

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

STATE OF NORTH CAROLINA

COUNTY OF CATAWBA

KNOWN ALL MEN BY THESE PRESENTS, that this Declaration of Covenants, Conditions and Restrictions, made and entered into on this the 16th day of October, 1991 by SIHO Properties, Inc., a North Carolina Corporation with its office and principal place of business in Winston-Salem, Forsyth County, North Carolina (hereinafter referred to as "Developer").

W I T N E S S E T H :

WHEREAS, Developer is the owner of the real property described in Article One of the Declaration and desires to create thereon a residential community (the Community") together with street, roads footways, open spaces, entrances, drainage facilities, access easements, site lighting and signage and any other common facilities (the "facilities") for the benefit of the Community; and

WHEREAS, developer desires to provide for the preservation of the values and amenities in the Community and for the maintenance of the facilities and, to this end, desires to subject the real property described in Article One to the covenants, conditions, restrictions, easements, charges and liens, hereinafter set forth each all of which is, and are, for the benefit of said real property and each owner thereof; and,

WHEREAS, Developer desires to construct a pier, containing boatslips, over the waters of Lake Norman and adjoining a portion of the Development, which pier and boatslips will be for the common use and benefit of property owners in the Development whose property does not adjoin the waters of Lake Norman, and to provide for the maintenance and upkeep of such pier, boatslips and the portion of the Development adjoining them.

WHEREAS, Developer desires to provide for a system whereby the owners of property in the Development will pay for the maintenance and upkeep of the common, provided, however, that maintenance and upkeep of the pier, boatslips and adjoining land will be paid for only by property owners in the Development whose property does not adjoin the waters of Lake Norman. Property owners in the Development whose property adjoins the waters of Lake Norman will pay only for the cost of maintenance and upkeep of the entrance monument but such property owners will not be entitled to the use and enjoyment of the pier, boatslips and adjoining land.

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values and amenities in the 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, conditions and restriction and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Developer has caused to be incorporated under the laws of the State of North Carolina a non-profit corporation, Bay Pointe Homeowners Association, Inc., for the purpose of exercising the functions aforesaid;

NOW, THEREFORE, the developer declares that the real property described in Article One, is and shall be held, transferred, sold, conveyed and occupied subject to the terms and provisions of the covenants, conditions, restrictions, charges and liens (sometimes referred to herein as "covenants and restrictions" or "this Declaration") as hereinafter set forth.

## ARTICLE ONE

### PROPERTY SUBJECT TO THIS DECLARATION

Section I. Existing Property. The real property which is, and shall be, held transferred, sold, conveyed and occupied subject to this Declaration (The "Existing Property") is located in Catawba County, North Carolina, and is more particularly described as follows:

See Schedule "A" attached hereto and incorporated herein by reference. Lot 43 as shown on the plat of Bay Pointe is recorded in Plat Book 29, page 31, Catawba County Registry is excepted.

Section II. Additions to Declaration. Additional real property herein referred to as "additional units", may become subject to this Declaration by recordation of any supplemental declaration(s) by Developer (or by any other individual(s) firm(s) or entity (ies) who submit such additional units to this Declaration with the written consent of the Developer) wherein any such additional units are specifically made subject to and governed by all or a portion of this Declaration and such other covenants, conditions, restrictions, rights and obligations as the Developer in its sole discretion shall deem appropriate. In the event of any such subsequent supplemental declaration(s), the rights of all original and additional Members of the Association shall be uniform.

## ARTICLE TWO

Section I. The following words when used in this declaration or any amended or supplemental declaration (unless the context shall require otherwise) shall have the following meanings:

(a) "Assessments" or "Assessments" or "Common Charges" shall mean and refer to the assessments and charges levied against the owners of Lots in The Properties, as hereinafter defined, pursuant to Article Seven of the Declaration and Article X of the By-laws; and the words Assessments or Assessment shall be and mean the same thing as Common

Charges.

(b) "Association" shall mean and refer to the Bay Pointe Homeowners Association, Inc.; and "Bylaws" shall mean and refer to the Bylaws of the Association.

(c) "Board" shall mean and refer to the Board of Directors of the Bay Pointe Homeowners Association, Inc.

(d) "Common Expense" shall mean and refer to:

(i) Expense of administration, maintenance, repair or replacement of the Common Properties.

(ii) Expense declared Common expense by the provisions of this Declaration or the Bylaws.

(iii) Expenses agreed upon as Common Expense by the Association and or against the Common Properties as a whole.

(e) "Common Properties" shall mean and refer to those areas of land shown on any recorded subdivision plat of The Properties labeled as "Common Properties" or "Recreational Area" or shown as streets or roads or such other areas specifically designated as "Common Properties" by deed from the Developer to the Association and as such intended to be devoted to the common use and enjoyment of the Owners of the Lots, subject to special rights, if any, granted Owners of Particular Lots, which are a part of The Properties. Provided, however, that the Owners of Non-Waterfront Lots only shall be entitled to the use, benefit and enjoyment of the Pier, Boatslips and Access Lot, subject to individual Non-Waterfront Lot Owner's exclusive rights to use specified Boatslips.

The "Access Lot" shall mean and refer to that certain tract of land located in the Development which is adjacent to the pier and which is more particularly shown and described as "Common Area" on the map, as well as all structures, lighting and other improvements located thereon. The Access Lot shall be owned by the Association for the common use, benefit and enjoyment of the Non-Waterfront Lot Owners, to provide access to and from the Pier and Boatslips.

(f) The "Developer" shall mean and refer to a North Carolina corporation, SIHO Properties, Inc. and any person or entity who is specifically assigned all or a portion of the rights and interest of Developer hereunder.

(g) "Living Area" shall mean and refer to those heated and/or air-conditioned areas within a living unit which shall not include garages, carports, porches, patios, storage areas, breezeways, terraces, or unfinished basements.

(h) "Living Unit", "dwelling", or "building" shall mean and refer to any building or portion of a building, situated upon any Lot, which is a part of The Properties designed and intended for use and occupancy as a residence by a single family.

(i) "Lot" shall mean and refer to any plot of land within The Properties shown upon any recorded subdivision map of The Properties or any portion thereof, which the exception of Common Properties as heretofore defined. "Non-Waterfront Lots" shall mean and refer to those Lots in the Development which do not adjoin the waters of Lake Norman. "Waterfront Lots" shall mean and refer to those Lots in the Development which adjoin the waters of Lake Norman.

(j) "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article Five, Section I, of this Declaration.

(k) "Owner" shall mean and refer to the record owner, whether one or more persons or entitled, of the fee simple title to any lot situated upon The Properties, but notwithstanding any applicable theory of any lien or mortgage law, shall not mean or refer to any mortgages or trust beneficiary unless and until such mortgages or trust beneficiary has acquired title pursuant to foreclosure or any proceedings in lieu of foreclosure.

(l) "The Properties" shall mean and refer to all the Existing Property and any additional units of Developer or others as are made subject to the Declaration by any Supplemental Declaration under the provisions of Article One of this Declaration.

(m) "Pier" shall mean and refer to that certain pier or piers, containing the Boatslips, constructed over the waters of Lake Norman, which Pier adjoins the Development at the Access Lot.

(n) "Boatslips" shall mean and refer to those certain boatslips located within the Pier which is constructed over the waters of Lake Norman.

### ARTICLE THREE

#### GENERAL PROVISIONS

Section 1. Duration. The covenants and restrictions of this Declaration shall run with the land, and shall inure to the benefit of, and be enforceable by, The Association or any owner, its and their respective legal representatives, heirs, successors, and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless the instrument signed by the then Owners of two-thirds of the Lots has been recorded, agreeing to change said covenants and restrictions in whole or in part, provided, however, that no other agreement to change shall be effective unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken.

Section 2. 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 personally delivered or mailed, postpaid, Certified Mail - Return Receipt Requested, to the last known address of

the person who appears as Member or Owner on the records of the Association at the time of such mailing. Notice to any one of the Owners, if title to a Lot is held by more than one, shall constitute notice to all owners of a Lot.

Section 3. Enforcement. Enforcement of these covenants and restrictions shall be by any appropriate civil proceeding against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, to both, and against the land to enforce any lien created by these covenants; and failure by the Association or any Owner to enforce any covenant or restriction herein contained shall not be deemed a waiver of the right to do so thereafter.

Section 4. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provision which shall remain in full force and effect.

#### ARTICLE FOUR

#### RESTRICTIONS ON USE AND RIGHTS OF THE ASSOCIATION AND OWNERS

Section 1. Restriction on Use and Rights of the Association and Owners.

(a) Permissible Uses. No lot shall be used for residential purposes, and no building of any type shall be erected, altered, placed or permitted to remain on any Lot other than one single-family dwelling, including a garage and any other appurtenances customary to a single-family dwelling which shall comply with any applicable zoning regulations. When construction of any building, structure, improvement, or addition, has once begun, work thereon shall be prosecuted diligently and continuously until the full completion thereof. No Living Unit shall be built which contains cement or cinder blocks which are visible from the outside of the Living Unit, nor may any outside, above ground, fuel or storage be used without the consent of the Board. Each home must have attached automobile storage and, if not enclosed, must be maintained in a clean and neat manner.

(b) Division of Lots. No lot shall be further divided, except that any two owners may divide a Lot between them if such lot is adjacent to the Lots owned by each Owner and provided further that only one single-family dwelling may be constructed on their Lot as subdivided and combined. However, the Developer may convey a portion of a Lot to the Association with the remaining portion of the Lot to be used for a living Unit.

(c) Utilities and Easements. All utility lines of every type, including but not limited to water, electricity, telephone, sewage and television cables, running from the main trunk line or service location to any Living Unit must be underground. The Developer reserves unto itself, its successors and assigns, a perpetual alienable and releasable

easement and right on, over and under the ground to erect, maintain and use water, sewer, electric and telephone systems, wires, cables and conduits for the purpose of bringing public services to The Properties, on, in or over then (10) feet in each Lot line fronting on a street, ten (10) feet along the side lines of each Lot, and fifteen (15) feet along the rear line of each Lot, and such other areas as are shown on any recorded plats of the Properties; provided further, that the Association may cut, at its own expense, drainways for surface water wherever and whenever such action is required by the applicable health or sanitation authorities in order to maintain reasonable standards of health, safety and appearance. In the event of any additions to The Properties, as provided in Article One, by the Developer or others with the consent of the Developer, the easements created hereby shall exist on the Lots in such additions to the Properties. These bushes or shrubbery, take or add any soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation or to maintain reasonable standards of health, safety and appearance.

(d) Minimum Square Footage. In no event shall any Living Unit contain less than:

(1) 1600 square feet of Living Area on the main floor if it is a one-story Living Unit;

(2) 2000 square feet of Living Area if the Living Unit has two or more floors, with a minimum of 1100 square feet on the first floor; or

(3) 1500 square feet of Living Area on the main level if the Living Unit is a split-level structure, with no less than a total of 2000 square feet of Living Area.

(4) 1200 square feet of Living Area on the first floor if it is a one and one-half (1 1/2) Living Unit (the inside of the top floor need not be finished.)

No building shall be located on any Lot nearer to the front property line, said property line, or rear property line than the minimum building setback lines required by applicable zoning regulation or as shown on any recorded plat of The Properties. No building shall exceed 35 feet in heights, except as permitted or required by applicable zoning regulations or any recorded plat of The Properties. Measurements shall be made to exterior walls. The Developer or the Board may, in the exercise of reasonable judgment, waive any inadvertent violation of the provisions of this subparagraph (d). *30' Front, 30' Back, 15' side*

(e) Temporary Structures. No structure of a temporary character shall be placed upon any portion of The Properties at any time; provided, however, that this prohibition shall not apply to shelters or huts used by contractors during the construction of a Living Unit, or improvements or additions thereto, on any Lot. Temporary shelters, tents, recreational vehicles, trailers (whether attached or unattached to the realty) may not, at any time, be used as a temporary or permanent residence or permitted to remain on any portion of The

Properties.

(f) Other Prohibitions or Requirements.

(i) Any Living Unit shall comply with all applicable building, plumbing, electrical and other codes.

(ii) No vent or other pipes or appendages may extend from the front of any Living Unit, unless screened from public view by a screening material or shrubbery approved by the Board.

(iii) Any exterior air-conditioning or heating equipment must be screened from public view by a screening material or shrubbery approved by the Board.

(iv) Down spouts and gutters must be so constructed as to not promote the erosion of the soil of any Lot.

(v) Any tennis courts and swimming pools must be screened from public view by a screening material approved by the Board, moreover, any lighting used to illuminate such facilities must be so shielded as to cast no direct light upon adjacent Lots.

(vi) Any private docks constructed on Waterfront Lots must have architectural approval by the Board and be constructed with materials approved by the Board.

(g) Screening. Erection of clothes lines, the maintenance of any exterior garbage cans, the storage of boats, campers, and trailers in view of the street or Common Properties or Recreational areas shall not be permitted unless stored in a screened enclosure, either man made or natural.

(h) Debris. No leaves, trash, garbage or similar debris shall be burned except as permitted by the appropriate governmental authority. No garbage, trash, construction debris or other unsightly or offensive materials shall be placed upon any portion of the Properties, except as is temporary and incidental to the bona fide improvement of any portion of the Properties.

(i) Antennas. In the Event a master antenna system is installed at The Properties, no television antennas, radio receiver or sender or other similar device shall be attached to or installed on the exterior portion of any Living Unit, structure or any Lot or Common Properties with the Properties; provided, however, that the provisions of this paragraph shall not apply to the installation by the Association

of equipment necessary for a CATV and mobile radio systems within The Properties.

(j) Street. Except as to that portion of Bay Pointe Drive North of the intersection with Golden Bay Court, which shall be a portion of the common properties, all streets in the Properties have been constructed as public streets, meeting the standards of the North Carolina Department of Transportation ("NCDOT") for subdivision street. The Developer has dedicated a right of way, as shown on the recorded map referred to herein, having varying widths. As of the date of the recording of this map, the street have been inspected by the District Engineer of the NCDOT and certified as having been planned and constructed according to NCDOT standards, having varying widths. As of the date of the recording of this map, the streets have been inspected by the District Engineer of the NCDOT and certified as having been planned and constructed according to NCDOT standards, including those relating to grading, roadbed, paving, and drainage.

The streets may be accepted by the NCDOT for addition to the State Highway System as state maintained roads upon petition by affected Lot owners when a sufficient percentage (at this time 20%) of the Lots are individually owned and when there are a sufficient number of occupied Living Units for each applicable segment of street (at this time, two occupied Living Units per one-tenth mile of street, with a minimum of four occupied Living Units). Reference is made to the Regulations of the NCDOT for the more complete discussion of procedure regulating the admission of streets to the state system.

Following such a petition, the streets will be reinspected by the NCDOT to insure that they continue to meet all state standards, including condition of right of way and drainage ditches and swales, failing which, the street may not be admitted to the state system.

Nothing, including (but not limited to) walls, fences, gates, timbers, trees or plants, shall be erected, placed or permitted to remain in any portion of the street right of way or related sight or drainage easement as shown on any recorded map of the Properties. No drainage ditch or swale shall be filled, tiled, or altered in any way except in accordance with the standards of the NCDOT.

(k) Unightly Conditions. It is the responsibility of each owner to prevent any unclean, unsightly, or unkept conditions of Living Unit on or grounds of a lot of any Owner which shall substantially decrease the beauty of The Properties specifically and as a whole.

(l) No offensive Activity. No noxious or offensive activity shall be carried on upon any portion of the Properties, nor shall anything be done tending to cause embarrassment, discomfort annoyance or nuisance to any Owner, tenant or guest thereof, in any portion of the Properties.

(m) Animals and pets. Except as otherwise permitted herein, or in any supplementary declaration hereto, no plants, animals, or devise or



things of any sort whose normal activities or existence is in any way noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of other Lots by any Owner, tenants and guests thereof, may be maintained. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept, provided that they are not (i) kept, bred or maintained for any commercial purpose or (ii) permitted to become a nuisance to the neighborhood.

(n) Driveways and Fences. Any driveway located on a Lot must be paved, unless otherwise consented to by the Board. Without the prior consent of the Board, no fencing may be located closer to any street than the closest point of the Living Unit to any such streets.

(o) Discharge of Firearms. Hunting and trapping of wild animals, fowl and game and the discharge of firearms and/or bows and arrows within The Properties is prohibited unless required for public safety.

(p) Motorized Vehicles. All motorized vehicles operating within The Properties must be properly mufflered so as to eliminate noise which might be offensive to others. Minibikes and similar two and three wheeled vehicles are prohibited from being used or operated on or within The Properties, unless the prior written consent of the Board is first secured.

(q) Signage. No sign of any kind shall be displayed to the public view on any lot except one (1) sign with dimensions of not more than two feet by three feet advertising any Lot for Sale or rent. All other signs on Lots must be approved in writing by the Board.

(r) Pier, Boatslips and Access Lot. The Association shall own, maintain, repair and, if destroyed, replace as a common expense of the Association, the Pier and Boatslips constructed over Lake Norman and attached to and adjoining the Development at the Access Lot, as well as the Access Lot. Provided, however, that the maintenance, repair and replacement costs of the Pier, Boatslips and Access Lot shall be assessed against only the Owners of Non-Waterfront Lots.

In the initial deeds of the Non-Waterfront Lots, Declarant shall designate one Boatslip as an appurtenance to each Non-Waterfront Lot conveyed. Such deed(s) shall provide that the grantee is granted the exclusive right to use such Boatslip. Once designated in such initial deed(s), the exclusive right to use a particular Boatslip shall not be separated from ownership, but rather shall run with the title to the Non-Waterfront Lot to which the Boatslip is designated as an appurtenance. Any deed, deed of Trust, mortgage, transfer or other conveyance of such Non-Waterfront Lot shall also transfer or convey to the right to use the Boatslip appurtenant thereto, even if not expressly included therein.

In the event that the Pier contains more Boatslips than there are Non-Waterfront Lots in the Subdivision, then any Non-Waterfront Lot shall remain the property of the Association. Such an undesignated

Boatslip shall be owned by the Association for the common use and enjoyment only of the Owners of Non-Waterfront Lots, their families, guests and invitees for the purpose of temporarily docking boats, and may not be leased by the Association to, or used by any other party or the public. No boat or other recreational vehicle shall be permitted to remain overnight in any undesignated Boatslip.

The use of the pier, Boatslips and Access Lot is and shall be subject to each of the following:

- (a) Rules and regulations for use promulgated by the Association;
- (b) All laws, statutes, ordinances and regulations of all federal, state and local governmental bodies having jurisdiction thereon; and
- (c) Rules and regulations for use by Duke Power company, its successors and assigns; and
- (d) Use of the Access Lot shall be subject to the non-exclusive easement for septic use reserved and granted over, across and under the Access Lot pursuant to Article VIII, Section 9 of the Declaration.

Access for the Owners to and from the Pier and Boatslips shall be over and across the Access Lot.

The Board of Directors shall adopt rules and regulations governing the use of the Pier, Boatslips and Access Lot and the personal conduct thereon of the Members owning Non-Waterfront Lots and their families, guests and invitees. Should Members owning Non-Waterfront Lots desire to amend such rules and regulations, then a meeting of the Members owning Non-Waterfront Lots may be called and held, in accordance with such rules and regulations. If such a meeting is duly called and held, the Non-Waterfront Lot Owners may direct the Board of Directors to make such amendments to the rules and regulations governing the use of the Pier, Boatslips and Access Lot, including additions to and deletions of portions of such rules and regulations, as are approved by a vote of the Members owning Non-Waterfront Lots, in accordance with the Bylaws.

The Pier and Access Lot may only be used by Owners of No-Waterfront Lots, their families, guests and invitees. Each Boatslip may only be used by the Owner(s) of the Non-Waterfront Lot to which such Boatslip is designated, their families, guests and invitees.

#### ARTICLE FIVE

##### MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION AND BOARD OF DIRECTORS

Section 1. Membership. Every person or entity who is a record Owner of the fee simple interest in any Lot except Lot 43 designated as "Community Well", is subject by this Declaration to assessment by the Association and shall be a Member of the Association; provided, however, that any such person or entity to hold such interest merely as a security for the performance of any obligation shall not be a Member.

The requirement of membership shall not apply to any mortgagee or trust beneficiary acquiring title by foreclosure or otherwise, pursuant to the mortgage or deed of trust instrument, or deed in lieu of foreclosure.

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

Class A. Class A membership shall be all owners of Lots (other than the Developer) within The Properties, and shall be entitled to one vote for each such Lot owned. When more than one person holds an interest in any such 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 vote be cast with respect to any Lot.

Class B. The Class B member shall be the Developer who shall be entitled to three (3) votes of each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) at such earlier time Declarant shall elect by written notice to the Association to convert its membership to Class A.

Section 3. Classifications of Membership. Owners of Lot who are Class A members shall be assigned to the following categories or membership sub-classes ("Special Classifications"):

Owners of Lot with completed Living Units thereon	Class A-1
Owners of Lots without Living Units thereon (including Lots with Living Units under construction or which have been completed and are held for first sale)	Class A-2

Membership distinction derives form the obligation of the designated Membership classifications to pay assessment which may differ from those required of other categories or sub-classification based, on among other reasons, the obligation upon the Association to provide differing degrees of care and maintenance to the several different categories of membership.

Section 4. Number of Acres. The Existing Property contains forty-five (45) Lots and the Developer (or such other person or entity designated by the developer) presently contemplates adding to The Properties no more than twenty-five (25) acres containing additional Lots pursuant to one or more supplemental declarations. Lot 43 is excepted as utility lot.

## ARTICLE SIX

## PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 3 of the Article, every Member shall have the right and easement of enjoyment in and to the Common properties and such easement shall be appurtenant to and shall pass with the title to every Lot.

Section 2. Title to Common Properties. The Developer may retain the legal title to any Common Properties, other than streets or roads shown on any recorded plat of The Properties, until such time as it has completed improvements, if any, thereon, and until such time as, in the opinion of the Developer, the Association is able to maintain the same but, notwithstanding any provision to the contrary herein, the Developer hereby covenants, for itself, its successor and assigns, that it shall convey any such Common Properties to the Association not later than January 1, 1995. Prior to the date of acceptance of maintenance of the street and road by the appropriate government agency or authority, said streets and roads shall be common Properties and the expense of maintenance shall be borne by the Association.

Section 3. Extent of Members' Easement. The rights and easments of enjoyment created herein shall be subject to the following:

(a) The right of the Developer, in its sole discretion and at no cost to the Owner, to grade, pave or otherwise improve (including, but not limited to, the installations of utilities, water and sewage lines within the right of way) any road or street shown on any recorded plat of The Properties.

(b) The right of the Association, as provided in Articles or By-Laws, to suspend the enjoyment rights of any owner for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of any published rules and regulations adopted by the Board; and

(c) The right of the Developer or the Association to dedicate or transfer all or any part of the streets or roads within The Properties to any public agency or authority.

## ARTICLE SEVEN

### COVENANT FOR PAYMENT OF ASSESSMENTS

Section I. Creation of the Lien and Personal Obligation for Assessments. The developer, for each Lot owned by it within The Properties, hereby covenants and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to and does hereby covenant and agree to pay to the Association: (1) annual assessments or charges as herein or in the By-Laws provided, (2) special assessments for capital improvements, such annual and special assessments to be fixed, established and collected from time to time as herein or in the By-Laws provided, and (3) any liquidated damages or summary charges imposed

under authority contained in the By-Laws, together with costs, fees and expenses (including reasonable attorney's fees) incurred by the Association incidental to the enforcement of any Rules and Regulations, collection of assessments (both annual and special) or collection of damages or charges arising under the By-Laws. The annual and special assessments and any liquidated damages or summary charges as herein or in the By-Laws provided, together with such interest thereon and costs of collection thereof as herein provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who is the Owner of such Lot at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessment levied by the Association shall be for the purposes or promoting the health, enjoyment, safety and welfare of the residents in the Properties and in particular for the improvement and maintenance of properties and facilities located in, and related to the use and enjoyment of, the Common Properties and of the Living Units situated upon The Properties, including, but not limited to, (i) the payment of taxes and insurance on the Common Properties and repairs, replacements and additions thereto, except for such insurance carried specifically in connection with the pier, Boatslips, and Access Lot, and the cost of labor, equipment, materials management and supervision thereof, (ii) repair and maintenance of any streets or roads within The Properties until the repair and maintenance of such roads has been assumed by the appropriate public authority, and (iii) expenses and costs incurred in the use, operation, repair, replacement and maintenance of any waste water, collection, pumping and treatment not limited to the Plant and the pump station used by any of the Lots, all of which shall be Common Expenses as detailed herein or in the By-Laws.

Section 3. Assessment of Uniform Rate by Classes. Both annual and special assessments shall be fixed at uniform rates for every Lot within a special Classification and Lots owned by the Developer. While the Developer remains a Class B member it shall pay the same assessment as a Class A-2 member. Assessments may differ among Lots subject to Special Classification. Assessments with respect to a class of membership shall be determined by the cost to the Association, experience or reasonably anticipated, of carrying out the purposes set forth in Section 2, above, as applied to the respective special Classification.

Section 4. Maximum Annual Assessment.

(a) The maximum annual assessment applicable to each class of membership shall be established by the Board of Directors and may be increased by the Board without approval by the membership by an amount not to exceed the higher of eight (8%) of the maximum annual assessment of the previous year, or the percentage increase shown in the U. S. Bureau of Labor Statistics Consumer Price index for Urban Wage Earners (All Items) or, if such index shall cease to be published then the index most nearly comparable thereto.

(b) The maximum annual Assessment may be increased without limit by a vote of two-thirds (2/3) of the votes of members who are voting, in person or by proxy, at a meeting duly called for this purpose.

Section 5. Special Assessments for Capital Improvements.

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

Section 6. Date of Commencement of Annual Assessments: Due Dates.

The annual assessments provided for herein shall be collected on an annual basis and shall commence as to all Lots in "The Properties on the first day of the month following the transfer of title to the first Lot with a completed Living Unit located on such Lot. Upon commencement of the annual assessments and until the Board determines otherwise the amount of the annual assessments shall be as follows:

- (a) Class A-1 - \$100.00
- (b) Class A-2 - \$ 50.00
- (c) Class B - \$ 50.00

The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. At least thirty (30) days in advance of each annual assessment period, the Board shall fix the amount of the annual assessment against each Lot and send written notice of the annual assessment against each Lot and send written notice of each assessment to every Owner subject thereto. The due dates shall be established by the Board. 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 special Lot have been paid.

Section 7. Effect of Nonpayment of Assessments: 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 permitted 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 Lot and any Living Unit thereon, and interest, costs and reasonable attorney's fees of such action or foreclosure shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for any of the assessments provided for herein by non-use or the Common Properties or abandonment of his Lot.

Section 8. Subordination of the Lien to Mortgages. The liens

provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. Sale and transfer of any Lot shall not affect the assessment liability or lien provided for in the preceding action. However, the sale or transfer of any Lot which is subject to any first mortgage or deed of trust, pursuant to the foreclosure thereof, shall extinguish the lien of such assessments which became due prior to such sale or transfer. Provided, however, that the Board of Directors may in its sole discretion determine such unpaid assessments to be an Annual, Special, Boatslip or Special Boatslip Assessment, as applicable, collectable prorata from all Owners (or from all Non-Waterfront Lot Owners, if a Boatslip or special Boatslip Assessment) notwithstanding the fact that such prorata portions may cause the Annual Assessment or Boatslip Assessment to be in excess of the Maximum Annual assessment or Maximum Boatslip Assessment permitted hereunder. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first mortgage or deed of trust.

Section 9. Quorum for any Action Authorized Under Sections 4 and 5. The quorum required for any action authorized by Sections 4 and 5 of this Article shall be as follows:

At the first meeting called as provided in Section 4 and 5 of the Article, the presence at the meeting of members, or of proxies, entitled to cast a majority of all the votes of the membership shall constitute a quorum. If the required quorem is not forthcoming at such meeting, another meeting may be called, subject to the notice requirements set forth in the By-Laws, and the required quorum at any such subsequent meeting shall be one-half 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 scheduled meeting.

The due date of any special assessment under Section 5 hereof or any assessment against any particular Lot, or Lots, permitted by this Declaration shall be fixed in the resolution authorizing such assessment.

Section 10. Duties of the Board of Directors. Commencing with the first annual assessment, the Board shall prepare a roster of the Lots and assessments applicable thereto which shall be kept in the Office of the Association, or at any other place designated by the Board upon notice to the Members, and shall be open to inspection by any Owner. Written notice of the assessment thereupon shall be sent to every Owner subject thereto.

The association shall, upon demand, furnish at any time to any Owner liable for such 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 11. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and

liens created herein: (a) All Common Properties as defined in Article Two hereof; (b) all properties exempted from taxation by the Laws of the State of North Carolina, upon the terms and to the extent of such legal exemption; and (c) Lot 43 is excepted as Utility Lot (well). Homestead exemptions shall not be considered an exemption.

Notwithstanding any provisions of this Section 11, no Lot or any Living Unit located thereon shall be exempt from said assessments, charges or liens.

## ARTICLE EIGHT

### COVENANT FOR BOATSLIP AND SPECIAL BOATSLIP ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Boatslip and special Boatslip Assessments. The Declarant, for each Non-Waterfront Lot owned within the property, hereby Covenants, and each Owner of any Non-Waterfront 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 Assessments provided for herein, Boatslip Assessments and Special Boatslip Assessments, as hereinafter defined, for maintenance and repair costs of the Pier, Boatslips and Access Lot, established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs, and reasonable attorney's fees, shall be a charge and a continuing lien upon the Non-Waterfront Lot against which each such assessment or charge is made and upon the right to use the Pier, Access Lot and the Boatslip appurtenant to such Non-Waterfront Lot. Each such assessment or charge, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Non-Waterfront Lot the time when the assessment fell due. The personal obligation for delinquent, assessments or charges shall not pass to the Owner's successors in title unless expressly assumed by them.

Section 2. Purpose of Boatslip Assessments. The assessments to be levied annually by the Association against each Non-Waterfront Lot (Boatslip Assessments) shall be used as follows:

a. to maintain, repair and reconstruct, when necessary, the pier and Boatslips, including all lighting and other fixtures, poles, wires, railings and other facilities located thereon;

b. to maintain any and all drainage pipes, inlets, basins, ditches, swales and other facilities installed upon the Pier, Boatslips and Access Lot;

c. to maintain, repair and reconstruct, when necessary, any and all structures, lighting fixtures, poles, wires, railings and other facilities, including any gazebo, located upon the Access Lot;

d. to provide and pay for lighting of the Pier, Boatslips and the Access Lot, to the extent necessary for the safety and enjoyment of the users thereof.



e. to keep Pier, Boatslips and Access Lot clean and free from debris, to maintain same in a clean and orderly condition and to maintain the landscaping on the Access Lot in accordance with the highest standards for private parks, including any necessary removal and replacement of landscaping;

f. to pay all ad valorem taxes levied against the Pier, Boatslips and Access Lot and any other property owned by the Association in connection therewith;

g. to pay all lease payments, if applicable, to Duke Power Company for the lease of the land on which the pier and Boatslips are located;

h. to pay the premiums on all insurance carried by the Association in connection with the Pier, Boatslips and Access Lot pursuant hereto or pursuant to the Bylaws;

i. to pay all legal, accounting and other professional fees incurred by the Association in carrying out its duties as set forth herein or in the Bylaws in connections with the Pier, Boatslips and Access Lot; and

j. to maintain a contingency reserve equal to 10% of the sum of the amounts described in subsections (a) through (i) above for the purposes set forth herein.

Section 3. Payment of Boatslip Assessments: Due Dates. The Boatslip Assessments provided for herein shall commence as to each Non-Waterfront Lot on January 1, 1992. The Boatslip Assessments for the calendar year 1992 shall be One Hundred Twenty-Five and No/100 Dollars (\$125.00) per Non-Waterfront Lot, one-half (1/2) of which amount shall be due and payable no later than January 31, 1992 and the remaining one-half (1/2) of which amount shall be due and payable no later than July 31, 1992. The Boatslip Assessments for each and every year thereafter shall be in an amount as set by the Board of Directors and shall be due and payable in two (2) semi-annual installments of one-half (1/2) each, such installments being due and payable no later than January 31 and July 31, respectively, of each such year. The Board of Directors shall fix the amount of the Boatslip Assessment as to each Non-Waterfront Lot for any calendar year at least thirty (30) days prior to January 1 of such calendar year and the Association shall send written notice of the amount of the Boatslip Assessment, as well as the amount of the first installment due, to each Non-Waterfront Lot owner on or before January 1 of such year. In addition the Association shall send written notice that the second Boatslip Assessment installment is due and the amount of such installment to each Non-Waterfront Lot Owner on or before July 1 of each year.

Section 4. Maximum Boatslip Assessment.

a. For calendar years 1993 and thereafter, the Board of Directors, by a vote in accordance with the Bylaws, without a vote of the Members, may increase the Boatslip Assessments each year by a

maximum amount equal to the previous year's Boatslip Assessments times the greater of (1) ten percent (10%), or (2) the annual percentage increase in the consumer Price Index, all urban Consumers, United States, All Items (1982-84=100) (hereinafter "CPI") issued by the U. S. Bureau of Labor Statistics for the most recent 12-month period for which the CPI is available. If the CPI is discontinued, then there shall be used the index most similar to the CPI which is published by the United States Government indicating changes in the cost of living. If the Boatslip Assessments are not increased by the maximum amount permitted under the terms of the provision, the difference between any actual increase which is made and the maximum increase permitted for that year shall be computed and the Boatslip Assessments may be increased by that amount in the future year, in addition to the maximum increase permitted under the terms of the preceding sentence for such future year, by a vote of the Board of Directors, without a vote of the Members.

b. From and after January 1, 1993, the Boatslip Assessments may be increased with limitation if such increase is approved by a vote of no less than two-thirds (2/3) of all votes entitled to be cast by Members owning Non-Waterfront Lots, taken at a duly held meeting of such Members in accordance with the Bylaws.

c. The Board of Directors may fix the Boatslip Assessments at an amount not in excess of the maximum set forth in Subparagraph (a) above (the "Maximum Boatslip Assessment"). If the Board of Directors shall levy less than the Maximum Boatslip Assessment for any calendar year and thereafter, during such calendar year, determine that the important and essential functions of the Association as to the Pier, Boatslips and Access Lot cannot be funded by such lesser assessment, the Board may, by a vote in accordance with the Bylaws, levy a supplemental Boatslip Assessment ("Supplemental Boatslip Assessment"). In no event shall the sum of the Boatslip and Supplemental Boatslip Assessments for any year exceed the applicable Maximum Boatslip Assessment for such year.

Section 5. Special Assessments for Boatslip Improvements. In addition to the Boatslip Assessments authorized above, the Association may levy, in any assessment year, a special Boatslip Assessment (Special Boatslip 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 the Pier and Boatslips, and any capital improvement located on the Access Lot, including lighting and other fixtures, poles, wires, railings and other facilities located thereon and personal property related thereto. Provided that any such assessment must be approved by a vote of no less than two-thirds (2/3) of all votes entitled to be cast by Members owning Non-Waterfront Lot, taken at a duly held meeting of such Members in accordance with the Bylaws, and further providing that any such Special Boatslip Assessment may be levied only against the Owners of Non-Waterfront Lots.

Section 6. Assessment Rate. Both Boatslip and Special Boatslip Assessments must be fixed at a uniform rate for all Non-Waterfront Lots.

#### ARTICLE NINE

## MAINTENANCE

Section 1. Entrance Monument. The Entrance Monument, being of benefit to all Lots, and the Pier, Boatslips and Access Lot, being of benefit to all Non-Waterfront Lots, shall be maintained exclusively by the Association, which maintenance shall include landscaping. Maintenance of the Entrance Monument, signage, planters and lighting located thereon and provided and paying for lighting of the stone monument and signage located thereon. Maintenance for the Pier and Boatslips shall include the maintenance, repair and reconstruction where necessary, of the Pier and Boatslips, including all lighting and other fixtures, poles, wires, railings and other facilities located thereon and providing and paying for the lighting thereof. Maintenance of the Access Lot shall include repair and maintenance of any structures and walkways located thereon, as well as providing, maintaining and paying for the lighting thereof to the extent necessary for the safety and enjoyment of the users thereof. The Association shall also maintain all utilities and all storm and drainage easements located within the Common Areas, together with common amenities located within the Common Areas not maintained by public entities or utilities.

The Association shall not be responsible for the maintenance of any Lots or the improvements within the boundaries thereof. The Owners shall be responsible for same.

Section 2. Exterior Maintenance. In addition to maintenance on the Common Properties and after thirty (30) days written notice to any Owner which shall specify the required maintenance, the Association shall have the right but not the obligation to provide (a) maintenance upon vacant Lots and (b) maintenance upon every improved Lot, which is subject to assessment under Article Seven hereof. Such maintenance may include, but is not limited to, paint, repair, replace and care of roofs, gutters, downspouts, and exterior improvements on any Living Unit. Such maintenance as to a vacant Lot may include, but is not limited to, the mowing of grass and weeds, the trimmings of shrubs, or the removal of trash and litter.

Section 3. Assessment of Cost. The cost of any such maintenance shall be assessed against the Lot upon which such maintenance is done and shall be added to and become part of the annual assessment or charge to which such Lot is subject and, as part of such annual assessment or charge, it shall be a lien against any such Lot, or Lots, as heretofore defined and limited, and a personal obligation of the Owner and shall become due and payable in all respects as provided herein.

## ARTICLE TEN

### AMENDMENT OF DECLARATION

This Declaration may be amended in any of the following manners:

(a) An amendment to this Declaration may be proposed by the Board of Directors acting upon a vote of a majority of the Directors, or by

the Members of the Association (including the Developer) owning a majority of the lots, whether meeting as Members or by instrument in writing signed by them. Upon any Amendment to this Declaration being proposed by the Board of Directors or members, such proposed Amendment shall be transmitted in writing to the President of the Association, or other officer of the Association in the absence of the President, who shall thereupon call a Special Meeting of the Members of the Association for a date not sooner than twenty (20) days nor later than sixty (60) days from receipt by him of the proposed Amendment. It shall be the duty of the Secretary to give to each Member written notice of such Special Meeting, stating the time, place, and reciting the proposed Amendment in reasonably detailed form, which notice, if mailed, shall be mailed not less than ten (10) days nor more than thirty (30) days before the date set for such Special Meeting. Any Member may, by written waiver of notice signed by such Member, waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of notice to such Member. At the Meeting, the Amendment proposed must be approved by an affirmative vote of sixty-six percent (66%) of the members (including the Developer) owning Lots in order for such Amendment to become effective. At any meeting held to consider such Amendment, the written vote of any Member of the Association shall be recognized if such Member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association prior to such meeting or at such meeting. In order for such Amendment to be binding upon all the holder of mortgages or deeds of trust against any Lot in The Properties, written consent must be obtained for the existing (as of the date of the meeting of Members which approved such Amendment) holders of First Lien Mortgages or Deed of Trust encumbering fifty-one percent (51%) of the Lots in The Properties or such higher percentage as may be required by Article Ten below. If such consent is so obtained, the Amendment shall be binding on all the holders of mortgages or deeds of trust encumbering Lots in The Properties. Provided, however, that any amendment affecting the Non-Waterfront Lots, Pier, Boatslips or Access Lot must be approved by a vote of no less than two-thirds (2/3) of all votes entitled to be cast by Members owning Non-Waterfront Lots.

(b) This Declaration may be amended during the first twenty (20) year period by the Developer with permission of the Board expressed in writing, and thereafter by the procedure set forth in subparagraph (a) above; provided, further, that no amendment shall alter any obligation to pay ad valorem taxes or assessments for capital improvements, as herein provided, or affect any lien for the payment thereof established herein. Provided, Developer may, without any meeting, approval or joinder of any other owner, amend this Declaration to meet requirements imposed by mortgage insuring entities including but not limited to the Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, Federal Housing Authority or the Veteran's Administration.

If so approved, any such Amendment of this Declaration shall be transcribed and certified by the President and Secretary of the Association after having been duly adopted and approved by the requisite

percentages of Members and Lenders or as set forth in subparagraph (b) above. The original or an executed copy of such Amendment so certified and executed by said Officers with the same formalities as a deed, shall be recorded in the Catawba County Public Registry, and no such Amendment to this Declaration shall be effective until so recorded. If any Amendment to the Declaration creates an inconsistency in the By-Laws, to the extent such inconsistency exists, the Declaration shall control.

## ARTICLE ELEVEN

### GENERAL PROVISIONS AND RIGHTS OF FIRST MORTGAGEES

Section 1. Enforcement. The Association, or any Owner, (including the Developer), shall have the right to enforce, by any proceeding of the law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter proposed by the provisions of this Declaration.

Failure by the Association or by 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 2. Notification of Default by Mortgagor. Any First mortgagee of any Lot shall be entitled, upon written request to the association, to written notification by the Association of any default by the mortgagor of such Lot in the performance of such mortgagor's obligations under this Declaration when such default is not cured within thirty (30) days from its occurrence.

Section 3. Assent of First Mortgagees to Certain Actions by the Association. The following shall require the assent in writing of at least seventy-five percent (75%) of the First mortgagees (based upon one vote for each first lien deed of trust) which assent shall not be arbitrarily withheld:

a. Abandonment, partition, subdivision, encumbrance, sale or transfer of real estate or improvements thereon which is owned by the Association for the benefit of the Lots. Provided, however, that the granting or easements for public utilities or for other public purposes consistent with the intended use of such property by the Association shall not be deemed a transfer within the meaning of this subparagraph.

(b) Alteration or amendment of the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner.

(c) Waiver or abandonment of any scheme of regulations or enforcement thereof, pertaining to the architectural design or the exterior appearance of any building, fence, wall or other structure upon the Properties, the exterior maintenance of Lots, within The Properties or the upkeep of Lawns and plantings with The Properties.

(d) Use of Hazard Insurance proceeds for losses to

improvements located on Common Properties or Association property for other than the repaid, replacement or reconstruction of such improvements.

In the event a first mortgagee fails to respond to a written request for assent within thirty (30) days after such request has been submitted to it by the Association, written assent will not be required by said first mortgagee and said first mortgagee shall be deemed to have given its assent in compliance with this Section.

Section 4. Taxes and Insurance. Any first mortgagee of a Lot acting alone or with other first mortgagees may pay taxes or other charges which are in default and which may or have become a charge against any Common Properties or other property owned by the Association and may pay overdue premiums on hazard insurance policies on property owned by the Association or secure renewal of such hazard insurance coverage upon lapse of the policy for such property, and first mortgagees making such payment shall be entitled to immediate reimbursement therefor from the Association.

## ARTICLE TWELVE

Section 1. Partial Taking Without Direct Effect on Lots. If part of the property shall be taken or condemned by any authority having the power of eminent domain, such that no Lot is taken, all compensation and damages for and on account of the taking of the Common Area, exclusive of compensation for consequential damages to certain affected Lots, shall be paid to the Board of Directors in trust for all Owners and their Mortgagees according to the loss or damages to their respective compensation and damages for and on account of the taking of the Pier, Boatslips and access Lot shall be held in trust by the Board of Directors for all Non-Waterfront Lot owners and their Mortgagees according to the loss or damages to their respective interests in the Pier, Boatslips and Access Lot. The Association, acting through the Board of Directors, shall have the right to act on behalf of the Owners with respect to the negotiation and litigation of the issues with respect to the taking and the compensation affecting the Common Area, without limitation of the right of the Owners to represent their own interests. Each Owner, by his acceptance of a deed to a Lot, hereby appoints the Association as his attorney-in-fact to negotiate, litigate or settle on his behalf all claims arising from the condemnation of the Common Area. Such proceeds shall be used to restore the Common Area with the excess, if any, to be retained by the Association and applied to future operating expenses by the Board of Directors, in its sole discretion.

Nothing herein is to prevent Owners whose Lots are specifically affected by the taking or condemnation from joining in the condemnation proceeding and petitioning on their own behalf for consequential damages relating to loss of value of the affected Lots, or improvements, fixtures or personal property thereon, exclusive of damages relating to the Common Area. In the event that the condemnation award does not allocate consequential damages to specific Owners, but by its terms includes an award for reduction in value of Lots without such

allocation, the award shall be divided between affected Owners and the Board of Directors, as their interests may appear, by the Board of Directors in its sole discretion.

ARTICLE THIRTEEN

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.

ARTICLE FOURTEEN

CAPTIONS, INTRODUCTIONS AND GENDER

The captions and introductory material herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration not the intent of any provision hereof. the use of the masculine gender in this Declaration shall be deemed to refer to the feminine and neuter genders, and the use of the singular shall be deemed to refer to the plural and the use of the plural shall be deemed to include the singular, whenever the context so requires.

IN TESTIMONY WHEREOF, THE SIHO Properties, Inc. has caused these presents to be signed by its \_\_\_\_\_ President, attested by its \_\_\_\_\_ Secretary, and has caused its Common Seal to be affixed hereto.

SIHO Properties, Inc.

(Corporate Seal)

By \_\_\_\_\_  
\_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

STATE OF NORTH CAROLINA

COUNTY OF FORSYTH

This the \_\_\_\_ day of \_\_\_\_\_, 1992, personally came before me \_\_\_\_\_, Notary Public, \_\_\_\_\_, who being by me duly sworn, says that he knows the Common Seal of SIHO Properties, Inc., and is acquainted with \_\_\_\_\_ who is the \_\_\_\_\_ President of said Corporation, and that he, the said \_\_\_\_\_ signed his name in attestation of the execution of said instrument in the presence of said \_\_\_\_\_ President of said Corporation.

Witness my hand and notarial seal or stamp this the \_\_\_\_ day of \_\_\_\_\_, 1992.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

(Seal)

\*\*\*\*\*

STATE OF NORTH CAROLINA - County of Catawba

The foregoing (or annexed) certificate of \_\_\_\_\_  
\_\_\_\_\_ is certified to be correct.

Register of Deeds  
Catawba County

\_\_\_\_\_  
Deputy/Assistant



allocation, the award shall be divided between affected Owners and the Board of Directors, as their interests may appear, by the Board of Directors in its sole discretion.

ARTICLE THIRTEEN

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.

ARTICLE FOURTEEN

CAPTIONS, INTRODUCTIONS AND GENDER

The captions and introductory material herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration not the intent of any provision hereof. the use of the masculine gender in this Declaration shall be deemed to refer to the feminine and neuter genders, and the use of the singular shall be deemed to refer to the plural and the use of the plural shall be deemed to include the singular, whenever the context so requires.

IN TESTIMONY WHEREOF, THE SIHO Properties, Inc. has caused these presents to be signed by its \_\_\_\_\_ President, attested by its Secretary, and has caused its Common Seal to be affixed hereto.

SIHO Properties, Inc.

By [Signature]  
President



(Corporate Seal)

[Signature]  
Secretary

STATE OF NORTH CAROLINA

COUNTY OF FORSYTH

This, the 24th day of February, 1992, personally came before me Shirley W. Marshall, Notary Public, William E. Hollen, Jr. & Richard F. Simpson, who being by me duly sworn, says that he knows the Common Seal of SIHO Properties, Inc., and is acquainted with William E. Hollen, Jr. & Richard F. Simpson who is the President of said Corporation, and that he, the said William E. Hollen, Jr. signed his name in attestation of the execution of said instrument in the presence of said President of said Corporation.

Witness my hand and notarial seal or stamp this the 24th day of February, 1992.

SHIRLEY W. MARSHALL, Notary Public  
Forsyth County, North Carolina

Shirley W. Marshall  
Notary Public

My Commission Expires 5-28-93

My Commission Expires:

5-28-93

(Seal)

\*\*\*\*\*

STATE OF NORTH CAROLINA - County of Catawba

The foregoing (or annexed) certificate of \_\_\_\_\_

is certified to be correct.

Register of Deeds  
Catawba County

\_\_\_\_\_  
Deputy/Assistant

Exhibit "A" - Description

All that parcel of land lying in Mountain Creek Township, Catawba County, North Carolina as shown on a plat entitled "Bay Pointe" dated November 26, 1990, by Espey, Huston and Associates, Inc. (Job No. 12293) including Lots 1 thru 46, common area, Golden Bay Court, Bay Pointe Drive, West Bay Drive, and said parcel being shown more particularly on Plat of "Bay Pointe" as recorded in Plat Book 29, page 31 in the Office of the Register of Deeds of Catawba County, North Carolina, reference to which plat is hereby made for a more particular description.