall comply fully with all such standards adopted by the Association.

## ARTICLE XII

### GENERAL PROVISIONS

**Section 1. Rules.** The Board of Directors shall have the authority to adopt rules for the use of the Common Properties and shall furnish a written copy of said rules to the Owners. Any violation of such rules shall be punishable by fine and/or suspension of the voting rights of the violating Owners. The Board of Directors shall also have the power to adopt rules and regulations which prohibit or limit the types of animals or household pets which may be kept in

or about the Lots or Living Units and which govern their allowance upon the Common Properties.

Section 2. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date of this Declaration is recorded, after successive periods of ten (10) years unless an instrument signed by the then Owners of sixty-seven percent (67%) of the Lots or Living Units has been recorded, agreeing to change said covenants and restrictions in whole or in part. (For purpose of meeting the sixty-seven percent (67%) requirements, when Living Units are counted, the Lot or Lots upon which such Living Units are situated shall not be counted.) No such agreement to change shall be effective, however, unless made and recorded one (1) year in advance of the effective date of such change, and unless written notice of the proposed change is sent to every Owner at least ninety (90) days in advance of any action taken, and provided, however, that at all times during the existence of these covenants and restrictions that those areas set forth and set aside as Common Properties shall be retained for those purposes.

Section 3. Amendment. These covenants and restrictions may be amended during the first twenty (20) year period by the vote of not less than sixty-seven percent (67%) of each class of Members cast in person or by proxy at a meeting duly called for this purpose, written notice of which including the subject matter of thirty (30) days in advance. Thereafter, these covenants and restrictions may be amended by the vote of at least sixty-seven percent (67%) of each class of members cast in person or by proxy including the subject matter of the proposed amendment, shall be sent to all Members at least thirty (30) days in advance. Matters mentioned elsewhere in these covenants requiring the approval of first mortgagees or requiring a greater percentage of Members for approval shall be so governed. Any such amendment shall become operative and binding upon all Members and their properties when set forth in an amended Declaration of Covenants and Restrictions and recorded in the office of the Register of Deeds of New Hanover County, North Carolina.

Section 4. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, or otherwise delivered, to the last known address of the person who appears as a Member or Owner on the records of the Association at the time of such mailing.

Section 5. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any liens or charges created by these covenants; and failure by the Association or any 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 6. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which provisions shall remain in full force and effect.

Section 7. Roads and Streets. All roads and streets made subject to this Declaration shall be designated as public roads, except that portions of the road adjacent to buildings 8 and 9 shall be "private" and shall be maintained by the Association on a recorded plat. Furthermore, Developer reserves a right of ingress and egress over and across all of such roads and streets for purposes of accessing any property described on Annex A, Annex B or adjoining properties owned by Developer or its successors and assigns.

Section 8. Parking. All parking spaces immediately adjacent to a designated Lot should be available for the sole use of the owner of such Lot, and the Living Unit thereon subject to the Laws and Ordinances of the City of Wilmington.; all other parking should be jointly available for the owner of all Lots and their guest, subject to reasonable rules and regulations adopted from time to time by the Board of Directors.

Section 9. Insurance.

- A) It shall be the duty of the Association to maintain in effect public liability insurance on the Common Areas, as from time to time shall be customarily required by private institutional Mortgage Investors for projects similar in construction, location and use as the Properties and the improvements thereon all under such terms and conditions as the responsible authority shall be for at least \$1,000,000.00 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under this policy shall include, without limitation, legal liability of the insured for property damage, bodily injuries, and deaths of persons in connection

with the operation, or maintenance arising out of lawsuits relating to employment contracts of the Association. The foregoing shall not preclude the Board from obtaining insurance coverage on all or portion of the limited common areas and facilities.

- B) Owners' Obligation to Purchase Insurance. The Owner of each Lot shall obtain and maintain at all times (i) a standard homeowners policy (Form 3 or better) or dwelling policy (For DP2 or better), and (ii) if in Flood Zone, a standard Dwelling Form Flood Insurance policy insuring the Townhouse located upon such Owner's Lot in an amount equal to One Hundred Percent (100%) of the then current replacement cost of said Townhouse without deduction for depreciation. Each Owner shall exercise reasonable good faith efforts to insure that each such policy provides that the Association is identified and shown on each policy as an entity with an "additional interest" under the policies to the extent of its insurable interest.

All policies of insurance shall be written by reputable companies licensed or qualified to do business in North Carolina. The Owner shall provide to the Association certificates of insurance, a copy of said policies, or other written evidence satisfactory to the Association indicating the coverage provided and the companies so providing such coverage together with written notice of any subsequent changes or modifications (including cancellation or termination) to the policies.

- C) Reconstruction by Owner. Except for any repair or replacement conducted by the Association pursuant to Article VII, the Owner of each Lot shall reconstruct the single family townhouse, and all exterior appurtenant and related improvements (hereinafter generally referred to as the "Townhouse"), following damage or destruction caused by or arising from fire, lightning, windstorm, hail, explosion, flood or any other natural or unnatural cause.

The Owner shall commence reconstruction of the Townhouse not later than sixty (60) days following the date of the event causing the loss, damage or destruction and shall fully complete the reconstruction on or before the 180<sup>th</sup> day following the date of the occurrence causing the damage of the destruction to the Townhouse. All reconstruction shall be subject to the architectural control and other provisions of this Declaration.

Following damage or destruction, the Owner of the Townhouse damaged shall take prompt and immediate measures to: (I) protect adjacent Townhouses from any loss or damage arising from, or which may arise from, or in any way related to, the damage to such Owner's Townhouse, (II) remove or cause to be removed all debris resulting from the damage or destruction to the Townhouse within thirty (30) days following the date of the event causing the loss, damage or destruction and (III) provide to the Association a written contract or other written documentation satisfactory to the Association providing for the reconstruction of the Townhouse by a contractor duly licensed to perform such work in the State of North Carolina.

- D) Right of Association to Reconstruct. Upon failure of the Owner to fulfill the obligations set forth in Section C of this Article XII, and upon thirty (30) days prior written notice to the Owner, the Association may, but is under no obligation to do so, commence to undertake all actions necessary for reconstruction of the Townhouse. The Owner shall be personally liable to the Association for payment of all costs, expenses and other charges incurred by the Association for reconstructing the Townhouse ("Reconstruction Costs") including, but not limited to, professional experts, engineers, architects, contractors, materials, labor, supervision and permits. The Reconstruction Costs shall be assessed against the Owner and the Lot as a special assessment to be collected as provided in the Declarations and in the Bylaws of the Association.

- E) Easement for Reconstruction. Each Owner does hereby grant and convey to the Association, its agents, managers, employees and contractors, an easement over, upon, under and across the Lot of each Owner to enable the Association to perform reconstruction of the Townhouse as set forth under this Article.

**Section 10. Notice and Quorum for Any Action Authorized Under Section and 4**

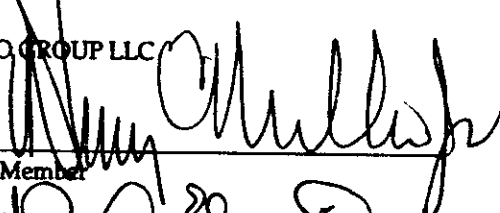
Written notice of any meeting called for the purpose of taking any action authorized under Section 3 and 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present at the first meeting, the required quorum at any subsequent meeting shall be one-half (1/2) of the required quorum at the

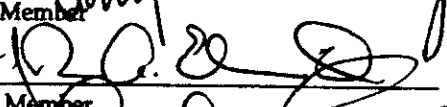
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2269	0785	2425	0287

preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

IN WITNESS WHEREOF, ECHO GROUP LLC has caused this instrument to be duly executed as of the day and year first above written.

ECHO GROUP LLC

BY:   
Member

BY:   
Member

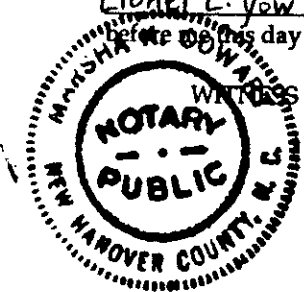
BY:   
Member

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STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

I, Marsha K. Cowart, a Notary Public, do hereby certify that Lionel L. Yow and John A. Elmer Members of ECHO GROUP LLC, personally appeared before me this day and acknowledged the due execution of the foregoing document,



WITNESS my hand and notarial seal, this the 18<sup>th</sup> day of November, 1997.

Marsha K Cowart  
Notary Public

My Commission Expires:  
2-2-99

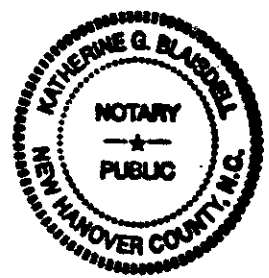
STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

I, Katherine G. Blaisdell, a Notary Public, do hereby certify that Henry E. Miller, Jr., Member of ECHO GROUP LLC, personally appeared before me this day and acknowledged the due execution of the foregoing document,

WITNESS my hand and notarial seal, this the 18<sup>th</sup> day of November, 1997.

Katherine G. Blaisdell  
Notary Public

My Commission Expires:  
5/30/99



STATE OF NORTH CAROLINA  
New Hanover County  
The Foregoing/ Annexed Certificate(s) of  
Marsha K. Cowart  
Katherine G. Blaisdell

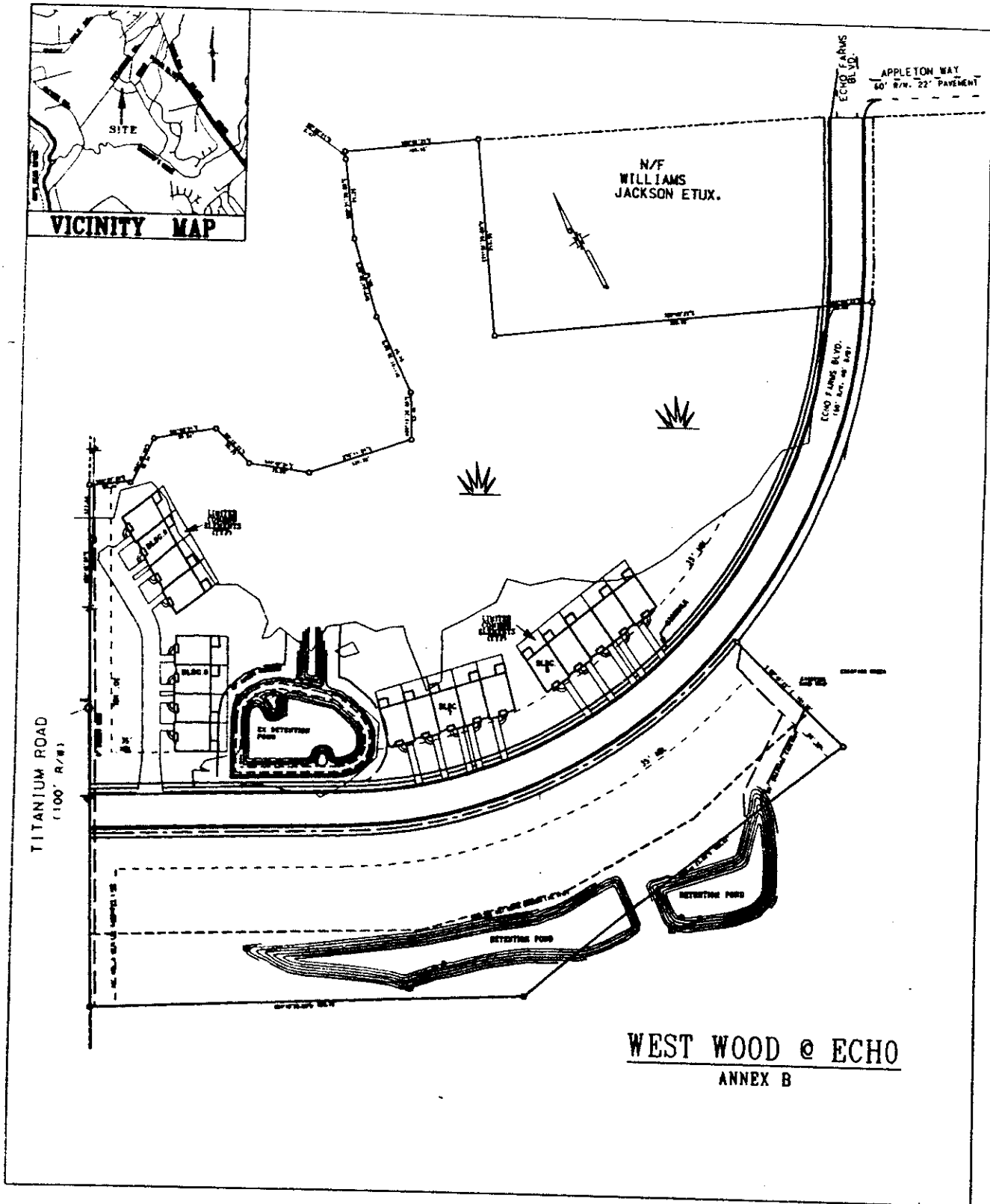
Notary (Notaries) Public is/ are certified to be correct.

This the 18 day of Nov., 1997  
Mary Sue Oots, Register of Deeds

by [Signature]  
Deputy [Signature]



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



WEST WOOD @ ECHO  
ANNEX B