

Drawn By & Returned To
Jeffrey W. Porter

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This instrument is prepared by:

Law Office of Jeffrey W. Porter, PC
711 Princess Street, Wilmington, NC 28401

NORTH CAROLINA
COUNTY OF BRUNSWICK

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
LINCOLN PLACE TOWNHOMES

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
made this the 20th day of July, 2006 by East Point Homes, LLC hereinafter referred to as
"Declarant".

STATEMENT OF PURPOSE

Declarant is the owner of certain property in the County of Brunswick, State of North Carolina, which is more particularly described on Exhibit "A" attached hereto and incorporated herein by reference. Declarant desires to create thereon an exclusive residential community of single-family attached and unattached Townhouses to be named LINCOLN PLACE TOWNHOMES.

Declarant desires to insure the attractiveness of the townhouse community and to prevent any future impairment thereof, to prevent nuisances, to preserve, protect and enhance the values and amenities of all properties within the townhouse community and to provide for the maintenance and upkeep of the exterior of all Townhouse Units and the Common Area, as hereinafter defined. To this end the Declarant desires to subject the real property described on Exhibit "A" attached hereto to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof.

Declarant has deemed it desirable, for the efficient preservation, protection and enhancement of the values and amenities in the townhouse community and to insure the residents' enjoyment of the specific rights, privileges and easements in the Common Area, as hereinafter defined, and to provide for the maintenance and upkeep of the



exterior of all Townhouse units and the Common Area, to create an organization to which will be delegated and assigned the powers of owing, maintaining and administering the Common Area and maintaining the exterior of the Townhouse units, administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter creating.

To that end the Declarant has or will cause to be incorporated under North Carolina law, LINCOLN PLACE TOWNHOMES OWNERS ASSOCIATION, INC., as a non-profit corporation for the purpose of exercising and performing the aforesaid functions.

NOW, THEREFORE, Declarant by this Declaration of Covenants, Conditions and Restrictions, does declare that all of the property described on Exhibit "A" attached hereto and incorporated herein by reference is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration, which shall run with the real property and be binding on all parties owing any right, title or interest in said real Property or any part thereof, their heirs, successors and assigns, and shall insure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to LINCOLN PLACE TOWNHOMES OWNERS ASSOCIATION, INC., a North Carolina non-profit corporation, its successors and assigns.

Section 2. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. The Common Area shall be all of the property shown on the attached Exhibit "A", with the exception thereof of those portions of same upon which houses are built or shall be built. The Common Area shall be conveyed to the Association when the final Townhouse has been constructed and conveyed out by the Declarant.

Section 3 "Declarant" shall mean and refer to East Point Homes, LLC, its successors and/or assigns.

Section 4 "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 5 "Owner:" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Townhouse which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligations.



Section 6 "Properties" shall mean and refer to the "Existing Properties" described in Exhibit "A" attached hereto and incorporated herein.

Section 7 "Townhouse(s)" or "Townhome(s)" shall mean and refer to the attached single family dwelling unit(s) to be constructed by Declarant on portions of the Properties described in Exhibit "A" and may also include single unattached Townhouse(s), if same are permitted by governmental authority.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION
AND WITHIN THE JURISDICTION OF
LINCOLN PLACE TOWNHOMES

Section 1 Existing Property The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration, and within the jurisdiction of the Association is located in Brunswick County, North Carolina and is more particularly described in the meters and bounds description attached hereto as Exhibit "A", subject to the provisions Article XIII, Section 4.

ARTICLE III

PROPERTY RIGHTS

Section 1. Conveyance of Townhomes Each owner shall be conveyed a fee simple title only to the actual ground upon which the completed unit is situated, together with one-half of the party wall separating two or more Townhouses.

Section 2. Owner's Easements of Enjoyment Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Townhouse, subject to the following provisions:

- (a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- (b) the right of the Association to suspend the voting rights and right to use the recreational facilities by an Owner for any period during which any assessment against his Townhouse remains unpaid; and for a period not to exceed sixty days for any infraction of its published rules and regulations; and
- (c) the right of the Association to grant utility, cable television, drainage and other easements of the type and for the purposes set forth in Article X.

Section 3 Owner's Easements for Ingress and Egress Every Townhouse shall be conveyed with a perpetual, non-exclusive right to use any common roadway, walkway or driveway in LINCOLN PLACE TOWNHOMES, which may be constructed by the



Declarant and conveyed to the Association as part of the Common Area for the purpose of providing vehicular and pedestrian access to and from each Townhouse.

Section 4 Delegation of Use Any Owner may delegate, in accordance with the Bylaws of the Association (a copy of which is attached as Exhibit "B"), his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE IV

MEMBERSHIP, VOTING RIGHTS AND CONTROL

Section 1 Every Owner of a Townhouse which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Townhouse which is subject to assessment.

Section 2 All rights, duties and privileges of Membership shall be as provided in the Bylaws.

Section 3 The Association shall be governed by a Board of Directors in accordance with the Bylaws.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1 Creation of the Lien and Personal Obligation of Assessment The Declarant, for each Townhouse owned within the Properties, hereby covenants, and each Owner of any Townhouse, by acceptance of a deed therefore, whether or not shall be so expressed in such deed, is deemed to covenant and agree to pay the Association: (1) MONTHLY assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs, and reasonable attorney's fees, shall be a charge against the Townhouse and shall be a continuing lien upon the property against which each such assessment is made. Each, such assessment or charge, together with interest, costs or reasonable attorney's fees, shall also be and in the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

Section 2 Purpose of Assessment The assessments or charges levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and in particular for the maintenance, repair and reconstruction of the exterior of the Townhouses and the common roadways, driveways and parking areas and walkways serving the Townhouses and for the acquisition, improvements and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, including, but not



limited to, the cost if repair, replacement and additions thereto, the cost of labor, equipment, materials, management and supervision thereof, landscaping and grounds maintenance of Common Area, the payment of taxes assessed against the Common Area, the procurement and maintenance of insurance in accordance with the Bylaws, the employment of attorneys and/or accountants to represent the Association, when necessary, and such other needs as may arise.

Section 3 Monthly Assessment The assessment shall be One Hundred Sixty Dollars (\$160) per month. This assessment may be increased, without vote of the membership, as described in Section 7 below.

Section 4. Working Capital Assessment At closing on the purchase of each Townhouse unit, a "Working Capital" assessment shall be collected from the buyer, payable to the Association, in an amount equal to two (2) month's assessment per Townhouse unit. The amount of the Working Capital assessment may be increased, without vote of the membership, as described in Section 7 below.

Section 5 Special Assessments for Capital Improvements In addition to the assessments authorized above, the Board of Directors of the Association may levy, in any assessment year, a special assessment applicable to that year only for the purposes of defraying, in whole, or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area.

Section 6 Assessment Rate Until such time all Townhouses have been conveyed out by the Declarant, the Declarant shall be responsible only for its pro-rata share of the maintenance and upkeep expenses of the Common Area as determined by the Board of Directors of the Association.

Section 7 Date of Commencement of Assessments: Due Dates The first monthly assessments for each Townhouse conveyed by the Declarant shall be adjusted according to the number of days remaining in the month. The Board of Directors of the Association shall establish the amount of the monthly assessments against each Townhouse at least thirty (30) days in advance of each assessment period (if no change is established, then the amount of the monthly assessment remains the same as the previous month). Written notice of the assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors of the Association. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessment on a specified Townhouse have been paid. A properly executed certificate of the Association as to the status of the assessment on a Townhouse is binding upon the Association as of the date of its issuance.

Section 8 Effect of Nonpayment of Assessment; 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 initial rate of twelve (12%) percent per annum. Said rate may be changed from time to time by the Board of Directors of the Association. In addition to such interest charge, the delinquent owner shall also pay such late charge as may have been



theretofore established by the Board of Directors of the Association to defray the costs of late payment. The Association may, after 90 days, bring an action at law, in Brunswick County, North Carolina, against the Owner personally obligated to pay the same, or foreclose the lien against the property, and interest, late payment fee, 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 the assessment provided for herein by non-use of the Common Area or abandonment of his Townhouse.

Section 9 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust on a mortgage or deed of trust on a Townhouse or any mortgage or deed of trust of the Declarant. Sale or transfer of any Townhouse shall not affect the assessment lien. However, the sale or transfer of any Townhouse pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the line of such assessments as to payments which became due prior to such sale or transfer, provided, however, the Board of Directors of the Association may, in its sole discretion, determine such unpaid assessments to be an annual or special assessment, as applicable, collectible prorata from all owners including the foreclosure sale purchaser. Such prorate portions are payable by all Owners. No sale or transfer shall relieve such Townhouse 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 mortgage or deed of trust as above provided.

ARTICLE VI

EXTERIOR MAINTENANCE

In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Townhouse, which is subject to assessment hereunder, as follows: Paint, repair, replace and care of roofs, gutters, downspouts, exterior building surfaces and other exterior improvements. Such exterior maintenance shall not include HVAC systems, windows, window frames, window screens, exterior door, door frames and glass surfaces, and each Owner shall be required to maintain these items. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each Townhouse at all reasonable times to perform maintenance as provided in this Article. In the event that the need for maintenance, repair or replacement is caused through the willful or negligent act of the Owner, his family, guests or invitees, the cost of such maintenance, replacement or repairs incurred by the Association shall be added to and become a part of the assessment to which such Townhouse is subject.



ARTICLE VII

INTERIOR MAINTENANCE

Each Owner shall maintain, repair and replace at his expense, all interior portions of the improvements in his Townhouse which shall need repair. Further, each Owner shall repair, maintain and replace, at his own expense when necessary, the heating and air conditioning systems servicing his dwelling, whether located in his Townhouse or in the Common Area adjacent to same.

ARTICLE VIII

PARTY WALLS

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

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

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

Section 4 Right to Contribution Runs With Land The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 5 Arbitration In the event of any dispute arising concerning a party wall, or under the provision of this Article, each party shall choose one arbitrator and such arbitrators shall choose one additional arbitrator, and the decision shall be by majority of all of the arbitrators.

ARTICLE IX

USE RESTRICTIONS

Section 1 Land Use All Townhouses shall be used for residential purposes only and a common recreational purposes auxiliary thereto and for no other purpose. Only one family may occupy a house as a principal residence at any one time. Declarant may maintain a sales office, models and construction office in one or more Townhouses until all such units to be located on the Properties have been sold.

Section 2 Nuisance. No noxious or offensive activity shall be conducted in any house or in any dwelling, nor shall anything to be done thereon or therein, which may be or may become an annoyance or nuisance to the neighborhood.

Section 3 Animals No animals, livestock or poultry of any kind shall be kept or maintained in any Townhouse, except that household pets such as dogs and cats may be kept or maintained provided they are not kept or maintained for commercial purposes. Further, all such pets must live indoors, and may be allowed outside any Townhouse only when kept under control and on a leash. No pit bulls, Doberman pinschers or rottweilers are allowed.

Section 4 Use of Common Area The Common Area shall not be used in any manner except as shall be approved or specifically permitted by the Association.

Section 5 Signs No signs or other advertising devices shall be displayed upon any Townhouse which are visible from the exterior of the dwelling or on the Common Area, or in the facilities thereof, without the written permission of the Association. Declarant, however, may post temporary For Sale signs on the Properties until such time as all units owned by the Declarant have been sold.

Section 6 Garbage Disposal All garbage shall be stored within the residence of each Owner. No Owner may change or supplement the garbage disposal facilities (if any) provided for such Owner's residence on the date of completion of construction thereof unless the Board of Directors of the Association shall first approve in writing the change or addition to the method of storage. It is provided, however, that if the public health authorities or other public agency shall require a specific method of garbage disposal, nothing herein contained shall prevent the compliance of Owners with obligatory public rules and regulations.

Section 7 Satellite and Radio Receiving Stations No satellite and/or radio receiving stations or outside television or ham radios antennae shall be permitted, except as shall be approved or specifically permitted by the Board of Directors of the Association.

Section 8 Window Blinds. If Owner installs blinds in windows, the blinds must be white and must be at least Two (2) inches in width.



Section 9 Regulations Reasonable regulations governing the use of the Common Area and external appearance of the Townhomes may be made and amended from time to time by the Board of Directors of the Association. Copies of such regulations and amendments thereto shall be furnished to each Homeowner by the Association upon request.

Section 10 Hazardous Activities Nothing shall be done or kept in any Townhouse or in the Common Area which will increase the rate of insurance on the Common Area or any other unit without the prior written consent of the Board of Directors of the Association. No Owners shall permit anything to be done or kept in his Townhouse or in the Common Area which would result in the cancellation of insurance on any Townhouse or any part of the Common Area, or which would be in violation of any law.

Section 11 Stormwater Regulations The Declarant and each Owner shall comply with all stormwater runoff and other governmental regulations as required by NC State Stormwater Management Permit SW 051 028 (the "Permit"). No more than 151,880 square feet of the property set forth in the attached Exhibit A shall be covered by structures or impervious materials (impervious materials include asphalt, gravel, concrete, brick, stone, slate or similar material but do not include wood decking or the water surface of swimming pools). Swales shall not be filled in, piped, or altered except as necessary to provide driveway crossing. Built-upon areas in excess of the permitted amount requires a state stormwater management permit modification prior to construction. All permitted runoff from outparcels or future development shall be directed into the permitted stormwater control system. These connections to the stormwater control system shall be performed in a manner that maintains the integrity and performance of the system as permitted.

ARTICLE X

EASEMENTS

The Association may reserve and grant easements for the installation and maintenance of driveways, walkways, parking areas, water lines, telephone and electric power lines, cable television lines, sanitary sewer and storm drainage facilities, and for other utility installations over the Properties as provided in Article III, Section 2 (c), of this instrument. Each Owner by his acceptance of a deed to a Townhouse hereby grants to the Association an irrevocable power of attorney to execute such easements and rights of way.

Within any such easements, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation of sewage disposal facilities and utilities, or which may change the direction of flow of drainage channels in the easements or retard the flow of water through drainage channels in the easements. In addition, the Association shall have the continuing right and easement to

maintain all sewer and water lines located in the Townhouse site, including the right to go into Townhouse units and disturb the structure and floors thereof in order to maintain those lines located within or under said units.

Every Townhouse constructed which contributes to the support of an abutting Townhouse shall be burdened with an easement of support for the benefit of such abutting Townhouse. Further, all attachments to the exterior walls of a house which are a part thereof but which protrude beyond the delineated boundaries of the Townhouse, and which were constructed in conformity with the plea and specifications, shall be deemed to be included within said delineated boundaries of said house, and there is hereby reserved an easement to permit the constructions of and continued existence of any protruding attachment.

ARTICLE XI

INSURANCE

Section 1 Insurance on the Improvements. As more fully set forth in the By-Laws of the Association, the Board of Directors shall obtain and maintain, an extended coverage "all risk" fire and hazard insurance policy, including fire and lightning, vandalism and malicious mischief, insuring all Townhouse units and all other improvements on the Common Areas (including without limitation the built structures, HVAC units, floor coverings, drywall and fixtures), in an amount equal to one hundred percent (100%) of the full replacement cost of such Townhouse units and improvements, without deduction for depreciation (exclusive of the land, excavations and other items normally excluded from such coverage). The particular types and amounts of such insurance shall be determined by the Board of Directors, provided such insurance is usual and customary for residential townhouse developments. PROVIDED, however, that the coverage shall exclude the additional value of alterations and modifications to the units made by the Owners.

Each Owner shall bear the responsibility of insuring the exclusions described above, and each Owner's personal property at the Townhouse.

This Insurance provision may be modified or amended provided the approval of a majority of the owners is obtained and approval by 75% of the owners and holders of first deeds of trust on the Townhouses is obtained. Such approvals shall be in writing but need not be acknowledged and shall be attached to an amendment to this Declaration, which amendment shall be executed only by the Association and recorded in the Brunswick County Public Registry.

Section 2. General Liability Insurance The Board of Directors shall also obtain and maintain public liability insurance in such limits as the Board of Directors may determine from time to time, covering each member of the Board of Directors, each officer of the Association, the Association and each Owner; such public liability coverage shall also cover cross-liability claims of one insured against another



Section 3. Other Insurance. The Board of Directors may obtain and maintain such other insurance as the Board of Directors may determine is necessary for the protection of the Association, its Directors, Officers and Members.

ARTICLE XII

CONDEMNATION

Section 1 Partial Taking Without Direct Effect on Townhouse If part of the Properties shall be taken or condemned by any authority having the power of eminent domain such that no Townhouse 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 Townhouses, shall be paid to the Board of Directions of the Association in trust for all Owners and their mortgagees according to the loss or damages to their respective interest in such Common Area. 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 compensation affecting the Common Area, without limitation on the right of the Owners to represent their own interests. Such proceeds shall be used to restore the Common Area with the excess, if any, paid to the Owners, pro-rata. Nothing herein is to prevent Owners whose houses are specifically affected by the taking or condition from joining in the condemnation proceedings and petitioning on their behalf for consequential damages relating to loss of value of the affected Townhouses or personal improvements therein, exclusive of damages relating to Common Area. In the event that the condemnation award does not allocate consequential damages to specific Owners, but its terms include an award for reduction in value of Townhouses without such allocation, the award shall be divided between affected Owners and the Board of Directors of the Association as their interest may appear by arbitration in accordance with the rules of the American Arbitration Association.

Section 2 Partial or Total Taking Directly Affecting Townhouses If part or all of the Properties shall be taken or condemned by any authority having the power eminent domain such that any Townhouse or a part thereof (including specific easements assigned to any Townhouse) is taken, the Association shall have the right to act on behalf of the Owners with respect to Common Area as provided in Section 1 of this Article and the proceeds shall be payable as outlined therein. The Owners directly affected by such taking shall represent and negotiate for themselves with respect to the damages affecting their respective Townhouses. All compensation and damages for and on account of the taking of any one or more of the Townhouses or personal improvements therein shall be paid to the Owners if the affected Townhouses and their mortgagees, as their interest may appear.

Section 3 Notice to Mortgagee A notice of any eminent domain or condemnation proceeding shall be sent to holders of all first mortgages.



ARTICLE XIII

GENERAL PROVISIONS

Section 1 Enforcement The Association, or any Owner, shall have the right to enforce by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2 Severability Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3 Amendment The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date of this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty-five (25) year period by an instrument signed by the Owners of not less than sixty-six and two-thirds (66 2/3%) of the Townhouses, and thereafter by instrument signed by the Owners of not less than fifty-one (51%) of the Townhouses. Any amendment must be properly recorded in the office of the Register of Deeds of Brunswick County, North Carolina. However, any proposed Amendment must be approved by the Declarant until such time as the Declarant have given up control of the Board of Directors of the Association, as provided in the By-laws.

Section 4 Additional Rights Reserved By Declarant

- (a) The Declarant reserves the right to remove portions of the property as described in Exhibit "A" from the effect of this Declaration. Any Property so removed may be used for residential purposes only and any structure erected thereon must be of similar architectural design and harmonious with the then existing structures within the townhouse community. Appropriate governmental authority must be obtained by the Declarant prior to the removal of any portion of the property described in Exhibit "A".
- (b) The Declarant specifically reserves the right to extend any of the streets and/or utilities shown on the recorded map of LINCOLN PLACE TOWNHOMES into any adjoining property which may be owned now or hereafter acquired by the Declarant or its assignees. Any such use shall carry with the restriction and condition that those persons using said streets outside of the boundaries of LINCOLN PLACE TOWNHOMES shall be responsible to the Association for their pro-rata share of the maintenance and upkeep of said streets and/or utilities.



- (c) Notwithstanding the provisions in Article III, Section I, herein, the Declarant reserves the right to modify or change existing Townhouses to include, but shall not be limited to, the addition of decks, porches, patios and other related structures, and to convey said additions or modifications as part of the Townhouse Unit(s) either at the time of sale to a purchaser or after said Townhouse have been conveyed to a purchaser. This right shall extend to the Declarant for so long as the Declarant retains control as set forth in the attached Bylaws.

Section 5. CONSERVATION DECLARATION. Within the Existing Property there have been established certain areas that are subject to the following additional restrictions relating to wetlands and related conservation, the amount of property being approximately 1.2 acres, and are as shown on that map recorded in Map book 35, Page 123 of the Brunswick County Registry. The purpose of this conservation Declaration is to maintain wetland and/or riparian resources and other natural values of the Property, and prevent the use or development of the Property for any purpose or in any manner that would conflict with the maintenance of the Property in its natural condition. The preservation of the Property in its natural condition is a condition of the Department of the Army permit Action ID 200600107 issued by the Wilmington District Corps of Engineers (the "Corps"), required to mitigate for unavoidable impacts to waters of the United States authorized by that permit, and this Conservation Declaration may therefore be enforced by the United States of America.

The Declarant hereby unconditionally and irrevocably declares that the Property shall be held and subject to the following restriction, covenants and conditions as set out herein, to run with the subject real property and be binding on all parties that have or shall have any right, title, or interest in said property.

(a) **PROHIBITED AND RESTRICTED ACTIVITIES.** Any activity on, or use of, the Property inconsistent with the purposes of this Conservation Declaration is prohibited. The Property shall be maintained in its natural, scenic, and open condition and restricted from any development or use that would impair or interfere with the conservation purposes of this Conservation Declaration set forth above. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited or restricted:

1. **Disturbance of Natural Features** Any change, disturbance, alteration or impairment of the natural features of the Property or any introduction of non-native plants and/or animal species is prohibited.
2. **Construction.** There shall be no constructing or placing of any building, mobile home, asphalt or concrete pavement, billboard or other advertising display, antenna, utility pole, tower, conduit, line, pier, landing, dock or any other temporary or permanent structure or facility on or above the Property.
3. **Industrial, Commercial and Residential Use.** Industrial, residential, and /or commercial activities, including any right of passage for such purposes are prohibited.



4. **Agricultural, Grazing and Horticultural Use.** Agricultural, grazing, animal husbandry, and horticultural use of the Property are prohibited.
5. **Vegetation.** There shall be no removal, burning, destruction, harming, cutting, or mowing of trees shrubs or other vegetation the Property.
6. **Roads and Trails.** There shall be no construction of roads, trails, or walkways on the property.
7. **Signage.** No signs shall be permitted on or over the Property, except the posting of no trespassing signs, signs indentifying the conservation values of the Property, signs giving directions or proscribing rules and regulations for the use of the Property and/or signs identifying the Grantor as owner of the Property.
8. **Dumping and Storage.** Dumping or storage of soil, trash, ashes, garbage, waste, abandoned vehicles, appliances, machinery or hazardous substances, or toxic or hazardous waste, or any placement of underground or above ground storage tanks or other materials on the Property is prohibited.
9. **Excavation, Dredging or Mineral Use.** There shall be no grading , filling, excavation, dredging, mining, of drilling; no removal of topsoil,sand, gravel, rock, peat, mineral or other materials and no change in the topography of the land in any manner on the Property, except to restore natural topography or drainage patterns.
10. **Water Quality and Drainage Pattern.** There shall be no diking, draining, dredging, channeling, filling, leveling, pumping, impounding or related activities, or altering or tampering with water control structures or devices, or disruption or alteration of the restored, enhanced, or created drainage patterns. In addition, diverting or causing or permitting the diversion of surface or underground water into within, or out of the easement area by any means, removal of wetlands, polluting or discharging into waters, springs, seeps, or wetlands, or use of pesticide or biocides is prohibited.
11. **Development Rights.** No development rights that have been encumbered of extinguished by this Conservation Declaration shall be transferred pursuant to a transferable development rights scheme or cluster development arrangement or otherwise.
12. **Vehicles.** The operation of mechanized vehicles, including but not limited to motorcycles, dirt bikes, all-terrain vehicles, cars and trucks is prohibited.
13. **Other Prohibitions.** Any other use of or activity on the Property which is or may become inconsistent with the purposes of this grant, the preservation of the Property substantially in its natural condition, or the protection of its environmental systems, is prohibited.

(b) ENFORCEMENT & REMEDIES

1. This Declaration is intended to ensure continued compliance with the mitigation condition of authorizations issued by the United States of America, U.S. Army Corps of Engineers, Wilmington District, and therefore may be enforced by the united state of America. This covenant is to run with the land and shall be binding on all parties and all person claiming under the Declarant.
2. The Corps, its employees and agents and its successors and assigns, have the right, with reasonable notice, to enter the Property at reasonable times for the purpose of



inspecting the property to determine whether the Declarant, Declarant's representatives, or assigns are complying with the terms, conditions and restriction of this Conservation Declaration.

3. Nothing contained in this Conservation Declaration shall be construed to entitle Corps to bring any action against Declarant for any injury of change in the Conservation Property caused by third parties, resulting from causes beyond the Declarant's control, including without limitation, fire, flood, storm, and earth movement, or from any prudent action taken in good faith by the Declarant under emergency conditions to prevent, abate or mitigate significant injury to life, damage to Property of harm to the Property resulting from such causes.

(c) PUBLIC ACCESS. This Conservation Declaration does not convey to the public the right to enter the Property for any purpose whatsoever.

(d) DOCUMENTATION & TITLE

1. **Conservation Property Condition.** The Declarant represents and acknowledges that the Property is currently undeveloped land with no improvements other than any existing utility lines, Declarations and rights of way.

2. **Title.** The Declarant covenants and represents that the Declarant is the sole owner and is seized of the Property in fee simple and has good right to make the herein Declaration; that there is legal access to the Property, and that the Property is free and clear of any and all encumbrances, except Declarations of record.

(e) MISCELLANEOUS

1. **Conservation Purpose.** Declarant, for itself, its successors and assigns, agrees that this Conservation Property shall be held exclusively for conservation purposes.

2. **Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to the Conservation Declaration and supersedes all prior discussions, negotiations, understandings or agreements relating to the Conservation Declaration. If any provision is found to be invalid, the remainder of the provisions of this Conservation Declaration, and the application of such provision to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.

3. **Environmental Condition of Conservation Property.** The Declarant warrants and represents that to the best of its knowledge after appropriate inquiry and investigation: (a) the Property described herein is in full compliance with all federal, state and local environmental laws and regulations (and once the Association takes control of the development and Common Area, the Association will assume the responsibility to continue to comply with such laws and regulations), and (b) as of the date hereof there are no hazardous materials, substances, wastes, or environmentally regulated substances (including, without limitation, any materials containing asbestos) located on, in or under the Property or used in connection therewith, and that there is no environmental condition existing on the Property that may prohibit or impede use of the Property for the purposes set forth in the Recitals.

IN WITNESS WHEREOF, the Declarant has set their hand in seal the day and year first above written.

East Point Homes, LLC

By: [Signature] (SEAL)
Danny Whaley, manager

By: [Signature] (SEAL)
James E. Maides, manager

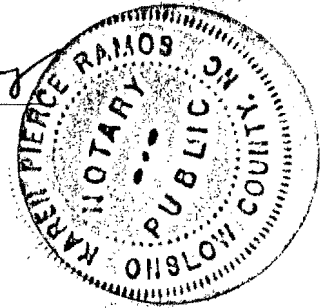
STATE OF NORTH CAROLINA

COUNTY OF Onslow

I, Karen Pierce Ramus, a Notary Public of the County and State aforesaid, certify that Danny Whaley and James E. Maides, personally came before me this day and acknowledged that they are MEMBER/MANAGERS of East Point Homes, LLC, a North Carolina limited liability company, and that by authority duly given and as the act of the LLC, they signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and official seal this 20 day of July, 2006.

My commission expires: 11/4/08

Karen Pierce Ramus
Notary





Brunswick County, NC Register

B2440 P0645 07-28-2006
14:41:50.001
Robert J. Robinson
of Deeds page 17 of 38

EXHIBIT A
Legal Description

BEING ALL OF THAT TRACT of land, consisting of 8.46 acres, more or less, as shown on that plat map recorded in Map Cabinet 35, Page 123, of the Brunswick County Registry.

This property was acquired by Declarant by two deeds, one recorded in Deed Book 2280, Page 807, Brunswick County Registry, and one recorded in Deed Book 2375, Page 367, Brunswick County Registry.



EXHIBIT B

BY-LAWS
OF
LINCOLN PLACE TOWNHOMES OWNERS ASSOCIATION, INC.

ARTICLE I
General Provisions

SECTION 1. - IDENTITY: These are the By-Laws of **LINCOLN PLACE TOWNHOMES OWNERS ASSOCIATION, INC.**, a nonprofit corporation organized pursuant to the laws of the State of North Carolina; the Articles of Incorporation for which have been recorded in Book 2440, at Page 698, in the Office of the Register of Deeds of Brunswick County, North Carolina.

SECTION 2. - INCORPORATION: The provisions of these By-Laws supplement and are enacted pursuant to the provisions of the above referenced Articles of Incorporation and are applicable to the record owners of lots located upon or within that certain development of real property known as **LINCOLN PLACE TOWNHOMES**, phase 1 of which is shown upon a map recorded in Map Book 35, at Page 123, of the Brunswick County Registry. These By-Laws shall also apply to the record owners of lots in future phases of **LINCOLN PLACE TOWNHOMES**.

SECTION 3. - APPLICATION: These By-laws shall, in conjunction with the above referenced Articles of Incorporation govern the affairs, rights, privileges, duties and obligations of the Association, all owners, the Developer, all mortgagees, beneficiaries under Deeds of Trust, Lessees and occupants of all lots subject hereto, their employees and all others who may use or enjoy any of the property subjected hereto, and the acceptance of a Deed for or conveyance of, or the succeeding of title to, or the entering into a lease for, or the actual occupancy of, or use of a lot, the common areas, street, and amenities, or any of the improvements thereon by any of the above shall constitute an acceptance by the same of the provisions of these By-Laws, the Rules and Regulations enacted pursuant hereto and the provisions of the herein above referenced Articles, and an agreement to comply with and abide by the same.

SECTION 4. - PRINCIPAL OFFICE: The principal office of the



Association and of the Board of Directors shall be located at 166 Center Street, Jacksonville, NC 28456, or as from time to time may be designated by the Board of Directors of the Association.

ARTICLE II
Membership

SECTION 1. - IDENTIFICATION: The Association shall have two classes of voting memberships:

Class A. Class A members shall be those Owners, with exception of the Developer until its Class B membership has converted to Class A membership, who own lots within **LINCOLN PLACE TOWNHOMES**. Each Class A member shall be entitled to one vote for each such lot so owned.

Class B. The Class B member shall be the Developer, and it shall be entitled to three (3) votes for each lot owned by it. The Class B membership shall cease and be converted to Class A membership upon the happening of either of the following events, whichever occurs earlier: (a) when 75% of the units are deeded to the homeowners, or (b) thirty (30) months from the date of the sale of the first unit.

SECTION 2. - RECORDS: The Secretary of the Association shall maintain at the principal office of the Association a register of all the current owners of memberships in the Association and the mailing address of each owner and of all mortgagees or beneficiaries under Deeds of Trust of all such lots.

SECTION 3. - VOTING RIGHTS: If a membership is owned by one (1) person his right to vote shall be established by the record title to his lot. If a membership is owned by more than one (1) person, or is under lease, the person entitled to cast the vote for such membership shall be designated by a certificate signed by all of the record owners of such membership and filed with the Secretary of the Association. If a membership is owned by a corporation, the person entitled to cast the vote for that membership shall be designated by a certificate signed by the President or Vice President and attested by the Secretary or the Assistant Secretary of such corporation and filed with the Secretary of the Association. If a membership is owned by a partnership, whether general or limited, or a joint venture, the certificate designating the voting member shall be signed by all partners or joint venturers, as the case may be. Such certificates shall be valid until revoked or superseded by a subsequent certificate or until a change occurs in the ownership of the



membership concerned. A certificate designating the person entitled to cast the vote of a membership may be revoked by any owner of such membership. If such a certificate is not on file, the vote of such membership shall not be considered in determining the requirements for a quorum nor for any other purpose under these By-Laws.

SECTION 4. - MORTGAGEES AND TRUSTEES UNDER DEEDS OF TRUST: In the event that any such lot is conveyed by mortgage or by Deed of Trust, then the rights, duties, obligations, powers and privileges appurtenant to the membership appurtenant to such lot shall be exercised by the owner of the equity in the lot, and not by the mortgagee under any mortgage or the trustee or beneficiary under any Deed of Trust against such lot.

SECTION 5. - ANNUAL MEETINGS: Subject to the provisions of Article VI of these By-Laws, the annual meetings of the Association shall be held on the first Monday in June of each year unless such date shall occur on a legal holiday, in which event, the meeting shall be held on the next succeeding business day. The purpose of the annual meeting shall be for the election of the Directors of the Association for the succeeding year and for the transaction of any and all business of the Association as may properly come before the meeting.

SECTION 6. - SPECIAL MEETINGS: It shall be the duty of the President to call a special meeting of the membership if so directed by resolution of the Board of Directors or upon a petition calling for a special meeting presented to the Secretary of the Association and signed by at least twenty-five percent (25%) of the owners of memberships in the Association. The notice of any special meeting shall state the time, place, and purpose of the meeting. No business shall be transacted at a special meeting except as stated in the notice.

SECTION 7. - NOTICE OF MEETINGS: The Secretary shall mail to each owner of a membership in the Association notice of each annual or special meeting of the membership at least ten (10) days but not more than sixty (60) days prior to such meeting stating the purpose thereof as well as the time and place where it is to be held. Said notice shall be mailed to the address which the owner of each membership has designated to the Secretary and maintained by the Secretary on his current register of owners. The mailing of a notice of a meeting in the manner provided in this section shall be considered service of notice.



SECTION 8. - ADJOURNMENT OF MEETINGS: If any meeting of the membership cannot be held because a quorum has not attended, a majority of the membership who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not more than forty-eight (48) hours from the time the original meeting was called.

SECTION 9. - QUORUM: A quorum at all membership meetings shall consist of persons representing and entitled to cast the vote appurtenant to at least fifty-one percent (51%) of the memberships in the Association. The acts approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the membership, except when approval by a greater number of members is required by the Declaration, these By-laws or by law; but those present at any meeting, though less than a quorum, may adjourn said meeting to a future time.

SECTION 10. - PROXIES: The vote appurtenant to each membership may be cast by the person designated as entitled to cast such vote by proxy. The designation of any such proxy shall be made in writing to the Secretary, and shall be revocable at any time by written notice to the Secretary by the owner of the membership to which said vote is appurtenant. Such proxy shall be valid only for the particular meeting designated in the proxy and must be filed with the Secretary before the appointed time of the meeting or any adjournment of such meeting.

SECTION 11. - PLACE OF MEETING: Meetings of the Association's membership shall be held at the principal office of the Association or at such other suitable place convenient to the membership as may be designated by the Board of Directors.

SECTION 12. - ORDER OF BUSINESS: The order of business at all meetings of the Association shall be as follows: (a) roll call; (b) proof of notice of meeting; (c) reading of minutes of preceding meeting; (d) reports of officers; (e) reports of Board of Directors; (f) reports of committees; (g) election of members of the Board of Directors, if necessary; (h) unfinished business; and (i) new business.

**ARTICLE III
Board of Directors**

The property, affairs and business of the Association shall be managed by the Board of Directors; provided, however, that the provisions of this Article are subject to the provisions of Article VI of these By-Laws.



SECTION 1. - NUMBER, TERM OF OFFICE AND QUALIFICATIONS: The Articles of Incorporation appoint two (2) members as the initial Board of Directors. At the next annual meeting of the membership, the number constituting the Board of Directors shall be increased to either three (3) or five (5), as determined by the members. Each Director shall continue in office until the annual meeting of the membership held next after his election and until his successor shall have been elected and qualified or until his death or until he shall resign or shall have become disqualified or removed from office. Directors need not be residents of the State of North Carolina, nor year-round residents of **LINCOLN PLACE TOWNHOMES**; provided, however, that each Director shall be an owner or spouse of an owner of one of the lots in one of the sections of **LINCOLN PLACE TOWNHOMES** subject hereto, and in the case of partnership owners, shall be a member or employee of such partnership, and in the case of corporate owners, shall be an officer, shareholder, or employee of such corporation, and in the case of fiduciary owners, shall be the fiduciary, or an officer or employee of such fiduciary.

SECTION 2. - ELECTION OF DIRECTORS: Except for the first Board of Directors, which is appointed in the Articles of Incorporation, and subject to the provisions of Article VII hereof, the election of the Board of Directors shall be conducted in the following manner: (a) election of Directors shall be held at the annual meeting of the membership; (b) nominations for Directorships shall be made from the floor by the membership or by the Board of Directors; (c) the election shall be by written ballot (unless dispensed with by unanimous consent) and by a plurality of the votes cast, each person representing a membership entitled to vote being entitled to cast one (1) vote for each of as many nominees as there are Directorships to be filled. There shall be no cumulative voting.

SECTION 3. - REMOVAL OF DIRECTORS: Except for the first Board of Directors, which is appointed in the Articles of Incorporation, and subject to the provisions of Article VII hereof, any Director may be removed by concurrence of two-thirds (2/3) of the votes of the membership of the Association present at a special meeting of the membership called for the consideration of such removal. The vacancy in the Board of Directors so created shall be filled by a vote of the members of the Association at the same meeting.

SECTION 4. - ORGANIZATION MEETING: The organizational meeting of a newly elected Board of Directors shall be held within ten (10) days of their election at such place and time as shall be fixed by the Directors at the meeting at which they were elected, and no



further notice of the organizational meeting shall be necessary.

SECTION 5. - REGULAR MEETINGS: Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the members of the Board of Directors, but at least two (2) such meetings shall be held during each fiscal year. Notice of the regular meeting of the Board of Directors shall be given to each member of the Board of Directors, by personal delivery, mail or telegraph, at least five (5) business days prior to the day named for such meetings.

SECTION 6. - SPECIAL MEETINGS: Special meetings of the Board of Directors may be called by the President of the Association on five (5) business days notice to each member of the Board of Directors, given by mail or telegraph, which notice shall state the time, place, and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notices on the written request of any member of the Board of Directors.

SECTION 7. - WAIVER OF NOTICE: Any member of the Board of Directors may at any time waive notice of any meeting of the Board of Directors, in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Board of Directors at any meeting of the Board shall constitute a waiver of notice by him of the time and place thereof. If all of the members of the Board of Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

SECTION 8. - QUORUM: At all meetings of the Board of Directors a majority of the members thereof shall constitute a quorum for the transaction of business, and the votes of a majority of the members of the Board of Directors present at such a meeting at which a quorum is present shall constitute the decision of the Board of Directors. If at any meeting of the Board of Directors there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At the next meeting, following such adjourned meeting, at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

SECTION 9. - COMPENSATION: No member of the Board of Directors shall receive any compensation from the Association for acting as such.

SECTION 10. - JOINDER IN MEETING BY APPROVAL OF MINUTES: The joinder of a Director in the action of a meeting by signing and



concurring with the minutes of that meeting shall constitute the presence of such Director at such meeting for the purpose of determining a quorum.

SECTION 11. - PRESIDING OFFICER AT DIRECTORS' MEETINGS: The presiding officer of a Directors' meeting shall be the President of the Association. In the absence of the President, the Vice-President shall serve as presiding officer. In the absence of the presiding officer, the Directors present shall designate one (1) of their number to preside.

SECTION 12. - ORDER OF BUSINESS AT DIRECTORS' MEETINGS: The order of business at Directors' meetings shall be: (a) the calling of the roll; (b) the proof of due notice of the meeting; (c) reading and disposal of any unapproved minutes; (d) the reports of officers and committees; (e) the election of officers; (f) unfinished business; (g) new business; and (h) adjournment.

SECTION 13. - POWERS AND DUTIES: The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association except such powers and duties as by law or by these By-Laws may not be delegated to the Board of Directors by the membership of the Association. The powers and duties to be exercised and performed by the Board of Directors shall include, but shall not be limited to the following:

- a. the operation, care, upkeep and maintenance of the recreational facilities, streets, driveways, parking areas, other access easements, stormwater drainage system (including retention ponds), improvements, landscaping, irrigation systems, equipment, and facilities, sidewalks, walkways, fencing, refuse facilities, street and parking lot lighting, other area lights and lighting equipment, and amenities located throughout the common areas, and the exterior surfaces of the townhouses as provided in the Declaration of Covenants, Conditions, and Restrictions of **LINCOLN PLACE TOWNHOMES**, as it may be amended from time to time, as recorded in the Brunswick County Registry;
- b. the determination of the amount of funds required for the operation, care, upkeep and maintenance of the recreational facilities, streets, driveways, parking areas, other access easements, stormwater drainage system (including retention ponds), improvements, and amenities located throughout the common areas, and the townhouses, and the amounts required for the

- general operation of the Association;
- c. the levying and collection of the assessments from the membership owners, including foreclosure of the lien against any property for which assessments are not paid within thirty (30) days after the due date or to bring an action at law against the owner personally obligated to pay the same.
 - d. the employment and dismissal of personnel as necessary for the efficient maintenance of the development and operation of the Association;
 - e. the implementation, management, and maintenance of the stormwater maintenance plan as required by the regulatory authorities of Brunswick County and the State of North Carolina.
 - f. the opening and maintenance of bank accounts on behalf of the Association and designating the signatures required therefore;
 - g. the purchasing, leasing, or otherwise acquiring in the name of the Association or its designee, corporate or otherwise, on behalf of all members of the Association, lots offered for sale or lease;
 - h. the purchasing of lots at foreclosure or other judicial sales in the name of the Association, or its designee, corporate or otherwise, on behalf of the membership;
 - i. the selling, conveying, leasing, mortgaging of, voting the votes appurtenant to (other than for the election of members of the Board of Directors), or otherwise dealing with the lots acquired by, and subleasing lots by the Board of Directors on behalf of the membership of the Association;
 - j. the organizing of the corporation to act as designee of the Board of Directors in acquiring title to or leasing lots by the Board of Directors on behalf of the membership of the Association;
 - k. the purchasing and maintaining of insurance for the recreational facilities, stormwater drainage system, improvements, and amenities located in the common areas, pursuant to the provisions of these By-Laws;



- l. the making of repairs, additions and improvements to, or alterations of, the property, and repairs to and restoration of any property belonging to the Association, in accordance with the other provisions of these By-Laws, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings;
- m. the adoption of a seal for the Association;
- n. the enforcing of the obligations of the members of the Association, allocating income and expenses of the Association and doing anything and everything else necessary and proper for the sound management of the Association;
- o. the establishment of reasonable rules and regulations for the use of the common areas and amenities by the members, their guests, and their invitees, the levying of fines, penalties or expenses against the members of the Association for infringement of such rules and regulations, or for damage to such amenities and facilities, and allocating income and expenses of the Association;
- p. adjusting and settling claims under insurance policies obtained pursuant to the By-laws and executing and delivering releases on settlements of such claims on behalf of all lot owners, all holders of mortgages, Deeds of Trust or other liens on the lots and all owners of any other interest in the property.
- q. employing or engaging a manager, an independent contractor, attorney or accountant or such other employees and agents as they deem necessary, and to prescribe their duties. Provided, however, any such person so hired shall serve only at the pleasure of the Board of Directors hiring him, and no Board of Directors shall have the authority to bind any succeeding Board of Directors to any such contract.

SECTION 14. - LIABILITY OF THE BOARD OF DIRECTORS: The members of the Board of Directors shall not be liable to the Association or any of its members for any mistake of judgment, negligence, or otherwise except for their own individual willful misconduct or bad faith. The members of the Association shall



indemnify and hold harmless each member of the Board of Directors against all contractual liability to others arising out of contracts made by the Board of Directors on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Articles of Incorporation, or these By-Laws. It is intended that the members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Association.

It is also intended that the liability of any member of the Association arising out of any contract made by the Board of Directors or out of the indemnity in favor of the members of the Board of Directors shall be limited to such proportions of the total liability thereunder as his interest in the Association bears to the interest of all members of the Association in the Association. Every agreement made by the Board of Directors on behalf of the Association shall provide that the members of the Board of Directors are acting only as agents for the Association and shall have no personal liability thereunder (except as members of the Association), and that each member of the Association's liability thereunder shall be limited to such proportion of the total liability thereunder as his interest in the Association bears to the interest of all members in the Association.

SECTION 15. - FIDELITY BONDS: The Board of Directors shall obtain adequate fidelity bonds for all officers and employees of the Association. The premiums on such bonds shall constitute an expense of operating the affairs of the Association.

**ARTICLE IV
 Officers**

SECTION 1. - DESIGNATION: The principal officers of the Association shall be the President, the Vice President, the Secretary, and the Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint an Assistant Treasurer and Assistant Secretaries, and such other officers as in its judgment may be necessary. The President and Vice President must be members of the Board of Directors. All other officers need not be members of the Board of Directors.

SECTION 2 - ELECTION OF OFFICERS: Officers shall be elected annually by the Board of Directors at the organizational meeting of each new Board of Directors and until their successors are elected.

SECTION 3. - REMOVAL OF OFFICERS: Upon the affirmative vote of a majority of the members of the Association or members of the Board of Directors, any officer may be removed, either with or



without cause; and his successor may be elected at any regular meeting of the Board of Directors or at any special meeting of the Board of Directors called for such purpose.

SECTION 4. - PRESIDENT: The President shall be the chief executive officer of the Association. He shall preside at all meetings of the membership and at all meetings of the Board of Directors. He shall have all of the general powers and duties which are incident to the office of President of a corporation organized under the Business Corporation Laws of the State of North Carolina, including, but not limited to, the power to appoint from among the membership any committee which he deems appropriate to assist in the conduct of the affairs of the Association.

SECTION 5. - VICE PRESIDENT: The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President or Vice President is able to act, the Board of Directors shall appoint some other member of the Board of Directors to act in the place of the President, on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors or by the President.

SECTION 6. - SECRETARY: The Secretary shall keep the minutes of all meetings of the membership and the Board of Directors; he shall have charge of all books, papers, accounts, and records of the Board of Directors as the Board of Directors may direct; and he shall, in general, perform all of the duties incident to the office of Secretary of a corporation organized under the Business Corporation laws of the State of North Carolina.

SECTION 7. - TREASURER: The Treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate financial records and books of accounts showing all receipts and disbursements, and for the preparation of all required financial statements. He shall be responsible for the deposit of all monies and other valuable effects in the name of the Board of Directors, in such depositories as may from time to time be designated by the Board of Directors, and he shall, in general, perform all of the duties incident to the office of Treasurer of a corporation organized under the Business Corporation Laws of the State of North Carolina.

SECTION 8. - COMPENSATION: No officer shall receive any compensation from the Association for acting as such. However, the Board of Directors may appoint a manager to handle the day to day affairs of the Association, and may establish a rate of

compensation and salary for such manager.

SECTION 9. - EXECUTION OF INSTRUMENTS: All instruments, including, but not limited to, agreements, contracts, Deeds or Leases of the Association shall be executed in the name of the Association by the President, Vice President, or Assistant Vice-President and attested to by the Secretary or Assistant Secretary of the Association. All checks of the Association are to be executed by such person or persons as may be designated by the Board of Directors, but in any event all checks must be signed by two (2) people.

ARTICLE V
Operation of the Association

SECTION 1. - RULE MAKING: The Board of Directors shall promulgate and establish, pursuant to the provisions set out hereinbelow, for the overall safety of the members, their guests and invitees, reasonable rules and regulations governing the use, enjoyment, maintenance, repair of and additions or alterations to the streets, common areas, yards, stormwater management facilities, amenities, and the improvements thereon.

Subsection 1.1 - PROCEDURES: The Board of Directors, or a rule making committee specifically appointed by the President, shall formulate reasonable rules and regulations, including fines and penalties for infringement of such rules and regulations, or amendments or modifications thereto, to be proposed to the membership of the Association. Such proposals may be considered by the membership of the Association for adoption either at the annual meeting of the membership or at a special meeting of the membership called by the President specifically for the consideration of the adoption of such proposals. All such proposals shall be stated in writing and sent to the owners of the memberships in the Association in any notice of the special meeting called for the consideration thereof, or at least fifteen (15) days prior to the annual meeting of the membership of the Association at which they will be considered. At such meeting such proposed rules and regulations shall be considered new business of the Association. In order to be adopted as rules and regulations, amendments or modifications thereof, of the Association, such proposed rules and regulations must receive assent from two-thirds (2/3) of the votes of the membership of the Association present in person or by proxy at such meeting.

Subsection 1.2 - AMENDMENT, MODIFICATION, ADDITIONS OR



REPEAL: In addition to the above, any member of the Association may propose a modification, amendment, addition to, or repeal of any and all rules and regulations of the Association by stating the same in writing to the Board of Directors. If any such member shall have obtained on such proposal the signatures of at least twenty-five percent (25%) of the membership owners in the Association, then the Board of Directors shall submit such proposal to the Association at the next annual meeting of the Association called pursuant to the Board of Directors. Adoption of any such proposal shall be as stated in Subsection 1.1 hereinabove.

Subsection 1.3 - PROHIBITIONS: No rule or regulation, nor amendment, modification, addition to, or repeal of any or all of the rules and regulations of the Association shall discriminate against any lot owner or against any lot or group of lots unless the owners thereof so affected shall consent in writing; nor shall any of the above change any lot nor the common areas and amenities, nor shall any of the above increase any owner's share in the common expenses of the Association nor change the voting rights of any member unless the owner of the membership appurtenant to the lot so affected and all record owners of liens thereon shall join in the execution of such rule, regulation, amendment, modification, addition to or repeal of the same.

Subsection 1.4 - RECORDING: A copy of all rules and regulations or amendments, additions, modifications to or repeals of rules and regulations of the Association shall be certified by the President and Secretary of the Association as having been duly adopted by the Association and shall be effective from the date the same is recorded in the Office of the Register of Deeds of Brunswick County, North Carolina.

SECTION 2. - INSURANCE: The Board of Directors shall be required to obtain and maintain, to the extent deemed necessary by the Board, and of such types and in such amounts as the Board of Directors deems advisable, provided such insurance is usual and customary for residential townhouse developments, the following insurance:

Subsection 2.1 - FIRE AND HAZARD INSURANCE: Fire and Hazard Insurance with extended coverage, vandalism and malicious mischief endorsements, insuring the Townhouse units and all improvements upon the streets, common areas, stormwater facilities, and the amenities, and covering the interests of the Association, the Board of Directors, and all owners and their mortgagees or beneficiaries under Deeds of Trust, as their respective interests may appear, in an amount at least equal to the full replacement value of all structures insured, without deduction for



depreciation; each of said policies shall contain a North Carolina standard mortgage clause in favor of each mortgagee or beneficiary under a Deed of Trust of a lot which shall provide that the loss thereunder shall be payable to such mortgagee or beneficiary under the Deed of Trust as its interest may appear; subject, however, to the loss payment provisions in favor of the Board of Directors hereinafter set forth. The policy/policies shall cover all Townhouse units (including without limitation the HVAC units, built structures, floor coverings, drywall and fixtures) and all other improvements on the Common Areas (exclusive of the land and other items normally excluded from such coverage), and FURTHER, EXCLUDING FROM SUCH COVERAGE any additional value to the units created by alterations and modifications to the units made by the Owners.

Subsection 2.2 - PUBLIC LIABILITY INSURANCE: Public liability insurance in such limits as the Board of Directors may, from time to time, determine covering each member of the Board of Directors, each officer of the Association, the Association and each owner of a lot; such public liability coverage shall also cover cross-liability claims of one insured against another.

Subsection 2.3 - OTHER INSURANCE: Such other insurance as the Board of Directors may determine is necessary for the protection of the development, the Association, its Directors, officers, and members.

Subsection 2.4 - PREMIUMS: The premiums for all such insurance shall be an annual expense of the Association, and as such, shall constitute a portion of the annual assessment to be levied against each member of the Association pursuant to the provisions of these By-Laws.

Subsection 2.5 - ADJUSTMENT FOR LOSS: All such insurance policies shall provide that adjustment of loss shall be made by the Board of Directors and that the net proceeds thereof shall be payable to the Board of Directors.

Subsection 2.6 - WAIVERS, CANCELLATIONS, MODIFICATIONS, RENEWALS: All policies of physical damage insurance shall contain waivers of subrogation and waivers of any defense based on coinsurance or other insurance or of invalidity arising from any acts of the insured and of prorata reduction of liability, and shall provide that such policies may not be canceled or substantially modified without at least ten (10) days' prior written notice to all insureds, including all mortgagees and beneficiaries under Deeds of Trust. Duplicate originals of all policies of physical damage insurance and all renewals thereof, together with proof of payment of premiums, shall be delivered to



all mortgagees or beneficiaries under Deeds of Trust at least ten (10) days prior to expiration of the then current policies. Prior to obtaining any policy of fire insurance or any renewal thereof, the Board of Directors shall obtain an appraisal from a fire insurance company or otherwise of the full replacement value of the common areas, the amenities, and all improvements thereon, without deductions for depreciation, for the purpose of determining the amount of fire insurance to be effected pursuant hereto.

Subsection 2.7 - OWNERS' INSURANCE: The owners of each of the lots subject hereto shall carry other insurance policies for their own benefit, covering their individual units.

Subsection 2.8 - INITIAL MINIMUM AMOUNTS: Until the first regular meeting of the Board of Directors following the first annual meeting of the membership of the Association, the Board of Directors shall obtain and maintain all such insurance in the following amounts:

a. Fire and hazard insurance on the Townhouse units and all other improvements on the Common Areas (including without limitation the HVAC units, built structures, floor coverings, drywall and fixtures), in an amount equal to one hundred percent (100%) of the full replacement cost of such Townhouse units and improvements, without deduction for depreciation (exclusive of the land, excavations and other items normally excluded from such coverage);

b. Public liability insurance in an amount of not less than \$1,000,000.00 covering all claims for personal injury arising out of one occurrence, and not less than \$100,000.00 covering all claims for property damage arising out of one occurrence.

Subsection 2.9 - REPAIR OR RECONSTRUCTION AFTER CASUALTY:
In the event of damage to or destruction of any or all of the common areas and amenities, stormwater management facilities, and/or improvements to the common areas as a result of fire or other casualty, the Board of Directors shall arrange for the prompt repair and restoration of all damaged improvements. The Board of Directors shall disburse the proceeds of all insurance policies to contractors engaged in such repair and restoration in appropriate progress payments. Any cost of such repair and restoration in excess of the net insurance proceeds received by or payable to the Board of Directors shall constitute a common expense of the Association.

In the event of a repair or restoration of the



improvements to the property and in the event that the net proceeds of insurance received by or payable to the Board of Directors shall exceed the cost of such repair or restoration, then such excess shall be held by the Association in its Capital Improvement Account.

Whenever in this Subsection the words "promptly repair" or "prompt repair" are used, it shall mean repairs are to begin not more than sixty (60) days from the date of receipt by the Board of Directors of proceeds of insurance on account of such damage or destruction, whether or not sufficient to pay the estimated costs of such work. Wherever the words "promptly resolve" are used hereinabove, it shall mean not more than sixty (60) days from the date the Board of Directors notifies the interested members of the Association that it holds proceeds of insurance on account of such damage or destruction and that such proceeds are not sufficient to pay the estimated costs of such work, as the case may be.

SECTION 3. - MAINTENANCE: The Board of Directors shall provide for the upkeep, care, preservation, protection and maintenance of the recreation facilities, improvements (including fences constructed by developer), stormwater management facilities, irrigation systems, and amenities located through the common areas, and the exterior surfaces of the townhouses as provided in the Declaration of Covenants, Conditions and Restrictions of **LINCOLN PLACE TOWNHOMES**, as it may be amended from time to time, and as recorded in the Brunswick County Registry, as follows:

a. repair and repave, when necessary, all pavements existing throughout the common areas other than publicly dedicated right of ways;

b. upkeep, maintain and preserve all grasses, lawn, trees, shrubs, gardens and other vegetation maintained upon the common areas and limited common areas; and

c. repair, reconstruct, repaint, and maintain any and all other improvements, of whatever nature, made to the common areas and amenities.

d. maintain, inspect, and repair the stormwater management facilities, including but not limited to, swales, drains, pipes, and retention ponds, as required by the stormwater maintenance plan adopted by the Association as set forth in the Declaration of Covenants, Conditions, and Restrictions of **LINCOLN PLACE TOWNHOMES** recorded in the Brunswick County Registry.

Subsection 3.1 - RIGHT OF ACCESS: For the purpose solely

of performing all of the above described maintenance, inspections, repairs, etc., the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to any and all owners concerned, to enter upon any lot, at any reasonable hour of any day.

Subsection 3.2 - OWNERS' REPAIRS: Any maintenance, inspection, repair, replacement, etc., to any of the streets, common areas, amenities, stormwater management facilities, or any of the improvements thereon, caused by the negligence, misuse, neglect or willful act of any owner, his or her family, tenants, guests or invitees shall be performed by the Association at the sole cost and expense of said owner, said cost and expense therefore to be added to said owner's annual assessment.

Subsection 3.3 - EXPENSE: All maintenance, inspection, repair, reconstruction, replacement, etc., as outlined hereinabove, is to be performed by or through the Board of Directors and the cost and expense thereof shall, except as provided in Subsection 3.2, be an annual expense of the Association.

SECTION 4 - FISCAL MANAGEMENT: The Board of Directors shall, from time to time, and at least annually, prepare a budget for the Association, determining the projected annual costs to the Association of performing all of the duties of and fulfilling all of the obligations of the Association. These costs shall include all of the costs incurred by the Association in the performance of those duties and obligations outlined in the Articles of Incorporation, applicable to the development, and Article III, Section 13, and Article V of these By-Laws, as well as the costs necessary for the efficient management of the Association (including amounts for an operations reserve and a capital improvements reserve, if deemed necessary by the Board of Directors). The budget, so prepared, shall be submitted to the membership of the Association for approval at the annual meeting of the membership. The proposed budget must be approved by a vote of at least fifty-one percent (51%) of the votes of the membership of the Association represented in person or by proxy at such meeting.

Subsection 4.1 - MONTHLY ASSESSMENTS: After approval of the proposed budget of the Association, the Board of Directors shall assess each lot within the development subject hereto an equal amount of the projected annual costs to the Association as described hereinabove, subject to the provisions of Article VI (6) hereof, hereinafter set forth. The Board of Directors shall cause the Secretary of the Association to provide each member of the Association a statement of the monthly assessment against his lot



in writing, stating the date payment thereof is due at least thirty (30) days prior to the due date. All assessments shall be due and payable on such date and in such installments, if allowed, as the Board of Directors may determine.

Subsection 4.2 - NATURE AND ENFORCEMENT OF ASSESSMENTS: The nature and enforcement of the collection of assessments is set forth in the Declaration of Covenants, Conditions, and Restrictions of **LINCOLN PLACE TOWNHOMES**, which is recorded in the Brunswick County Registry.

Subsection 4.3 - SUBORDINATION: The lien for unpaid assessments provided for hereinabove shall be subordinate to the lien of any first mortgage or first Deed of Trust against any lot.

SECTION 5. - RECORDS AND AUDITS: The Board of Directors shall keep detailed records of the action of the Board of Directors, minutes of the meetings of the Board of Directors, minutes of the meeting of the membership of the Association and financial records and books of accounts of the Association, including a chronological listing of receipts and expenditures, as well as a separate account for each lot which, among other things, shall contain the amount of each annual assessment, and other assessments, against each lot, the date when due, the amount paid thereon, and the balance remaining unpaid. A written report summarizing all receipts and expenses of the Association shall be rendered by the Board of Directors to all members of the Association at least semi-annually.

In addition, an annual report of the receipts and disbursements of the Association shall be rendered by the Board of Directors to all members of the Association who have requested the same, promptly but after the end of each fiscal year. Each member of the Association shall be permitted to examine all of the books and accounts of the Association at reasonable times on business days, but not more than once a month.

SECTION 6. - CONDEMNATION: In the event of a taking in condemnation or by eminent domain of part or all of the property, the award made for such taking shall be payable to the Board of Directors, and the Board of Directors shall disburse the net proceeds of such award in the same manner as they are required to distribute insurance proceeds where there is no repair or restoration of the damage, as provided in these By-Laws.

ARTICLE VI
Parliamentary Rules



Robert's Rules of Order (latest edition) shall govern the conduct of all Association meetings, not in conflict with the Articles of Incorporation, the Amended Declaration of Restrictions, and these By-Laws.

**ARTICLE VII
 Amendments**

SECTION 1. - AMENDMENT BY CLASS A MEMBERS: Except as hereinafter provided, these By-laws may be amended in the following manner: (a) any member of the Association may propose any amendment or modification to these By-Laws by submitting the same in writing to the President of the Association, (b) in order to qualify for consideration by the Association, any such amendment or modification must be signed by at least twenty-five percent (25%) of the owners of the memberships in the Association; (c) upon receipt of such proposed amendment or modification, the President of the Association shall immediately follow the procedures outlined hereinabove under Article II, Section 6, entitled SPECIAL MEETINGS; (d) any such proposed amendment or modification in order to become a part of these By-Laws must be approved by a majority of the votes of the membership of the Association present in person or by proxy at such meeting; provided, however, that no amendment or modification shall discriminate against any owner, any lot class or group of owners, or lots unless all of the owners so affected so consent; and further, no amendment or modification shall change any lot, the common areas, nor increase any owner's assessments, nor change the voting rights of any members unless the owner or owners of the memberships or lots so affected and all holders of liens against such owner's or owners' lots shall approve in writing such amendment or modification.

SECTION 2. - AMENDMENT BY CLASS B MEMBER: As long as there remains a Class B member, the Class B member shall have the authority to amend these By-laws as necessary, in his sole discretion. However, as long as there remains a Class B member, the Department of Housing and Urban Development and/or the Veterans Administration has the authority to veto any amendments.

**ARTICLE VII
 Miscellaneous**

SECTION 1. - NOTICES: All notices to the Board of Directors

shall be sent by registered mail, return receipt requested, to the principal office of the Board of Directors. All notices to owners shall be sent by registered mail, return receipt requested, to such addresses as may have been designated by such owners in writing to the Secretary of the Association. All notices to mortgagees of or beneficiaries under Deeds of Trust against lots shall be sent by registered mail, return receipt requested, to their respective addresses designated by them in writing to the Secretary of the Association. All notices, if received, as proven by the return receipt, shall be deemed to have been given when mailed, except notices of change of address which shall be deemed to have been given when received.

SECTION 2. - WAIVER OF NOTICE: Whenever any notice which is required to be given to any member, Director, or officer of the Association by the provisions of the North Carolina Nonprofit Corporation Act, the provisions of the Articles of Incorporation, or these By-Laws, is waived in writing, signed by the person or entities entitled to such notice, whether before or after the time stated therein, such shall be equivalent to the giving of such notice.

SECTION 3. - INVALIDITY: The invalidation of any provision of these By-Laws by any court, agency, or legislature shall in no way affect the validity of any other provision of these By-Laws, and the same shall remain in full force and effect.

SECTION 4. - CAPTIONS: The captions herein used are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of these By-Laws, or the intent of any provision thereof.

SECTION 5. - GENDER: The use of the masculine gender in these By-Laws shall be deemed to include the feminine gender and the neuter gender and the use of the singular shall be deemed to include the plural, whenever the context so requires.

SECTION 6. - WAIVER: No restriction, condition, obligation or provision contained in these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

SECTION 7. - FISCAL YEAR: The fiscal year of the Association shall be the calendar year.

SECTION 8. - SEAL: The seal of the Association shall be in such form as shall be approved from time to time by the Board of



Directors of the Association.

IN WITNESS WHEREOF, the President of the Association and the Secretary thereof do hereby certify that this is a true copy of the duly enacted By-Laws of **LINCOLN PLACE TOWNHOMES OWNERS ASSOCIATION, INC.**, this 20 day of July, 2006.

LINCOLN PLACE TOWNHOMES OWNERS ASSOCIATION, INC.

BY: *Steve Hill*
PRESIDENT

ATTEST:

Christopher G. Whaley
SECRETARY
(AFFIX CORPORATE SEAL)

**STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK**

I, a Notary Public of said County and State, do hereby certify that *Christopher G. Whaley* personally appeared before me this day and acknowledged that he/she is Secretary of **LINCOLN PLACE TOWNHOMES OWNERS ASSOCIATION, INC.**, a North Carolina Nonprofit Corporation, and that by authority duly given and as the act of the Corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by him/herself as its Secretary.

Witness my hand and notarial stamp or seal, this the 20 day of July, 2006.

Karen Pierce Ramsey
Notary Public

My Commission Expires:
11-4-08

