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DECLARATION
OF COVENANTS, CONDITIONS AND
RESTRICTIONS

OCEANA

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made
this 17th day of March, 1994 by Oceana Limited Partnership, a
North Carolina limited partnership, hereinafter referred to as

"Declarant". STATEMENT OF PURPOSE

Declarant is the owner of certain property in New Hanover
County, North Carolina, which is more particularly described on a
map recorded in Map Book 33, Pages 336 and 337, in the New Hanover
County, North Carolina, Public Registry, reference to which is hereby
made. Declarant desires to create thereon an exclusive residential
community of single- family residences to be named OCEANA.

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Declarant desires to insure the attractiveness of Oceana and to
prevent any future impairment thereof, to prevent nuisances, to
preserve, protect and enhance the values and amenities of all properties
within Oceana and to provide for the maintenance and upkeep of all
common areas in Oceana. To this end the Declarant desires to subject
the real property described herein, together with such additions as may
hereafter be made thereto, to the covenants, conditions, restrictions,
easements, charges and liens hereinafter set forth, each and all of
which is and are for the benefit of said property and each owner
thereof.

Declarant further desires to create an organization to which will
be delegated and assigned the powers of owning, maintaining and
administering the common areas in Oceana, administering and enforcing

the covenants and restrictions contained herein, and collecting and disbursing the assessments and charges hereinafter created in order to efficiently preserve, protect and enhance the values and amenities in Oceana, to insure the residents' enjoyment of the specific rights, privileges and easements in the common area, and to provide for the maintenance and upkeep of the common area.

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

NOW, THEREFORE, Declarant, by this Declaration of covenants, Conditions and Restrictions, does declare that all of the property described herein, and such additions thereto as may be hereafter made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration which shall run with the real property and be binding on all parties owning any right, title or interest in said real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

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

Section 2. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners and any area for joint use of the Association and Spinnaker Pointe Unit owners Association. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is any area labeled as "Common Area" on the map and all private roads and streets shown thereon.

Section 3. "Declarant" shall mean and refer to Oceana Limited Partnership and also shall mean and refer to any person, firm or corporation which shall also be designated as a "Declarant" by Oceana Limited Partnership or which shall be a successor or assign of Oceana Limited Partnership.

Section 4. "Development" shall mean and refer to Oceana, a single-family residential development as shown on the map referred to and may include future development of lots or condominiums on the area reserved for future development.

Section 5. "Lot" shall mean and refer to any numbered plot of land, with delineated boundary lines, appearing on the Maps.

Section 6. "Map" shall mean and refer to the map of the Existing Property as recorded in Map Book 33, Pages 336 and 337, in the New Hanover County, North Carolina, Public Registry and the maps of any additions to the Existing Properties which may be recorded by Declarant in the New Hanover County, North Carolina, Public Registry hereafter.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 8. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot including the Declarant if it owns any Lots and including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 9. "Properties" shall mean and refer to the "Existing Property" described in Article II, Section 1 hereof, and such additions thereto as may hereafter be made subject to this Declaration and brought within the jurisdiction of the Association.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION
AND WITHIN THE JURISDICTION OF
OCEANA OWNERS' ASSOCIATION, INC.

Section 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration, and within the jurisdiction of the Association is located in New Hanover County, North Carolina, and is more particularly described on the Map.

Section 2. Additions to Existing Property.

(a) Additional land which is contiguous to the Existing Property or any land previously added to the Existing Property may be brought within the scheme of this Declaration and the jurisdiction of the Association by Declarant, in future stages of development, without the consent of the Association or its Members, provided that such annexations occur within five (5) years after the date of the filing of this instrument.

(b) The additions authorized under subsection (a) above shall be made by filing Supplementary Declarations of covenants, Conditions and Restrictions with respect to the additional properties in the New Hanover County, North Carolina, Public Registry which shall extend the scheme of this Declaration and the jurisdiction of the Association to such properties and thereby subject such additions to the benefits, agreements, restrictions and obligations set forth herein, including, but not limited to, assessments as herein determined. Provided, however, that the Declarant specifically reserves the right to amend or modify any portion or portions of these covenants, conditions, and restrictions as the same may be made applicable to such additional properties .

ARTICLE III

PROPERTY RIGHTS

Section 1. ownership of Common Areas. Declarant shall convey the Common Areas to the Association. Notwithstanding the recordation of any Map or any other action by Declarant or the Association, all Common Areas (including the Common Area streets and roads) shall remain private property and shall not be considered as dedicated to the use and enjoyment of the public. However, as provided in an Agreement, Deed, and Deed of Easement recorded in Book 1755, Page 0613, in the New Hanover County Registry, certain common areas are for the joint use and enjoyment of the Association and Spinnaker Pointe Unit owners Association, Inc. As further provided in said Agreement, the Association, as successor to the Declarant, shall have sole responsibility for the

maintenance of certain easements and shall be responsible for half of

the cost of maintenance of certain other easements, Spinnaker Pointe Unit Owners Association, Inc. bearing the other half of maintaining said last mentioned easements. The Common Areas shall be conveyed by Declarant to the Association subject to the obligation of the Association to comply with all provisions of said Agreement with Spinnaker Pointe Unit Owners Association, Inc.

Section 2. owner 's Rights to Use and Enjoy Common Areas.

Each Owner shall have the right to use and enjoy the Common Area which shall be appurtenant to and shall pass with the title to his Lot, subject to the following:

(a) the right of the Association to promulgate and enforce reasonable regulations governing the use of the Common Area to insure the safety and rights of all Owners;

(b) the right of the Association to suspend the voting rights in the Association and right to use the Common Areas by an owner for any period during which any assessment against his Lot remains unpaid and for a period not to exceed sixty days for any infraction of its published rules and regulations; and

(c) the right of the Declarant or the Association to grant utility, drainage and other easements of the type and for the purposes set forth in Article VIII across the Common Areas .

Section 3. Owner 's Easements for Ingress and Egress. Every Lot

shall be conveyed with a perpetual, non-exclusive right to use any roadway which may be constructed by the Declarant and conveyed to the Association as part of the Common Area for the purpose of providing access to and from each Lot.

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Section 4. Delegation of Use. Any owner may delegate, in accordance with the Bylaws of the Association, his right of enjoyment to the Common Area and facilities to the members of his family, his guests, his tenants, or contract purchasers who reside on his Lot.

Section 5. owner's Marina Membership. Every Lot shall be conveyed with a Class A membership in and to Oceana Marina as such membership is described in the Declaration of Covenants, Conditions and Restrictions of Oceana Marina recorded in Book 1756, Page 0319, in the New Hanover County Registry. Said Class A membership shall be deemed appurtenant to said Lot and may not thereafter be sold, transferred or conveyed except as an appurtenance to said Lot. Each Owner, by acceptance of a deed for a Lot, agrees to accept such membership in Oceana Marina and to comply with all duties, obligations, rules, and regulations pertaining thereto.

ARTICLE IV

MEMBERSHIP, VOTING RIGHTS AND CONTROL OF THE ASSOCIATION

Section 1. Membership. Every owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Section 2. Classes of Lots. The voting rights of the Membership shall be appurtenant to the ownership of Lots. There shall be two classes of Lots with respect to voting rights:

(a) Class A Lots. Class A Lots shall be all Lots except Class B Lots as defined below. Each Class A Lot shall entitle the Owner (s) of said Lot to one (1) vote. When more than one person owns

an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members and the voting rights appurtenant to said Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Class A Lot.

(b) Class B Lots. Class B Lots shall be all Lots owned by Declarant which have not been conveyed to purchasers who are not affiliated with the Declarant. The Declarant shall be entitled to three (3) votes for each Class B Lot owned by it.

Section 3. Amendment. Notwithstanding the provisions of Section 2 above, so long as Declarant owns any Lot, the Bylaws to the Association may not be amended without its written consent.

Section 4. The Association shall be governed by a Board of Directors in accordance with the Bylaws. Notwithstanding the provisions of Section 2 above, the Declarant shall have the right to appoint or remove any member or members of the Board of Directors or any officer or officers of the Association until such time as the first of the following events occurs:

- (1) Declarant no longer owns any Lot, or
- (2) Declarant surrenders the authority to appoint and remove members of the Board of Directors and officers of the Association by an express amendment to this Declaration executed and recorded by the Declarant.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association annual assessments or charges and special assessments for capital improvements established and collected as hereinafter provided. Any such assessment or charge, together with interest costs, and reasonable attorney's fees, shall be a charge and a continuing lien upon the Lot against which each such assessment or charge is made. Each such assessment or charge, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments or charges shall not pass to an Owner's successors in title unless expressly assumed by them. Provided, that the Declarant shall have no obligation to pay any such assessments except as specifically set forth in Section 7 of this Article V.

Section 2. Purpose of Annual Assessments. The annual assessments levied by the Association shall be used as follows:

(a) to maintain all private roads constructed within the Common Areas to the standard of maintenance which would be required by the State of North Carolina before it would accept such roads for maintenance, provided that this provision does not require that the width of the road rights-of-way be the width required as set forth

before such roads would be accepted by the state of North Carolina for maintenance;

(b) to maintain all access easements and footbridges in the Common Areas in an easily passable condition, free from fallen trees, undergrowth, and other obstructions; and to keep all dead, diseased or decaying trees, shrubs and bushes removed from such areas and to replace such items with new trees, shrubs and bushes;

(c) to pay all costs required to maintain all easements and to comply fully with the provisions of the Agreement with Spinnaker Pointe Unit Owners Association, Inc., pursuant to which the Association is solely responsible for the maintenance of certain easements and responsible for half of the cost of maintenance of certain other easements, all as referred to in said Agreement;

(d) to maintain all drainage easements in the Common Areas to prevent flooding;

(e) to keep the drainage easements free of pollution and natural debris;

(f) to keep all amenities in the Common Areas clean and free from debris and to maintain all amenities in an orderly condition, and to maintain the landscaping therein in accordance with the highest standards for private residential community including any necessary removal and replacement of landscaping;

(g) to provide such security services as may be deemed reasonably necessary for the protection of the Common Areas from theft, vandalism, fire and damage from animals;

(h) to provide garbage removal services for all Lots;

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(i) to pay all ad valorem taxes levied against the Common Areas and any property owned by the Association;

(j) to pay the premiums on all hazard insurance carried by the Association on the Common Areas and all public liability insurance carried by the Association pursuant to the Bylaws;

(k) to pay all legal, accounting and other professional fees incurred by the Association in carrying out its duties as set forth herein or in the Bylaws; and

(l) to accumulate and subsequently maintain a contingency reserve equal to 10% of the sum of the amounts described in subsections (a) through (k) above in order to fund unanticipated expenses of the Association.

Section 3. Maximum Annual Assessment. Until January 1 of the calendar year following the conveyance of the first Lot by the Declarant to another owner, the maximum annual assessment shall be \$600.00.

(a) The maximum annual assessments established above may be increased, effective January 1 of each calendar year following the conveyance of the first Lot by the Declarant to another Owner, without a vote of the membership, provided that the percentage of any such increase not exceed the percentage increase, if any, in the Consumer Price Index for Urban Wage Earners and Clerical Workers, all cities, all items, published by the United States Department of Labor, over the 12-month period ended on the October 31 immediately preceding that January 1. If the annual assessment is not increased by the maximum amount permitted under terms of this provision, the difference between any actual increase which is made and the maximum increase permitted for

that year shall be computed and the assessment may be increased by that amount in a future year at the election of all members of the Board of Directors without a vote of the membership, in addition to the maximum increase permitted under the terms of the preceding sentence.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an owner, said maximum annual assessments may be increased without limitation if such increase is approved by Members entitled to no less than two-thirds (2/3) of all of the votes. Such voting may be represented in person or by proxy at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessments at amounts not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements.

In addition to the annual assessments authorized above, the Association may levy, in any 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 Area, including fixtures and personal property related thereto, and the common roadways serving the Development provided that any such assessment requires the same assent of the Members as provided in Section 3(b) of this Article.

Section 5. Assessment Rate. Both annual and special assessments must be fixed at a uniform rate for all Lots.

Section 6. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to

all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such meeting the presence of Members or of proxies entitled to cast seventy-five percent (75%) of all the votes of each Class of membership shall constitute a quorum. If the required quorum is not present, subsequent meetings may be called, subject to the same notice requirement, until the required quorum is present. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Date of Commencement of Annual Assessments: Due Dates.

The annual assessments provided for herein shall commence as to each Lot on the date of the conveyance of such Lot to an Owner other than the Declarant. The Declarant shall not be required to pay assessments on unsold lots until no sooner than one (1) year from and after the date of recording of this Declaration. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner. 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 Lot 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 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum. In addition to such interest charge, the delinquent Owner shall also pay such late charge as may have been theretofore established by the Board of Directors of the Association to defray the costs arising because of late payment. The Association may bring an action at law against the delinquent Owner or foreclose the lien against the Lot, and interest, late payment charge, costs and reasonable attorney's fees of such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by not using the Common Area or abandoning his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust on a Lot or any mortgage or deed of trust to the Declarant. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer; provided, however, that the Board of Directors may in its sole discretion, determine such unpaid assessments to be an annual or a special assessment, as applicable, collectable pro rata from all Owners including the foreclosure sale purchaser. Such pro rata portions are payable by all Owners notwithstanding the fact that such pro rata portions may cause the annual assessment to be in

excess of the maximum permitted under Section 3. No sale or transfer shall relieve the purchaser of such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the lien provided for herein shall continue to be subordinate to the lien of any mortgage or deed of trust as above provided.

ARTICLE VI

DESIGN AND ARCHITECTURAL CONTROL

Section 1. Architectural Committee. For purposes of this Article VI, the Declarant shall function as the Architectural Committee (the "Committee") so long as Declarant is a Class B Member of the Association. After termination of the Declarant's Class B Membership, the Board of Directors of the Association shall appoint the members of the Committee to carry out the functions set forth in this article.

Section 2. Definitions. For purposes of this Article VI, the following terms shall have the following meanings unless the context clearly requires a different meaning:

(a) "accessory building" means every detached garage, carport, tool shed, storage or utility building, wellhouse, guest quarters, detached servants' quarters or other similar building constructed on a Lot which is not a dwelling;

(b) "buildings" means accessory buildings and dwellings;

(c) "dwelling" means a building constructed for single-family residential use but excluding servants' quarters and guest quarters; and

(d) "improvements" or "structures" mean buildings and all walls, fences, bulkheads, decks, patios, planters, terraces, mail

receptacles, swimming pools, tennis courts or anything else constructed or placed on a Lot.

Section 3. General Guidelines.

(a) Reservations: The Declarant reserves the right to change, alter, or redesignate all roads, utility and drainage facilities, and such other present and proposed amenities or facilities as may, in the sole judgment of the Declarant, be necessary or desirable.

(b) Variances: The Committee shall be empowered to allow adjustments of the conditions and restrictions stated herein in order to overcome practical difficulties and prevent unnecessary hardships in the application of the regulations contained herein, provided, however, that such is done in conformity to the intent and purposes hereof, and provided, also, that in every instance such variance or adjustment will not be materially detrimental or injurious to other property or improvements in the neighborhood. Variances and adjustments of height and size requirements may be granted hereunder.

(c) Development Concept: It is the express intention of the Declarant to maintain in this residential community a uniform plan of development that will blend with and not detract from the natural environment with respect to design, type and general appearance of the structures to be erected on the lots. Property owners are encouraged to have their architects contact the Committee prior to any costly design work for conceptual guidelines pertaining to the residential community.

(d) Approval of Plans: The proposed Site and Grading Plans, Building Plans and Specifications, Exterior Colors and Finishes,

and Construction Schedule must be approved by the Committee. One (1) copy of all plans and related data shall be furnished to the Committee for its records. Until all of the above listed prerequisite plans are approved no improvements or structures shall be erected, placed, or altered on any residential lot. The material used, as well as the design, shall be subject to the prior written approval of the Committee.

The site and Grading Plans should show the proposed location of each building, structure, driveway, parking area, other improvements, and proposed alterations to the physical characteristics of the site. The grade, elevation, or physical characteristics (including but not limited to slopes and tree growth) of any such Lot shall not be altered in any way whatsoever without prior written approval of the Committee based upon a Site or Grading Plan.

The committee encourages the planting of flowering shrubs and trees; however, all tree removal or planting of trees, bushes, shrubs, grasses, or other vegetation whatever, shall be based upon a Site Plan, Landscaping Plan, or Planting Plan which has been submitted to and received written approval from the Committee.

Upon the written request of a lot Owner for approval of plans, the Committee shall have ten days within which to approve or disapprove plans. In the event of failure to approve or disapprove within 10 days, such approval will not be required provided the design of proposed building is in harmony with the existing structures in this area. If the Committee approves the construction of such improvements, it shall issue a certificate evidencing such approval.

Refusal or approval of any such plans or specifications may be based by the Committee upon grounds, including purely aesthetic and environmental considerations, that in the sole and absolute discretion of the Committee shall seem sufficient.

Without the prior written consent of the committee, no changes or deviations in or from such plans or specifications as approved shall be made. No alterations in the exterior appearance of any building or structure, or in the grade, elevation, or physical characteristics of any Lot shall be made without like approval by the Committee.

Upon completion of approved construction, the Committee shall inspect the construction to insure that the approved Plans and samples were complied with by the Owner. No structure may be occupied or used until the issuance by the Committee of a certificate of compliance. The certificate of compliance shall be issued by the Committee without fee; provided, however, that in the event that the Committee's first inspection of the construction reveals deviations or deficiencies from the approved Plans and samples, the Committee may charge a fee of \$50 for every subsequent inspection which is necessary to insure compliance with the approved Plans and samples. Any such fee must be paid before the issuance of the compliance certificate.

If the finished building or other structure does not comply with the submitted plans and specifications, the Committee retains the right to make the necessary changes at owner's expense, and the further right to file under the North Carolina lien laws notice of liens for any costs incurred.

(e) subdividing: No Lot shall be subdivided, or its boundary lines changed. However, the Declarant hereby expressly reserves to itself, its successors or assigns, the right to replat any two (2) or more lots shown on the plat of any subdivision in order to create a modified building lot or lots; and to take such steps as are reasonably necessary to make such replatted lot suitable and fit as a building site, said steps to include but not to be limited to the relocation of easements, walkways, and rights-of-way to conform to the new boundaries of the said replatted lots.

Section 4. Site Improvements:

(a) Building setback Guidelines and Requirements : Since the establishment of standard inflexible building setback lines for location of houses on lots tends to force construction of houses both directly behind and directly to the side of other homes with detrimental effects on privacy, view of the water, preservation of land contour, important trees, and other vegetation, ecological and related considerations, no specific setback guidelines are established by these Restrictions. In order to assure, however, that the foregoing considerations are given maximum effect, the Committee reserves the right to control and approve absolutely the site and location of any house or dwelling or other structure upon any lot.

Nevertheless, any dwelling or other building constructed on any lot must comply with all governmental regulations and restrictions applicable to building setback and location, including but not limited to the following:

- 1) Zoning ordinances, building codes, and other ordinances of the Town of Carolina Beach; and
- 2) The Coastal Area Management Act and all regulations issued pursuant thereto.

(b) Use of Fill and Changes in Elevation: No changes in the elevations of the land shall be made on any lot, nor any fill placed within the common easement areas or within the regulatory setback lines; nor shall any Lot be increased in size by filling in the waters on which it abuts without prior written approval of the Committee plus state and federal agencies .

(c) Adequate Drainage Requirement: It shall be the obligation of the Lot Owner to provide adequate drainage of his or her Lot to the end that the property or properties adjacent to said Lot shall not be subjected to other than the natural flow of drainage presently existing. It shall also be the obligation of the Lot Owners to provide, install and maintain adequate culvert or drainage pipe beneath his or her driveway as it crosses the street right-of-way in order that the natural flow of drainage will not at any time be blocked along the street right-of-way. The size of such drainage pipe shall be determined by the Committee.

(d) Off Street Parking: Each Lot Owner shall provide space on his Lot for off street guest parking for not less than three (3) passenger automobiles as well as oversized vehicles (boat trailers, vans, etc.) prior to the occupancy of any single family dwelling constructed on said lot. No vehicles shall be permitted to be parked in any street, road, or other common area. Said parking areas and

driveways thereto shall be in accordance with reasonable standards and shall be constructed of concrete, asphalt, crushed stone, crushed shells, or any other material approved by the Committee in writing as provided for in Section 3(d) hereinabove.

(e) Underground Utility Requirements: All electric transmission or service lines within the perimeter bounds of any Lot or common easement shall be installed beneath the surface of the ground.

(f) Water supply Systems: All water to be used on any lot shall be obtained by connection to the water system operated by the Town of Carolina Beach. No individual water supply system, including a lawn irrigation system or a water to air heat system, shall be permitted unless such system complies with all requirements of the Town of Carolina Beach and other appropriate governmental agencies and all required permits have been obtained.

(g) Driveway and Mailbox Locations: The Committee has the right to decide in its sole and absolute discretion the precise site and location of any driveway and mailbox location placed upon any right-of-way; provided, however, that the owner shall be given the opportunity to recommend a specific site for such improvements.

Section 5. Structural Improvements:

(a) Residential Use: No structure, except as hereinafter provided, shall be erected, altered, placed or permitted to remain on any residential Lot other than one detached single family dwelling. However, a garage or small accessory building (which may include a poolhouse, servants ' quarters, or guest facilities) is permitted provided the use of such dwelling or accessory building does not in the

opinion of the Committee overcrowd the site, and provided, further, that such buildings are not used for the activities normally conducted as a business. Such accessory building may not be constructed prior to the construction of the main building. No building or other structure, or part thereof, at any time situated on any such residential lot shall be used as a professional office, charitable or religious institution, business or manufacturing purpose, or for any use whatsoever other than residential and dwelling purposes as aforesaid. No duplex residence or apartment house shall be erected or placed on or allowed to occupy any such residential lot, and no building shall be altered or converted into a duplex residence or apartment unit thereon.

(b) Building Materials: All structures constructed or placed on any Lot shall be built of substantially new materials. Any structure erected on any lot shall be of lapwood siding, wood shingles, brick veneer, or concrete and stucco. Any accessory buildings or structures shall be constructed of the same material as the main dwelling, or from other suitable material specifically approved in writing by the Committee. All roofs of any structures constructed or placed on any lot shall be of metal, tile, concrete, or asphalt shingles. Even though the building or roof materials may be as designated herein, the Committee shall have absolute discretion to determine whether the materials are in conformity to the aesthetics of the development.

(c) Square Footage of Enclosed Dwelling Area: Every dwelling constructed on a Lot shall contain at least the minimum required square footage of fully enclosed and heated floor

area. The

minimum required square footage shall be 1600 square feet, exclusive of patios, attached garages, attics, terraces, decks, roofed and unroofed porches and accessory buildings. The maximum allowable square footage shall be 3200 square feet.

(c) Construction on Pilings: Construction of a dwelling on pilings is generally permissible. However, any dwelling so constructed must be fully enclosed so that said pilings are not visible from the front, side, or rear of such lot. Such enclosure is specifically subject to the prior review and approval of the Committee in accordance with Section 3(d) herein.

(e) Enclosed Garage: All homes are permitted to have an enclosed two car parking garage serving the main house structure. No covered parking facility may be constructed other than an enclosed garage unless incorporated into the main dwelling structure. The opening of said enclosed parking facility or garage shall not be visible from the front of the Lot nor be visible from any common easement area serving the premises or waterfront. Any dwelling constructed on pilings must be enclosed with garage doors on the ground level in order for such area to be used as a garage.

(f) Screening of Refuse Receptacles: Each Lot owner shall provide receptacles for ashes, trash, rubbish, or garbage on his Lot in a screened area not generally visible from the road, other lots, or from common easement areas, or provide underground receptacles (or similar facility) in accordance with reasonable standards established by the Committee.

(g) Mailboxes and Newspaper Receptacles: No mail box, paper box, or other receptacle of any purpose shall be erected or located in the road right-of-way or on any building lot unless and until the size, location, design, and type of material for said box or receptacle shall have been approved by the Committee in accordance with Section 3(d) herein.

(h) Fuel Tanks and Similar Storage Receptacles: No fuel tanks or similar storage receptacles may be exposed to view. Any such receptacles may be installed only within an accessory building with a screened area (so as not to be generally visible from the road, adjoining lots, or common areas) or buried underground; provided, however, that nothing contained herein shall prevent the Committee from erecting, placing, or permitting the placing of tanks or other apparatus on the property for uses related to the provision of utility or other service.

(i) Clotheslines or Drying Yards: Clotheslines or drying yards shall be located as not to be visible from the street, common easement areas serving the premises, or from the waterfront.

(j) Fences and Walls: No fence, bulkhead, or wall of any purpose shall be erected or located on any building lot, easement, or common area unless and until the plans and specifications showing the nature, shape, height, materials, and location for said fence or wall shall have been approved by the Committee in accordance with Section 3(d) herein.

ARTICLE VII

HABITABILITY PROVISIONS

Section 1. Maintenance Standards.

(a) Preservation of Well-kept Buildings and Grounds: Each Lot Owner shall prevent the development of any unclean, unsightly or unkempt conditions of any buildings or grounds on his Lot which would tend to substantially decrease the beauty of any of the property or diminish or destroy the enjoyment of other Lots by the owners thereof. This restriction includes, but is not limited to, a prohibition against storage on any Lot of anything unclean, unsightly or unkempt.

(b) Pre-Construction Maintenance of Lots: Prior to commencement of the erection of any residence on each Lot, the owner of such Lot shall from time to time cut, or cause to be cut, and keep cut or cause to be kept cut, all weeds and brush on such Lot and shall remove any resulting debris, to comply with Section 1 (a) hereof. Should such owner fail to do so the Committee may do so, and the reasonable expenses thereof shall be paid by such owner to the Committee within thirty (30) days thereafter. In the event of a failure of such owner to pay the Committee as above provided, the Committee shall have the right to file a notice of lien in the office of the Clerk of the Superior Court of New Hanover County, North Carolina, and from and after the filing of such notice of lien, the Committee shall have a lien on such Lot for the payment of such sum, with interest at the rate of 12% per annum, all in like manner as if the Committee had performed such work at the instance and request of such owner. Any such lien, however,

shall be subordinate and inferior to any mortgage then or thereafter encumbering such Lot.

(c) Reconstruction. Any building on any Lot which is destroyed in whole or in part by fire, windstorm, flood or other Act of God must with reasonable promptness be rebuilt or all debris from such destruction removed and the Lot restored to the condition it was in prior to commencement of construction of such building. Any such reconstruction must be commenced within six (6) months from the date of such destruction. All debris must be removed and the Lot restored to its prior condition within three (3) months of such destruction.

(d) Mobile or Modular Homes and Temporary Structures: No mobile home, modular home, or other structure of a temporary character shall be placed or stored upon any Lot or common easement area at any time, provided, however, that this prohibition shall not apply to shelters on the building lot used by the contractor during the construction of the main dwelling house when permission for the same has been granted by the Committee. It being clearly understood that these latter temporary shelters may not at any time be used as residences or permitted to remain on the Lot after completion of construction. All dwellings must be constructed on site, and no dwelling constructed elsewhere may be located on a lot.

(e) Vegetable Gardens: Vegetable gardens may be maintained by Owners of Lots in the subdivision provided said gardens are located to the rear of the dwelling and located on the Lot within a screened area so as not to be generally visible from adjoining Lots or common easement areas.

(f) Exterior Antennae and Aerials: Exterior radio and television antennae and aerials and satellite receiving dishes for reception of commercial broadcasts shall not be permitted in the Subdivision; and no other aerials (for example, without limitation, amateur short wave or ship to shore) shall be permitted in the Subdivision without prior permission of the Committee, or assigns, as to design, appearance and location.

(g) Signs: No permanent sign of any character shall be displayed upon any part of the property except a sign bearing the name of the owner and/or the street address without permission of the Committee. Said signs shall not exceed the dimensions of 5 inches by 20 inches.

All temporary signs such as builders' signs, realty signs, etc., shall be approved by the Committee. These signs should be placed in the center of the Lot, outside the street right-of-way. Under no circumstances may signs be nailed to trees.

All signs must be clean, neat and maintained in good repair.

(h) Leasing. No building on any Lot may be leased except in accordance with rules and regulations promulgated by the Association. Any lease or rental (written or oral) of a dwelling on any lot for a rental or lease period of less than thirty (30) continuous days is prohibited.

(i) Interval Ownership. No owner may lease, deed, sell, convey, or otherwise transfer his Lot under any time-sharing or interval ownership arrangement.

(j) Hazardous Activities. Nothing shall be done or kept on any Lot or in the Common Area which shall increase the rate of insurance on the Common Area or any other Lot without the prior written consent of the Board of Directors. No owner shall permit anything to be done or kept on his Lot or in the Common Area which would result in the cancellation of insurance on any part of the Common Area, or which would be in violation of any law.

ARTICLE VIII

COMMON AREAS AND COMMON EASEMENTS

Section 1. Easements Reserved by Declarant. Declarant reserves easements over all streets, roads, and other common areas for use by Declarant in developing other real property owned by Declarant. It is acknowledged by each owner that the Declarant shall have the right to grant easements for ingress and egress and for utility purposes over and across all streets, roads, and other common areas in connection with the development of such other real property owned by Declarant. Such easements shall be utilized in common by the Association, the owners, the Declarant, and the subsequent owners of portions of Declarant's other real property. Declarant reserves easements for the installation and maintenance of driveways, walkways, parking areas, water lines, telephone and electric power lines, cable television lines, sanitary sewer and storm drainage facilities, pumping and lift stations, drainage ditches and for other utility installations over the Properties as provided in Article III, Section 2(c) of this Declaration. Each Owner, by his acceptance of a deed to a Lot, and the Association by its acceptance of a deed to the Common Areas, acknowledges such reservation

and the right of Declarant to transfer such easements to the Association or to such utility companies as Declarant may choose. The easements reserved by the Declarant include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or take any similar action reasonably necessary to provide economical utility installation and to maintain the overall appearance of the Development.

Section 2. Dedication to Public Use: Nothing in these Restrictions, nor in the recording of any plat or deed pursuant hereto, shall dedicate (or be deemed to dedicate) to public use any of the streets, bridges, common lands or other ground within the subdivision.

Section 3. Use of Common Area: The Common Area shall not be used in any manner except as shall be approved or specifically permitted by the Association. The Association shall, in its sole discretion, retain the right to establish rules and regulations for the use and enjoyment of all such property.

Section 4. Access Easement: The purpose of access easements is to provide members of the Homeowners Association and their escorted guests pedestrian access to the Common Areas of the subdivision. This privilege is extended by the contiguous Lot Owners with the understanding that the access easements will be maintained in good repair as a responsibility of the Homeowners Association. Common courtesy dictates that use of the access easement and Common Areas occur in as unobtrusive manner as feasible with full respect for the privacy and property rights of the Lot owners involved. Any members of the Homeowners Association found to be responsible for abuse of the access easement privilege may have this privilege rescinded for an appropriate

period of time by the governing Board of Directors of the Homeowners Association.

ARTICLE IX

CONSTRUCTION GUIDELINES

Section 1. Period of Construction: The exterior of all houses and other structures must be completed within twelve (12) months after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the owner or builder due to strikes, fires, national emergency or natural calamities.

Section 2. Conduct of Construction Vehicles: During construction all vehicles involved, including those delivering supplies, must enter the building lot on the driveway only as approved by the Committee so as not to damage unnecessarily trees, street paving and curbs.

Section 3. Removal of Construction Debris: During construction the builder must keep the home, garage, and building site clean. All building debris, stumps, trees, etc., must be removed from each building lot by builder as often as necessary to keep the house and Lot attractive. Such debris will not be dumped in any area on the subdivision.

Section 4. Storage of Construction Materials: Construction material storage must be setback from the Lot property lines in accordance with the same restrictions as stated for Building Setback Guidelines (Article VI, Section 4)

ARTICLE X

INSURANCE

Each Owner shall secure and maintain in full force and effect at such Owner's expense, one or more insurance policies insuring Owner's

Lot and the improvements thereon for the full replacement value thereof against loss or damage from all hazards and risks normally covered by a standard "Extended Coverage" insurance policy, including fire and lightning, vandalism and malicious mischief.

Each Owner, at Owner's expense, shall secure and maintain in full force and effect comprehensive personal liability insurance for damage to person or property of others occurring on Owner's Lot, any other Lot, or upon the Common Area, in an amount not less than the amount designated by the Association. Owner shall provide the Association with satisfactory evidence that such insurance as herein required is in full force and effect, and the Association will be given thirty (30) days' notice prior to the expiration or cancellation of any owner's insurance coverage. In the event Owner fails or refuses to maintain such insurance coverage as herein required, the Association may, but shall not be obligated to, through its agent or representative, secure and maintain such insurance coverage for Owner's benefit. The cost or expense thereof shall be deemed a special assessment levied by the Association against Owner and Owners' Lot in accordance with the other provisions of this Declaration, and Owner covenants and agrees to pay to the Association such special assessment upon demand.

This Insurance provision may be modified or amended to substitute one comprehensive insurance policy covering all Lots provided the approval of a majority of the owners is obtained and approval by 75% of the owners and holders of first deeds of trust on the Lots is obtained. Such approvals shall be in writing but need not be acknowledged and shall be attached to an amendment to this Declaration, which amendment

shall be executed only by the Association and recorded in the new Hanover County Public Registry.

ARTICLE XI

RIGHTS OF MORTGAGEES

Section 1. Approval of Owners and Holders of First Deeds of Trust.

Unless at least seventy-five percent (75%) of the owners and holders of first deeds of trust on Lots located within the Property then subject to the full application of this Declaration have given their prior written approval, the Association shall not:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any real estate or improvements thereon which are owned, directly or indirectly, by the Association (the granting of easements for utilities or other purposes shall not be deemed a transfer within the meaning of this clause);

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

(c) by act or omission change, waive or abandon any plan of regulation, or enforcement thereof, pertaining to the architectural design or the exterior appearance of residences located on Lots, the maintenance of party walls or common fences and driveways, or the upkeep of lawns and plantings in the subdivision;

(d) fail to maintain fire and extended coverage insurance on insurable improvements in the Common Area on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value; or

(e) use the proceeds of any hazard insurance policy covering losses to any part of the Common Area for other than the repair, replacement or reconstruction of the damaged improvements.

Section 2. Books and Records. Any owner and holder of a first deed of trust on any Lot will have the right to examine the books and records of the Association during any reasonable business hours.

Section 3. Payment of Taxes and Insurance Premiums. The owners and holders of first deeds of trust on Lots may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge or lien against the common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage upon the lapse of a policy for property owned by the Association, and the persons, firms or corporations making such payments shall be owed immediate reimbursement therefor from the Association.

ARTICLE XII

CONDEMNATION

Section 1. Partial Taking Without Direct Effect on Lots. If part of the properties shall be taken or condemned by any authority having the power of eminent domain, such that no Lot is taken, all compensation and damages for and on account of the taking of the Common Area, exclusive of compensation for consequential damages to certain affected Lots, shall be paid to the Board of Directors of the Association in trust for all Owners and their mortgagees according to the loss or damages to their respective interests in such Common Area. The Association, acting through the Board of Directors, shall have the right to act on behalf of the Owners with respect to the negotiation and litigation of the

issues with respect to the taking and compensation affecting the Common Area, without limitation on the right of the owners to represent their own interests. Such proceeds shall be used to restore the Common Area with the excess, if any, paid to the Owners pro rata. Nothing herein is to prevent Owners whose Lots are specifically affected by the taking or condemnation from joining in the condemnation proceedings and petitioning on their own behalf for consequential damages relating to loss of value of the affected Lots, or personal improvements therein, exclusive of damages relating to Common Area. In the event that the condemnation award does not allocate consequential damages to specific Owners, but by its terms includes an award for reduction in value of Lots without such allocation, the award shall be divided between affected Owners and the Board of Directors, as their interests may appear, by arbitration in accordance with the rules of the American Arbitration Association.

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

shall be

paid to the Owners of the affected Lots and their mortgagees, as their interests may appear.

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

ARTICLE XIII

GENERAL PROVISIONS

Section 1. Entry. The Committee reserves for itself, its successors and assigns, and its agents the right to enter upon any residential Lot for the purpose of building or repairing any land contour or other earthwork which, in the opinion of the Committee, detracts from or is necessary to maintain the overall beauty, ecology, setting and safety of the property. Such entrance shall not be deemed a trespass. The Committee and its agents may likewise enter upon any Lot to remove any trash which has collected without such entrance and removal being deemed a trespass. The provisions in this paragraph shall not be construed as an obligation on the part of the Committee to undertake any of the foregoing.

Section 2. Enforcement. The Association, or any owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 3. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 4. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land until January 1, 2014, after which they shall be automatically extended for successive periods of ten (10) years each. This Declaration (except as set forth to the contrary in Article IV, Section 3) may be amended by an instrument signed by the Owners of not less than sixty-six and two-thirds percent (66 2/3%) of the Lots.

Section 5. Additions to Covenants. The Declarant may include in any contract or deed hereafter made any additional covenants and restrictions that are not inconsistent with and which do not lower the standards of the covenants and restrictions set forth herein.

Section 6. Release of Lots: The Declarant may at any time release any one or more Lots shown on said plat from any or all of the restrictions and covenants running with the land herein set forth, and also from any or all additional restrictions and covenants imposed pursuant to the provisions of Section 5 above, provided the written consent thereto of the owner or owners of not less than two-thirds in number of the Lots shown on said plat shall be obtained.

Section 7. Assignment of Development Rights: If the Declarant shall transfer or assign the development of such subdivision or if it shall be succeeded by another in the development of such subdivisions, then such transferee, assignee, or successor shall be vested with the

several rights, powers, privileges or authorities given said Declarant by any part or paragraph hereof. The foregoing provisions of this paragraph shall be automatic, but the Declarant may execute such instrument as it shall desire to evidence the vesting of the several rights, powers, privileges, and authorities in such transferee, assignee or successor. In the event the Declarant contemplates or is in the process of dissolution, merger or consolidation, the Declarant may transfer and assign to such person, firm or corporation as it shall select any and all rights, powers, privileges and authorities given the Declarant by any part or paragraph hereof, whether or not the Declarant shall also transfer or assign the development of such subdivision or be succeeded in the development of such subdivision. In the event that at any time hereafter there shall be no person, firm, or corporation entitled to exercise the rights, powers, privileges and authorities given said Declarant under the provisions hereof, such rights, powers, privileges and authorities shall be vested in and exercised by the Committee to be elected or appointed by Owners of a majority of the Lots of said land. In such event, the Committee shall then have the same rights, powers, privileges and authorities as are given to the Declarant by any part or paragraph hereof. Nothing herein shall be construed as conferring any rights, powers, privileges, and authorities in said Committee except in the event aforesaid.

Section 8. Modifications. The Declarant specifically reserves the right to amend any part or all of the restrictions, covenants, and conditions herein set out by filing in the Office of the Register of Deeds of New Hanover County a declaration of amended restrictive

covenants. Such amendments, modifications, or additions to the restrictive covenants contained in this Declaration shall be made applicable to the conveyance of Lots made subsequent to the recording of such declaration of amended restrictive covenants.

Section 9. Remedies Against Violations. The covenants and restrictions herein shall be deemed to be covenants running with the land. If any person claiming under the Declarant shall violate or attempt to violate any of such restrictions or covenants, it shall be lawful for the Declarant, or any person or persons owning any residential Lot on said land:

(a) to prosecute proceedings at law for the recovery of damages against the person or persons so violating or attempting to violate any such covenant or restriction, or

(b) to maintain a proceeding in equity against the person or persons so violating or attempting to violate any such covenant or restriction for the purpose of preventing such violation, provided however, that the remedies in this paragraph contained shall be construed as cumulative of all other remedies now or hereafter provided by law. Without limiting the foregoing provisions of this paragraph, enforcement of these covenants and restrictions shall be made by Oceana Owners' Association, of which every record owner of a fee or undivided fee interest in any Lot shall be a Member. Invalidation of any provision of the covenants and restrictions set forth herein by judgment or court order shall not affect or modify any of the covenants and restrictions which shall remain in full force and effect.

Section 10. All Lots Subject to Covenants. The Declarant hereby covenants and agrees that every contract of sale or deed made by the Declarant wherein is described any residential Lot of said land shall include or be subject to, by reference or otherwise, each and every covenant and restriction herein written, or the substance thereof, and, subject to the reservations herein, the Declarant shall conform with and abide by the foregoing covenants as to all of said land.

Section 11. Regulations. Reasonable regulations governing the use of the Common Area and external appearance of all structures erected on the Lots may be made and amended from time to time by the Board of Directors of the Association; provided, however, that all such regulations and amendments thereto shall be approved by a majority vote of the Owners before the same shall become effective. Copies of such regulations and amendments thereto shall be furnished to each Member by the Association upon request.

IN WITNESS WHEREOF, Oceana Limited Partnership, the Declarant, has caused this instrument to be executed by J. B. Gerald, its General Partner, who has hereunto set his hand and seal the day and year first above written.

OCEANA LIMITED PARTNERSHIP

By:  Seal
J. B. Gerald - General Partner

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

I, a Notary Public of the County and state aforesaid, certify that J. B. Gerald, General Partner of Oceana Limited Partnership (a North Carolina limited partnership) personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and office stamp or seal, this 17th day of March, 1994.

Anne M. Germscheid
Notary Public

My commission expires:

July 29, 1998



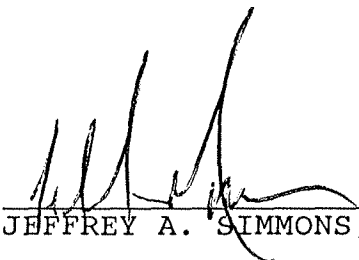
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STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

JOINDER
AND
CONSENT

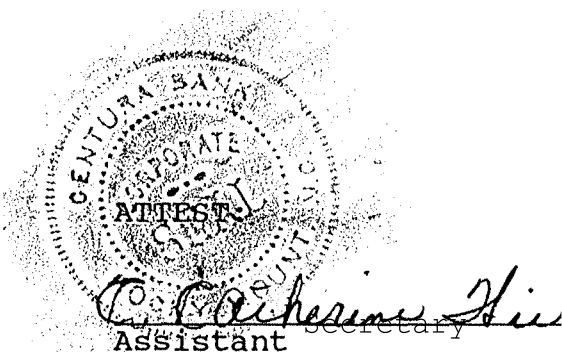
JEFFREY A. SIMMONS, TRUSTEE and CENTURA BANK hereby join in this Declaration for the purpose of evidencing their consent thereto and subjecting and subordinating to said Declaration the lien of that certain Deed of Trust from Oceana Limited Partnership to Jeffrey A. Simmons, Trustee for Centura Bank, recorded in Book 1755, Page 0628, in the New Hanover County Registry, and that certain Assignment of Leases, Rents and Profits from Oceana Limited Partnership to Centura Bank recorded in Book 1755, Page 0633, in the New Hanover County Registry.

This 17th day of March, 1994.

 (SEAL)
JEFFREY A. SIMMONS, TRUSTEE

CENTURA BANK

By: J Frank Horne
Vice President



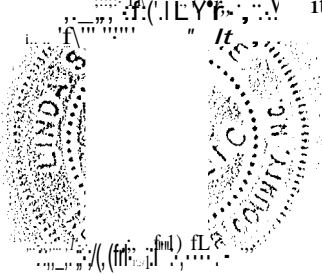
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NORTH CAROLINA, NEW HANOVER COUNTY

I, a Notary Public for said County and state, do hereby certify that EFFREY A. SIMMONS, Trustee, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 17th day of March, 1994.



Linda Sue Blyther
Notary Public

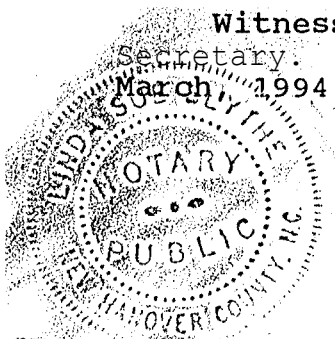
My commission expires: 12/1/94

NORTH CAROLINA, NEW HANOVER COUNTY

I, a Notary Public of the County and State aforesaid, certify that Linda Sue Blyther personally came before me this day and acknowledged that she is Assistant Secretary of Centura Bank (a North Carolina banking corporation), and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President, sealed with its corporate seal and attested

by *h/L* as its Assistant

Secretary. Witness my hand and official stamp or seal, this 17 day of March, 1994.



Linda Sue Blyther

Notary Public

My commission expires: 12/1/94

STATE OF NORTH CAROLINA
v Hanover County
Foregoing / Annexed Certificate(s) of
Linda Sue Blyther Anne M. Carmichael

