

STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

DECLARATION OF COVENANTS AND RESTRICTIONS
VILLAGE GREEN PROPERTY OWNERS, INC. AT SOUTH HARBOUR
VILLAGE AT WESTPORT

THIS DECLARATION, made and entered into as of the 6th day of December, 2001, by and between POINT ASSOCIATES, L.L.C, a North Carolina limited liability company, hereinafter called "Developer" or "Declarant"; Hilla Builders, Inc., a North Carolina Corporation, hereinafter sometimes referred to as "Hilla"; and all prospective purchasers and owners of real property within the Planned Living Unit Development generally known as "Village Green Townhomes at South Harbour Village at Westport."

WITNESSETH:

WHEREAS, Developer and Hilla Builders are the owners of the real property described in Article II of this Declaration (hereinafter sometimes referred to as the "Properties") and desire to create therein a residential planned community with open spaces and other common facilities for the benefit of the said community; and

WHEREAS, the Property will be subject to this Declaration as well as to a Master Declaration of Covenants, Conditions and Restrictions for South Harbour Village (the "Master Declaration") each to be recorded in the Brunswick County Registry, as they or either of them may be amended from time to time; and

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

WHEREAS, Developer and Hilla Builders, Inc. have caused Village Green Property Owners Association, Inc. (the "Association"), to be incorporated as a North Carolina not for profit corporation to be comprised of all owners of property in Village Green Townhomes at South Harbour for the purpose of maintaining and preserving the values in the Properties and the overall scheme of development; and

WHEREAS, Developer and Hilla Builders, Inc. have delegated and assigned to the Association the powers of maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created pursuant to Chapter 47-F of the North Carolina General Statutes, entitled "N.C. Planned Community Act".

NOW, THEREFORE, Developer and Hilla Builders, Inc. declare that the real property described in Article II hereof (the "Properties"), is and shall be held; transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions" for Village Green Townhomes at South Harbour as hereinafter set forth as well as subject to the Master Declaration above described.

RECORD OF POOR QUALITY
DUE TO CONDITION OF ORIGINAL

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ARTICLE I

DEFINITIONS

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

- (a) "Association" shall mean and refer to Village Green Property Owners Association, Inc., a North Carolina not for profit corporation.
- (b) "Amenities" shall mean the clubhouse, pool and tennis court to be constructed as common area and common facilities of South Harbour for the use and enjoyment of all members of the Master Association.
- (c) "Board of Directors" shall mean the governing board of the Association elected by the Members in accordance with the bylaws of Village Green Property Owners Association and shall have the same meaning as the Executive Board.
- (d) "Class B Control Period" shall mean that period of time during which the Class B Member is entitled to appoint a majority of the Members of the Board of Directors of the Association as provided in Section 2, Article 3
- (e) "Common Properties" and/or "Common Areas" shall mean and refer to all real and personal property, including easements, which the Association owns, leases or holds possessor or use rights for the common use and enjoyment of the Owners.
- (f) "Developer" and/or "Declarant" shall mean and refer to Point Associates, LLC, a North Carolina limited liability company
- (g) "Executive Board" shall mean the Board of Directors of Village Green Property Owners Association.
- (h) "Living Unit" shall mean and refer to any portion of a building situated upon the Properties designed and intended for use and occupancy as a residence by a single family, whether as owners or tenants.
- (i) "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of Common Properties as heretofore defined.
- (j) "Master Association" shall mean and refer to South Harbour Master Property Owners Association, Inc., of which all members of Village Green Property Owners Association, Inc. shall be members and shall be subject to the Master Declaration.
- (k) "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article III, Section 1, hereof.
- (l) "Multifamily Structure" shall mean and refer to any building containing two or more Living Units under one roof except when each such Living Unit is situated upon its own individual Lot.
- (m) "Owner" shall mean and refer to the record owner (whether one or more persons or entities) of a Unit within the Properties but, notwithstanding any applicable theory of the deed of trust, shall not mean or refer to the Trustee or cestui que trust unless and until there has been a transfer of title pursuant to foreclosure of any proceeding in lieu of foreclosure.

- (n) "Mortgagee" shall include the note holder or cestui que trust secured by a "deed of trust."
- (o) "Shared Common Properties", "Shared Common Amenities" and/or "Shared Common Areas" shall mean and refer to all real and personal property, including covenants, which may be owned by a third party but which are, in consideration of a prorated charges
- (p) "The Act" shall mean the North Carolina Planned Community Act (State Statute 47-F).
- (q) "Unit" shall mean a portion of the Properties, whether improved or unimproved, which may be independently owned or conveyed and which is intended for development, use and occupancy as a residential dwelling

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION; ADDITIONS THERETO

Section 1. Properties. The real property which is, and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration and to the Master Declaration and all amendments or supplements thereto which property is more particularly described in Exhibit A attached hereto.

Section 2. Additions to Existing Property.

- (a) Expansion. Additional lands may become subject to this Declaration to the extent such lands are described on Exhibit B attached hereto. The additions authorized hereunder may be made in one or more phases. Said additions shall be made by filing of record a Supplemental Declaration of Covenants and Restrictions with respect to the additional property desired to be annexed, which Supplemental Declaration shall extend the scheme of these Covenants and Restrictions and those of the Master Association, to such property by adopting these Covenants and Restrictions and the Master Declaration by reference. Such Supplemental Declaration may contain such complementary additions and modifications of the Covenants and Restrictions contained in this Declaration as may be necessary to reflect the difference in character, if any, of the added properties and as such are not inconsistent with the scheme of this Declaration. In no event, however, shall such Supplemental Declaration revoke, modify or add to the Covenants established by this Declaration. Any annexation made hereunder must be completed on or before December 31, 2020. Any such supplemental declarations shall specify the date upon which dues and assessments are payable for Lots annexed thereby.
- (b) Mergers. Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Property together with the Covenants and Restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall affect any revocation, change or addition to the Covenants established by this Declaration within the Property except as hereinafter provided.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

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

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

Class "A." Class "A" Members shall be all those Owners as defined in Section 1 with the exception of the Developer and Hilla so long as Hilla owns any Unit for which a certificate of occupancy has not yet been issued. Class "A" Members shall be entitled to one vote for each Unit in which they hold the interests required for membership by Section 1. When more than one person holds such interest or interests in any Lot or Living Unit, all such persons shall be Members, and the vote for such Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Unit.

Class "B." The Class "B" Member shall be the Developer and Hilla so long as Hilla owns any Unit for which a certificate of occupancy has not yet been issued. The rights of the Class "B" Member, include the right to approve or withhold approval of actions proposed under this Declaration, the Bylaws and Articles of Incorporation. The Class "B" Member may appoint a majority of the members of the Board of Directors of the Association until such time as the Class "B" membership is terminated. The Class "B" Member shall be entitled to three (3) votes for each Unit in which it holds interests required for membership. The Class "B" membership shall cease and become converted to Class "A" membership at the earlier occurrence of the following events:

(a) When the total number of Class "A" Members equals or exceeds seventy-five percent (75%) of the Membership; or

(b) January 1, 2026

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

ARTICLE IV

PROPERTY RIGHTS IN THE COMMON PROPERTIES

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

Section 2. Title to Common Properties. The Developer may relinquish the legal title to the Common Properties to the Association at anytime prior to the expiration of the Class B control period. Furthermore, Developer reserves for the benefit of Developer, and for the benefit of the Association and the owners of all Lots, the right to utilize all private street and roads, drainage ways, retention ponds and similar common facilities and utilities for the benefit of all of the property described in Exhibit B, and other adjacent properties owned by Developer.

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

- (a) the right of the Association, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Properties and in aid thereof to mortgage said properties. In the event of a default upon any such mortgage the lender's rights there under shall be limited to a right, after taking possession of such properties, to charge admission and other fees as a condition to continue enjoyment by the members and, if necessary, to open the enjoyment of such properties to a wider public until the mortgage debt is satisfied, whereupon the possession of such properties shall be returned to the Association and all rights of the Members hereunder shall be fully restored;
- (b) the right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosure;
- (c) the right of the Association, as provided in its Articles of Incorporation and By-Laws, to suspend the voting rights of any member for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations;
- (d) the right of the Association to charge reasonable admission and other fees for the use of the Common Properties for non-members of the Association;
- (e) the legal right of an Owner of property shown on the same plat to include portions of the Common Properties as may be necessary for said Owner to qualify under governmental requirements such as setback lines, open space, parking or other aspects which may be needed for issuance of a building permit to be secured to rebuild a damaged Living Unit; and
- (f) The right of the Association to dedicate or transfer all or any part of the Common Properties, subject to the Association retaining an easement over the common property to any public agency, authority, or entity for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer, determination as to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by Members entitled to cast not less than two-thirds (2/3) of the votes of each class of membership has been recorded, agreeing to such dedication, transfer, purposes or condition, and unless written notice of the proposed agreement and action there under is sent to every Member at least thirty (30) days in advance of any action taken.
- (g) The right (and obligation if required by developer) of the association to join and become a member of the Master Association created by the Developer and to pay any dues required of such members.

Section 4. Development Easements.

- (a) Easement to Facilitate Development. The Developer and Hilla hereby reserve to themselves and their designees a nonexclusive blanket easement over and through the Property and Common Elements for all purposes reasonably related to the development and completion and sale of improvements on the Property and Common Elements, including without limitation: (i) temporary slope and construction easements; (ii) drainage, erosion control, and storm and sanitary sewer easements (including the right to cut or remove trees, bushes or shrubbery, to regrade the soil and to take any similar actions reasonably necessary; provided, however, that thereafter the Developer shall restore the affected area as near as practicable to its original condition); (iii) easements

for the storage (in a sightly manner) of reasonable supplies of building materials and equipment necessary to complete the improvements; and (iv) easements for the construction, installation and upkeep of improvements (e.g., landscaping, street lights, signage, etc.) on the Property and Common Elements or reasonably necessary to serve the Property and Common Elements.

(b) Easement to Facilitate Sales. The Developer and Hilla hereby reserve to themselves and their designees the right to: (i) use of, as permitted by Developer, the Master Association amenities, any Units owned by Developer and any other Lot with the written consent of the Owner thereof for, sales offices, a visitors' center, construction offices, customer service offices or sales office parking areas; (ii) place and maintain in any location on the Common Properties and on any Lot street and directional signs, temporary promotional signs, plantings, street lights, entrance features, "theme area" signs, lighting, stone, wood or masonry walls or fences and other related signs and landscaping features; provided, however, that all signs shall comply with applicable governmental regulations and the Developer shall obtain the consent of the Owner of any Lot upon which the improvements are to be located; and (iii) relocate, within the areas permitted by this paragraph, or remove all or any of the above from time to time at the Developer's sole discretion. These rights and easements shall continue so long as Developer has Units for sale within the Properties.

(c) Easement for Utilities and Related Services. The Developer and Hilla hereby reserve to themselves and their assignees, during the Development Period, the right to grant and reserve easements, rights of way and licenses, over, through, upon and under the Property and the Common Elements for ingress, egress, installation and upkeep of equipment providing to any portion of the Property or Common Elements any utilities including, without limitation, water, sewer, drainage, gas, electricity, telephone and television service, whether public or private, or for any other purpose necessary or desirable for the orderly development of the Property. Any pipes, conduits, lines, wires, transformers and any other apparatus necessary for the provision or metering of any utility may be installed, maintained or relocated where initially installed with the permission of the Developer, where contemplated on any site plan approved by the Developer or where approved by resolution of the Executive Board.

ARTICLE V

COVENANT FOR ASSESSMENTS

Section 1. Creation of Lien and Personal Obligation for Assessments. The Developer and Hilla Builders, Inc. for each Unit owned within the Properties hereby covenant, and each Owner of any Unit within the Properties, by acceptance of a deed for a Lot or Living Unit, whether or not it shall be so expressed in such deed, is deemed to covenant to pay to the Village Green Property Owners Association, Inc. ("Association") and, through the Association, to the Master Association:

- a. Regular annual assessments or changes;
- b. special assessments for capital improvements and other purposes stated in this Declaration;
- c. default assessments (as hereinafter defined) which may be assessed against a lot pursuant to the Declaration and the Articles of Incorporation and Bylaws of the Association (hereinafter referred to as the "Documents") for Owner's failure to perform an obligation under the Documents or, because the Association has incurred an expense on behalf of the Owner under the Documents; and

- d. to the appropriate governing taxing authority or the Association a pro rata share of ad valorem taxes levied against the Common Areas; and
- e. Insurance Assessment as provided in Section 9C of this Declaration; and
- f. Working capital assessment as defined in Section 14 of this Article and/or as may be defined by the Master Declaration.

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

Each such assessment, together with fines, interest, costs, reasonable attorneys' (and legal assistants') fees, and other charges allowed under the Documents will also be the personal and individual obligation of the Owner of such Unit as of the time when the assessments fell due, and two or more Owners of a Unit will be jointly and severally liable for such obligations. If an assessment is payable in installments, the full amount of the assessment is a lien from the date on which the first installment thereof becomes due. No Owner may accept himself, herself or itself from liability for any assessments by abandonment of his Unit or by waiver of the use or enjoyment of the Common Properties and easements.

Section 2. Developer's Obligation for Assessments. So long as the Developer and/or Hilla Builders, Inc. own any property which is subject to this Declaration or which may be unilaterally subjected to this Declaration by the Developer and/or Hilla Builders, Inc., Developer and/or Hilla Builders, Inc. may annually elect either to pay an amount equal to regular assessments on all of its unsold Living Units or to pay the difference between the amount of assessments levied on all other Living Units subject to assessment and the amount of actual expenditures by the Association during the fiscal year. If both Developer and Hilla elect to pay the difference then said difference shall be prorated between them in accordance with their percentage ownership of the Properties. Unless the Developer and/or Hilla Builders, Inc. otherwise notifies the Board in writing at least 60 days before the beginning of each fiscal year, the Developer and/or Hilla Builders, Inc. shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year. The Developer's and/or Hilla'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.

Section 3. Purpose of Assessment. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare of the residents in the Properties and in particular for the improvement and maintenance (1) of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Properties and (2) of the Lots and Living Units situated upon the Properties. Without Limitation, such uses shall include satisfaction of the Association's obligations regarding the Common Properties to pay: 1) hazard and liability insurance for the common areas and living units, 2) ad valorem taxes, 3) governmental assessments for public and private capital improvements made to or for the benefit thereof, 4) the repair, replacements and additions thereto, and for the cost of labor, equipment, materials, management and supervision.

Section 4. Determination of Annual Assessments. Notwithstanding any provision to the contrary contained herein, should the Association's Board of Directors determine that the Annual Assessment for the next succeeding assessment period will exceed the Annual Assessment for the current assessment period by more than ten percent (10%), then, in such event, such increase in the Annual Assessment shall be approved by a majority vote of the Owners voting in person or by proxy at a duly called meeting of the Members of the Association, at which a quorum of members is present in person or by proxy, prior to its adoption by the Board of Directors of the Association.

Section 5. Basis for Computing Assessments Regular assessments shall be levied equally against all Units subject to assessment and shall be at a level reasonably expected to provide the fulfill its obligations and shall include reserves for future repairs.

Section 6. Special Assessments for Capital Improvements. In addition to the annual assessments authorized by this document, the Association may levy, in an assessment year, a special assessment applicable to that year only for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Properties including fixtures and personal property related thereto, provided that any such assessment shall have the assent of not less than two-thirds (2/3) of the votes of each class of members who are voting in person or proxy at a meeting duly called for this purpose.

Section 7. Change in Basis of Assessments. The Association may change the basis of the assessments fixed by Section 5 hereof prospectively for any such period, provided that any such change shall have the assent of not less that two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 8. Quorum for any Action Authorized Under Sections 4, 5, and 6. The quorum required for any action authorized by Sections 3, 4, and 5 of this Article V shall be as follows:

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

Section 9. Action by the Master Association. All Owners acknowledge and agree that the Master Association may, in its sole discretion, levy assessments, both regular as well as special assessments, for such lawful purposes as may be deemed necessary by the Board of Directors of the said Master Association. Any such assessment shall have the same force and legal effect as any assessment levied by the Association.

Section 10. Date of Commencement of Regular Assessments: Due Dates. The Regular assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the first Unit from the Developer to an Owner. The first regular assessment, as defined in Article V, Section 1C of this Declaration, shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the regular assessment against each lot at least thirty (30) days in advance of each regular assessment period. Written notice of the Regular Assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Unit have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 11. Duties of the Board of Directors. The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Lot or Living Unit for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the properties and

assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

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

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

Section 12. Effect of Nonpayment of Assessments and Remedies of the Association. Any assessment, or installment thereof, which is not paid within thirty (30) days after its due date, will be delinquent. In the event that an assessment, or installment thereof, becomes delinquent, or in the event a Default assessment is established in under Article V, Section 1C of this Declaration, the Association, in its sole discretion, may take any or all of the following actions:

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

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

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

Section 13. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first deed of trust now or hereafter placed upon the properties; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, a deed of foreclosure under power of sale or any other transfer in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments, which thereafter become due, nor from the lien of any such subsequent assessment.

Section 14. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein; (a) all properties to the extent of any easement or other interest therein dedicated and accepted

by the local public authority and devoted to public use; (b) all Common Properties as defined in Article I, Section 1, hereof.

Section 15. Successor's Liability for Assessments. All successors, except as provided hereinabove in Section 13 to the fee simple title of a lot will be jointly and severally liable for the prior Owner's or Owners' thereof unpaid assessments, fines, interest, late charges, costs, expenses, and attorney's (and legal assistants') fees against such Lot without prejudice to any successor's right to recover from any prior Owner any amounts paid by such successor. Any successor will be entitled to rely on a written statement of status of assessments received by such successor from the Association or its managing agent. The Association agrees that it will furnish to any owner or his designee a written statement setting forth the amount of unpaid assessments then levied against the lot in which the Owner or his designee has an interest. The information contained in such written shall be conclusive upon the Association, the Board of Directors, and every owner as to the person or persons to whom such statement is issued and who rely on it in good faith when such statement is signed by an officer of the Association or the managing agent for the Association.

Section 16. Working Capital. At the time title is conveyed by Developer to an Owner, the Owner shall contribute to the Association as a working capital contribution in the amount of \$250.00, provided, however, that if Developer conveys title to Hilla, such working capital assessment shall not be due from Hilla but shall be due from Hilla's successor in title. Such funds shall be used solely for initial operating and capital expenses of the Association, such as pre-paid insurance, supplies and the common areas and facilities, furnishings and equipment, etc. Amounts paid into the working capital fund are not to be considered as advance payment or regular assessments. Any working capital funds remaining at the end of the first full operating year shall be transferred to and become part of the general funds of the Association, in the discretion of the Board of Directors.

ARTICLE VI

RIGHTS OF FIRST MORTGAGES

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

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

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

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

- (a) fail to maintain hazard insurance on insurable improvements upon the Living Units and Common Property in an amount equal to one hundred percent (100%) of the current insurable replacement cost;

(b) use hazard insurance proceeds from losses to any Living Units and Common Properties for other than the repair, replacement or reconstruction of such improvements.

ARTICLE VII

PARTY WALLS

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

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

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

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

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

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

ARTICLE VIII

ARCHITECTURAL REVIEW COMMITTEE

No building, fence, wall or other structure nor any planting or landscaping change (including removal of any tree) shall be commenced, erected or maintained upon the Properties by any owner other than the Developer nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Developer and/or Hilla so long as either owns any Lots and thereafter, by the Board of Directors of the Association, or by an Architectural Review Committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been complied with fully. The Association shall have the right to bring an action to enjoin any activity taken in violation of this Article.

ARTICLE IX

EXTERIOR MAINTENANCE

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

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

Section 3. Access at Reasonable Hours. For the purpose solely of performing the exterior maintenance required by this Article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot or exterior of any Living Unit at reasonable hours on any day. The Association or its representatives may enter into the interior of any living Unit for emergency purposes only. In the event the interior of any living Unit is entered into for emergency purposes the owner of record will be contacted and informed of entry in to his/her living Unit and the purpose which access was required.

ARTICLE X

USE RESTRICTIONS

Section 1. Land Use and Building Type. All lots shall be used for single-family residential purposes only except that so long as the Developer and/or Hilla shall retain ownership of any lots, the Developer and/or Hilla may utilize any such lot or lots for sales or rentals, offices, models or other usage for the purpose of selling or leasing lots. The Developer may assign this limited commercial usage right to any other person or entities as it may choose; provided, however, that when neither the Developer or Hilla own any Lot, this right of commercial usage by Hilla, the Developer, its successors and assigns shall immediately cease. Co-ownership of lots shall not be prohibited. Any building erected, altered, placed or permitted to remain on any lot shall be subject to the provisions of Article VIII of this Declaration of Covenants, Conditions and Restrictions relating to architectural control.

Section 2. Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 3. Junk Vehicles. No inoperable vehicles or vehicle without current registration and insurance will be permitted on the premises. The Association shall have the right to have all such vehicles towed away at the owner's expense.

Section 4. Outside Furniture. No furniture shall be permitted in the common areas. No furniture shall be permitted on the front porch of each living Unit except porch furniture and plants. Porch furniture shall be permitted in the courtyard of each living Unit.

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

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

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

Section 8. Animals. No animals, livestock or poultry of any kind shall be kept or maintained on any lot or in any dwelling except that dogs, cats or other household pets may be kept or maintained by owners of Lots or Living Units only, provided that they are not kept or maintained for commercial purposes and provided further that they are not allowed to run free and are at all times properly leashed and personally escorted. If any pet shall be determined by the Board of Directors to be a nuisance, the Board shall have full authority to have such pet permanently expelled from the properties. It is the intent of this Section that no tenant(s), renter(s), guest(s), or invitees may have or keep pets of any kind in any Living Unit or common property.

Section 9. Outside Antennas. No outside radio or television antennas except satellite dishes measuring one meter or less shall be erected on any lot or dwelling living Unit within the Properties unless permission for the same has been granted by the Board of Directors of the Association or its architectural control committee.

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

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

Section 12. Leasing Restrictions. Nothing contained herein shall prohibit leasing or renting of a Lot; provided, however, that no Lot or Living Unit shall be leased or rented for a period of less than ninety (90) consecutive calendar days. The Board of Directors may require Owners who lease their Lots to insert provisions in the lease, which would require the tenant to abide by the Association Documents and allow enforcement of the Association Documents directly against the tenant as well as the Owner.

Section 13. Trash Receptacles. All trash and trash receptacles shall be stored in garages or other areas provided. Trash or trash receptacles shall not be in view of any road, common property or any other living Unit. Trash receptacles are to be put out for collection on the trash collection day and taken in the same day.

ARTICLE XI

COMMON AMENITIES

Developer may construct a clubhouse, pool and tennis courts which, if built, shall be Shared Common Amenities for use by all members of the Master Association. It shall be understood that said Shared Common Amenities are not for the exclusive use of Owners of Village Green Townhomes or Association members but that all members of the Master Association shall have the right to use such Shared Common Amenities.

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

ARTICLE XII

INSURANCE

Section 1. Authority to Purchase. The Executive Board shall (a) purchase, and thereafter maintain insurance policies relating to the Common Elements, Lots and improvements thereon, (excluding additions and betterments installed by the Owners), and other matters more particularly set forth in this Article, (b) adjust all claims arising under such policies and (c) execute and deliver releases upon payment of claims. The cost of all insurance policies purchased by the Board shall be Common Expense. The Executive Board and the managing agent shall not be liable for failure to obtain any coverage required by this Article or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverages from reputable insurance companies, or if such coverages are so available only at an unreasonable cost. Exclusive authority to negotiate losses under such policies shall be vested in the Executive Board of with its authorized representative. The Executive Board shall promptly notify the members of material adverse changes in, or termination of, insurance coverages obtained on behalf of the Association.

- (a) Reputable companies licensed or qualified to do business in North Carolina shall write all policies of insurance.
- (b) The deductible (if any) on any insurance policies purchased by the Executive Board shall be a Common Expense except as set forth in Section 10.5; provided, however, that the Association may assess any deductible amount necessitated by the act, misuse or neglect of an Owner, or such Owner's tenant or such Owner's (or tenant's) household, guests, agents or invitees against such Owner.

Section 2. Physical Damage Insurance. The Executive Board shall obtain and maintain a blanket, "all-risk" form policy of fire insurance with extended coverage, vandalism, malicious mischief, cost of demolition, debris removal, and water damage endorsements, insuring (a) any improvements located on the Common Elements covering the interests of the Association and all improvements located on any Lot including, without limitation, any floor covering, fixtures, appliances, cabinets and other installations constituting a part of the original improvements in their completed form as constructed on the Lots, but not including additions/betterments installed by Owner, and (b) in an amount not less than eighty percent (80%) of the then current replacement cost of any improvements located on the Common Elements and the Lots (exclusive of the land, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation (such amount to be re-determined annually by the Board with the assistance of the insurance company affording such coverage). The Executive Board shall also obtain and maintain appropriate coverage on all personal property and real estate other than the Common Elements owned by the Association.

Section 3. Other Insurance. The Executive Board shall obtain and maintain adequate fidelity coverage to protect against dishonest acts on the part of Directors, Officers, Trustees and Employees of the Association and all others who handle, or are responsible for handling funds of the Association, including the managing agent. If the Association has delegated some or all of the responsibility for handling funds to a managing agent, such managing agent shall be covered by its own fidelity bond. Such

fidelity bonds (except for fidelity bonds obtained by the managing agent for its own personnel) shall: (i) name the Association as an obligee, and (ii) contain waivers of any defense based upon the exclusion of Persons who serve without compensation from any definition of "employee" or similar expression;

- (a) liability insurance in reasonable amounts covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements;
- (b) if required by a majority of the Mortgagees or governmental regulations, flood insurance in accordance with the applicable regulations for such coverage;
- (c) workers' compensation insurance, if and to the extent necessary, to meet the requirements of law (including a voluntary employees endorsement and an "all states" endorsement);
- (d) to the extent coverage can be obtained at a reasonable cost, directors and officers liability insurance in an amount not less than One Million and No/100 Dollars (\$1,000,000.00); and
- (e) such other insurance as the Executive Board may determine as may be requested from time to time by a Majority Vote of the members.

ARTICLE XIII

GOLF FACILITY

Section 1. Golf Facility. The Developer may construct or allow to be constructed a Golf course and related improvements and amenities (hereinafter "Golf Facility") upon lands adjacent to the Properties and to subject the Properties to further restrictions relating to thereto. All Owners acknowledge that one or more Golf Facilities may be constructed, operated or maintained on contiguous portions of the Properties as privately owned facilities and not as part of any Common Property. However, Developer has no obligation or commitment to construct a Golf Facility or to have any Golf Facility constructed, operated or maintained. The easements established in this Article shall exist and continue with respect to each Golf Facility as long as it is operated as a Golf Facility.

Section 2. Use of Golf Facility: Interference. No Member shall have a right, solely by virtue of such membership or by payment of assessments to any homeowner's association, whether or not their lands adjoins a boundary of a Golf Facility, or access to or across, entry onto, membership in, or other use or enjoyment of any Golf Facility that is not part of any recorded plat or Common Property. Use of a Golf Facility in or contiguous to land conveyed hereby may or may not be exclusive to the other owners within the development. There shall be no activities conducted on any of the Properties that unreasonably disturb the playing of golf or the use or enjoyment of a Golf Facility by the members and guests thereof, including, without limitation, undue noise, unsightly trash or debris, or any other noxious or offensive activity. Without the written consent of the owner of a Golf Facility, there shall be no fencing or other obstructions on any portion of the Properties located within a distance of ten (10) feet from any boundary of such Golf Facility.

Section 3. Use Not a Nuisance. Use of any part of a Golf Facility by any person in accordance with the reasonable rules and regulations established by the owner of the Golf Facility, including use of a Golf Facility for golf tournaments or social events shall not constitute a nuisance.

Section 4. Easements For Golf Facility.

- (a) All portions of the Properties located within 500 yards of a boundary of the golf course portion of a Golf Facility are subject to perpetual, non-exclusive easements for (i) golf balls that come upon or fly over such portions of said lands as a result of errant golfs shot struck by golfers using a Golf Facility (excluding golf balls resulting from any golf shot or other action by a golfer where the golfer's intent is to cause the golf ball to go on or over such lands) and (ii) golfers, at reasonable times and in a reasonable manner, to enter said Properties to retrieve such golf balls. Provided, however, if such portion of the Properties to be entered is fenced or otherwise secured, before entry the golfer shall obtain the permission of the Owner thereof, and nothing herein shall give any person the right to enter any dwelling, building or other structure on any portion of the Properties to retrieve golf balls or for any other purpose. Further provided, nothing herein shall permit a golfer to strike a golf ball from or any portion of the Properties outside of the Golf Facility. The reasonable exercise of these easements by any person for whom they are reserved shall not constitute a trespass to any portion of lands conveyed hereby or a nuisance. The existence of these easements, shall not relieve golfers who use the Golf Facility or who strike the errant golf shots of or from liability for personal injury or property damage caused by or resulting from any such use or errant golf shots.
- (b) The portion of any surrounding property immediately adjacent to a boundary of a Golf Facility is hereby burdened with perpetual, nonexclusive easements in favor of that Golf Facility for (i) the reasonable over spray of water from the irrigation system serving that Golf Facility and (ii) the reasonable incursion of Golf Facility maintenance equipment and personnel, in order to maintain the boundary areas of a Golf Facility.
- (c) The owners and management of each Golf Facility, their agents, successors and assigns, shall at all reasonable times have a perpetual, non-exclusive easement of access and use over those lands conveyed hereby as may be reasonably necessary to the maintenance of that Golf Facility, including use during any PGA Tour Event, and the right to retrieve golf balls from bodies of water within any Common Property lying reasonably within range of golf balls hit from that Golf Facility. Provided, following each exercise of any such easement, the owner of any Golf Facility who exercises the easement promptly shall restore any designated Common Property to the condition it was in prior to the exercise of the easement.

Section 5. Limitation of Liability. Neither the Developer, any Homeowner's Association, nor any of the members, managers, shareholders, officers, directors, employees, agents, contractors, affiliates, subsidiaries, predecessors, successors, or assigns of the Developer, or the Association shall be responsible or liable in any way, to the party of the second part or any Owner or to any other person for any claims, causes or action, damages to person or property, judgments, liens, losses, injuries, demands, interference, liabilities, or obligations whatsoever, arising out of or resulting from any one or more of the following: (i) any interference of any Owner's use and enjoyment of any Common Property or any portion of the Properties conveyed hereby by anyone using the Golf Facility; (ii) improper design or operation or use of the golf course or any other portion of a Golf Facility; (iii) the level of skill of any golfer; (iv) trespass by any golfer on any portion of the Properties; (v) golf balls (regardless of the number and frequency or occurrences) hit or thrown over or onto any portion of the Properties; (vi) golf equipment; (vii) Golf Facility maintenance equipment and devises; (viii) social events held at a Golf Facility; (ix) the exercise by any golfer or the owner of a Golf Facility of any easement reserved or established for golfers or that Golf Facility by this Deed or shown on any plat of the Properties recorded in the Registry. Provided, however, the foregoing liability limitations are not applicable to any of the named persons with respect to their acts or

omissions as golfers, members or guests using the Golf Facility, or as owners, managers, agents or employees of a Golf Facility.

No Golf Facility, nor any owner or management, thereof, nor any member, partner or shareholder thereof or any affiliate of any such member, partner or shareholder, nor their respective employees, officers, directors or agents, nor any architects, builders, contractors or land planners hired or retained by the owner of such Golf Facility, in the foregoing capacities, shall be liable for any damage or injury resulting from errant golf balls hit by their parties, retrieval or errant golf balls by third parties from the reasonable over spray of water from that Golf Facility. Provided, however, the foregoing liability limitations are not applicable to any of the name persons with respect to their acts or omissions as golfers, members or guests using the Golf Facility.

ARTICLE XIV

GENERAL PROVISIONS

Section 1. Rules. The Board of Directors shall have the authority to adopt rules for the use of the Common Properties, exterior portion of the Lots and Living Units, and the conduct of members, their guest, invitees, tenants, and family members and shall furnish a written copy of said rules to the Owners. Any violation of such rules shall be punishable by fine and/or suspension of the voting rights of the violating Owners.

Section 2. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded, and thereafter for successive ten (10) year periods unless an instrument signed by the then Owners of sixty-seven percent (67%) of the Lots or Living Units has been recorded, agreeing to change said covenants and restrictions in whole or in part. No such agreement or change shall be effective, unless written notice of the proposed change is sent to every Owner at least thirty (30) days in advance of any action taken, and provided, however, that at all times during the existence of these covenants and restrictions that those areas set forth and set aside as Common Properties shall be retained for those purposes except as set out in Article IV, Section 3(F).

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

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

Section 5. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any liens or charges created by these covenants;

and failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 6. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which provisions shall remain in full force and effect.

Section 7. Roads and Streets. All roads and streets made subject to this Declaration are common property and shall be designated as private and shall be maintained by the Association until such time as the South Harbour Master POA, Inc. is created and takes responsibility of the roads and streets as required by the Master Declaration. Furthermore, Developer for itself, its designees or assigns reserves a right of ingress and egress over and across all of such roads and streets for purposes of accessing any property described on Exhibit A, Exhibit B or adjoining properties owned by Developer or its successors and assigns. The Association shall maintain the private roads and streets in good condition, readily available for normal use at all times until the maintenance of the roads and streets is assumed by the Master Association. It is further understood that until the Master Association takes control thereof, the Association may be required to contribute prorata, to the maintenance and upkeep of Vanessa Drive and other roads which provide common access, ingress, egress and regress for the Owners and others.

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

Section 9. Reconstruction and Repair.

a) **When Reconstruction or Repair Required.**

i) **Common Elements.** Except as otherwise provided in herein, if all or any part of any improvement located on the Common Elements is damaged or destroyed by fire or other casualty, the Executive Board shall arrange for and supervise the prompt repair, replacement and reconstruction thereof. The Association shall not use the proceeds of casualty insurance received as a result of damage or destruction of improvements located on the Common Elements for purposes other than the repair, replacement or reconstruction of such improvements except in accordance with Section 10.4 and the Act.

ii) **Lots/Improvements.** If the residential building located upon a Lot is damaged or destroyed, the Association shall repair, replace or reconstruct the site and the residential building either (i) by repairing or reconstructing such building or other major improvement or (ii) by clearing away the debris and restoring the site to an acceptable condition compatible with the remainder of the Property. Unless the Architectural Control Committee permits a longer time period, such work must be commenced within six (6) months after the casualty and substantially completed within eighteen (18) months after the casualty.

b) **Procedure for Reconstruction and Repair Performed by the Association.**

i) **Cost Estimates.** Immediately after a fire or other casualty causing damage to any portion of the Property, the Executive Board shall obtain reliable and detailed estimates of the cost of restoring and repairing such improvement to a condition as good as that existing before such casualty. Such costs may also include professional fees and premiums for such bonds as the Executive Board determines to be necessary.

- ii) Plans and Specifications. Any such reconstruction or repair shall be substantially in accordance with the original construction of any improvement located on the Property, subject to any modifications required by changes in applicable governmental regulations, and using contemporary building materials and technology to the extent feasible; provided, however, that other action may be taken if approved in accordance with Section 10.4 hereof.
- c) Disbursement of Construction Funds for Common Elements. The proceeds of insurance collected on account of a casualty and the sums received by the Executive Board from the collection of assessments against the Owners shall constitute a construction fund, which shall be disbursed in payment of the costs of reconstruction and repair in the following manner.
- i) Shortfalls. If the proceeds of insurance are not sufficient to defray such estimated costs of repair, or if upon completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient, the amount necessary to complete such reconstruction and repair may be obtained from the appropriate reserve for replacement funds or shall be deemed a Common Expense and an assessment therefore shall be levied subject to Section 5.2 hereof.
- ii) Surplus. The first monies disbursed in payment of the cost of reconstruction and repair shall be from insurance proceeds. If, after payment of the costs of all reconstruction and repair, and the refund of any excess payments made by Owners in proportion to their contributions or the refund of excess payments by any Owner, there remains any surplus fund, such fund shall be paid to the Association and shall be placed in the appropriate reserve account.

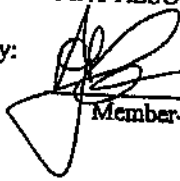
When Reconstruction and Repair of Common Elements Not Required.

If destruction of the improvements located on the Common Elements is insubstantial, the Executive Board may elect not to repair such insubstantial damage. Otherwise, any decision not to repair or restore improvements on the Common Elements shall be made in accordance with the Act. If damaged improvements are not repaired, then the Executive Board shall remove all remnants of the damaged improvements and restore the site thereof to an acceptable condition compatible with the remainder of the Common Elements and the balance of any insurance proceeds received on account of such damage shall be placed in the appropriate reserve account.

Repair of Lot Improvements. Except for damage to the improvements constructed on the Lots, which is covered by insurance maintained by the Association, each Owner shall be obligated to pay the cost of upkeep necessitated by loss or damage to the improvements on his Lot unless: (i) the loss or damage is caused by failure of the Association to upkeep any portion of the improvements on his Lot for which the Association is obligated to provide upkeep after notice by the Owner to the Association of the need for upkeep, or (ii) the Association performs faulty upkeep to an area or portion of the improvements on the Owner's Lot for which the Association is obligated to provide upkeep. If the cost of upkeep necessitated by loss or damage is covered by insurance maintained by the Association, the Owner shall pay that portion of the cost, which would otherwise not be paid through the insurance maintained by the Association by reason of deductibles applicable to such policy or policies.

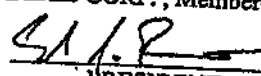
IN WITNESS WHEREOF, POINT ASSOCIATES LLC has caused this instrument to be duly executed in its name by its duly authorized members, and Hilla Builders, Inc. has caused the same to be executed by its _____ President, attested by its _____ Secretary, all as has been duly authorized by its Board of Directors, all as of the day and year first above written.

POINT ASSOCIATES, LLC

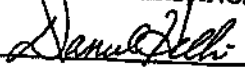
By: 
Member-Manager

POINT ASSOCIATES, LLC

VIABLE CORP., Member-Manager

By: 
PRESIDENT

HILLA BUILDERS, INC.

By: 
President

ATTEST:

SECRETARY

AYL2001F:VILGREDECLAR

A:VILGREDECLAR.vpd

STATE OF NORTH CAROLINA

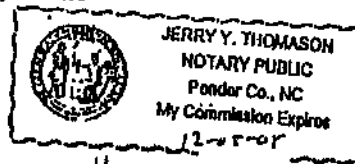
COUNTY OF New Hanover

I, a Notary Public of the County of Pender and State aforesaid, do hereby certify that A. V. Jensen, Member-Manager of Point Associates, L.L.C., personally appeared before me this day and acknowledged the due execution of the foregoing document.

2001. WITNESS my hand and notarial seal, this the 6th day of December

My Commission Expires: 12-08-05

Jerry Y. Thomason
Notary Public



STATE OF NORTH CAROLINA

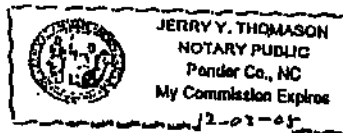
COUNTY OF New Hanover

I, a Notary Public of the County of Pender and State aforesaid, do hereby certify that E. L. Burnett, III, President of Viable Corp., a North Carolina corporation, said corporation being a member of Point Associates, LLC, personally appeared before me this day and acknowledged the due execution of the foregoing document of behalf of Viable Corp., said corporation acting in its capacity as a member of Point Associates, LLC., and as the act and deed of the said Point Associates, LLC.

2001. WITNESS my hand and notarial seal, this the 6th day of December

My Commission Expires: 12-08-05

Jerry Y. Thomason
Notary Public



STATE OF NORTH CAROLINA

COUNTY OF _____

I, a Notary Public of the County of _____ and State aforesaid, certify that _____ personally appeared before me this day and acknowledged that he/she is _____ Secretary of HILLA BUILDERS, INC. a North Carolina Corporation, and that by authority duly given and as an act of the corporation, the foregoing instrument was signed in its name by its _____ President, sealed with its corporate seal and attested by himself/herself as its _____ Secretary.

2001. WITNESS my hand and notarial seal, this _____ day of _____

Notary Public

My Commission Expires:

forms2000hilla.not

A:\VILGRENDDECLAR.wp

STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

I, Ernestine A. Worrall, a Notary Public in and for the State and County aforesaid, do certify that Daniel Hills, personally appeared before me this day, and acknowledged that he is President of Hills Builders, Inc., a corporation, and that as President, being authorized to do so, executed the foregoing on behalf of the corporation.



in my hand and official seal or stamp, this the 6th day of December, 2001.

Ernestine A. Worrall
Notary Public

EXHIBIT "A"

FIRST TRACT: ALL OF LOTS 1, 2, 3, 4 AND 5 AS SHOWN ON THAT PLAT ENTITLED "MAP OF VILLAGE GREEN TOWNHOMES AT SOUTH HARBOUR VILLAGE AT WESTPORT", PREPARED BY SHERWIN D. CRIBB AND RECORDED IN MAP CABINET 24 AT PAGE 268 OF THE BRUNSWICK COUNTY REGISTRY; TOGETHER WITH ADJACENT COMMON AREAS SURROUNDING THE PERIMETER OF LOTS 1 THROUGH 5 INCLUSIVE, BEING TWENTY FEET IN WIDTH ALONG THE EASTERN BOUNDARY OF SAID LOTS, SIXTEEN FEET IN WIDTH ALONG THE WESTERN BOUNDARY BETWEEN SAID LOTS AND THE 60' PRIVATE ROAD; TWENTY FEET ALONG THE NORTHERN BOUNDARY OF LOT 1 AND TWELVE FEET ALONG THE SOUTHERN BOUNDARY OF LOT 5.

SECOND TRACT: ALL OF LOTS 39, 40, 41 AND 42 AS SHOWN ON THE AFOREMENTIONED AT PLAT ENTITLED "MAP OF VILLAGE GREEN TOWNHOMES AT SOUTH HARBOUR VILLAGE AT WESTPORT", PREPARED BY SHERWIN D. CRIBB AND RECORDED IN MAP CABINET 24 AT PAGE 268 OF THE BRUNSWICK COUNTY REGISTRY; TOGETHER WITH ADJACENT COMMON AREAS ALONG THE EASTERN, NORTHERN AND WESTERN BOUNDARIES OF LOTS 39 THROUGH 42 INCLUSIVE, BEING SIXTEEN FEET IN WIDTH ALONG THE EASTERN BOUNDARY OF LOT 39 BETWEEN SAID LOT AND THE 60' PUBLIC ROAD, TWENTY FEET IN WIDTH ALONG THE NORTHERN BOUNDARY OF SAID LOTS BETWEEN THE LOTS AND A 60' PRIVATE ROAD; AND TWELVE FEET IN WIDTH ALONG THE WESTERN BOUNDARY OF LOT 42.

TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR EGRESS, INGRESS AND REGRESS TO AND FROM SAID LOTS AND COMMON AREAS OVER THOSE AREA DESIGNATED AS PRIVATE ROADS ON SAID PLAT AND OVER VANESSA DRIVE (A PRIVATE ROAD SHOWN ON THAT PLAT RECORDED IN MAP CABINET 224 PAGE AT 459) FROM FISII FACTORY ROAD TO SAID PRIVATE ROADS.

EXHIBIT "B"

BEING ALL THAT PROPERTY SHOWN AND DESIGNATED AS VILLAGE GREEN TOWNHOMES AT WESTPORT AND AS VILLAGE GREEN TOWNHOMES AT GLEN COVE ON THAT PLAT PREPARED BY SHERWIN D. CRIBB AND RECORDED IN MAP CABINET 21 AT PAGE 459 OF THE BRUNSWICK COUNTY REGISTRY.

ALL OF THAT TRACT OR PARCEL OF LAND CONVEYED TO CLYDE H. FARNSWORTH BY POINT ASSOCIATES, LLC IN AUGUST 1999, CONTAINING 21.54 ACRES, MORE OR LESS.

UNOFFICIAL
UNOFFICIAL
UNOFFICIAL

Brunswick County Register of Deeds
Robert J. Robinson
Inst #172005 Book 1805 Page 917
08/14/2003 04:44:31pm Rec# 157634

Prepared by and Returned to:
STEVENS, MCGHEE, MORGAN, LENNON & TOLL, LLP

STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

RET Kurt Fryar
TOTAL 23 REC# 92
REC# _____ CK AMT _____ CK# _____
CASH _____ REF _____ BY gh

**FIRST SUPPLEMENT TO THE DECLARATION OF COVENANTS AND
RESTRICTIONS FOR VILLAGE GREEN TOWNHOMES AT
SOUTH HARBOUR VILLAGE AT WESTPORT**

WHEREAS, POINT ASSOCIATES, LLC, a North Carolina Limited Liability Company (hereinafter referred to as "Declarant"), and HILLA BUILDERS, INC., a North Carolina Corporation, (hereinafter referred to as "Hilla") have heretofore executed and caused to be recorded in the Office of the Register of Deeds of Brunswick County, North Carolina, Book 1529, Page 663, a Declaration of Covenants and Restrictions for Village Green Townhomes at South Harbour Village at Westport (hereinafter the "Declaration"), and which Declaration has been amended by that certain First Amendment to the Declaration of Covenants and Restrictions for Village Green Townhomes at South Harbour Village at Westport, said amendment having been recorded or is to be recorded in the said Brunswick County Registry; and,

WHEREAS, in accordance with ARTICLE II, Section 2 of the Declaration, the Declarant and Hilla expressly reserved the right to add certain additional real estate to the townhome development described in Exhibit "A" to the Declaration; and,

WHEREAS, Declarant and Hilla desire to supplement the Declaration in order to expand the townhome development by the addition of a portion of the Additional Real Estate described in the Declaration and to subject said property to the Declaration and its amendments.

NOW, THEREFORE, the Declarant and Hilla, in accordance with the provisions of the Declaration and North Carolina law, do hereby amend and supplement the Declaration in the following respects:

The real property which is and shall be held, transferred, sold, and conveyed subject to the Declaration (and this Supplement) as described in Exhibit "A" to the Declaration is hereby supplemented, amended, and revised to include the real property as shown and designated on Exhibit "A" attached hereto and made a part hereof by this document by reference. The real property described in said Exhibit "A" of this First Supplement and the real property described in Exhibit "A" to the original Declaration shall be and constitute the Property known as Village Green Townhomes at South

Harbour Village at Westport, upon the recordation of this supplement. This First Supplement shall be deemed to be a Declaration of ownership for the property herein described.

Dues and assessments payable for all property annexed hereby shall be paid as provided in the Declaration.

EXCEPT AS SPECIFICALLY supplemented hereby and as amended by the First Amendment referenced above, the aforesaid Declaration shall be and remain in full force and effect and shall apply to Units, Common Areas, Shared Common Areas and Limited Common Areas created by this First Supplement to the Declaration.

IN WITNESS WHEREOF, POINT ASSOCIATES, LLC has caused this document to be executed in its name by its duly authorized Member-Managers, and HILLA BUILDERS, INC, has caused this document to be executed by its President and attested by its Secretary, with its corporate seal affixed, all by the authority of its Board of Directors duly given, as of the 15th day of AUGUST, 2003.

POINT ASSOCIATES, LLC

WILMINGTON HOLDING CORP., Member-Manager

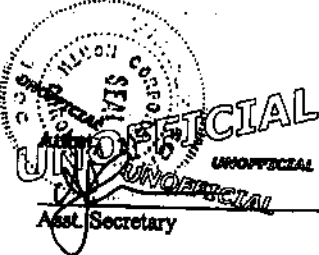
By: [Signature]
Vice-President



[Signature]
Asst. Secretary

VIABLE CORP., Member-Manager

By: [Signature]
President



[Signature]
Asst. Secretary

Hilla Builders, Inc.

By: [Signature]
President



Attest: [Signature]
Secretary