

WADE COUNTY, N.C.
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CYNTHIA S. ABBOTT
REGISTER OF DEEDS

06575

PREPARED BY: STAINBACK & SATTERWHITE - Michael E. Satterwhite

STATE OF NORTH CAROLINA

COUNTY OF VANCE

**DECLARATION
OF
PROTECTIVE COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS
FOR
SOMERSET PLANTATION**

THIS DECLARATION is made this 5th day of September 2003, by T & W Investments, a North Carolina General Partnership, having an office at 857 South Beckford Drive, Suite A, Henderson, North Carolina, 27536;

WITNESSETH:

WHEREAS, T & W Investments (the "Developer" and/or "Declarant"), a North Carolina General Partnership, is the owner in fee simple of the following described lots or

parcels of land located in Williamsboro Township, Vance County, North Carolina, being more particularly described as follows:

BEING Lots 1 – 55, inclusive **[NOTE:** Lot numbers designated with an "a" shall be considered a part of the numbered lot (i.e. Lot 2 and 2a shall be considered one lot), the lot designated with "a" being the sewage disposal and repair area for the numbered lot; **NOTE FURTHER:** Lot numbers designated with a "r" shall be considered a part of the numbered lot (i.e. Lot 5 and 5r shall be considered one lot), the lot designated with an "r" being the sewage repair area for the number lot] according to survey and plat entitled "Survey of Somerset Plantation – Property of T & W Investments, a North Carolina General Partnership" as prepared by Bobbitt Surveying, PA, dated December 23, 2002, and last revised August 12, 2003, as appears in Plat Book "W," Page 868, in the office of the Register of Deeds of Vance County.

WHEREAS, the Developer desires to provide for the preservation of the values and amenities in the subdivision and for the maintenance of open spaces and other common facilities and desires to create and maintain a quiet, restful and desirable subdivision for the protection of owners who buy lots in said subdivision; and to this end, desires to subject the real property described above (the "Property") to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Property, and each owner thereof; and

WHEREAS, the Developer has deemed it desirable for the efficient preservation of the values and amenities in the subdivision to create an agency or association to which should be delegated and assigned the powers of maintaining and administering the subdivision open spaces and other common facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessment and charges hereinafter created; and

WHEREAS, the Developer has or will incorporate Somerset Residential Community Association, Inc. (the "Association") for the purpose of exercising the aforesaid functions subject to the provisions of Paragraph 1.34 and the rights of the Developer reserved therein..

NOW, THEREFORE, the Developer, for itself, its successors and assigns, declares that the real property described hereinabove is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth (the "Restrictions").

ARTICLE I.

PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

1.1 USE OF LOT: The above-described lots shall be used for single-family residential purposes only; no dwelling may be erected, altered, placed or permitted to remain on the above-described lots other than one detached single-family dwelling (and garage), not to exceed two stories in height, exclusive of basement or attic.

1.2 SUBDIVIDING LOTS: No lot shall be subdivided without the written consent of the Developer, its successors, assigns or duly authorized agent, to wit: Thomas S. Hester, Jr. and/or W.A. Currin, ("Authorized Agent"), except that two lot owners may subdivide an unimproved lot lying between them, but only one single-family residence shall be built on the combined original lot and the subdivided portion of any lot; provided further, that adjoining lot owners may adjust their common boundary line by the sale or exchange of property between such lot owners, so long as such sale or exchange is approved by the Developer and conforms in all respects with the zoning ordinances of Vance County, North Carolina and so long as such sale or exchange does not result in any improved lot being reduced to less than 30,000 square feet and so long as said sale or exchange conforms in all other respects with the provisions of these restrictive covenants.

1.3 SETRACKS: No dwelling shall be hereinafter erected, altered, or placed on

any lot closer than thirty (30) feet from the margin of the right of way of the road granting access to said lot [**NOTE:** notwithstanding the foregoing, the lot must have a minimum of 100 foot of width at the minimum building setback] nor closer than twenty (20) feet from the sidelines of any lots; nor closer than twenty (25) feet from the rear line of any lot [**NOTE:** notwithstanding the foregoing, there will be a zero (0) foot setback for property lines adjoining the property of the United States of America (Kerr Reservoir)]. For purposes of this paragraph, eaves, steps and cornices shall not be considered part of a dwelling.

1.4 PRIOR APPROVAL OF IMPROVEMENTS AND BUILDING CONTRACTOR: No dwelling, building, structure, outbuilding, fence, wall or other improvement of any nature whatsoever (except for the interior alterations to existing structures not affecting the external structure or appearance of any improvements on any portion of the lot) shall be constructed on any lot unless and until the plans and building specifications for such construction have been approved in writing by the Developer, its successors, assigns or duly Authorized Agent. The plans to be submitted to the Developer for its approval shall include:

- (a) the construction plans, specifications and description of materials, including all exterior colors and proposed landscaping (specifically including placing of driveways, and clearing and/or tree removal) and grading; and
 - No carports will be approved on any lot.
 - No metal buildings and/or metal outbuildings can be placed on any lot.
- (b) a plat showing the locations of all proposed improvements.

The Developer's approval required hereinabove is a continuing approval in regards to all future alterations, including exterior colors.

The building contractor, selected by the lot owner to construct the dwelling, building,

structure, outbuilding, fence, wall or other improvement, which is subject to the approval of the Developer as set forth hereinabove, must also be approved in writing by the Developer, its successors, assigns or duly Authorized Agent.

Any approved dwelling, building, structure, outbuilding, fence, wall or other improvement of any nature whatsoever must be completed within one (1) year after the date of the issuance of the building permit, unless the Developer, its successors or assigns, or duly Authorized Agent, in its sole discretion, extends this period of time in writing

1.5 NO LIABILITY: Approval by the Developer shall not constitute a basis for liability of the Developer for any reason, including, without limitation: (i) failure of the plans to conform to any applicable building codes; or (ii) inadequacy or deficiency in the plans resulting in defects in the improvements.

1.6 MINIMUM SQUARE FOOTAGE: No plans for a dwelling shall be approved unless the living area (heated floor area) exclusive of open porches, garages and patios, exceeds 1,550 square feet for one story, and 1,550 square feet for two story (with a minimum of 1,000 square feet on the ground floor of a two-story dwelling) measured from outside wall lines (and excluding any square footage in a basement).

1.7 FOUNDATIONS: All buildings shall have perimeter foundations of finished brick and/or block, or of an approved material of equal or better quality. To this end, the material used for perimeter foundations must be approved in writing by the Developer, its successors, assigns or duly Authorized Agent.

1.8 PROHIBITED BUILDING MATERIALS: No building shall be constructed which uses cinder or concrete blocks, asphalt shingles, tar paper, metal siding, vinyl siding or masonite siding (without prior written approval of the Developer, its successors, assigns or duly Authorized Agent) as a major exterior building material (these materials may be used as roofing material, however).

1.9 PERMITTED AND PROHIBITED IMPROVEMENTS: No dwelling, building, structure, outbuilding or other permitted improvements shall be constructed on any lot

except by conventional construction, i.e. on site, "stickbuilt." No modular construction (on frame or off frame) home shall be permitted on any lot. No structure of a temporary character, including tents, motor homes, trailers and/or campers, shall be used on any lot at any time as a residence, either temporarily or permanently. No mobile home or "manufactured home," whether singlewide, doublewide, triplewide, or any other width, may be placed upon any lot. "Manufactured home" shall have the same definition as set forth in NCGS Section 143-145(7).

1.10 DRIVEWAYS: All driveway pipe shall be constructed of fifteen-inch (15") reinforced concrete pipe, with a minimum of sixteen feet (16') of pipe laid in the driveway entrance in compliance with all specifications of the State of North Carolina, and to this end, the driveway pipe must be approved in writing by the Developers, its successors, assigns or duly Authorized Agent. The first fifty (50) feet of all driveways, extending from the road granting access to said lot shall be paved with a minimum of four (4) inches of concrete or a minimum of two (2) inches of asphalt with a minimum of six (6) inches of compacted stone and/or an approved equivalent building material; thereafter, the driveway can be concreted, asphalted, and/or graveled.

1.11 APPROVAL CRITERIA: Approval of the proposed plans and specifications shall be based upon compliance with the provisions of these covenants, the quality of workmanship and materials, harmony of exterior design with the surrounding structures, locations of improvements with respect to topography and finished grade elevation, the effect of the construction on the natural tree growth and vegetation, and all other factors which in the sole opinion of the Developer shall affect the desirability or suitability of the proposed improvements.

1.12 MAINTENANCE REQUIREMENTS: All approved dwellings shall thereafter be maintained in a state of good repair (i.e. landscaped, grass mowed, painted, etc.) to further the harmonious design and maintenance of the subdivision and any external physical damage to a previously approved dwelling shall be repaired within ninety (90) days of said damage (**NOTE:** The Developer, in its sole discretion, reserves the right to extend said

ninety (90) day period of time for an additional period of time not to exceed a total of one hundred eighty (180) days should the lot owner be delayed in making a repair as the result of material shortages, adverse weather conditions, and delays in transportation which were not reasonably anticipated or acts of God].

1.13 PERMITTED ANIMALS: No animals, livestock, or poultry of any kind shall be raised or bred on any lot, except dogs, cats, or any other normal household pets may be kept, provided (i) they are not kept, bred, or maintained for any commercial purpose, and (ii) they (dogs) are confined to the home or maintained in an appropriate fenced area [NOTE: All fencing shall be subject to the Developer's prior approval as set forth in Paragraph 4 hereinabove]; and (iii) they are not permitted to roam; and (iv) they shall not become an annoyance or nuisance to other lot owners. No dangerous animal of any kind will be permitted in the subdivision, nor will hog parlors or chicken houses be permitted on any lot in the subdivision.

1.14 WASTE DISPOSAL: No part of the property herein conveyed shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste and the same shall not be kept, except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition at all times.

1.15 LANDSCAPING: No grass or weeds shall be allowed to grow taller than six inches (6") on any lot, and all dwellings shall be landscaped (seeded and strawed) within ninety (90) days of occupancy with the following features:

- (a) all driveways are subject to the provisions of Paragraph 1.10 above, and all parking areas shall be paved with a minimum of four (4) inches of concrete, a minimum of two (2) inches of asphalt with a minimum of six (6) inches of compacted stone and/or graveled; and
- (b) all residences shall maintain a minimum of eight (8) shrubs in front of the dwelling, which shall be properly maintained and pruned at all times; and

- (c) all stumps and other vegetation shall be removed; and
- (d) all satellite systems shall be screened from public views, and have low growing shrubs or flowerbeds placed around the base.

In addition, any uprooted stumps, or unsightly vegetation shall be removed from any lot within ninety days (90) from the date of purchase, or start of construction by the owner, unless the owner has contracted with the Developer to the contrary, and the owner has contracted with the Developer for the removal of said stumps and vegetation; in which event, the cost of the same shall be included in the purchase price of the lot; and said agreement shall be recited in the deed of transfer; or unless the Developer, its successors, assigns or duly Authorized Agent have otherwise waived enforcement of this provision.

1.16 SIGNS: No billboard or sign of any kind shall be displayed to public view on any lot except one sign of not more than nine (9) square feet advertising the lot for sale.

1.17 SWIMMING POOLS: No above-ground swimming pools shall be erected on any lot, and any below-ground swimming pool shall be enclosed by properly approved (i.e. by the Developer) fencing to keep small children or unauthorized visitors from entering the enclosed area, and meet all state and/or county regulations in regards to private swimming pools.

1.18 PROHIBITED VEHICLES: No lot owner shall drive or park or permit any other person to drive or park any heavy equipment (including tractor trailers and trucks in excess of one ton), three wheelers, four wheelers, or dirt bikes on any street and/or any lot within the subdivision except moving vans and/or construction vehicles; which may be driven or parked on the subdivision streets and/or lots for the temporary purpose of moving a lot owner in or out of a dwelling constructed on a lot; and/or for the construction of improvements on a lot.

1.19 SPEED LIMITS: All lot owners agree to observe posted speed limits along said roads, and other safety signs, i.e., stop signs, etc.

1.20 SANITARY REGULATIONS: No water supply system for human consumption

or sewage disposal system shall be permitted on the lots herein conveyed unless the locations, construction and design are in full compliance with requirements, standards and recommendations of the Vance County Health Department and North Carolina State Board of Health. In addition, the location of all wells and septic systems to be constructed on any lot must be approved in writing by the Developer, its successors, assigns or duly Authorized Agent. No outdoor toilet or privy shall be constructed on any lot.

1.21 NOXIOUS ACTIVITY PROHIBITED: No noxious or offensive activity shall be carried on or allowed upon any portion of the Property nor shall anything be done thereon that may be or become a nuisance or annoyance. Final determination of what constitutes a nuisance or annoyance to the neighborhood shall be made by the Developer and/or the Board of Directors of the Association.

1.22 DISABLED VEHICLES AND/OR BOATS: Any motor vehicle, other motor conveyance and/or boat not in a running condition must be removed from any lot within thirty (30) days. No disabled, junked or dismantled motor vehicles and/or boat shall be allowed on any lot.

1.23 UTILITIES: All utilities serving an individual lot shall be run underground at the expense of each individual lot owner.

1.24 EASEMENTS OR RIGHTS OF WAY AND SETBACKS: The conveyance of all lots is made and accepted subject to any easements or rights of way that may have been granted for power, lights, telephone lines, access, drainage facilities, water facilities and/or sewage facilities, or as shown on any recorded plat of Somerset Plantation Subdivision (including setbacks). The Developer reserves the right to subject the property in this subdivision to a contract with Progress Energy for the installation of street lighting, which may require a continuing monthly payment to Progress Energy by each purchaser of a lot in said subdivision.

In addition, there shall be a twenty (20) foot landscaping easement along the boundary line of all lots adjoining State Road 1329 (Thomas Road) and along the common boundary line of Lot 49 and Lot 50 with Somerset Lane.

1.25 ACCESS ROADS AND CERTAIN DRIVEWAYS PROHIBITED: No lot owner shall be permitted to use his lot, or any portion thereof, as an access easement to allow an adjoining landowner access to the roads constructed by the Developer in the subdivision; provided however, that the lot owner may use his own lot for access to other property belonging solely to the said lot owner which is adjacent to a lot in this subdivision, provided the Developer consents in writing to such use.

No lot owner shall be permitted to construct a driveway or other access from the lot to and from State Road 1329 (Thomas Road), it being understood that the subdivision is a "gated community" and access to all lots must be gained from the private roads within the subdivision.

1.26 MAILBOXES: No lot owner shall be permitted to erect an individual mailbox as mailboxes for each lot shall be erected at a central location by the Developer, and thereafter, assigned by the Developer to the lot. There shall be a one-time charge of \$100.00 to each lot for the mailbox to be collected by the Developer at the time of the sale of the lot.

1.27 DEVELOPER APPROVAL OF LEASES: For the purpose of maintaining the residential character of the subdivision and for the protection of the lot owners with regards to financially responsible residents, leases of an approved dwelling on any lot by the owner thereof shall be subject to the approval of the Developer, its successors, assigns or duly Authorized Agent and/or the Board of Directors of the Association, which shall not be unreasonably withheld, however, no daily and/or weekly, leases and/or rentals shall be approved by the Developer and/or the Board of Directors of the Association.

1.28 GAZEBO AND GATE: The Developer shall construct a gazebo and gate at the entrance to the subdivision to be thereafter maintained as set forth in Paragraph 1.33. The subdivision is a "gated community," and access to all lots must be gained from the private roads within the subdivision.

1.29 GOLF CART PATHS: The recorded plat of the subdivision shows six-foot golf cart paths extending from the private roads within the subdivision to and from the

property of the United States of America (Kerr Reservoir). The recording of the plat does not give the subsequent lot owners any rights in and to the use of said golf cart paths, but rather, the golf cart paths will be reserved for use by lot owners who have either purchased a "slip" in the community dock or who have been specifically granted the right to use the golf cart paths in the deed of conveyance to a particular individual lot within the subdivision. In addition, there shall be an annual assessment surcharge to the users of the golf cart paths by the Association to defray the cost of the maintenance of the same.

1.30 COMMUNITY DOCK: The Developer shall construct a community dock with "dock slips," which said dock slips shall be for sale by the Developer. Purchase of dock slips within the community dock shall be limited to lot owners with priority going to the owners of lots **NOT** adjoining the property of the United States of America (Kerr Reservoir) and/or to the owners of lots adjoining the property of the United States of America (Kerr Reservoir) but **NOT** being assigned a boat dock permit at the time the lot owner purchases the same from the Developer. After all lots not adjoining the property of the United States of America (Kerr Reservoir) and all lots adjoining the property of the United States of America (Kerr Reservoir) and not being assigned a boat dock permit at the time the lot owner purchases the same from the Developer have been sold by the Developer and after each of said lot owners has been afforded an opportunity to purchase a boat dock slip within the community dock, should any additional boat dock slips be available, then in that event, the Developer may sell the same to other lot owners within the subdivision. The ownership of a boat dock slip shall be appurtenant to the ownership of a lot within the subdivision, and to this end, should the owner of a lot and boat dock slip subsequently sell the lot, the boat slip must also be sold as an appurtenance to said lot (i.e. No person shall own a boat slip without also owning a lot within the subdivision).

1.31 BOAT DOCK PERMITS: Developer and all subsequent lot owners acknowledge that all boat dock permits to be placed on the shoreline of the property of the United States of America (Kerr Reservoir) are subject to the rules and regulations of the United States Army Corp of Engineers in its capacity as the managing entity of the property of the United States of America (Kerr Reservoir). Notwithstanding the above, the

Developer has previously secured boat dock permits from the United States Army Corp of Engineers and shall assign the same to subsequent owners of lots in the subdivision in its sole discretion as an appurtenance to the lot subsequently sold, and to this end, should the owner of a lot and boat dock permit subsequently sell the lot, the boat dock permit must also be sold as an appurtenance to said lot (i.e. No person shall own a boat dock permit without also owning a lot within the subdivision). Additionally, no lot owner shall apply with the United States Army Corp of Engineers for a boat dock permit without the prior written approval of the Developer, it being the intention of the Developer and the understanding of all subsequent lot owners that the Developer will maintain control over the issuance of the boat dock permits in order to better permit the orderly development of the lots and recreational facilities in the subdivision. Notwithstanding the foregoing, should a subsequent lot owner and boat dock permit holder desire to sell the lot and to transfer the boat dock permit as an appurtenance thereto, it shall not be necessary to secure the written approval of the Developer. Additionally, no subsequent owner of a lot adjoining the property of the United States of America (Kerr Reservoir) shall grant an easement across the lot to any person for the purpose of that person securing a boat dock permit from the United States Army Corp of Engineers.

1.32 BOAT STORAGE AREA: The recorded plat of the subdivision shows a 1.55-acre boat storage area, which shall be properly screened and fenced and subsequently maintained by the Association as set forth hereinafter. The Developer shall control the use of the boat storage area by subsequent lot owners, including the number of boats to be stored within the same until such time as the Association begins maintaining the same as set forth hereinafter, at which time the Association shall develop appropriate rules and regulations in regards to using the same.

1.33 SPEC HOUSES: No lot owner shall build a house for "speculation" purposes, it being agreed that all lots in the subdivision are for owner occupants and/or second (vacation) homes, HOWEVER, the Developer, its successors and assigns, reserves the right to build a house(s) for "speculation" purposes

1.34 ROADS, SUBDIVISION SIGN, LANDSCAPING, GAZEBO AND GATE, GOLF

CART PATHS, COMMUNITY DOCK, AND BOAT STORAGE AREA: The Developer will construct the subdivision sign, landscaping, gazebo and gate, golf cart paths, community dock and boat storage area, and in addition, will construct the roads in the subdivision to the North Carolina Department of Transportation minimum standards for subdivision roads. [NOTE: Developer contemplates and all subsequent lot purchasers are hereby informed that the roads in the subdivision will remain private roads to be maintained pursuant to the provisions of this paragraph 1.34, as the subdivision is a "gated" community, and at the present time, the North Carolina Department of Transportation does not maintain roads within a "gated" community]. The Developer shall maintain said subdivision sign, landscaping, gazebo and gate, golf cart paths, community dock and boat storage area in a state of good repair until such time as seventy (70%) percent of the lots have been sold by the Developer [NOTE: At this time, the Developer will convey the roads, boat storage area, and any and all other common areas and/or amenities including but not specifically limited to the subdivision sign, gazebo and gate, golf cart paths and community dock to the Association], or in the case of roads, should the regulations of the North Carolina Department of Transportation change such that said department maintains roads within a "gated" community, until such time as the roads have been accepted by the North Carolina Department of Transportation for public maintenance [NOTE: Should the regulations of the North Carolina Department of Transportation change such that said department maintains roads within a "gated" community, the Developer reserves the right to grant an appropriate right of way to the North Carolina Department of Transportation for purposes of state maintenance of the roads in the subdivision], whichever occurs first; **HOWEVER,** the Developer **SHALL** be entitled to use the hereinafter established annual assessment, surcharge assessment and special assessment to defray the cost for maintaining the same. Once seventy (70%) percent of the lots have been sold, the roads, the subdivision sign, landscaping, gazebo and gate, golf cart paths, community dock and boat storage shall be maintained in a state of good repair by the Association [NOTE: Road maintenance shall cease should the regulations of the North Carolina Department of

Transportation change such that said department maintains roads within a "gated" community. The assessments referenced hereinabove shall be as follows, to wit:

Annual Assessment: There shall be an annual assessment in the sum of Five Hundred (\$500.00) Dollars per lot to be paid by the lot owner to the Association (for use by the Developer and/or the Association as set forth hereinabove) at the time of the purchase of a lot (to be prorated during the calendar year of purchase and thereafter to be assessed on January 1 of each year and to be due and payable on or before January 31). Thereafter, said annual assessment shall be payable to the Association and shall be set in an amount approved by the Board of Directors of the Association on an annual basis, not to be less than Five Hundred (\$500.00) Dollars per year.

Assessment Surcharge: The lots owners who use the golf cart paths shall pay a surcharge assessment to the Association (for use by the Developer and/or the Association as set forth hereinabove) in a prorata amount (i.e. per lot using the golf cart path) necessary to defray the cost of maintaining the same to be billed with the annual assessment due on January 1 of each year and to be due and payable on or before January 31. Said assessment surcharge shall be payable to the Association and shall be set in an amount approved by the Board of Directors of the Association on an annual basis.

The lots owners who use the community dock shall pay a surcharge assessment to the Association (for use by the Developer and/or the Association as set forth hereinabove) in a prorata amount (i.e. per lot using the community dock) necessary to defray the cost of maintaining the same to be billed with the annual assessment due on January 1 of each year and to be due and payable on or before January 31. Said assessment surcharge shall be set in an amount approved by the Board of Directors of the Association on an annual basis.

Special Assessments: There shall be a special assessment to be paid by the lot owners to the Association (for use by the Developer and/or the Association as set forth hereinabove) in an amount and at a time approved by the Board of Directors of the Association on an annual basis, AS NEEDED, for any capital improvements.

ARTICLE II.**THE ASSOCIATION STRUCTURE, MEMBERSHIP,
VOTING RIGHTS AND DIRECTORS**

2.1 GENERAL: The Association is a North Carolina non-profit corporation organized to further and promote the common interest of lot owners in the subdivision. The Association shall have such powers in furtherance of its purposes as are set forth in its Articles and By-Laws.

2.2 MEMBERSHIP: The Association shall have two classes of voting members as follows:

Class A. Class A members shall be all lot owners with the exception of the Developer and shall be entitled to one (1) vote for each lot owned. When more than one (1) person holds an interest in a given lot, all such persons shall be members, and the vote for the lot shall be exercised as they may determine between or among themselves. In no event, shall more than one (1) vote be cast with respect to any lot owned by Class A members.

Class B. The Class B member shall be the Developer, who shall be entitled to exercise three (3) votes for each lot owned. Class B membership shall cease and be converted to Class A membership when the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership or on January 1, 2015, whichever first occurs.

2.3 RIGHTS, DUTIES, PRIVILEGES AND OBLIGATIONS: The rights, duties, privileges and obligations of membership in the Association are as set forth in its Articles and By-Laws.

2.4 ASSESSMENTS:

- **General:** Pursuant to the powers granted in its Articles and By-Laws, the Association is hereby expressly authorized and empowered to levy annual assessments against all lots in the

subdivision **[excluding]** all lots owned by the Developer], surcharge assessments pursuant to Paragraph 1.32 and special assessments pursuant to Paragraph 1.32 for and including but not limited to the following: prorata portions as determined by the Board of Directors of the Association for roads, subdivision sign, landscaping, gazebo and gate, golf cart paths, community dock, and boat storage area and also liability insurance coverage and shall be set in an amount approved by the Board of Directors of the Association on an annual basis [and as to annual assessments in an amount not to be less than Five Hundred (\$500.00) Dollars per year]

- **Collection and Lien:** The amount of the assessment levied by the Association shall be levied annually on or before January 1 and shall be paid to it annually on or before January 31. If any assessment is not paid within thirty (30) days of the due date thereof, the amount of such assessment, together with interest computed at the simple rate of eight (8%) percent per annum from and after the date due date thereof and any cost of collection including reasonable attorney's fees, if any, shall at the option of the Board of Directors of the Association, constitute and become a lien upon said lot as of the due date thereof upon the filing of notice thereof with the office of the Clerk of Superior Court of Vance County (which notice shall be filed within 120 days from the due date of said assessment). In such incidence, the services rendered by the Association for the benefit of such lot and for which an assessment is levied shall be deemed to have been performed on the due date of such assessment and to "improve" the lot and/or create an "improvement" thereon as defined in Chapter 44A of the North Carolina General Statutes. The lien arising therefrom shall constitute a "lien of mechanic's, laborers, and materialmen dealing with owner," and such lien may be perfected and enforced pursuant to the provisions of said statutes. The lien created hereby shall not, however, be superior to any mortgage or deed of trust recorded prior to the filing of the notice of claim of lien or any other statutory lien having priority or otherwise provided by law. Any action to enforce said lien may at the Association's option, include a prayer for collection of assessment levied against the lot since the filing date of the notice of claim of lien. The Association may purchase the property at any sale thereof contemplated under Section 44A of the General Statutes of North Carolina.

- Proof of Payment Upon Request: The Association shall furnish a statement certifying that all assessments then due have been paid or indicating the amount then due.
- Suspension: The Association shall not be required to transfer membership on its books or to allow the exercise of any rights or privileges of membership on account thereof to any lot owner or any person claiming under them unless or until all assessments and charges to which they are subject have been paid in full.

ARTICLE III.

MISCELLANEOUS:

3.1 ENFORCEMENT: The enforcement of these covenants may be by proceeding in law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages. Failure to enforce any covenant or restriction herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right to enforce the same.

3.2 SEVERABILITY: The invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other covenants, which shall remain in full force and effect.

3.3 DURATION: These Restrictions are covenants running with the land and shall be binding on all owners of property covered by these restrictive covenants and all persons claiming under them for a period of thirty (30) years from the date these Restrictions are recorded, after which time, said Restrictions shall be automatically extended for additional periods of ten (10) years each, unless an instrument signed by three-fourths (3/4) of the owners of the similarly restricted lots has been recorded in which it is agreed otherwise. These restrictions cannot be altered or changed prior to that date without the written consent of the Developer, its successors and assigns.

3.4 AMENDMENT: These Restrictions may be amended by duly recording an instrument executed and acknowledged by not less than three-fourth's (3/4's) of the owners of the lots in the subdivision (i.e. the owners of forty-two (42) lots).

IN WITNESS WHEREOF, the Developer has caused this instrument to be signed in its name by its duly authorized managers this 5th day of September 2003.

**T & W INVESTMENTS, A NORTH
CAROLINA GENERAL PARTNERSHIP**

BY: **PRIM RESIDENTIAL RENTALS,
INC.,** Partner

BY: 
THOMAS S. HESTER, JR.
President

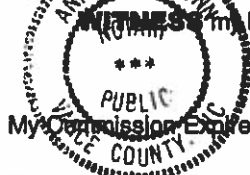
BY: **OXFORD SPORTING GOODS,
INC.,** Partner

BY: 
W.A. CURRIN, President

**STATE OF NORTH CAROLINA
COUNTY OF VANCE**

I, a Notary Public in and for said County and State, do hereby certify that **THOMAS S. HESTER, JR.** personally appeared before me this day and acknowledged that he is President of **PRIM RESIDENTIAL RENTALS, INC.**, a North Carolina corporation, Partner of **T & W INVESTMENTS, a North Carolina General Partnership**, and also acknowledged that **PRIM RESIDENTIAL RENTALS, INC.**, is a Partner of **T & W INVESTMENTS, a North Carolina General Partnership**, and that he, as President of **PRIM RESIDENTIAL RENTALS, INC.**, a Partner of **T & W INVESTMENTS, a North Carolina General Partnership**, and that by authority duly given, and as an act of the North Carolina general partnership, executed the foregoing instrument as President of **PRIM RESIDENTIAL RENTALS, INC.** its Partner.

WITNESS my hand and notarial seal this 5th day of September 2003.



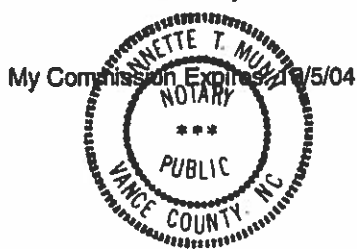
Annette T. Munn
NOTARY PUBLIC

My Commission Expires: 10/5/04

**STATE OF NORTH CAROLINA
COUNTY OF VANCE**

I, a Notary Public in and for said County and State, do hereby certify that **W.A. CURRIN** personally appeared before me this day and acknowledged that he is President of **OXFORD SPORTING GOODS, INC.**, a North Carolina corporation, Partner of **T & W INVESTMENTS, a North Carolina General Partnership**, and also acknowledged that **OXFORD SPORTING GOODS, INC.**, is a Partner of **T & W INVESTMENTS, a North Carolina General Partnership**, and that he, as President of **OXFORD SPORTING GOODS, INC.**, a Partner of **T & W INVESTMENTS, a North Carolina General Partnership**, and that by authority duly given, and as an act of the North Carolina general partnership, executed the foregoing instrument as President of **OXFORD SPORTING GOODS, INC.** its Partner.

WITNESS my hand and notarial seal this 5th day of September, 2003.



Annette T. Munn
NOTARY PUBLIC

STAINBACK & SATTERWHITE ATTORNEYS AT LAW HENDERSON, N.C.

STATE OF NORTH CAROLINA, VANCE COUNTY

The foregoing certificates of Annette T. Munn, Notary Public of Vance County, NC are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof.

CYNTHIA S. ABBOTT, REGISTER OF DEEDS

By *Cynthia S. Abbott*
Register of Deeds