



**DECLARATION OF PROTECTIVE COVENANTS FOR
WYNDWATER**

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NORTH CAROLINA

PENDER COUNTY

THIS DECLARATION OF PROTECTIVE COVENANTS FOR WYNDWATER (these "Protective Covenants") is made this 4th day of December, 2014, by **Signature Top Sail NC Ltd, d/b/ a Texas limited partnership doing business in North Carolina as Signature Top Sail NC, Ltd. LP** (the "Declarant").



Declarant is the owner of the real property described in Exhibit A, which is attached hereto and incorporated by reference. These Protective Covenants impose restrictions upon the Property (as defined in ARTICLE 1) under a general scheme of development for the mutual benefit of the owners of each portion of the Property. These Protective Covenants and the Governing Documents (as defined in ARTICLE 1) collectively govern WyndWater.

Declarant hereby declares that all of the property described in Exhibit A and any additional property subjected to these Protective Covenants by Supplemental Declaration shall be held, sold, used and conveyed subject to the North Carolina Planned Community Act and to the provisions of these Protective Covenants, which shall run with the real property subjected to these Protective Covenants. These Protective Covenants, including all conditions, restrictions and affirmative obligations set forth herein, shall be binding on and shall inure to the benefit of all parties having any right, title or interest in the Property or any part thereof, their heirs, successors, and assigns.

ARTICLE 1 **DEFINITIONS**

The terms used in these Protective Covenants shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

1.0 “Annual Assessment”: assessments levied on all Lots subject to assessment under ARTICLE 9 to fund Common Expenses for the general benefit of all Lots.

1.1 “ARC”: the Architectural Review Committee, as described in ARTICLE 10 herein.

1.2 “Articles of Incorporation” or “Articles”: the Articles of Incorporation of WyndWater Homeowners’ Association, Inc., as filed with the North Carolina Secretary of State, and as may be amended from time to time.

1.3 “Association”: WyndWater Homeowners’ Association, Inc., a North Carolina nonprofit corporation, its successors and assigns formed or to be formed by the Declarant as a property owners association for Owners, all of whom shall be members of the Association.

1.4 “Board of Directors” or “Board”: whether composed of one or more directors, the board governing the Association and managing the affairs of the Association.

1.5 “By-Laws”: the By-Laws of WyndWater Homeowners’ Association, Inc., as they may be modified or amended from time to time.

1.6 “Class “B” Control Period”: the period of time during which the Class “B” Member is entitled to appoint the members of the Board of Directors as provided in Section 3.3.

1.7 “Common Area”: all real and personal property, including easements, which the Association owns, leases, or otherwise holds possessory or use rights in for the common use and enjoyment of the Members.



1.8 “Common Expenses”: the actual and estimated expenses incurred or anticipated to be incurred by the Association for the general benefit of all Lots, together with any allocations to reserves, and the actual and estimated expenses of maintaining and operating the Common Areas, as the Board may find necessary and appropriate pursuant to and in accordance with the Governing Documents, including the following:

- (a) All sums lawfully assessed by the Association against its members;
- (b) Expenses of administration, maintenance, repair or replacement of the Common Areas, including any stormwater systems and facilities;
- (c) Expenses declared to be Common Expenses by the provisions of these Protective Covenants or the By-Laws or agreed by the Members to be Common Expenses; and/or
- (d) Any ad valorem taxes and public assessments levied against the Common Area.

1.9 “Community-Wide Standard”: the standard of conduct, maintenance, or other activity generally throughout the Property, or the minimum standards established pursuant to the Design Guidelines, Rules and Regulations, and Board resolutions, whichever is a highest standard. Declarant shall establish initially such standard and it may contain both objective and subjective elements. The Community-Wide Standard may evolve as development progresses and as the needs and desires within the Property change and such standard may be more specifically determined by the Board of Directors and ARC.

1.10 “Declarant”: Signature Top Sail NC Ltd, d/b/ a Texas limited partnership doing business in North Carolina as Signature Top Sail NC, Ltd. LP, together with such successors or assigns of Declarant who should acquire more than one undeveloped Lot from the Declarant for the purpose of development and who are specifically granted Declarant’s rights hereunder.

1.11 “Design Guidelines”: the architectural design guidelines and procedures set forth in ARTICLE 10 or adopted by ARC pursuant to ARTICLE 10 and applicable to all Lots within the Property.

1.12 “Future Development Property”: any portion of the real property within a one (1) mile radius of the real property described on Exhibit A attached hereto and incorporated herein by reference.

1.13 “Governing Documents”: consists of the following, as they may be amended or modified from time to time: the Protective Covenants, the Articles of Incorporation, the By-Laws, any Supplemental Declarations, the Design Guidelines, the Rules and Regulations, Board resolutions, and recorded plats of the Property.

1.14 “Lot”: a portion of the Property, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use, and occupancy as an attached or detached residence for a single family. The term shall refer to the land, if any, which is part of the Lot as well as any improvements thereon. The term shall include, by way of illustration but not limitation, condominium Lots, townhouse Lots, cluster homes, patio or zero lot line homes, single-family detached houses on separately platted lots, and single family residential lots.



1.15 “Member”: a Person entitled to membership in the Association, as provided in Section 3.2.

1.16 “Owner”: the record Owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.17 “Property” or “Properties” or “WyndWater”: the real property described in Exhibit A, together with such additional property as is subjected to this Declaration in accordance with ARTICLE 8 thereto.

1.18 “Rules and Regulations”: the rules and regulations adopted by the Board governing land use, individual conduct and uses or actions upon the Property, as they may be amended or supplemented from time to time.

1.19 “Supplemental Declaration”: an amendment or supplement to these Protective Covenants filed pursuant to ARTICLE 8 which subjects additional property to these Protective Covenants and/or imposes, expressly or by reference, changes to or additional restrictions and obligations on the land described therein.

1.20 “WyndWater Builder” or “Builder”: Any person or entity who purchases one or more Lots for the purpose of constructing a home thereon for later sale to consumers, or who purchases one or more parcels of land within WyndWater for further subdivision, development, and/or resale in the ordinary course of its business.

ARTICLE 2

PROPERTY RIGHTS

2.1 Rights of Owners. Every Owner shall have a right and nonexclusive easement of ingress, egress, use, access, and enjoyment in and to the Common Areas within the Property, which shall be appurtenant to and pass with the title to every Lot, subject to the following provisions:

- (a) The Governing Documents;
- (b) Any restrictions or limitations contained in any deed or other instrument conveying any portion of the Common Area to the Association;
- (c) The right of the Board to permit use of any and all roads that may now or in the future be located within WyndWater by persons other than Owners, their families, lessees, and guests in order to access adjacent or neighboring property;
- (d) The right of the Board to impose reasonable charges and fines for late payment of assessments; and after notice and a hearing, to suspend the voting rights and the right to use the Common Areas by an Owner (i) for any period during which any assessment or charges against such Owner’s Lot has remained unpaid for more than thirty (30) days, and (ii) for a period not to exceed sixty (60) days for a single violation of the Governing Documents (other than a failure to pay any assessment or charge or liens due), and (iii) for any period greater than thirty (30) days in the case of any continuing violation, of the Governing Documents;



(e) The right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area pursuant to Section 4.7;

(f) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval requirements set forth herein and the rights of such Mortgagees in said Property shall be subordinate to the rights of the Lot Owners hereunder; and

(g) Easements as provided in ARTICLE 12 and 18.

ARTICLE 3
ASSOCIATION FUNCTION, MEMBERSHIP, AND VOTING RIGHTS

3.1 Function of Association. The Association shall be the entity responsible for management, maintenance, ownership, operation and control of the Common Area owned or leased by the Association within the Property. The **Association** shall be the primary entity responsible for enforcement of these Protective Covenants and such reasonable rules regulating use of the Common Areas owned or leased by the Association and the use of the Property as the Board may adopt. The Association shall also be responsible for administering and enforcing the architectural design guidelines and controls set forth in these Protective Covenants and in the Design Guidelines. The Association shall perform its functions in accordance with the Governing Documents and applicable North Carolina law.

3.2 Membership. Every Owner shall be a Member of the Association. There shall be only one membership per Lot. If a Lot is owned by more than one Person, all co-Owners shall share the privileges of that membership. The membership rights of an Owner which is a corporation, partnership or other legal entity may be exercised by any officer, director, partner, or trustee, or by any other individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association, provided that only one person (and such person’s immediate family members with respect to membership rights other than voting) may be designated to act in such capacity for such an Owner at any particular time.

3.3 Voting. The Association shall have two classes of membership, Class “A” and Class “B”:

(a) Class “A”. Class “A” Members shall be all Owners of Lots except the Class “B” Member, if any. Class “A” Members shall have one vote for each Lot in which they hold the interest required for membership under Section 3.2; there shall be only one vote per Lot.

(b) Class “B”. The sole Class “B” Member shall be the Declarant. The rights of the Class “B” Member, including the right to approve or withhold approval of actions proposed under these Protective Covenants and the By-Laws, are specified throughout the Governing Documents. The Class “B” Member may appoint the members of the Board during the Class “B”



Control Period, which period is further defined herein. After termination of the Class "B" Control Period, the members of the Board shall be selected as provided in the By-Laws.

During the Class "B" Control Period, the Class "B" Member shall be entitled to ten (10) votes for each platted Lot and ten (10) votes for each planned but currently-unplatted Lot in the Property. The total number of planned Lots in the Property is currently two hundred (200), although the actual number of Lots may be more or less, and the Class "B" Member makes no representation whatsoever regarding the actual number of Lots to be included in the Property. The Class "B" Control Period shall terminate and the Class "B" membership shall cease and be converted to Class "A" membership on the happening of one of the following events, whichever occurs earliest:

(i) When the Declarant owns one percent (1%) or less of the total number of the planned Lots in the Property, including any of the Future Development Property which may be annexed thereto, as herein provided,

(ii) On January 1, 2042, or

(iii) When, in its discretion, Declarant so determines and declares in an instrument recorded in the Register of Deeds of Pender County.

(c) Exercise of Voting Rights. In any situation in which a Member is entitled personally to exercise the vote for his or her Lot and there is more than one Owner of a particular Lot, the vote for such Lot shall be exercised as such Co-Owners determine among themselves and advise the Secretary of the Association in writing prior to any meeting. Absent such advice, the Lot's vote shall be suspended if more than one Person seeks to exercise it.

ARTICLE 4
RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

4.1 Common Area. The Association, subject to the rights of the Owners set forth in these Protective Covenants, shall manage and control the Common Area and all improvements thereon (as defined in other sections herein including, without limitation, any stormwater retention facilities, open space, roads, road rights of way, lighting, irrigation, equipment, and common landscaped areas). The Association shall keep such areas and improvements in good repair and in a clean, attractive, and sanitary condition consistent with these Protective Covenants and the Community-Wide Standard.

4.2 Personal Property and Real Property for Common Use. The Association may acquire, hold, and dispose of tangible and intangible personal property or fee title, leasehold or other property interests in any real property, improved or unimproved. Declarant may convey to the Association improved or unimproved real estate located or described within WyndWater, personal property and leasehold and other property interests. Such property shall be accepted by the Association and thereafter shall be maintained by the Association as Common Area by the Association at its expense for the benefit of its Members, subject to any restrictions set forth herein and in the deed. Upon Declarant's written request, the Association shall reconvey to Declarant any



unimproved portions of the Common Area which Declarant previously conveyed to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines.

4.3 Rules and Regulations. The Association, through its Board, may make, revoke, amend and enforce reasonable rules governing the use of the Property, in addition to further defining or limiting, and, where specifically authorized hereunder, creating exceptions to, those covenants and restrictions set forth in these Protective Covenants. Such rules shall be binding upon all Owners, occupants, invitees, lessees, guests and licensees.

4.4 Enforcement. Subject to the requirements of the Planned Community Act, the Association may impose sanctions for violations of any of the Governing Documents, including reasonable monetary fines, suspension of the right to vote, and/or suspension of the right to use any recreational facilities within the Common Area. In addition, the Association may exercise self-help to cure violations, and, after notice and an opportunity to be heard, may suspend any services it provides to any Owner who is more than thirty (30) days delinquent in paying any assessment or other charge due to the Association. The Board may seek relief in any court for violations or to abate nuisances. The Board may assess the reasonable monetary fines authorized by this Section as an Individual Assessment authorized by ARTICLE 9 of these Protective Covenants.

4.5 Implied Rights; Board Authority. The Association may exercise any other right or privilege given to it expressly by these Protective Covenants, the Articles, the By-Laws, the Planned Community Act, or Chapter 55A of the North Carolina General Statutes, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in these Protective Covenants, the By-Laws, or the Articles, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

4.6 Indemnification. To the maximum extent allowed by North Carolina law, the Association shall indemnify every officer, director, manager and committee member against all expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the Board incumbent at the time of such settlement) to which he or she may be party by reason of being or having been an officer, director or committee member. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

4.7 Dedication of Common Areas. The Association may dedicate portions of the Common Areas to any local, state, or federal governmental entity, public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Association.

4.8 Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to make the Property safer than they otherwise might be. NO REPRESENTATION OR WARRANTY IS MADE THAT ANY SYSTEMS OR MEASURES, INCLUDING ANY MECHANISM OR SYSTEM FOR LIMITING ACCESS TO WYNDWATER, CANNOT BE COMPROMISED OR CIRCUMVENTED, NOR THAT ANY SUCH SYSTEMS OR SECURITY MEASURES UNDERTAKEN WILL IN ALL CASES PREVENT LOSS OR PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS BOARD AND COMMITTEES, AND



DECLARANT ARE NOT INSURERS OR GUARANTORS OF SECURITY OR SAFETY NOR SHALL ANY OF THEM BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR OF INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. EACH PERSON WITHIN WYNDWATER ASSUMES ALL RISKS OF PERSONAL INJURY AND LOSS OR DAMAGE TO PROPERTY, INCLUDING LOTS AND THE CONTENTS OF LOTS, RESULTING FROM ACTS OF THIRD PARTIES. EACH OWNER SHALL BE RESPONSIBLE FOR INFORMING ITS TENANTS AND ALL OCCUPANTS OF ITS LOT OF THE FOREGOING.

4.10 Management and Administration. The management and administration of the Common Areas and amenities shall be the sole right and responsibility of the Association. The management shall be carried out in accordance with the terms and conditions of the Governing Documents, but certain duties may be delegated to a manager(s) or management service(s), as further provided in the By-Laws.

4.11 Assignment to Association. After completion of construction of any facilities required to be constructed by Declarant pursuant to permits, agreements and easements for the Property, Declarant shall be entitled to assign all water, sewer, septic, land use, stormwater system and utility permits, agreements and easements between Declarant and any governmental agency or department or public or private utility company to the Association, in which case the Association shall be required to assume same. After such an assignment, the Association shall be responsible for and assume all duties, obligations, and rights and privileges of the Declarant under such permits, agreements and easements, including all maintenance responsibility, even if part of the water, sewer, septic, land use, stormwater system or utility areas covered by the permits, agreements and easements are not located within the Property.

4.12 Common Area. The Common Area, once owned in fee simple by the Association, cannot be mortgaged, conveyed or encumbered without the consent of eighty percent (80%) of the Lot Owners. Provided however, this subsection shall not preclude the Declarant during the Class "B" Control Period and thereafter, the Board, from granting easements for installation and maintenance of sewage, utility and drainage facilities upon, over, under and across the Common Area without the assent of the Members when such easements, in the opinion of the Declarant or the Board, as applicable, are necessary for convenient use and enjoyment of the Property. During the Class "B" Control Period, any such mortgage, conveyance or encumbrance shall also require the consent of Declarant. The Association may exchange portions of Common Areas with Declarant and/or any other property owner or property owners association for substantially equal areas of property for the purpose of eliminating potential or unintentional encroachments of Dwellings or other improvements onto portions of the Common Area.

4.13 Turnover Transfer by Declarant. Upon the expiration of the Class B Control Period, as provided herein, or any time prior to said expiration, in the sole discretion of the Declarant, the Declarant may convey to the Association (i) all of the right, title and interest of the Declarant in and to all Common Area and all improvements thereto which has not been previously transferred to the Association, (ii) any and all right, title and interest of Declarant in and to any roads within WyndWater, (iii) any rights of way or easements in or across the Property reserved to and exercisable by the Declarant, (iv) any and all stormwater permits, erosion control permits, CAMA permits, water system permits, wastewater or septic system permits, and any other governmental permits and licenses obtained by the Declarant in connection with the development of WyndWater by the Declarant (the "Development Permits"), and (v) any and all rights and obligations as the Declarant under this



Declaration, except for any rights and authority of the Declarant which may survive such expiration of the Class B Control Period which the Declarant may specifically except from said conveyance, and the rights and authority of the Declarant as an owner of the any of the Lots described herein (said conveyance referred to herein as the "Turnover Transfer").

4.14 Obligations of the Association upon Turnover Transfer. Upon Declarant's notification of the Turnover Transfer, the Association shall be obligated and required as follows:

(a) To accept the Turnover Transfer by the Declarant.

(b) To the extent the Association has not already assumed such responsibilities, to assume all the rights and responsibilities of the Declarant, including but not limited to the maintenance and repair of any roads, rights of way and easements, Common Areas and any other property transferred to the Association, the maintenance of and payment of premiums for any necessary property insurance, and the payment of any applicable property taxes.

(c) To assume the rights and responsibilities of the Declarant for all erosion control plans and permits, CAMA permits, water system permits, wastewater or septic system permits, and any other governmental permits, licenses or agreements obtained by the Declarant in connection with the development of WyndWater. After such assignment and assumption, the Association shall cooperate in good faith to obtain the transfer of any such permits, agreements and licenses on the records of any governmental agency or department or public or private utility company having jurisdiction of said matters.

(d) To provide the Declarant with any additional documentation reasonably required by the Declarant to evidence the acceptance of the Turnover Transfer as provided herein.

4.15 Release of the Declarant. Upon the delivery of the Turnover Transfer as provided herein, the Declarant shall have no further responsibility for and shall be released from any liability with regard to any matters arising after the effective date of the Turnover Transfer, from or relating to the Turnover Transfer, or with regard to the Property or rights therein, the Development Permits, or any other rights, duties or other matters transferred to the Association as a result of the Turnover Transfer.

4.16. Provision of Services.

The Declarant and/or the Association may provide, or provide for, services and facilities for the Owners and their Lots, and shall be authorized to enter into and terminate contracts or agreements with other entities to provide such services and facilities. The Board may charge use or service fees for any such services and facilities provided at the option of an Owner, or may include the costs thereof in the Association's budget as a Common Expense and assess it as part of the Annual Assessment if provided to all Lots. By way of example, such services and facilities might include landscape maintenance, irrigation, pest control service, cable television service, fiber optic services, internet, phone, cellular phone, security, street and/or pathway lighting, caretaker, transportation, fire protection, utilities, and similar services and facilities. In the event such a contract is entered into on behalf of the Association, all Owners will be required to comply with any terms therein and no Owner may exempt himself or herself from liability for the costs thereof for non-use of such service, abandonment of his or her Lot, or any other means. Each Owner will be required to pay for any water connections, sewer/septic connections, impact fees, or any other charges imposed by any entity



furnishing water, sewer/septic or other utility service to the Lots. In the alternative, the Declarant may collect such connection, impact, and other fees, and charges directly from the Owners. All Owners shall be required, for household purposes, to use water, sewer/septic and irrigation supplied by the companies and/or governmental Lots servicing the Property and designated by Declarant. Without limiting the foregoing, the Declarant reserves the right (but not the obligation) to subject the Property to a contract with Duke Energy Progress, Inc. for the installation of street lighting, which requires a continuing monthly payment to Duke Energy Progress, Inc. by each Owner.

Nothing in this Section shall be construed as a representation by Declarant or the Association as to what, if any, services shall be provided. In addition, the Board shall be permitted to modify or cancel existing contracts for services in its discretion, unless the provision of such services is otherwise required by the Governing Documents. Non-use of services provided to all Owners or Lots as a Common Expense shall not exempt any Owner from the obligation to pay assessments for such services.

ARTICLE 5 **MAINTENANCE**

5.1 Association's Responsibility. The Association shall maintain and keep in good repair the Common Area. Such maintenance responsibility may include, but need not be limited to: all landscaping and other flora, parks, and signage for the Property situated upon the Common Area; structures and improvements situated upon the Common Area, including any bicycle and pedestrian pathways and trails situated upon the Common Area; ponds, lakes, drainways, stormwater retention facilities;; recreation pathways within or upon the Common Area; the main entrances to WyndWater from Sloop Point Road (including, without limitation, 500 foot approaches to such main entrances in both directions); any fences and gates located at the main entrance and the buffer fence located or to be located along the perimeter of the development; and any other areas designated as Common Area or Limited Common Area by Declarant or the Association from time to time, excepting any real or personal property for which some entity other than the Association has expressly assumed responsibility. The Association also has certain maintenance responsibility as provided in ARTICLE 18.

5.2 Owner's Responsibility. Each Owner shall maintain his or her Lot and all structures, landscaping, parking areas, and other improvements comprising the Lot in a manner consistent with the Community-Wide Standard and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Association. It shall be the responsibility of each Owner to maintain, in a manner consistent with the Community-Wide Standard and this Declaration, any area lying between the boundary or Lot line of such Lot and the edge of the street pavement. Any fencing which is not maintained by the Association shall be maintained and kept in good condition and repair by the Owner of the Lot on which such fencing is located (at such Owner's cost and expense). In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may, but is not required to, perform such maintenance responsibility and assess all costs incurred by the Association against the Lot and the Owner in accordance with Section 9.6. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation, as such situation may be reasonably determined by the Association.

Additionally, with respect to any Lot which has a landscape berm located between the boundary of such Lot and any platted street within the Property, it shall be the responsibility of the



Owner of such Lot to maintain, in a manner consistent with the Community-Wide Standard and these Protective Covenants, any area or landscaping, including any landscaping that may have been initially placed by Declarant, lying between the boundary or lot line of such Lot and the top of such landscape berm. The obligation stated in the immediately preceding sentence shall apply regardless of whether the area in question has been or has not been designated as Common Area hereunder.

With respect to any of the Lots that are considered "Benefitted Tracts" as described in ARTICLE 18, the Owners of such Lots has additional maintenance responsibility as provided therein.

5.3 Maintenance of Lots. Each Owner shall maintain his or her Lot and all landscaping and improvements comprising the Lot in a manner consistent with the Community-Wide Standard and Governing Documents, unless such maintenance responsibility is otherwise assumed by or assigned to the Association. If, in the opinion of the Association, any Owner shall fail to maintain any Lot owned by him in a manner which is reasonably neat and orderly and as is required by ARTICLE 11 herein or shall fail to keep improvements constructed thereon in a state of repair so as not to be unsightly, all in the sole opinion of the Association, the Association in its discretion, by the affirmative vote of a majority of the members of the Board of Directors, and following ten (10) days written notice to Owner, may enter upon and make or cause to be made repairs to such improvements and perform such maintenance on the Lot as the removal of trash, cutting of grass, pruning of shrubbery, weeding and items of erosion control. The Association shall have an easement for the purpose of accomplishing the foregoing, as provided herein and in ARTICLE 12. The reasonable cost incurred by the Association in rendering all such services, plus a service charge of fifteen percent (15%) of such cost, shall be added to and become an Individual Assessment to which such Lot is subject as provided in ARTICLE 9 herein.

5.4 Roads and Streets. The roadways shown on any recorded plats of Property have been dedicated as public roads. As provided in Section 12.9 herein, all of the Owners have easements over the public roads in order to travel over and across these roadways. As public roads, the responsibility for maintenance of these roads has been or will be upon the County as the roadways are accepted into the County's public street system. Until the roads are accepted by the County, the responsibility for maintenance shall be upon the Association.

5.5 Standard of Performance. Maintenance, as used in this Article, shall include, without limitation, repair and replacement as needed, as well as other duties, as the Board may determine necessary or appropriate to satisfy the Community-Wide Standard. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants.

ARTICLE 6
INSURANCE AND CASUALTY LOSSES

As and to the extent provided in the By-Laws of the Association and as required by the Planned Community Act, the Association shall maintain adequate and appropriate insurance coverage on all Common Areas.

ARTICLE 7
SUBDIVISION



No Lot or Lots shall be subdivided except to enlarge an adjoining Lot, but any Lot so enlarged cannot be improved with more than one single family dwelling. An Owner of a Lot and a portion or all of an adjoining or contiguous Lot or Lots may construct a dwelling or other structure permitted hereunder upon and across the dividing line of such adjoining and contiguous Lot(s). Even if Lots are combined as provided herein, the initial number of Lots (*i.e.*, the total number of Lots before combination) shall remain the same and shall be treated for all purposes under these Protective Covenants as the original number of Lots, so that the combined Lots must conform to the obligations created by these Protective Covenants, in the same way that these Protective Covenants initially attached to the Lots.

ARTICLE 8

ANNEXATION AND WITHDRAWAL OF PROPERTY

8.1 Annexation without Approval of Membership.

(a) Until January 1, 2041, Declarant may subject any portion(s) or all of the Future Development Property to the provisions of these Protective Covenants as provided in this Section 8.1. Declarant may transfer or assign this right to annex property, provided that the transferee or assignee is the developer of at least a portion of the Property. Nothing in these Protective Covenants shall be construed to require the Declarant or any successor to annex or develop any of the Future Development Property in any manner whatsoever.

(b) An annexation by Declarant under Section 8.1(a) shall be accomplished by filing a Supplemental Declaration in the land records of Pender County, North Carolina, describing the property to be annexed and specifically subjecting it to the terms of these Protective Covenants. Such Supplemental Declaration shall not require the consent of any Members other than Declarant, but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein.

8.2 Annexation by Membership. Except as provided in Section 8.1 herein, annexation of additional property shall require the assent of two-thirds ($\frac{2}{3}$) of the Class "A" Members at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than ten (10) days nor more than sixty (60) days in advance of the meeting. During the Class "B" Control Period, annexation of additional property under this Section 8.2 shall also require the consent of Declarant.

8.3 Withdrawal of Property. The Declarant reserves the right to amend these Protective Covenants so long as it has a right to annex additional property pursuant to this Article, without prior notice and without the consent of any Person, for the purpose of removing property then owned by the Declarant, its affiliates, or the Association from the coverage of these Protective Covenants, to the extent originally included in error or as a result of any changes in the Declarant's plans for the Property, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Property.

8.4 Additional Covenants and Easements. So long as Declarant owns any of the property described on Exhibit A or any of the Future Development Property, the Declarant may unilaterally subject the property submitted to these Protective Covenants initially or by Supplemental Declaration to additional covenants and easements, provided that such amendment or modification does not



materially alter the general or common scheme of development for the Property described herein and further provided that this right to amend shall not render these covenants and restrictions purely personal to the Declarant and the benefits and burdens contained in these Protective Covenants shall remain mutual and reciprocal to all Owners.

8.5 Rights to Change. The rights reserved in this ARTICLE 8 by Declarant include the right to change, alter, or designate Lot(s), roads, utility and drainage facilities and easements, and to change, alter, or redesignate such other present and proposed amenities or facilities as may in the sole judgment of the Declarant, be necessary or desirable. The rights reserved in this ARTICLE 8 specifically include the right of Declarant to redesignate, change, or alter any platted Lot(s) into road(s) or parking spaces or vice-versa.

8.6 Amendment. This ARTICLE 8 shall not be amended without the prior written consent of Declarant so long as the Declarant owns any of the property described on Exhibit A.

ARTICLE 9 **ASSESSMENTS**

9.1 Creation of Assessments.

(a) The Association is hereby authorized to levy assessments against each Lot for Association expenses as the Board may specifically authorize from time to time. There shall be five types of assessments for Association expenses: (1) Annual Assessments to fund Common Expenses for the general benefit of all Lots within the Property; (2) Special Assessments as described in Section 9.5; (3) Individual Assessments as described in Section 9.6; (4) Working Capital Assessments as described in Section 9.7; and (5) Service Assessments as described in Section 9.13. Each Owner, by accepting a deed or by entering into a recorded contract of sale for any portion of the Property, is deemed to covenant and agree to pay these assessments.

(b) All assessments, together with interest from the due date of such assessment at a rate determined by the Board (not to exceed the highest rate allowed by North Carolina law), late charges, costs, and reasonable attorney's fees, shall be a charge and continuing lien upon each Lot against which the assessment is made until paid, as more particularly provided in Section 9.9. Each such assessment, together with interest, late charges, costs, and reasonable attorney's fees, also shall be the personal obligation of the Person who was the Owner of such Lot at the time the assessment arose, as more particularly provided in Section 9.9.

(c) No Owner may exempt himself from liability for assessments, by non-use of Common Area, abandonment of his Lot, or any other means. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

(d) Assessments levied by the Association shall be used for Common Expenses, enforcing this Declaration, paying taxes, insurance premiums, legal and accounting fees, governmental charges, establishing working capital, and doing any other things necessary or desirable in the opinion of the Association to maintain the Property to Community-Wide standards, and for such other expenditures as approved by the Board to promote the recreation, health, safety, and welfare of the Owners and residents of WyndWater.



9.2 Declarant's Obligation for Assessments; Grace Period for Builders.

(a) During the Class "B" Control Period, Declarant may satisfy its obligation for assessments on Lots which it owns either by either: (i) paying such assessments in the same manner as any other Owner; (ii) by paying the difference between the amount of assessments levied on all other Lots subject to assessment and the amount of actual expenditures by the Association during the fiscal year; or (iii) paying one-half of the assessments for an unimproved Lot for all Lots which are platted and Recorded but which have not yet been sold to an Owner other than Declarant or a Builder. Unless the Declarant otherwise notifies the Board in writing at least 45 days before the beginning of each fiscal year, the Declarant shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year. Regardless of Declarant's election, Declarant's obligations hereunder may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these. After termination of the Class "B" Control Period, Declarant shall pay assessments on its unsold Lots in the same manner as any other Owner.

(b) Any Builder who purchases property subject to this Declaration directly from the Declarant shall not be required to pay Annual Assessments or Special Assessments relative to such property acquired from Declarant for a period beginning on the date such property is acquired from Declarant (each, an "Acquisition Date") and ending on the date that is one (1) year after the Acquisition Date; provided however, in the event any portion(s) of such property are subsequently conveyed by Builder to any other party prior to end of the year after the Acquisition Date, then the grace period described in this section shall automatically and immediately terminate as to any portion(s) of the property conveyed by the Builder as of the date of such conveyance, and the grantee of such conveyance shall thenceforth be subject to full assessments and fees under this Article IX.

9.3 Computation of Annual Assessment; Budget.

(a) At least thirty (30) days before the beginning of each fiscal year, the Board shall prepare and distribute to the Members a budget covering the estimated Common Expenses during the coming year (including, without limitation, any contributions to be made to any capital reserve funds). The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against Lots, and the amount to be generated through the levy of all applicable assessments against Lots.

(b) The Annual Assessment shall be levied at a uniform rate against all Lots and shall be set at a level which is reasonably expected to produce total income for the Association equal to the total budgeted Common Expenses, including reserves. In determining the level of assessments, the Board, in its discretion, may consider other sources of funds available to the Association. In addition, the Board shall take into account the number of Lots subject to assessment on the first day of the fiscal year for which the budget is prepared and the number of Lots reasonably anticipated to become subject to assessment during the fiscal year. This Section 9.3 shall apply to the determination of all Annual Assessments for fiscal years beginning after the date of the recording of this Declaration.

(c) The Board shall send a summary of the final budget, together with a notice of the amount of the Annual Assessments to be levied pursuant to such budget, to each Owner within thirty (30) days after the Board adopts such budget. With such summary, the Board shall provide to each Owner a written notice of the meeting of the Members at which ratification of the budget will



be considered. Such notice shall include a statement that the budget may be ratified at such meeting without a quorum. The meeting of the Members to consider ratification of the budget shall be held not less than ten (10) nor more than sixty (60) days after the mailing of the summary and notice referenced in this paragraph. Notwithstanding any other provisions of the Governing Documents, there shall be no requirement that a quorum be present at the meeting described herein. Notwithstanding any other provisions to the contrary in the Governing Documents, the proposed budget shall automatically be deemed ratified and become effective unless disapproved at such meeting by: (i) Members representing at least seventy-five percent of the total Class "A" votes in the Association and (ii) the Class "B" member, if such member exists. In the event the proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

(d) The Board may revise the budget and adjust the assessments from time to time during the year, subject to the notice requirements and the right of Members to disapprove the revised budget as set forth above.

9.4 Capital Reserve Budget. The Board shall annually prepare a capital reserve budget for maintenance and replacement of capital improvements which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost.

9.5 Special Assessments. In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover capital improvements or unbudgeted expenses (including, without limitation, expenses required to complete repair, maintenance and/or clean-up which the Board deems necessary or advisable after a storm, hurricane or other casualty event) or other expenses in excess of those budgeted. The Board may establish the amount of the Special Assessment if it is TWO HUNDRED AND FIFTY DOLLARS (\$250.00) or less in any assessment year for each Member. All other Special Assessments shall require the affirmative vote of sixty-seven percent (67%) of Members present and voting in person or by proxy who will be subject to such Special Assessment, and the affirmative vote or written consent of the Class "B" Member, if such exists. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

9.6 Individual Assessments.

(a) The Board shall have the power to levy Individual Assessments against a particular Lot or Lots constituting less than all Lots within the Property, as follows:

(i) To cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Lot or occupants thereof upon request of the Owner pursuant to a menu of special services which the Board may from time to time authorize to be offered to Owners (which might include, without limitation, landscape maintenance, handyman service, pool cleaning, pest control, etc.), which assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Owner; and

(ii) To cover costs including overhead and administrative costs and reserves incurred for maintenance, repair and replacement of any private roads, signs, mail boxes,



fences and berms which are constructed for the benefit of certain specified lots, as shall be more specifically set forth in a Supplemental Declaration.

(iii) To cover costs incurred in bringing the Lot into compliance with the terms of these Protective Covenants, including, without limitation, Section 5.3, any applicable Supplemental Declaration, the Articles, the By-Laws, Rules and Regulations, or Design Guidelines or costs incurred as a consequence of the conduct of the Owner or occupant of the Lot, their lessees, licensees, invitees, or guests; provided, the Board shall give the Lot Owner prior written notice and an opportunity for a hearing before levying an Individual Assessment under this subsection (a).

9.7 Working Capital Assessment. At the time title to a Lot is conveyed from any Owner (including the Declarant) to any new Owner (excluding any Builder approved by the Declarant), the acquiring Owner shall contribute to the Association as working capital an amount equal to one year's Annual Assessment. Such funds shall be used for operating and capital expenses of the Association, such as prepaid insurance, supplies, furnishings and equipment, etc. Amounts paid into the working capital fund are not to be considered advance payment of regular assessments. All working capital funds shall become part of the general operating funds of the Association. The Board may change the amount of the Working Capital Assessment from time to time. The Declarant may waive the Working Capital Assessment for authorized Builder intending to build a residence on a Lot to be conveyed by the Builder to others so long as the Builder agrees with the Declarant and the Association to charge the Working Capital Assessment to the Builder's buyer and to pay the same to the Association at the time the Builder conveys said Lot and residence

9.8 Date of Commencement of Annual Assessments and Due Dates. The Annual Assessments provided for herein shall commence on the date of conveyance of each Lot to an Owner other than Declarant or a Builder approved by Declarant. The due dates shall be established by the Board of Directors.

9.9 Lien for Assessments.

(a) All assessments authorized in this Article, together with interest and expenses, including reasonable attorney's fees (as permitted by law) shall constitute a charge on and a continuing lien upon the Lot against which the assessment is levied, which lien shall be superior to all other liens and encumbrances on the Lot, except the liens of all ad valorem taxes or assessments and any other liens which by law would be superior. Such lien shall become effective when a notice thereof ("Claim of Lien") is filed of record in the Office of Clerk of Superior Court of Pender County, North Carolina, provided such Claim of Lien shall not be filed until such sums assessed remain unpaid for a period of more than thirty (30) days after the same shall become due. Such Claim of Lien shall also secure all assessments against the Lot becoming due thereafter until the lien has been satisfied.

(b) In the event of any transfer of title to a Lot, the lien of the assessments shall not be extinguished nor shall the Lot be relieved from the lien for any subsequent assessments. Each assessment, together with interest, late charges, costs, and reasonable attorney's fees, shall be the personal obligation of the Person who was the Owner of such Lot at the time the assessment arose. Upon a transfer of title to a Lot, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance. However, no first Mortgagee who obtains title to a Lot by exercising the remedies provided in its Mortgage or any individual obtaining title by or



through a foreclosure shall be personally liable for unpaid assessments which accrued prior to such acquisition of title.

9.10 Default in Payment of Assessments: Remedies of the Association.

(a) Any assessments or portions thereof that are not paid when due shall be delinquent. If the assessment or any portion thereof is not paid within thirty (30) days after the due date, the same shall bear interest from the due date at a rate set by the Board, not to exceed the maximum legal rate allowed in the State of North Carolina per annum, together with all expenses, including reasonable attorneys' fees (if permitted by law), incurred by the Board in any proceeding brought to collect such unpaid Assessments; and in addition, a late fee shall be assessed in such amount as may be determined by the Board of Directors.

(b) The Association may record notice of the claim of lien in the Office of the Clerk of Superior Court of Pender County, North Carolina and/or file a suit to collect such delinquent assessments and charges. The Association may also file Notice of *Lis Pendens*, bring an action of law against the Owner personally obligated to pay the same; bring an action to foreclose the lien against the property, and utilize any other remedy provided under North Carolina law. In any event, a judgment, decree, or order in any action brought under this ARTICLE 9 shall include costs and reasonable attorney's fees for the prevailing party, subject to the limitations of N.C.G.S. §47F-3-116, and the same shall be added to the amount of any such assessment. The Association may bid for the Lot at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Lot.

9.11 Failure to Assess. Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Annual Assessments on the same basis as for the last year for which an assessment was made, if any, until a new assessment is made, at which time the Association may retroactively assess any shortfalls in collections.

9.12 Exempt Property. The following property shall be exempt from payment of Annual Assessments, Service Assessments and Special Assessments:

- (a) All Common Areas and Limited Common Areas;
- (b) Any property dedicated to and accepted by any governmental authority or public utility;
- (c) Any property held by a conservation trust or similar nonprofit entity as a conservation easement, except to the extent that any such easement lies within the boundaries of a Lot which is subject to assessment hereunder (in which case the Lot shall not be exempted from assessment);
- (d) Any Lot which is not approved by any governmental agency for residential use;
- (e) Any Lot or property owned of record by the Declarant, its successors or assigns, except as otherwise provided in Section 9.2; and



(f) Any Future Development Property which has not been brought within the jurisdiction of the Association by the filing of a Supplemental Declaration.

(g) all Special Purpose Lots dedicated for the use and benefit of the Benefited Tracts (as defined in ARTICLE 18) for so long as such Special Purpose Lots are being used for septic drain field sites, but if the Declarant exercises its option to cause the Special Purpose Lots to revert to Declarant ownership (as provided in ARTICLE 18), then the Special Purpose Lots shall be subject to payment of all assessments applicable as of the date of reversion and in the future.

9.13 Service Assessments. The Board shall have the power to levy Service Assessments against a particular Lot or Lots constituting less than all Lots within the Property to cover the costs, including overhead and administrative costs, of providing specialized maintenance and/or landscaping services to such Lots and the occupants thereof. Such assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Owner. Notwithstanding the foregoing to the contrary, the fact that the Association levies a Service Assessment shall not be deemed to impose any obligation upon the Association to (i) monitor the quality of work or services being provided, (ii) assume any responsibility for the quality of work or services provided, (iii) ensure the structural integrity or soundness of any construction or modifications provided or (iv) ensure compliance with building codes and other governmental requirements relating to the work or services provided.

9.14 Surplus Funds. Notwithstanding the provisions of N.C.G.S. §47F-3-114, any excess of Association income over Common Expenses (as defined in Section 1.10 herein and which shall include reasonable reserves) shall be applied to reserves or other future expenses as the Board deems appropriate.

ARTICLE 10

DESIGN GUIDELINES

10.1 General.

(a) No structures or buildings shall be erected or maintained upon any Lot or the Property; no improvements or construction (which terms shall include within their definitions: clearing, grading, excavation, landscaping, and other site work) shall be commenced, erected, or maintained upon any Lot or the Property; and no exterior additions to or changes or alterations therein (including, without limitation, any change of color) shall be made upon any Lot or the Property, except in compliance with this Article and the Design Guidelines. Without limiting the generality of the foregoing, no work described in the immediately preceding sentence shall commence until the plans and specifications showing the nature, kind, shape, heights, materials, and location of the same shall have been submitted to and approved in writing by ARC according to the provisions of ARTICLE 10. With regard to the provisions of this ARTICLE 10, the terms, "structures," "buildings" and "improvements" shall include, but not be limited to any dwelling, garage, fence, wall, sidewalk, hedge, mass planting, change in grade or slope, drainage pipe, drainage canal, ditch, swale, catch basin, swimming pool, tree house, playhouse, sign, flag pole, exterior illumination, monument or marker, outdoor statuary, exterior lights, security lights, storm door, well utility facility, mailbox, patio, deck, screening for outdoor trash cans or other purposes, sprinkler system, driveway, outdoor decorative objects, shrubbery, or landscaping.



(b) Any Owner may remodel, paint, or redecorate the interior of structures on his Lot without approval. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications.

(c) This ARTICLE 10 shall not apply to the activities of the Declarant, nor to alterations of or improvements to the Common Area by or on behalf of the Association.

(d) This ARTICLE 10 may not be amended without the prior written consent of the Declarant, so long as the Declarant owns any land subject to these Protective Covenants or subject to annexation to these Protective Covenants.

10.2 Architectural Review.

(a) Responsibility for administration of the Design Guidelines, as defined below, and review of all applications for construction and modifications under this Article shall be handled by ARC as described in subsections (a) and (b). The members of ARC need not be Members of the Association and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Board. The Board may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full and paid prior to review.

(b) Architectural Review Committee (“ARC”). ARC shall consist of at least three, but not more than five, persons and shall have exclusive jurisdiction over all structures, buildings, improvements, and construction on any portion of the Property. During the Class “B” Control Period, the Declarant retains the right to appoint all members of ARC who shall serve at the Declarant’s discretion. Upon the expiration of such period, the Board shall appoint the members of ARC, who shall serve and may be removed in the Board’s discretion. In the event that the Declarant should not exercise its option to appoint members of the ARC, the Board shall then appoint the members of the ARC, who shall serve and may be removed in either the Board’s or the Declarant’s discretion. Even if Declarant should not exercise its option to appoint members of the ARC, Declarant has not waived the right to appoint members in the future or to remove members, whether appointed by Declarant or the ARC.

10.3 Guidelines and Procedures. The Declarant shall prepare the initial Design Guidelines and application and review procedures which shall apply to all construction activities within the Property. The Design Guidelines may contain general provisions applicable to all of the Property, as well as specific provisions which vary from one portion of the Property to another depending upon the location, unique characteristics, and intended use. ARC shall adopt such Design Guidelines at its initial organizational meeting and thereafter shall have sole and full authority to amend them subject to the approval of the Declarant, for so long as it owns any portion of the Property, and thereafter, the Board of Directors. ARC shall make the Design Guidelines available to Owners who seek to engage in development or construction within the Property and all such Persons shall conduct their activities in accordance with such Design Guidelines. So long as Declarant has any rights under this Article, Declarant has the right but not the obligation to require the ARC to review and issue a decision on “bulk” applications (same plans for different Units) submitted by a Builder.

10.4 Submission of Plans and Specifications.



(a) No construction or improvements, as defined in Section 10.1(a), shall be commenced, erected, placed or maintained on any Lot, nor shall any exterior addition, change or alteration be made thereto, until the plans and specifications (“Plans”) showing site layout, structural design, exterior elevations, exterior materials and colors, signs, landscaping, drainage, lighting, irrigation, utility facilities layout, screening, and any other supporting documents, as may be required by ARC, shall have been submitted to and approved in writing by ARC. The Design Guidelines shall set forth the procedure for submission of the Plans. A reasonable fee for the review of said plans shall be required and submitted, along with said Plans and any other supporting documents required by ARC and the Board may require a deposit to be posted prior to the commencement of any construction or work, which sum shall be used to collect any fees, fines or penalties incurred during construction or work. Any such sums remaining at the completion of construction shall be returned to the Owner.

(b) In reviewing each submission, ARC may consider (but is not required to consider or limited to considering) the following: visual aesthetics, natural platforms and finish grade elevations, the suitability of the proposed building, improvements, structure, or landscaping and the materials of which it is to be built, the site upon which it is proposed to erect the same, the harmony of external design with surrounding structures and environment, the location in relation to surrounding structures and plant life, and the effect thereof on the adjacent or neighboring property. ARC may require relocation of native plants within the construction site as a condition of approval of any submission. Location of any driveways shall be subject to the approval of ARC.

(c) ARC shall have the right to refuse to approve any plans and specifications or grading plans which are not suitable or desirable, in its sole discretion, for aesthetic or any other reasons.

(d) No bulldozing or clearing of trees or excavation of lakes or ponds shall be commenced until the plans, specifications and grading plans showing the nature, kind, shape and location of work to be done shall have been submitted to and approved in writing by ARC and a copy thereof, as finally approved, filed permanently with ARC.

(e) Upon receipt of a submission of Plans, ARC shall advise the party submitting the same in writing, at an address specified by such party at the time of submission, of (i) the approval of Plans or (ii) the segments or features of the Plans which are deemed by such committee to be inconsistent or not in conformity with these Protective Covenants and/or the Design Guidelines, the reasons for such finding, and suggestions for the curing of such objections. ARC shall use good faith, diligent efforts to respond to a Plan submittal within thirty (30) days after receipt of same, although matters not within the reasonable control of ARC may prevent this from occurring in certain cases. In the event ARC fails to advise the submitting party by written notice within sixty (60) days of either the approval or disapproval of the Plans, approval shall be deemed to have been given. Notice shall be deemed to have been given at the time the envelope containing such notice, properly addressed, and postage prepaid, is deposited with the U.S. Postal Service, registered or certified mail, return receipt requested. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery.

(f) Once ARC has approved of a project, if construction does not commence within nine (9) months of such approval, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to resubmit the Plans for reconsideration. Provided however and



notwithstanding the foregoing to the contrary, if Plans for a Builder have been approved by ARC, such approvals shall be deemed valid for twenty-four (24) months from the date of such approval.

(g) Once construction has been initiated on a Lot, the Owner thereof must complete such construction within ten (10) months. If an Owner does not comply with such schedule, then Declarant, the Board and the Association shall each have the right (but not the obligation) to complete such construction on Owner's behalf and at such Owner's expense. In the event the Declarant, the Board or the Association exercises the right provided in the immediately preceding sentence, then Declarant, the Board and/or the Association (as the case may be) shall be entitled to collect from such Owner, in addition to a reimbursement of all costs expended in the completion of construction of the Lot, an administrative fee for such work, which fee shall be equal to twenty percent (20%) of the costs incurred by such party in completing the work. Any and all of the foregoing costs and fees that may be incurred by or payable to Declarant, the Board and/or the Association shall be a charge and continuing lien upon such Lot until paid, and Declarant, the Board and/or the Association may bring an action against such Owner, or foreclose the lien against the property in the same manner as provided in North Carolina for the foreclosure of deeds of trust, or both, and, in either event, interest, costs and reasonable attorney's fees of any such action shall be added to the amount payable to Declarant, the Board and/or the Association.

10.5 No Waiver of Future Approvals. Each Owner acknowledges that the members of ARC will change from time to time and that interpretation, application and enforcement of the Design Guidelines may vary accordingly. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

10.6 Variance. ARC may authorize in its discretion reasonable variances or adjustments from compliance with any of its guidelines and procedures in order to alleviate practical difficulties and hardship in their enforcement and operation. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing or (b) prevent ARC from denying a variance in other different or even identical circumstances. In addition, so long as the Declarant owns any of the property described on Exhibit A or any of the Future Development Property, the Declarant, in its discretion, may allow reasonable variances and adjustments of these Protective Covenants in order to alleviate practical difficulties and hardship in their enforcement and operation. Any such variances granted by the ARC or the Declarant shall not violate the spirit or the intent of this document to create a subdivision of Lots owned in fee by various persons with each such Owner having an easement upon areas owned by the Association.

10.7 Limitation of Liability. ARC shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, the Board, nor ARC, shall be held liable for any injury, damages, or loss arising out of the review and approval of any application, including, but not limited to, the grant or denial of a variance, the manner or quality of construction, defects in any plans or specifications, or deficiencies in kind or quality of materials used, or for compliance or non-compliance with building codes and other governmental requirements.



10.8 Enforcement.

(a) Any structure or improvement placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the Board or the Declarant, Owners shall, at their own cost and expense, remove such structure or improvement and restore the land to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, then Declarant, the Board and the Association shall each have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the Lot's Owner and the benefited Lot and collected as an Individual Assessment. In the event the Declarant, the Board and/or the Association exercises any right provided hereto in this Section 10.8(a), then Declarant, the Board and/or the Association (as the case may be) shall be entitled to collect from the relevant Owner, in addition to a reimbursement of all costs expended in the removal of the violation and/or the restoration of the property, an administrative fee for such work, which fee shall be equal to twenty percent (20%) of the costs incurred by such party in performing the work.

(b) Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines may be prohibited by the Board from entering and conducting any activities within the Property. In such event, none of the Association, its officers, or its directors shall be held liable to any Person for exercising the rights granted by this paragraph.

(c) The Association shall have the authority to establish fines for violations of this Article and the Design Guidelines, including fines for continuing violations. The fine amounts may be deducted from any bond posted. If the fines are not paid, the Association may establish an Individual Assessment in accordance with the provisions of ARTICLE 9.

(d) In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of ARC.

10.9 Fences. Without limiting the foregoing ARTICLE 10 as it applies to all structures and improvements including fences, every Owner of a Lot shall be entitled to construct a fence on his Lot, in accordance with the ARC guidelines and the specifications below:

(a) All fences shall be constructed with uniform height, design, material and color, as such specifications shall be set out in the Design Guidelines. All fences shall be constructed on the common property line with the adjacent Lot. Every Lot Owner shall have the right to tie in with an existing fence wall running down the common property line of his Lot, such that the fence along the common property line becomes a shared fence wall. Every Owner is deemed to agree that minor deviations (less than one foot) in the actual layout of the fence along the common property line shall be waived upon completion of construction.

(b) All reconstruction of such shared fence walls shall be subject to general rules of law regarding party walls. The cost of reasonable repair and maintenance of a shared fence wall shall be shared by the Owners who make use of the fence. Every Owner shall have an easement and right of entry upon the Lot of any other Owner to the extent reasonably necessary to perform repair,



maintenance, or reconstruction of a shared fence wall and those improvements belonging to his Lot which encroach on an adjoining Lot or Common Area. Such repair, maintenance, or reconstruction shall be done expeditiously, and upon completion of the work, the Owner shall restore the adjoining Lot or Lots and Common Area to as near the same condition as that which prevailed prior to commencement of the work as is reasonably practicable.

ARTICLE 11

USE GUIDELINES AND RESTRICTIONS

11.1 Plan of Development; Applicability; Effect.

(a) Declarant has created WyndWater as a residential development and, in furtherance of its and every other Owner's interest, has established a general plan of development for the Property. Accordingly, WyndWater is subject to the affirmative and negative covenants, easements, and restrictions governing land use, individual conduct, and uses of or actions upon the Property that are provided in this ARTICLE 11 (the "Use Guidelines and Restrictions").

(b) All provisions of these Protective Covenants and of any Association rules shall also apply to all occupants, lessees, guests and invitees of any Lot. Any lease on any Lot shall provide that the lessee and all occupants of the leased Lot shall be bound by the terms of these Protective Covenants, the By-Laws, and the rules of the Association; provided however, that the lack of such a lease provision shall not waive these Protective Covenants, the By-Laws, and the rules of the Association in any way.

11.2 Rules and Regulations. Subject to the terms of this ARTICLE 11, the Board may implement and manage the Use Guidelines and Restrictions through rules and regulations which adopt, modify, cancel, limit, create exceptions to, or expand the Use Guidelines and Restrictions.

11.3 Owners' Acknowledgment.

(a) All Owners and all the Property are subject to the Use Guidelines and Restrictions and are given notice that (a) their ability to use their privately owned property is limited thereby, and (b) the Board may add, delete, modify, create exceptions to, or amend the Use Guidelines and Restrictions in accordance with Section 11.2.

(b) Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his or her property can be affected by these provisions, and that the Use Guidelines and Restrictions and rules may change from time to time; and each Owner agrees to be bound thereby.

11.4 Limitations on Use Guidelines and Restrictions. Except as may be specifically set forth in Section 11.5, the Board may not adopt any rule in violation of the following restriction: No rules shall interfere with the activities carried on within the confines of Lots, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that, in the Association's reasonable judgment, create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Lots, that generate excessive noise or traffic, that create unsightly conditions



visible outside the Lot, that significantly block the normal views from other Lots, or that create an unreasonable source of annoyance, or that create a nuisance.

11.5 Use Guidelines and Restrictions.

(a) General. The Property shall be used only for residential and related purposes (which may include, without limitation, offices for any property manager retained by the Association, business or sales offices for the Declarant, Builders approved by the Declarant or the Association, and certain recreational uses ancillary to home ownership or as permitted in the Common Areas), except as otherwise provided herein. No commercial use shall be permitted on any Lot except in accordance with Section 11.5(m) and Section 11.5(z).

(b) Animals and Pets. No animals, livestock or poultry of any kind shall be raised, bred, kept or maintained on any Lot or in any dwelling except a limited number of domestic household pets, which limit may be set by the Board. Domestic household pets may not be raised, bred, or kept for any commercial purpose. Pets must be accompanied and leashed at all times when off Owner's Lot and droppings must be immediately removed. Fines for violations hereof assessed by the Association shall become an Individual Assessment in accordance with ARTICLE 9. All parties are hereby notified that, in the event any dog kept or maintained on a Lot or in any dwelling on the Property barks excessively, continuously or in a manner that constitutes a nuisance, the Board may require the Lot Owner to employ a collar or other device designed to reduce or control such excessive barking (provided that such action shall in no event limit any other rights or remedies for such situation that may be available to the Board or to any other parties at law or in equity). In addition, any animals which, in the sole discretion of the Board or the Declarant, endanger the health or safety of other Owners shall be removed upon the Board's request. If the pet owner fails to honor such request, the Board may remove the pet.

(c) Placement of Outdoor Clothes Drying Structure. No outdoor poles, clothes lines or similar equipment shall be erected or located on any Lot.

(d) Offensive and Illegal Activities. No immoral, improper, illegal, noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereof tending to cause embarrassment, discomfort, annoyance or nuisance to the Association, the Declarant or any Owners. There shall not be maintained any plants or animals, odors, fumes, or devices or anything of any sort whose normal activities or existence are in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of other Property by the Owners thereof. All laws, orders, rules, regulations, ordinances or requirements of any government agency having jurisdiction thereof, relating to any Person or the Property, shall be complied with, by or at the sole expense of the Owner or of the Association, whichever shall have the obligation and/or right to maintain or repair such portion of the Property.

(e) Parking. Parking of vehicles on any street in the Property shall be allowed only in accordance with the policy determined by the Board of Directors. No truck nor other vehicle in excess of a one-half (1/2) ton load capacity, boat, vessel, motorboat, camper, trailer, motor or mobile home, or similar type vehicle or apparatus shall be parked or kept overnight or longer, on any street or on any Lot unless it is stored in an enclosed garage or stored in a fenced rear yard in such a manner as to not be visible to the Owners of other Lots or the users of a street or recreation area. All tools or other materials stored in vehicles for overnight parking shall be kept out of sight. No vehicle or equipment



which is unsightly in appearance as determined by the Board of Directors shall be allowed on the Property.

(f) Repair or Removal of Buildings. Any dwelling or improvement on any Lot that is destroyed in whole or in part by fire or other casualty shall be either rebuilt or torn down and all debris removed and the Lot restored to a sightly condition with reasonable promptness, provided, however, that in no event shall such debris remain on such Lot longer than three (3) months. If a replacement dwelling or improvement is to be constructed, the replacement dwelling or improvement must be approved by ARC in accordance with ARTICLE 10.

(g) Outside Burning. No outside burning shall be permitted except as may be approved by the Board in advance (provided that in no event shall burning be permitted except in compliance with all applicable governmental regulations).

(h) Signs. No advertising signs or billboards or other advertising structure(s) of any kind shall be erected on any Lot or displayed to the public on any Lot without prior written approval of ARC. ARC shall have the authority to approve all signs prior to installation and may impose size limits and other reasonable restrictions. Without limiting the foregoing, ARC shall issue guidelines from time to time outlining the Property's policy for the posting of "for sale" signs and similar temporary signs by or upon any Lot (which policy shall include the permitted dimensions and appearance of such signs and may even prohibit such signs altogether). This section shall not apply to signs erected by the Declarant or its successors and assigns, including signs used to identify and advertise the Property as a whole. Declarant or ARC has the right to enter upon any Lot and remove any unapproved sign(s).

Notwithstanding the foregoing and pursuant to the Planned Community Act, Owners are permitted to display one political sign with the maximum dimensions of twenty-four by twenty-four inches (24 inches by 24 inches) on that Owner's Lot, provided that the political sign may not be displayed more than forty-five (45) days before the day of the respective election and may not be displayed later than seven (7) days after the respective election day. If any city, town, or county ordinance that is applicable to the Property is less restrictive than the immediately preceding sentence, the less-restrictive provisions of that ordinance shall govern. For purposes of this section, "political sign" shall mean a sign that attempts to influence the outcome of an election, including supporting or opposing an issue on the election ballot.

(i) Hunting and Fishing. No hunting or discharge of firearms within the subdivision is permitted. The Association, through its Board of Directors, reserves the right to control or remove animals (including, without limitation, the authorization of bow hunting to reduce or eliminate nuisance animals) subject to rules and restrictions to be determined by the Board. Fishing shall be permitted only in locations designated by the Board from time to time and shall be subject to reasonable restrictions imposed by the Board.

(j) Garbage. Garbage and trash shall be disposed by Owners in accordance with the rules and regulations of the Association.

(k) Antennas. Subject to FCC regulations, no outside antennas or satellite dishes shall be erected on any Lot or structure unless and until permission for the same has been granted by ARC. The design and location of the dish must also be approved by ARC.



(l) Well Installation. The Owners of single-family residential Lots may be allowed to install one single well per Lot solely for the purpose of irrigating the land comprising the Lot so long as permission for the same has been granted by ARC. This right shall be subject to the Declarant's reservation of rights in all surface and sub-surface water in the Property herein. All wells and pumps permitted under these Protective Covenants must be located so as not to interfere with any septic lines or systems and to be visible from any street or recreational area or Common Area and must be approved by ARC, screened from view and kept free from discoloration, including rust. All structures within the Lot shall also be kept free from discoloration, including rust. In the event the use of water from any well is determined, in the Board's discretion, to be causing rust or discoloration on a Lot, the Board shall be entitled to require the Owner of such Lot to discontinue the use of such well.

(m) Restricted Activities. The following activities are prohibited within the Property unless expressly authorized by the Board subject to any conditions imposed by the Board:

(i) Activities which materially disturb or destroy the vegetation, wildlife, water or air quality within the Property or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution;

(ii) Any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration (a "Business"), except that an Owner or occupant residing in a Lot may conduct business activities within the Lot so long as: (a) the existence or operation of the activity is not apparent or detectable by sight, sound, or smell from outside the Lot; (b) the activity does not involve regular visitation of the Lot by clients, employees, agents, customers, suppliers, or other business invitees, delivery services, or door-to-door solicitation of residents of the Property; and (c) the activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Board.

(iii) Nothing shall be kept and no activity shall be carried on, by a Person other than Declarant or the Association, in any building, structure or home or on the Common Area which will increase the rate of insurance, applicable to residential use, for the property or the contents thereof. No Owner shall do or keep anything, nor cause or allow anything to be done or kept, in his home or on the Common Area which will result in the cancellation of insurance on any portion of the property, or the contents thereof, or which will be in violation of any law, ordinance, or regulation. No waste shall be committed on any portion of the Common Area.

(n) Property Damage. Owners shall be responsible for any damage done to any streets, roadways, access ways, curbing, street gutters, sidewalks, Common Areas or property of other Owners within the Property which may be caused by the same Owner, his agents, contractor or its subcontractor lessees, employees, guests, licensees or invitees. The Association shall have the authority to assess any Owner for such damage and such charge shall be an Individual Assessment against the Owner and his Lot(s) and may be enforced in accordance with the provisions of ARTICLE 9 herein.



(o) Junk Vehicles. No stripped, partially wrecked, junk motor vehicle, or parts thereof, or any motor vehicle not displaying a current valid inspection sticker shall be permitted to be parked or kept on any Lot.

(p) Removal of Vegetation. No tree having a circumference of over nineteen (19) inches in diameter (measured at twenty-four [24] inches above the land) and no live oak, white oak, water oak and laurel oak trees, regardless of diameter, shall be removed from any lot or parcel without the prior written consent of the Association or the ARC. Notwithstanding the foregoing, no dogwood or flowering shrub or bush shall be removed unless in compliance with the Design Guidelines.

(q) Mailboxes. Mailboxes for the Lots shall be provided at a central location near an entrance to WyndWater to be specified by Declarant. Declarant (and, after the Class "B" Control Period, the Association) shall be entitled to determine the specifications and appearance of such boxes. The maintenance of such mailboxes shall be deemed a Common Expense hereunder.

(r) Outdoor Objects, Decorations and Flags. No outdoor statuary, flags or other decorative objects may be placed on any Lot unless it is in compliance with the Governing Documents, including the Design Guidelines. Notwithstanding any other provision herein, the American flag and/or North Carolina flag having the maximum dimensions of four feet by six feet (4'x 6') may be flown on a pole no longer than 5 foot 6 inches from a pole holder attached to the home in an approved location which can be reached by hand from the ground below so as to be easily installed and removed, but no flagpoles shall be installed on Owner's Lots. Any flags will be displayed in accordance with traditional rules and patriotic customs set forth in 4 U.S.C. §§5-10, as amended, governing the display and use of the American Flag. No free standing flag poles of any typed shall be permitted on any Lot. Notwithstanding anything to the contrary herein, Declarant reserves the right to display the American Flag, the North Carolina flag, and/or WyndWater flags on the Common Area or other property owned by Declarant. Declarant, during the Class "B" Control Period and thereafter, the Board may adopt reasonable Rules and Regulations regarding the placement of religious, holiday, or any other decorations on Lots, including regulations concerning the time, place and manner in which such decorations may be displayed Notice of any such rules and regulations shall be provided to each Member at his/her address as it appears in the Association's records.

(s) Alteration of Common Area. No person shall undertake, cause, or allow any alteration or construction in or upon any portion of the Common Area except at the direction of and with the express written consent of ARC. Notwithstanding anything herein to the contrary, in no event shall any berms or other screening within any Common Area be removed or materially altered without the consent of the Declarant (or, after the expiration of the Class "B" Control Period, without the consent of the Association).

(t) Use of Common Areas. The Common Areas shall be used only for the purposes for which they are intended and reasonably suited and which are incident to the use and occupancy of the Lots, subject to any Rules or Regulations that may be adopted by the Association hereunder or pursuant to its By-Laws.

(u) Storage of Personal Property. All lawn mowers, bicycles, toys, grills and other similar objects must be stored when not in use so as not to be visible by the Owners of other Lots or the users of any street, recreation area or Common Area. All trash receptacles and garbage cans shall be screened so as not to be visible by the Owners of other Lots or the users of any street or



recreation area, except on the specific day of trash pickup. All such screening shall be subject to approval by ARC. No fuel tanks or similar storage receptacles may be exposed to view. The placement of any such receptacles may be approved by ARC or Declarant and may only be located within the main dwelling house, within an accessory building, within a screened area, or buried underground.

(v) Exterior Maintenance of Buildings, Features, and Structures. The exterior portion of all buildings or structures located on any Lot, together with any landscaping and Common Areas associated therewith, shall be maintained in a slightly condition. All exterior storage areas, laundry facilities, utility areas, service yards or areas, carports, electrical meters, water meters, and gas meters are to be screened from view from streets and adjacent Property by an enclosure, fence, wall or natural landscape materials. Upon a determination that a nonconforming situation exists, the Association shall notify the Owner having specific responsibility for the nonconforming condition and the action necessary to correct the nonconforming condition. The Owner shall correct the nonconforming condition within fifteen (15) days of receipt of such notice.

(w) Road Use. The roads are to be used by vehicles or pedestrians for the purposes of transportation. The use of any roads within WyndWater shall be subject to all applicable governmental rules, as well as any restrictions in the Governing Documents. At no time shall any vehicle exceed the speed limit as determined by the Association or the applicable governmental authority. No permanent, frequent, or long-term parking is permitted along or on major roads and promenades except in specifically designated areas. Any parking is also subject to those rules in Section 11.5(e). Regardless of whether the roads are public, the Association is entitled to adopt reasonable rules and regulations regarding the supervision, maintenance, control, regulation and use of the roads and promenades, and to enforce the same in any lawful manner which may include, but not be limited to, the imposition of fines for violations thereof, which fines shall be Individual Assessments and may be enforced in accordance with the provisions of ARTICLE 9.

(x) Window Coverings. All window coverings (i.e., curtains, blinds, draperies, shades, etc.) shall appear white from the exterior.

(y) Declarant's Activities. This Section 11.5 shall not apply to any activity conducted by the Declarant or its assigns with respect to its development and sale of the Property or any commercial activities of the Declarant or its assigns, including any sales office maintained by Declarant or its assigns; and Declarant shall be specifically authorized to rent or lease any Lot which it owns or manages for other Owners, and to maintain model Lots or sales offices in any Lot which it owns or leases.

(z) Irrigation. Upon commencement of construction of improvements on a Lot (or in no event later than 30 days after the first occupancy or completion of improvements, whichever shall occur first), all Owners will be responsible for regularly irrigating and watering all vegetation, trees, shrubs, grass, lawn and landscaped areas of the Lot as may be necessary to satisfy the Community-Wide Standard and any landscape guidelines which the Board may prepare, subject to the terms of the Planned Community Act. All Owners are responsible for the maintenance and proper operation of any irrigation system which may be installed on a Lot.

11.6 Stormwater Run Off Rules. All Lots shall be subject to the State of North Carolina rules and regulations concerning stormwater runoff as these rules are amended from time to time.



Without limiting the foregoing, Declarant hereby reserves the right to impose additional restrictions upon the Property as and to the extent required by the terms of the stormwater permit for the Property as issued by the State of North Carolina. Such additional restrictions may be imposed by Declarant by the recording of a Supplemental Declaration, and no joinder or consent of the Association or any other Owner or Person shall be required on such Supplemental Declaration. These regulations currently provide:

(a) The following covenants are intended to ensure ongoing compliance with State Stormwater Management Permit Number SW8 140219 as issued by the Division of Water Quality under *15A NCAC 2H.1000*.

(b) The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the Stormwater Management Permit.

(c) These covenants are to run with the land and be binding on all persons and parties claiming under them.

(d) The covenants pertaining to stormwater may not be altered or rescinded without the express written consent of the State of North Carolina, Division of Water Quality.

(e) Alteration of the drainage as shown on the approved plans may not take place without the concurrence of the Division of Water Quality.

(f) The maximum built-upon area per lot is **4,500 square feet**. This allotted amount includes any built-upon area constructed within the lot property boundaries, and that portion of the right-of-way between the front lot line and the edge of the pavement. Built-upon area includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, coquina and parking areas, but does not include raised, open wood decking, or the water surface of swimming pools.

(g) Filling in, piping or altering any 3:1 vegetated conveyances (ditches, swales, etc.) associated with the development except for average driveway crossings, is prohibited by any persons.

(h) A 50' foot wide buffer must be provided adjacent to surface waters, measured horizontally from and perpendicular to the normal pool of impounded structures, the top of bank of both sides of streams and rivers, and the mean high waterline of tidal waters.

(i) All roof drains shall terminate at least 50' from the normal pool of impounded structures, the banks of rivers and streams and the mean high waterline of tidal structures.

(j) Any individual or entity found to be in noncompliance with the provisions of the stormwater management permit or the requirements of the Stormwater Rules under 15A NCAC 02H.1000 as amended under Session Law 2008-211, is subject to enforcement procedures as set forth in N.C.G.S. § 143, Article 21.

11.7 Removal of Nonconforming Condition. Any use, condition, structure or improvement placed, allowed to exist or made of or upon any Lot in violation of this ARTICLE 11 shall be deemed to be nonconforming. Upon written request from the Board or the Declarant, the Owner responsible for



said nonconforming condition, or the owners' Association to which the Owner belongs shall, at its own cost and expense, correct such nonconforming use, structure or improvement in accordance with the instructions of the Board or the Declarant. Should an Owner fail to act as required, the Board, the Declarant, or its designees shall have the right to enter the property and correct the nonconforming condition. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the Owner of the Lot or Dwelling Lot and collected as an Individual Assessment as provided in ARTICLE 9.

ARTICLE 12 **EASEMENTS**

12.1 Easements for Utilities. There are hereby reserved unto Declarant (so long as the Declarant owns any property described on Exhibit A), unto the Association, and unto the designees of each, access and maintenance easements upon, across, over, and under all of the Property to the extent reasonably necessary for the purpose of replacing, repairing, and maintaining any cable television system, any master television antenna system, irrigation systems, any security and similar systems, roads, walkways, bicycle pathways, recreation pathways, trails, ponds, lakes, wetlands, stormwater and drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewer/septic, meter boxes, telephone, garbage pickup, and electricity, irrigation and for the purpose of installing any of the foregoing on property which it owns or within easements designated for such purposes in these Protective Covenants or on recorded plats of the Property. Any damage to a Lot resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the Person exercising the easement rights. Utilities may not be installed or relocated on the Property, except as approved by the Board or Declarant.

12.2 Easement for Utility Installation and Maintenance.

(a) All of the Property, including Lots and Common Area, shall be subject to a perpetual non-exclusive easement for water lines, sanitary sewers, septic systems, storm drainage facilities, telephone and electric power lines, television antenna lines, and other public utilities as shall be established by the Declarant as may hereinafter be designated on any plat or replat of parcels within the Property whether the same be within the boundaries of any Lot(s).

(b) Easements and rights of way over and upon the rear, front and side ten (10) feet of each Lot for drainage and the installation and maintenance of utilities and services, including, without limitation, water, sewer, septic, drainage and stormwater runoff facilities, are reserved to Declarant and its successors and assigns for such purposes as Declarant may deem incident and appropriate to its overall development plan. If the side setback is less than ten (10) feet then the reserved easement shall be the width of the setback. The easements and right of way areas reserved by Declarant on each Lot pursuant hereto shall be maintained continuously by the Owner, but no structures or plantings or other material shall be placed or permitted or remain upon such areas or other activities undertaken thereon which may damage or interfere with the installation or maintenance of utilities or other services, or which may retard, obstruct or reverse the flow of water or which may damage or interfere with established slope ratios or create erosion problems. Improvements within such areas also shall be maintained by the respective Owner except those for which a public authority or utility company is responsible; provided however, as for those Lots which are recorded by the Declarant with "Storm Drainage Easement" (s)" or a similar term, the collection pipes within those easements shall be considered Common Area and maintained by the Association as such, but the individual pipes and connections to the collection pipe shall remain the



responsibility of the respective Lot Owner. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary in the opinion of the Declarant to provide an economical and safe installation. The Declarant shall have no maintenance responsibilities for such easement areas.

(c) The Declarant reserves a perpetual, non-exclusive easement for the installation, maintenance and repair of water, sewer, septic, drainage and all other utilities within the right of way of all roads and streets and other areas as shown on the recorded plats of the Property which easement may be exercised by Declarant or any public or private entity charged with the responsibility of maintenance and repair.

(d) The Association hereinafter may grant easements for utility purposes for the benefit of the Property and the Lots now or hereafter located thereon, over, under, along and through the Common Areas. Provided, however that no such grant of easement shall have a material adverse effect on the use, enjoyment or value of any Lot.

12.3 Easements to Serve Additional Property. The Declarant hereby reserves for itself and its duly authorized agents, representatives, employees, successors, assigns, licensees, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of any Future Development Property, whether or not such property is made subject to these Protective Covenants. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property.

12.4 Easements for Cross-Drainage.

(a) Every Lot and the Common Area shall be burdened with easements for drainage of water runoff from other portions of the Property; provided, no Lot Owner shall alter the drainage on any Lot so as to materially increase the drainage of water onto adjacent portions of the Property without the consent of the Owner of the affected property.

(b) The Property are burdened with a permanent easement for the benefit of the Declarant and its successors and assigns, for the stormwater runoff and drainage facilities located on the Property, including, without limitation, any stormwater retention ponds or ditches. This easement includes the right to drill, install, locate, maintain and use pipes, conduits and pumps running to the stormwater retention ponds and other related facilities located on the Property.

12.5 Power to Grant Easements. Subject to the requirements of the Planned Community Act, the Association shall have the power and authority to grant and to establish in, over, upon and across the Common Area conveyed to it such further easements as are requisite for the convenient use and enjoyment of the property.

12.6 Easement for Entry. The Association shall have the right, but not the obligation, to enter upon any Lot for emergency, security, and safety reasons, to perform maintenance pursuant to ARTICLE 5 hereof, and to inspect for the purpose of ensuring compliance with the Governing Documents, which right may be exercised by any member of the Board, the Association, officers, agents, employees, and managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include



the right of the Association to enter upon any Lot to cure any fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after request by the Board, but shall not authorize entry into any single family detached dwelling without permission of the Owner, except by emergency personnel acting in their official capacities.

12.7 Easement Maintenance. All maintenance of any water, sewer, septic or drainage easement shall be the responsibility of the Owner of the Lot on which said easement is located. No structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, sewer, septic or drainage facilities, or which may change the direction of flow of drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

12.8 Easement for Irrigation.

(a) There is hereby reserved for the benefit of the Declarant, the Association, and their successors and assigns, a permanent exclusive easement and right to: (i) pump water from the lakes, ponds, waterways, basins, water table, wells, water dependent structures and other bodies of water located in, on or under the Property for the purpose of irrigating any portion of the Property; and (ii) to drill, install, locate, maintain and use wells, pumping stations, water towers, filtration basins and tanks and related water facilities and systems within the Common Areas and/or lands within the Property owned by the Declarant. The pumping or other removal of any water from any lake, pond, or body of water wholly or partly within the Property, for any purpose other than fire fighting and as provided herein is prohibited without express written permission of the Declarant and/or the Association.

(b) The Property is hereby burdened with a permanent, exclusive easement in favor of the Declarant and its successors and assigns, for overspray and/or surface or sub-surface flow of water from any irrigation system serving the Property. Under no circumstances shall the Declarant or the Association be held liable for any damage or injury resulting from said water, or the exercise of this easement.

12.9 Easements for Owner's Ingress and Egress. Every Owner, and his or her heirs, successors, assigns, guests and licensees, shall have a perpetual, non-exclusive easement and right of ingress and egress over and across any of the roads and sidewalks located or to be located within the Property, as shown on any recorded plats of the Property, for the purpose of providing vehicular and pedestrian access to and from the Property. Notwithstanding the foregoing, Declarant shall be entitled to restrict access on certain roads and sidewalks in Declarant's discretion. Accordingly, the use of such roads and sidewalks shall be subject to applicable Rules and Regulations, as well as any applicable governmental regulations.

12.10 Common Area Easement.

(a) Every Owner of a Lot within the Property, as an appurtenance to such Lot, shall have a perpetual, non-exclusive easement over and upon the Common Areas (specifically including the multi-use path shown on the recorded plats) within the Property for each and every purpose or use to which such Common Areas were intended as determined by their type, or for which such Common Areas generally are used, including, but not limited to, easement of access, maintenance, repair or replacement of the Common Areas. Such easements shall be appurtenant to



and shall pass with the title to every Lot located within the Property, whether or not specifically included in a deed thereto.

(b) An exclusive easement is hereby established in favor of Declarant over all Common Areas for access to adjacent Property for the purposes of future development and the installation of streets and public utilities.

12.11 Easements for Adjacent Property and/or Adjacent Amenities. Each Owner and Member hereby acknowledges that Declarant, one or more affiliates of Declarant and/or one or more principals or shareholders of Declarant or its affiliates may (but shall have no obligation to) dedicate or grant easements on or relating to certain property adjacent to or in the vicinity of the Property for educational, conservation or similar uses. Declarant hereby reserves the right to grant to third parties reasonable easements of access over and across the streets, sidewalks and Common Areas on the Property as and to the extent necessary or appropriate for the full use and enjoyment of such dedications or easements.

12.12 Easements for Multi-Use Path and Public Dedication/Rights in Multi-Use Path. Each Owner and Member hereby acknowledges that Declarant, one or more affiliates of Declarant and/or one or more principals or shareholders of Declarant or its affiliates may (but shall have no obligation to) dedicate or grant easements on or relating to the multi-use path shown on the recorded plats for public or similar uses.

12.13 Easements Run with the Land. All easements and rights described herein are easements appurtenant, running with the land, and shall inure to the benefit of and be binding on all undersigned, its successors and assigns, and any Owner, purchaser, Mortgagee and other person having an interest in said land, or any part or portion thereof, regardless of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the benefit of and be binding on the undersigned, its successors and assigns, and any Owner, purchaser, Mortgagee and any other person having an interest in said land, or any part or portion thereof, regardless of whether or not reference to said easement is made in the respective deeds of conveyance, or in any Mortgage or deed of trust or other evidence of obligation, to the easements and rights described in these Protective Covenants.

ARTICLE 13
MORTGAGEE PROVISIONS

13.1 Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

13.2 Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response within thirty (30) days of the mailing of such request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

ARTICLE 14
Declarant's RIGHTS



14.1 Transfer of Declarant’s Rights. Any or all of the special rights and obligations of the Declarant set forth in these Protective Covenants or the By-Laws may be transferred in whole or in part to other persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained in these Protective Covenants or the By-Laws. No such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the land records of Pender County, North Carolina. The foregoing sentence shall not preclude Declarant from permitting other persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to Record any written assignment unless necessary to evidence Declarant’s consent to such exercise. Without limiting the foregoing, Declarant specifically reserves the right but not the obligation to transfer its Declarant’s Rights to one or more WyndWater Builders. In the event Declarant transfers all Declarant Rights to the one or more WyndWater Builders, such WyndWater Builders will become the Class B Member as defined in Section 3.3.

14.2 Rights of Declarant and Authorized Builders. Notwithstanding anything in these Protective Covenants to the contrary, so long as sales of Lots by the Declarant shall continue, the Declarant and Builders authorized by Declarant may maintain and carry on such facilities and activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such Lots, including, but not limited to, the construction and use of sales and business offices, signs and model Lots, and the use of any Common Areas and any facilities therein. The Declarant and authorized Builders shall have easements for access to and use of such facilities.

14.3 Rights to Alter. The rights reserved by Declarant in these Protective Covenants (including, without limitation, the right to annex property under ARTICLE 8 herein) include the right to change, alter or designate Lot(s), roads, utility, and drainage facilities and easements, and to change, alter or redesignate such other present and proposed amenities or facilities as may in the sole judgment of the Declarant, be necessary or desirable. The rights reserved in this Section specifically include the right of Declarant to redesignate, change, or alter any platted Lot(s) into road(s).

14.4 Right to Approve Additional Covenants and Associations. No Person shall record any declaration of covenants, conditions and restrictions, amendment thereto, or any similar instrument affecting any portion of the Property without Declarant’s review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed and recorded by Declarant.

14.5 Right to Approve Changes in Standards. No amendment to or modification of any Rules and Regulations or Design Guidelines shall be effective without prior notice to and the written approval of Declarant so long as Declarant owns Property subject to this Declaration or which may become subject to this Declaration in accordance with Section 8.1.

ARTICLE 15
DURATION, AMENDMENT, AND TERMINATION

15.1 Lots, Persons, and Entities Subject to the Protective Covenants. All present and future Owners, tenants, and occupants of Lots and their guests or invitees, licensees, employees or agents, shall be subject to, and shall comply with the covenants, conditions, restrictions and affirmative obligations set forth in these Protective Covenants, and as the Protective Covenants may



be amended from time to time. The Acceptance of a deed of conveyance or the entering into of a lease or the entering into occupancy of any Lot shall constitute an agreement that the provisions of these Protective Covenants are accepted and ratified by such Owner, tenant or occupant and that they will fully comply with the terms and conditions of said Protective Covenants.

15.2 Duration and Termination. The covenants, conditions, restrictions, and affirmative obligations of these Protective Covenants shall inure to the benefit of and be enforceable by the Declarant, the Association, or the Owner of any Lot, their respective legal representatives, heirs, successors and assigns, for a term of forty (40) years from the date these Protective Covenants are recorded in the Pender County Registry, after which date these Protective Covenants shall be extended automatically for successive periods of forty (40) years, unless these Protective Covenants are terminated as provided in North Carolina General Statutes §47F-2-118 (provided that, during the Class “B” Control Period, any termination shall also require the consent of Declarant). The covenants, restrictions, conditions and affirmative obligations of these Protective Covenants shall run with and bind the land and shall bind any person having at any time any interest or estate in any of the Property as though such provision were made a part of each and every deed of conveyance or lease.

15.3 Amendment. As long as Declarant owns any of the property described on **Exhibit A**, or any of the Future Development Property, these Protective Covenants may be amended by Declarant in its discretion. Retention of this right by the Declarant is not intended to materially alter the general or common scheme of development for the property herein described but to correct and/or modify situations or circumstances which may arise during the course of development. Thereafter, these Protective Covenants may be amended by vote of not less than sixty-seven percent (67%) of the Class “A” Members, and an instrument must be recorded at the Pender County Registry for such an amendment to be effective. In addition, the Declarant may amend these Protective Covenants to annex additional property and make it subject to the terms, conditions, restrictions, obligations and covenants of these Protective Covenants as provided in ARTICLE 8 herein. No amendments may remove, revoke, or modify any benefit, right or privilege of the Declarant hereunder without the written consent of the Declarant or the assignee of such right or privilege.

15.4 Stormwater Restrictions. Notwithstanding the foregoing to the contrary, Declarant shall be entitled to unilaterally amend these Protective Covenants as provided in Section 11.6 herein.

ARTICLE 16
ENFORCEMENT OF THE GOVERNING DOCUMENTS

In the case of failure of an Owner to comply with the terms and provisions contained in the Governing Documents, the following relief shall be available:

16.1 Enforcement. The Association, the Declarant and any aggrieved Owner within the Property shall have the right to enforce by any proceeding at law or in equity, all of the conditions, obligations, covenants and restrictions of these Protective Covenants and the Articles, By-Laws and Rules and Regulations of the Association, as well as the Multiparty Agreement referenced in ARTICLE 18 and any and all laws hereinafter imposed pursuant to the terms of these Protective Covenants. The prevailing party shall be entitled to collect all costs thereof, including reasonable attorney’s fees (which shall be determined using reasonable hourly rates).



16.2 Remedies. The Association shall have the right to remedy the violation and assess the costs of remedying same against the offending Owner as an Individual Assessment as provided in ARTICLE 9 herein.

16.3 Suspension of Rights and Fines.

(a) Suspension of Rights. For any violation by an Owner of the conditions, covenants and restrictions of these Protective Covenants or any provisions of the other Governing Documents (including, but not limited to, the nonpayment of any assessment), the Association shall, after providing the Owner with any notice and any opportunity to be heard as may be provided in the Bylaws, have the right to suspend: (a) the offending Owner’s voting rights, (b) the use by such Owner, his agents, lessees, employees, licensees and invitees of the Common Areas and recreational facilities in the Property, and (c) any other privileges or services provided by the Association (subsections “a”, “b”, and “c”, collectively herein called “Planned Community Privileges”) for any period during which a violation continues.

(b) Fines. For any violation by an Owner of the conditions, covenants and restrictions of these Protective Covenants or any provisions of the other Governing Documents (including, but not limited to, the nonpayment of any general, special or individual assessment), the Association shall, after providing the Owner with any notice and any opportunity to be heard as may be provided in the Bylaws, have the right to impose reasonable fines for any period during which a violation continues. Notwithstanding the foregoing, the Association shall not be required to provide any Owner with notice and an opportunity to be heard in order to impose reasonable fines for the late payment or nonpayment of any assessment which has remained unpaid for a period of thirty (30) days or longer. The Association may establish a schedule of fines for the violation of these Protective Covenants or any provisions of the other Governing Documents. If an Owner does not pay the imposed fine within fifteen (15) days of its imposition, the fine shall be an Individual Assessment against the property and may be enforced by the Association in accordance with ARTICLE 9 herein and with applicable law.

16.4 Remedies Cumulative. The remedies provided by this Article are cumulative, and are in addition to any other remedies provided in the Governing Documents and/or by law.

16.5 Waiver. The failure of the Association or any person or Owner to enforce any restriction contained in the Governing Documents shall not be deemed a waiver of the right to do so thereafter.

ARTICLE 17
GENERAL PROVISIONS

17.1 Common Area and Amenities. All of the Common Areas and any other access or other amenity appurtenant to the Property, whether or not shown and delineated on any recorded plat of the Property, shall be considered private and for the sole and exclusive use of the Owners of Lots within the Property. Neither Declarant’s execution nor the recording of any plat nor any other act of Declarant with respect to such area is, or is intended to be, or shall be construed as a dedication to the public of any such areas, facilities, or amenities.



17.2 Conflict. In the event of any irreconcilable conflict between these Protective Covenants and any of the provisions of the other Governing Documents, the provisions of these Protective Covenants shall control.

17.3 Severability. Invalidation of any one of these covenants or restrictions by judgment or any court, agency or legislative order shall in no way affect any other provision, covenants, conditions or restrictions contained in these Protective Covenants.

17.4 Captions. The captions preceding the various Articles of these Protective Covenants are for the convenience of reference only, and shall not be used as an aid in interpretation or construction of these Protective Covenants. As used herein, the singular includes the plural and where there is more than one Owner of a Lot, said Owners are jointly and severally liable for the obligations herein imposed. Throughout these Protective Covenants, references to the masculine shall be deemed to include the feminine, the feminine to include the masculine and the neuter to include the masculine and feminine.

17.5 Use of the Words "WyndWater". No Person shall use the words "WyndWater" or any derivative or any other term which Declarant may select as the name of the development or any component thereof in any printed or promotional material without the Declarant's or the licensee's prior written consent. However, Owners may use the words "WyndWater" in printed or promotional matter solely to specify that particular property is located within the Property; and the Association shall be entitled to use the words "WyndWater" in its name.

17.6 Conflict with Planned Community Act. To the extent any provision of these Protective Covenants is directly inconsistent with the terms of the Planned Community Act and such provision of these Protective Covenants cannot reasonably be reconciled with the Planned Community Act, the terms of the Planned Community Act shall be controlling with regard to such term.

ARTICLE 18

SEPTIC DRAIN FIELD SITE EASEMENTS

Pursuant to that Multiparty Agreement (Septic System Agreement and Designation of Exclusive Easements) to be recorded on even date herewith in the Pender County Registry (the "Multiparty Agreement"), the Declarant has reserved or will reserve easements over those "Special Purpose Lots" described in Exhibit B for ingress, egress, system installation, operation, maintenance, monitoring and repairs of septic systems(s) for the benefit of those certain owners of Lots utilizing offsite septic systems within Phase 1 of the WyndWater subdivision as described in the attached Exhibit C (the "Benefited Tracts"). Declarant will also convey the Special Purpose Lots to the Association and to other related entities in accordance with Pender County's requirement that the Special Purpose Lots may not all be owned by the same entity, and the conveyances are described on the attached Exhibit D (the "Deeds"). The Deeds, except for the Deed to the Association, contain a reversionary interest for the Declarant in the event Declarant chooses to reroute those septic systems benefited by the tract to a public/private sewer utility, as more particularly provided therein. It shall be Declarant's sole choice to exercise such reversionary right and by exercising such right, Declarant shall be responsible for the cost of such transfers to the public/private utility. Thereafter, recurring



charges of the utility company managing the sewer shall be the responsibility of the owners of the applicable Benefitted Tracts.

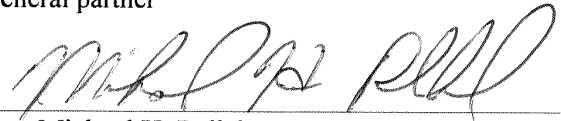
The maintenance and repair responsibilities for the Special Purpose Lots and the septic systems located thereon and the associated components of the septic systems are addressed in Multiparty Agreement, and terms and conditions of that Multiparty Agreement are incorporated herein by reference. The Association shall have all rights to remedy any violations of the same and assess the costs of remedying the same against an offending Owner as provided in the Multiparty Agreement and in ARTICLE 9 and ARTICLE 16 herein.



IN TESTIMONY WHEREOF, the Declarant has caused this instrument to be executed in its corporate name as of the date first above written.

Signature Top Sail NC Ltd, d/b/ a Texas limited partnership doing business in North Carolina as Signature Top Sail NC, Ltd. LP

By: **Signature Top Sail GP, LLC,**
its general partner

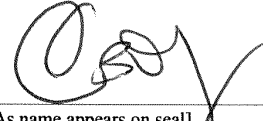
By: 
Name: Michael H. Pollak
Title: Manager

STATE OF NC

COUNTY OF New Hanover
(County where acknowledgment taken)

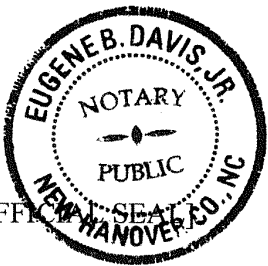
I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purposes stated therein and in the capacity(ies) indicated above: Michael H. Pollak

Date: 12/4/14

Official Signature of Notary: 
[As name appears on seal]

Printed Name of Notary: Eugene B. Davis, Jr.
[As name appears on seal]

My commission expires: 20 Nov 2016



[AFFIX OFFICIAL SEAL]



EXHIBIT A

The Property

BEING ALL the property shown on that map entitled “Final Plat for Signature Top Sail N.C. Ltd: WyndWater – Phase 1” as recorded in Map Cabinet 57, Pages 14-15 of the Pender County Registry, as partially revised in that map “Minor Subdivision for WyndWater – Phase 1 Septic Areas” as recorded in Map Cabinet 57, Page 23 of the Pender County Registry, references to said maps are hereby made for a more particular description.

**EXHIBIT B****Special Purpose Lots**

BEING ALL of those tracts of land shown as “Septic Area for Lot 3,” “Septic Area for Lot 4,” “Septic Area for Lot 7,” and “Septic Area for Lot 23” as shown on that map entitled “Final Plat for Signature Top Sail N.C. Ltd: WyndWater – Phase 1” as recorded in Map Cabinet 57, Pages 14-15 of the Pender County Registry, reference to said map is hereby made for a more particular description;

BEING ALL of that tract of land shown as “Lot S1, 55,334 Sq. Ft., 1.27 AC,” as shown on that map entitled “Minor Subdivision for WyndWater – Phase 1 Septic Areas” as recorded in Map Cabinet 57, Page 23 of the Pender County Registry, which tract specifically includes all of those septic lots which are shown thereon and more particularly delineated in Map Cabinet 57, Page 15 of the Pender County Registry, reference to said maps are hereby made for a more particular description;

BEING ALL of that tract of land shown as “Lot S2, 46,587 Sq. Ft., 1.07 AC,” as shown on that map entitled “Minor Subdivision for WyndWater – Phase 1 Septic Areas” as recorded in Map Cabinet 57, Page 23 of the Pender County Registry, which tract specifically includes all of those septic lots which are shown thereon and more particularly delineated in Map Cabinet 57, Page 15 of the Pender County Registry, reference to said maps are hereby made for a more particular description; and

BEING ALL of that tract of land shown as “Lot S3, 86,708 Sq. Ft., 1.99 AC,” as shown on that map entitled “Minor Subdivision for WyndWater – Phase 1 Septic Areas” as recorded in Map Cabinet 57, Page 23 of the Pender County Registry, which tract specifically includes all of those septic lots which are shown thereon and more particularly delineated in Map Cabinet 57, Page 15 of the Pender County Registry, reference to said maps are hereby made for a more particular description.



EXHIBIT C

Benefitted Tracts

BEING ALL of Lots 3, 4, 7, 8, 9, 10, 11, 12, 16, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 35, 36, 37, 38, and 39 of Wyndwater – Phase 1, as said lots are shown on that map entitled “Final Plat for Signature Top Sail N.C. Ltd: WyndWater – Phase 1” as recorded in Map Cabinet 57, Pages 14-15 of the Pender County Registry, reference to said map is hereby made for a more particular description.



EXHIBIT D

Deeds

- 1) Deed from Signature Top Sail NC Ltd, d/b/ a Texas limited partnership doing business in North Carolina as Signature Top Sail NC, Ltd. LP to Wyndwater Homeowners Association, Inc., a North Carolina non-profit corporation dated December 1, 2014 and recorded or to be recorded in the Pender County Registry.

- 2) Deed from Signature Top Sail NC Ltd, d/b/ a Texas limited partnership doing business in North Carolina as Signature Top Sail NC, Ltd. LP to Signature Pender County GP, LLC, a Texas entity, dated December 1, 2014 and recorded or to be recorded in the Pender County Registry.

- 3) Deed from Signature Top Sail NC Ltd, d/b/ a Texas limited partnership doing business in North Carolina as Signature Top Sail NC, Ltd. LP to Signature Pender County NC, Ltd., a Texas limited partnership doing business in North Carolina as Signature Pender County NC Limited Partnership, dated December 1, 2014 and recorded or to be recorded in the Pender County Registry.