

NORTH CAROLINA  
CUMBERLAND COUNTY

DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR CYPRESS TRACE SECTION  
ONE, RECORDED IN BOOK OF MAPS 55,  
PAGE 89, CUMBERLAND COUNTY REGISTRY

THIS DECLARATION, made on the date hereinafter set forth by ROBIN LYNN, INC., a North Carolina corporation, hereinafter referred to as the "Declarant;"

WITNESSETH: THAT WHEREAS, the Declarant is the owner of certain property near the City of Fayetteville, Cumberland County, North Carolina, which is more particularly described as Cypress Trace, Section One, as the same is shown on the map recorded in Book of Maps 55, Page 89, Cumberland County Registry; and

WHEREAS, Declarant will convey the said properties, subject to certain protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth;

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the real property. These easements, covenants, restrictions, and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described properties or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to CYPRESS TRACE TOWNHOMES ASSOCIATION, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of members or designated classes of members of the Association, including Limited Common Area.

Section 4. "Limited Common Area" shall mean those portions of the Common Area that serve only a limited number of lots and which may include, but specifically is not limited to, driveways and walkways, parking buildings or areas serving only specified lots, and such other similar areas as may be designated by the Association.

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Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties on which such plot appears (provided said map has been approved by Declarant), with the exception of the Common Area and Limited Common Areas.

Section 6. "Lot in Use" shall mean and refer to any lot on which a dwelling unit has been fully constructed and made ready for occupancy as a dwelling unit, including, without limitation, completion of the installation of final floor covering, interior paint and wallpaper and all appliances. In addition to the foregoing, a Lot may become a Lot in Use by contractual agreement between the Declarant and the Owner of such Lot.

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 which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 9. "Declarant" shall mean and refer to Robin Lynn, Inc. and its successors and assigns to whom the rights of Declarant hereunder are expressly transferred, in whole or in part, and subject to such terms and conditions as the Declarant may impose.

Section 10. "Person" shall mean and refer to any individual, corporation, partnership, association, trustee, or other legal entity.

Section 11. "Building" shall mean and refer to a multi-unit structure containing townhomes, constructed or erected on the Property.

Section 12. "Board of Directors" or "Board" means those persons elected or appointed and acting collectively as the Directors of the Association.

Section 13. "Common Expenses" shall mean and include:

- (a) All sums lawfully assessed by the Association against its members;
- (b) Expenses for maintenance of the townhomes as provided in this Declaration;
- (c) Expenses of administration, maintenance, repair, or replacement of the Limited Common Areas;
- (d) Expenses declared to be common expenses by the provisions of this Declaration or the ByLaws;
- (e) Hazard, liability, or such other insurance premiums as the Declaration or the ByLaws may require the Association to purchase;

(f) Ad valorem taxes and public assessment charges lawfully levied against common areas.

(g) Expenses agreed by the members to be common expenses of the Association.

Section 14. "Townhome" shall mean and refer to a dwelling or place of residence constructed upon a Lot within the Property and constituting a part of a building.

Section 15. "Amenities" shall mean the facilities constructed, erected or installed on the Common Areas for the use, benefit and enjoyment of Members.

## ARTICLE II

### ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Annexation of additional Property shall require the assent of two-thirds (2/3) of the Class A membership and two-thirds (2/3) of the Class B membership, if any, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting. The presence of Members or of proxies entitled to cast sixty percent (60%) of 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 requirement set forth above and the required quorum at such subsequent meeting shall be one-half of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting. In the event that two-thirds (2/3) of the Class A membership or two-thirds (2/3) of the Class B membership are not present in person or by proxy, Members not present may give their written assent to the action taken thereat.

Section 2. If within six years of the date of incorporation of this Association, the Declarant should develop additional lands within the boundaries of the following tract, such additional lands may be annexed to said Properties without the assent of the Class A members:

Being all of the tract as shown on a map attached hereto as Exhibit "A".

If all of the tract shown on Exhibit "A" is included in Section One of Cypress Trace, the Declarant shall not annex additional lands without the assent of Class A members.

The total number of lots within the Properties herein described and

the area subsequently annexed shall not exceed 40 unless approved by Class A members as provided in Section 1 of this Article.

Section 3. Annexation of additional Properties shall be accomplished by recording in the Cumberland County Registry a Declaration of Annexation, duly executed by the Declarant if the Declarant has the right to annex pursuant to Section 2 above (and by the Association if pursuant to Section 1 above), describing the lands annexed and incorporating the provisions of this Declaration, either by reference or by fully setting out said provisions of this Declaration. The additional lands shall be deemed annexed to the Properties on the date of recordation of the Declaration of Annexation, and in the case of an annexation by the Declarant, no action or consent on the part of the Association or any other person or entity shall be necessary to accomplish the annexation except the County of Cumberland if required by its ordinances.

Section 4. Subsequent to recordation of the Declaration of Annexation by the Declarant, the Declarant shall deliver to the Association one or more deeds conveying any Common Area within the lands annexed as such Common Area is developed.

#### ARTICLE III

##### MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject to covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership. The Board of Directors may make reasonable rules relating to the proof of ownership of a Lot in this Subdivision. Every member shall obtain and maintain fire and hazard insurance on said members lot and unit in an amount equal to reconstruction of said premises, and a current copy of said insurance policy shall be furnished to Cypress Trace Homeowners Association. The homeowners' association shall be organized and in legal existence prior to the sale of any building site in the development.

## ARTICLE IV

## VOTING RIGHTS

Section 1. The Association shall have two classes of voting membership:

Class A. Class A members shall be all those Owners as defined in Article III with the exception of the Declarant. Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article III. When more than one person holds such interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member shall be the Declarant. The Class B member shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership by Article III, provided, that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs first:

(a) when the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership, but provided that the Class B membership shall be reinstated if thereafter and before the time stated in Subparagraph (b) below, such additional lands are annexed to the Properties without the assent of Class A members on account of the development of such additional lands by the Declarant, all as provided for in Article II, Section 2 above, or

(b) on December 31, 1990.

Section 2. The right of any Member to vote may be suspended by the Board of Directors for just cause pursuant to its rules and regulations.

## ARTICLE V

## PROPERTY RIGHTS

Section 1. Members' Easements of Enjoyment. Every member shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every assessed Lot, subject to the following provisions:

(a) The right of the Association, in accordance with its Articles and ByLaws and with the assent of members entitled to cast two-thirds (2/3) of the votes of the entire Class A membership and two-thirds (2/3) of the

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entire Class B membership, if any, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property unless prohibited by law, and the rights of such mortgagee in said properties shall be subordinate to the rights of the homeowners hereunder;

(b) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members; provided, however, that no conveyance of Limited Common Area shall deprive any Member of the full use thereof. No such dedication or transfer shall be effective unless an instrument signed by Members entitled to cast two-thirds (2/3) of the votes of the Class A membership and two-thirds (2/3) of the votes of the Class B membership, if any, has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every Member not less than 30 days nor more than 60 days in advance; and

(c) The right of the individual members to the exclusive use of parking spaces as provided in this Article.

Section 2. Delegation of Use. Any Member may delegate, in accordance with the ByLaws, his right of enjoyment to the Common Area and facilities to the Members of his family, his tenants, or contract purchasers who reside on the Property.

Section 3. Title to the Common Area. The Declarant hereby covenants for itself, its heirs and assigns, that it will convey fee simple title to the Common Area shown on the aforementioned map recorded in Book of Maps 55, Page 89, Cumberland County Registry, to the Association, free and clear of all encumbrances and liens, prior to the conveyance of the first Lot, except utility and drainage easements and easements to governmental authorities. Similarly, the Declarant will convey to the Association Common Areas which are parts of Cypress Trace Townhomes as those portions are annexed in the future until all Common Areas, as shown on plans approved by the County of Cumberland, have been conveyed to the Association.

Section 4. Parking Rights. Ownership of each Lot shall entitle the Owner or Owners thereof to the use of not more than two automobile parking spaces, which shall be as near and convenient to said Lot as reasonably

possible, together with the right of ingress and egress in and upon said parking areas. The Association shall permanently assign one vehicular parking space for each dwelling, such space to be as near the dwelling to which it is assigned as is reasonably possible. Automobiles shall be parked frontwards in the various parking spaces except for short periods of time for loading and/or unloading. The Association may regulate the parking of boats, trailers and other such items on the Common Area. No boats, trailers, campers, motor homes, trucks or tractors shall be parked within the right of way of any public street in or adjacent to Cypress Trace; nor shall any of these be regularly parked on the Properties except in an enclosed garage or in areas designated by the Association. The Association shall from time to time adopt appropriate rules for the temporary parking of these items on the Properties.

Section 5. TV Antennas and Piped-In Music. The Association may provide one or more central television antennas for the convenience of the members and may supply piped-in music and the cost of these may be included in annual or special assessments. The Association may regulate or prohibit the erection of television antennas on individual lots.

Section 6. Domestic Pets. Common domestic pets are permitted to be kept by the Members; however, said pets shall be maintained within the units (not on or under the decks). Members may exercise their pets upon the Common Areas; however, members shall be responsible and must clean-up the excrement of their pets. At all times that pets are outside the members unit, said pet shall be under the member's supervision and leashed.

#### ARTICLE VI

##### COVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot in Use owned within the Property upon which a townhome has been constructed, hereby covenants, and every owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association:

- (a) Annual assessments or charges which are common expenses;

- (b) Special assessments for capital improvements; and
- (c) Special assessments for purchase and reconstruction of townhomes as hereinafter provided.

Notwithstanding any provision herein to the contrary, the assessment for each lot which is not a Lot in Use shall be twenty-five percent (25%) of the assessment of a Lot in Use.

Such assessments shall be fixed, established, and collected from time to time as hereinafter provided.

The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the lot and improvements against which each such assessment is made. Each such assessment, together with such interest and costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of the Lot at the time the assessment fell due. The personal obligation of an owner for delinquent assessments shall not pass to his successors in title unless expressly assumed by them. All assessments shall be shared equally by the owners of each Lot, except as otherwise provided in this section.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for promoting the recreation, health, safety, and welfare of the residents and the Property; enforcing these covenants and the rules of the Association; improving and maintaining the Property and the townhomes situated thereon; and providing the services and facilities for purposes of and related to the use and enjoyment of the common area and facilities. A portion of the assessments, as determined by the Board of Directors of the Association shall be maintained in a reserve account for capital improvements to the lots.

Section 3. Amount of Assessment.

(a) Initial Assessment. To and including December 31, 1984, the initial annual assessment shall not be in excess of Four Hundred Seventy-Four Dollars and No/100 (\$474.00) per Lot in Use, the exact amount of which shall be determined from time to time as provided in Subsection (d) of this Section 3.



(b) Increase by Association. From and after December 31, 1984, the annual assessment effective for any year may be increased from and after January 1 of the succeeding year by the Board of Directors, without a vote of the membership, by a percentage which may not exceed the greater of five (5%) percent of the percentage increase reflected in the U.S. City Average, Consumer Price Index - United States and selected areas for urban wage earners and clerical workers, all items most recent index and percentage changes from selected dates (published by the U.S. Bureau of Labor Statistics, Washington, D.C.), or such other Index as may succeed the Consumer Price Index, for the twelve-month period ending the immediately preceding October 1.

(c) Increase by Members. From and after December 31, 1984, the annual assessment may be increased by a percentage greater than permitted by this Article by an affirmative vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for such purpose, written notice of which, setting forth the purpose of the meeting, shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. The limitations herein set forth shall not apply to any increase in assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

(d) Criteria for Establishing Annual Assessment. In establishing the annual assessment for any assessment year, the Board of Directors shall consider all current costs and expenses of the Association, any accrued debts, and reserves for future needs, but it may not fix the annual assessment in an amount in excess of five (5%) percent of the sums derived by application of the Consumer Price Index formula provided in Subsection (b) without the consent of members required by Subsection (c) of this Section 3.

(e) The Board of Directors may decrease the annual assessment from time to time if in its opinion such decrease is prudent.

(f) The homeowners' association shall be responsible for the provision of liability insurance, any taxes, maintenance of recreation and other facilities located on the common areas, payment of assessments for public and private capital improvements made to or for the benefit of the common areas located within the development. It is further provided that upon default by the homeowners' association in the payment to the governmental authority entitled thereto to any ad valorem taxes levied against the common areas or assessments for public improvements to the common areas, which default shall continue for a period of six (6) months, each owner of a lot in the development shall become personally obligated to pay to the tax assessing governmental authority a portion of such taxes or assessments in

an amount determined due by the total number of lots in the development. If such sum is not paid by the owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the lot of the then owner, his heirs, devisees, personal representatives and assigns, and the taxing or assessing governmental authority may either bring an action at law against the owner personally obligated to pay the same or may elect to foreclose the lien against the property of the owner.

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 costs of construction or reconstruction, unexpected repair, or replacement of a described capital improvement upon the common area, including the necessary fixtures and personal property related thereto, 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, written notice of which, setting forth the purpose of the meeting, shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. The amount of the proposed assessment need not be stated.

Section 5. Special Assessments for the Purchase and Reconstruction of Townhomes. In the event that any townhome located on the Property is substantially destroyed by fire or other hazard, the owner shall give written notice to the Association within thirty (30) days following such destruction of whether he intends to repair or reconstruct the townhome; and if the owner fails to give such notice to the Association, it shall be conclusively considered, for purposes of this Section, as notice that he does not intend to repair or reconstruct the townhome. If the owner elects not to repair or reconstruct the townhome, the Association shall have the right and option to purchase such unit in the manner hereinafter provided. The purchase option shall be effective for a period of ninety (90) days following notice of the owner's election not to repair or reconstruct.

(a) Exercise of Option. The Board of Directors shall appoint a committee, or shall designate an existing committee of the Association, to determine whether failure to reconstruct the damaged townhome will result in substantial pecuniary injury to the Association or diminution in value of the remaining Property. The committee may employ such persons, including, but not limited to, real estate appraisers, realtors, architects, and engineers, as are reasonably necessary

to make its determination, and shall report its conclusions, with supporting data, in writing to the Board within fifteen (15) days. The report shall set forth such matters as the Board and committee deem pertinent, but shall contain estimates of the pecuniary injury and diminution in value along with an estimate of the cost of purchase and reconstruction of the townhome.

If the Board of Directors determines that it would be advantageous to the Association and/or to the remaining Property to purchase and reconstruct the townhome, it shall call a special meeting by giving written notice thereof, setting forth the purpose of the meeting, to all members within seven (7) days following submission of the committee report. The special meeting of members shall be held not less than seven (7) days nor more than fifteen (15) days following notice to members. Upon an affirmative vote of at least sixty-six and two-thirds percent ( $66 \frac{2}{3}\%$ ) of each class of membership present and voting, the Board will be authorized to purchase and reconstruct the townhome and to assess all lots equally for all costs and expenses arising out of the purchase and repair or reconstruction of the townhome. The Board may require that the assessment be paid in a lump sum, in installments during an assessment year, or over a period of two (2) or more assessment years, as the Board, in its discretion, shall determine to be appropriate.

Such an assessment shall be in addition to, and not in lieu of, the annual assessments provided for in Section 3 and the special assessments provided for in Section 4 of this Article.

(b) Determination of Value. The owner of the townhome shall convey marketable title thereto to the Association upon payment to the owner by the Association of the fair market value of the lot and townhome in its damaged condition. Fair market value shall be determined in any manner agreed upon by the Association and the owner. If they cannot otherwise agree on a fair market value or method of determining fair market value, each shall appoint an appraiser and those two appraisers shall appoint a third appraiser.

The fair market value as determined by any two of these three appraisers shall be final and binding on all parties. Each party shall pay the fee of the appraiser selected by it or him, and each party shall pay one-half (1/2) of the fee of the third appraiser. If the Board and the owner agree upon a single appraiser, each shall pay one-half (1/2) the cost of the appraisal.

(c) Application of Insurance Proceeds. The owner of the townhome, prior to conveyance to the Association, shall apply or cause to be applied so much of the proceeds of any hazard insurance paid by reason of the damage or destruction of the townhome as shall be necessary to pay all liens, mortgages, deeds of trust, taxes, and encumbrances upon the lot so that the fee simple marketable title thereto may be conveyed free and clear of all liens and encumbrances. If the insurance proceeds are not sufficient to pay all liens, encumbrances, and obligations upon the lot, the purchase price shall be reduced by an amount adequate to pay any such deficiency.

(d) Failure to Exercise Option. If the Association does not exercise the purchase option herein provided for, the owner may retain the lot or may transfer or convey it, upon such terms and conditions as he may elect, to any person, to be used solely as a site of an attached, single-family townhome unit. The reconstructed or repaired townhome unit shall be substantially identical to the destroyed townhome unit, unless a change shall be approved by the Board, and shall be constructed in conformity with plans submitted to and approved by the Board prior to construction.

(e) Retention by Owner. If a townhome is not habitable by reason of damage, and the owner gives notice of his election to repair or reconstruct the townhome, the obligation of the owner to pay annual assessment installments shall not be suspended. In the event a townhome is damaged or destroyed, and the owner does not begin repair or reconstruction within thirty (30) days following the damage or destruction, he shall remove or cause to be removed, at his expense, all debris from the lot, so that it shall be placed in a neat, clean, and safe condition and if he fails to do so, the Association may cause

the debris to be removed, and the cost of removal shall constitute a lien upon the townhome and its lot until paid by the owner, unless the lot is thereafter acquired by the Association.

(f) Reconstruction by the Association. Upon acquisition of title to the townhome, the Association is authorized to arrange such financing and execute such notes, mortgages, deeds of trust, and other instruments, to enter into such contracts, and to do and perform such other matters and things as are necessary to accomplish the reconstruction of the townhome; provided, however, that only that townhome which is to be reconstructed shall stand as security for any liens, mortgages, or obligations arising out of the purchase or reconstruction of the townhome, and no other portion of the Property, including the limited common area and facilities, shall be pledged, hypothecated, mortgaged, deeded in trust, or otherwise given as security for any obligations arising out of said purchase or reconstruction, and no member shall be required to become personally obligated therefor.

The Association shall hold title to the lot and improvements for the benefit of all members. The Board may lease or sell the lot and improvements upon such terms and conditions as it, in its discretion, deems most advantageous to the members. The lease rental shall be applied in the following order of priority: (1) to the payment of taxes, assessments, liens, encumbrances, and obligations on or secured by the lot; (2) to the maintenance, upkeep, and repair of the townhome; (3) to payment or repayment to the members, pro rata, of the special assessment, if any, for purchase and reconstruction of the townhome; and (4) to the general expenses of the Association. In the event the lot is sold, the purchase price shall be applied in the following order of priority: (1) to the payment of taxes, assessments, liens, encumbrances, and obligations on or secured by the lot; (2) to payment or repayment to the members, pro rata, of the special assessment, if any, for purchase and reconstruction of the townhome; and (3) to the general expenses of the Association. Any payment or repayment to members of the special assessment may be in cash or may be applied to the annual assessment due or to become due.

(g) Application of Declaration and ByLaws. Any townhome which has been destroyed in whole or in part, by fire or other casualty, and is subsequently restored or reconstructed, shall be subject to the provisions of this Declaration and to the ByLaws of the Association.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots and lots in use, on a per lot and per lot in use basis, and may be collected on a monthly basis.

Section 7. Quorum for any Action Authorized Under Sections 3, 4, and 5. At the first meeting called, as provided in Sections 3, 4, and 5 of this Article, 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, subsequent meetings may be called, subject to the notice requirement set forth in Sections 3, 4, and 5, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the next preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the next preceding meeting.

Section 8. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall be paid in equal monthly installments and the payment of such shall commence as to each lot in use on the first day of the first month following the date that such lot became a lot in use. No lot in section one shall become subject to any assessment until the first day of the first month following the date on which one lot has become a lot in use. All lots in subsequently annexed sections shall be subject to assessments commencing the first day of the first month following annexation. 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

subject thereto. The due dates shall be established by the Board of Directors. The Association, upon demand at any time, shall furnish a certificate in writing 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 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments or portion thereof which are not paid when due shall be delinquent. If the assessment or portion thereof is not paid within thirty (30) days after the due date, the same shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum. The Association may bring an action against the owner personally obligated to pay the same, and interest, costs, late payment charges and reasonable attorney's fees of any such action shall be added to the amount of such assessment. If any law permits the filing of a lien and the foreclosure of such lien, or other similar action, as a method of enforcement of the Association's right to collect assessments, the Association may use such remedy. No owner may waive or otherwise escape liability for the assessment provided for herein by nonuse of the common area or abandonment of his lot.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein on any lot shall be subordinate to the lien of any first mortgage on such lot. The sale of a lot to a bona fide purchaser for value and 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 sales or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 11. Exempt Property. Any portion of the Property dedicated to, and accepted by, a local public authority and all properties owned

by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein, except no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VII

EXTERIOR MAINTENANCE

In addition to maintenance of the limited common area, the Association shall provide maintenance of Common Areas and exterior maintenance upon each townhome which is subject to assessment hereunder, as follows: Stain and/or paint the exterior of townhomes and replace roofs. Such exterior maintenance shall not include glass surfaces, nor repair and/or replacement of damage to decks, nor any other repair or replacement to exterior damage other than as set out above.

In the event that the need for maintenance or repair of a lot or the improvements thereon is caused through the willful or negligent acts of its owner, or his family, tenants, contract purchasers, guests, or invitees, or is caused by fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles, or smoke, as the foregoing are defined and explained in North Carolina standard fire and extended coverage insurance policies, or for the purpose of correcting, repairing or alleviating any emergency condition provided for in Article XI, Section 5, (but only if such would normally be an expense of the lot owner), the cost of such maintenance, replacement, or repairs shall be added to and become a part of the assessment to which such lot is subject.

ARTICLE VIII

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the townhomes upon the property 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 liability for property damage due to negligence 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 casualty any owner who has used the wall may restore it, and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, however, to the right of any such owner 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 Does Not Run 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. Easement and Right of Entry for Repair, Maintenance, and Reconstruction. Every owner shall have an easement and right of entry upon the lot of any other owner to the extent reasonably necessary to perform repair, maintenance, or reconstruction of a party wall and those improvements belonging to one lot which encroach on an adjoining lot or common area. Such repair, maintenance, or reconstruction shall be done expeditiously, and, upon completion of the work, the owner shall restore the adjoining lot or lots to as near the same condition as that which prevailed prior to commencement of the work as is reasonably practicable.

Section 7. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, such dispute shall be settled by arbitration as provided under the laws of the State of North Carolina as they now are or are hereafter amended.

ARTICLE IX

ARCHITECTURAL CONTROL & INSPECTION

No site preparation or initial construction, erection, or installation of any improvements, including, but not limited to, residences, outbuildings, fences, walls, screens (whether by plants or structures) and other structures,

shall be undertaken upon the Properties unless the plans and specifications therefor, showing the nature, kind, shape, height, materials, and location of the proposed improvements shall have been submitted to the Declarant or its agent and expressly approved in writing. No subsequent alteration or modification of any existing improvements nor construction, erection, or installation of additional improvements may be undertaken on any of the Properties without prior review and express written approval of the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board.

In general, the construction or planting of fences, walls, screens, and other structures will not be permitted if in the opinion of the Declarant, Board, or Architectural Committee, as applicable, such construction or planting constitutes an unreasonable obstruction of the view of another owner.

In the event that the Declarant or the Association, as the case may be, fails to approve or disapprove the site or design of any proposed improvements within thirty (30) days after plans and specifications therefor have been submitted and received, approval will not be required, and the requirements of this Article will be deemed to have been fully met; provided, that the plans and specifications required to be submitted shall not be deemed to have been received by the declarant or the Association if they contain erroneous data or fail to present adequate information upon which the Declarant or the Association, as the case may be, can arrive at a decision.

The Declarant and/or the Association (as applicable) shall have the right, at its election, but shall not be required, to enter upon any of the Properties during site preparation or construction, erection, or installation of improvements to inspect the work being undertaken and to determine that such work is being performed in conformity with the approved plans and specifications and in a good and workmanlike manner, utilizing approved methods and good quality materials.

#### ARTICLE X

##### USE RESTRICTIONS

Section 1. Rules and Regulations. The Board of Directors of the Association shall have the power to formulate, publish, and enforce reasonable rules and regulations concerning the use and enjoyment of the front yard space of each lot and the common area. Such rules and regulations, along with all policy resolutions and policy actions taken by the Board of Directors, shall

be recorded in a Book of Resolution which shall be maintained in a place convenient to the owners and available to them for inspection during normal business hours.

Section 2. Use of Property. Each building, the townhomes therein, and the common area and facilities shall be for the following uses and subject to the following restrictions, and, in addition, to those set forth in the ByLaws:

(a) All buildings and the common area and facilities shall be used for residential and related common purposes. Each townhome shall be used as a single-family residence and for no other purpose, except that the Declarant may use one or more townhomes for offices and/or model townhomes for sales purposes.

(b) Nothing shall be kept and no activity shall be carried on in any building or townhome or on the common area and facilities which will increase the rate of insurance, applicable to residential use, for the Property or the contents thereof. No owner shall do or keep anything, nor cause or allow anything to be done or kept, in his townhome or on the common area and facilities which will result in the cancellation of insurance on any portion of the Property, or the contents thereof, or which will be in violation of any law, ordinance, or regulation. No waste shall be committed on any portion of the common area and facilities.

(c) No immoral, improper, offensive, or unlawful use shall be made of the Property, or any part thereof, and all valid laws, ordinances, and regulations of all governmental agencies having jurisdiction thereof shall be observed. All laws, order, rules, regulations, or requirements of any governmental agency having jurisdiction thereof, relating to any portion of the Property, shall be complied with, by and at the sole expense of the owner of the Association, whichever shall have the obligation to maintain or repair such portion of the Property.

(d) Nothing shall be done in or to any townhome or in, to, or upon any of the common area and facilities which will impair the structural integrity of any building, townhome, or portion of the common area and facilities or which would impair or alter the exterior of any building or portion thereof, except in the manner provided in this Declaration.

(e) No industry, business, trade, occupation, or profession of any kind, whether commercial or otherwise, shall be conducted, maintained, or permitted on any part of the Property, except that the Declarant or its agents may use any unsold townhome for sales or display purposes.

(f) No owner shall display, or cause or allow to be displayed, to public view any sign, placard, poster, billboard, or identifying name or number upon any townhome, building, or any portion of the common area and facilities, except as allowed by the Association pursuant to its ByLaws; provided, however, that the Declarant and any mortgagee who may become the owner of any unit, or their respective agents, may place "For Sale" or "For Rent" signs on any unsold or unoccupied townhomes and in suitable places on the common area; provided, however, that during the development of the Property and the marketing of townhomes, the Declarant may maintain a sales office and may erect and display such signs as the Declarant deems appropriate as aids to such development and marketing, provided that such signs do not violate any applicable laws.

(g) No person shall undertake, cause, or allow any alteration or construction in or upon any portion of the common area and facilities except at the direction or with the express written consent of the Association.

(h) The common area and facilities shall be used only for the purposes for which they are intended and reasonably suited and which are incident to the use and occupancy of the townhomes, subject to any rules or regulations that may be adopted by the Association pursuant to its ByLaws.

Section 3. Quiet Enjoyment. No obnoxious or offensive activity shall be carried on upon the Property, nor shall anything be done which may be or may become a nuisance or annoyance to residents within the Property.

ARTICLE XI  
EASEMENTS

Section 1. Walks, Drives, Parking Areas, and Utilities. All of the Property, including lots and common area, shall be subject to such easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines, television antenna lines, and other public utilities as shall be established prior to subjecting the Property to this Declaration by the Declarant, and the Association shall have the power and authority to grant and to establish in, over, upon, and across the common area conveyed to it such further easements as are requisite for the convenient use and enjoyment of the Property.

Section 2. Easements Appurtenant to Lots. All private streets shall be subject to an easement in favor of every Lot to which they

are adjacent or which they are designated to serve and shall be deemed appurtenant to each such Lot, whereby the owner of each such Lot shall be entitled to use them as a means of ingress, egress and regress and such other uses as shall have been designated. Such easement shall be superior to the lien of every mortgage or deed of trust.

Section 3. Encroachments. All lots and the common area shall be subject to easements for the encroachment of initial improvements constructed on adjacent lots by the Declarant to the extent that such initial improvements actually encroach, including, without limitation, such items as overhanging eaves, gutters, downspouts, exterior storage rooms, and walls. If any encroachment shall occur subsequent to subjecting the Property to this Declaration as a result of settling or shifting of any building or as a result of any permissible repair, construction, reconstruction, or alteration, there is hereby created and shall be a valid easement for such encroachment and for the maintenance of the same. Every lot shall be subject to an easement for entry and encroachment by the Declarant for a period not to exceed eighteen (18) months following conveyance of a lot to an owner for the purpose of correcting any problems that may arise regarding grading and drainage. The Declarant, upon making entry for such purpose, shall restore the affected lot or lots to as near the original condition as practicable.

Section 4. Structural Support. Every portion of a townhome which contributes to the structural support of the building shall be burdened with an easement of structural support for the benefit of all other townhomes within the building.

Section 5. Emergencies. Every lot and townhome shall be subject to an easement for entry by the Association for the purpose of correcting, repairing, or alleviating any emergency condition which arises upon any lot or within any townhome and that endangers any building or portion of the common area.

Section 6. Easement for Governmental Agencies. An easement is hereby established over the Common Area for the benefit of applicable

governmental agencies, public utility companies and public service agencies as necessary for setting, removing and reading of meters, replacing and maintaining water, sewer and drainage facilities, electrical, telephone, gas and cable antenna lines, fire fighting, garbage collection, postal delivery, emergency and rescue activities and law enforcement activities.

ARTICLE XII

RIGHTS OF INSTITUTIONAL LENDERS

Section 1 Rights Reserved to Institutional Lenders. "Institutional Lender" or "Institutional Lenders", as the terms are used herein, shall mean and refer to banks, savings and loan associations, insurance companies, other reputable mortgage lenders and insurers of first mortgages. So long as any Institutional Lender or Institutional Lenders shall hold any mortgage upon any Lot, or shall be the owner of any Lot, such Institutional Lender or Institutional Lenders shall have the following rights:

A. To be furnished with at least one copy of the Annual Financial Statement and Report of the Association, prepared by a Certified Public Accountant designated by the Association, including a detailed statement of annual carrying charges or income collected and operating expenses, such Financial Statement and Report to be furnished by April 15 of each calendar year.

B. To be given notice by the Association of the call of any meeting of the membership to be held for the purpose of considering any proposed Amendment to the Declaration, or the Articles of Incorporation and Bylaws of the Association, which notice shall state the nature of the amendment being proposed, and to be given permission to designate a representative to attend all such meetings.

C. To be given notice of default in the payment of assessments by any owner of a Lot encumbered by a mortgage held by the Institutional Lender or Institutional Lenders, such notice to be given in writing and to be sent to the principal office of such Institutional Lender or

Institutional Lenders, or to the place which it or they may designate in writing to the Association.

D. To inspect the books and records of the Association during normal business hours.

E. To be given notice by the Association of any substantial damage to any part of the Common Areas.

F. To be given notice by the Association if any portion of the Common Area, is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority.

Whenever any Institutional Lender desires the benefits of the provisions of this section, such lender shall serve written notice of such fact upon the Association by Registered Mail or Certified Mail addressed to the Association and sent to its address stated herein identifying the Lot upon which any such Institutional Lender or Institutional Lenders hold any mortgage or mortgages, or identifying any Lot owned by them, or any of them, together with sufficient pertinent facts to identify any mortgage or mortgages which may be held by it or them, and which notice shall designate the place to which notices are to be given by the Association to such Institutional Lender.

ARTICLE XIII

GENERAL PROVISIONS

Section 1. Providing for Traffic Flow. It shall be the responsibility of the Association to maintain uninterrupted traffic flow along all private streets within the Properties. If it is necessary for "no parking" signs to be erected in order to accomplish this, this shall be done at the expense of the Association as a common expense.

In no case shall the municipality or other agency which provides emergency or regular fire, police or other public service for the Properties, be responsible for failing to provide any such service

to the Properties or any of its occupants when such failure is due to the lack of access to such areas due to inadequate design or construction, blocking of access routes, or any other factor within the control of the developer, Association, or occupants.

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. Insurance. Every owner shall maintain in full force and effect at all times fire and hazard insurance in an amount equal to the full insurable value of his townhome except that the amount shall not be required to exceed the replacement cost of the townhome. An owner shall exhibit to the Board, upon demand, evidence that such insurance is in effect. If any owner shall fail to maintain such insurance, the Board is authorized to obtain such insurance in the name of the owner from an insurer selected by the Board, and the cost of such insurance shall be included in the annual assessment of the owner and shall constitute a lien against his lot until paid.

(Recommendation to owners - If a townhome is damaged by fire or other casualty, and if such damage results in damage to an adjacent attached unit, there may be prolonged disputes between the insurance carriers of the adjacent damaged units (which may, in turn, delay the settlement of claims) unless the insurance protection on both units is provided by the same carrier. It is therefore recommended that the owners of all townhomes located within each building purchase their fire and casualty insurance from the same insurance carrier.

Section 4. 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.



## BOOK 3006-247

Section 5. Exchange of Common Area. The Association, acting through its Board, from time to time may exchange with Declarant or any member a portion of the Common Area for a portion of the real property owned by such member within Cypress Trace, provided that the real property acquired by the Association in the exchange; (a) is free and clear of all encumbrances except the Declaraton, and easements for drainage, utilities, and sewers; (b) is contiguous to other portions of the Common Area; and (c) has approximately the same area and utility as the portion of the Common Area exchanged. The real property so acquired by the Association shall be a part of the Common Area, and, without further act of the Association or membership, shall be released from any provisions of the Declaration except those applicable to the Common Area. The portion of the Common Area so acquired by Declarant or a member, without further act of the Association or membership, shall cease to be Common Area and shall be subject to those provisions of the Declaration that were applicable to the real property conveyed to the Association by the member.

Section 6. FHA/VA Approval. Notwithstanding any provision in this instrument to the contrary, as long as there is a Class B membership, and if Declarant desires to qualify sections of this subdivision for Federal Housing Administration or Veterans Administration approval (but not otherwise), the following actions will require the prior approval of Federal House Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Areas, exchange of Common Area for other portions of the Properties, and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 7. Amendment. The covenants, conditions, and restriction of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by the owners of not less than ninety percent (90%) of the lots, and thereafter by an instrument signed by the owners of not less than seventy-five percent (75%) of the lots; provided, however, that the Board of Directors may amend this Declaration, without

the consent of owners, to correct any obvious error or inconsistency in drafting, typing, or reproduction. All amendments shall be certified as an official act of the Association and shall forthwith be recorded in the Cumberland County Registry. All amendments shall become effective upon recordation.

Section 8. If any amendment to these covenants, conditions and restrictions is executed, each such amendment shall be delivered to the Board of Directors of this Association. Thereupon, the Board of Directors, shall, within thirty (30) days do the following:

(a) Reasonably assure itself that the amendment has been executed by the Owners of the required number of lots. (For this purpose, the Board may rely on its roster of members and shall not be required to cause any title to any Lot to be examined);

(b) Attach to the amendment a certification as to its validity, which certification shall be executed by the Association in the same manner that deeds are executed. The following form of certification is suggested:

CERTIFICATION OF VALIDITY OF AMENDMENT TO COVENANTS,  
CONDITIONS AND RESTRICTIONS OF CYPRESS TRACE

By authority of its Board of Directors, Cypress Trace Townhomes Association hereby certifies that the foregoing instrument has been duly executed by the Owners of \_\_\_\_\_ percent of the Lots of Cypress Trace and is, therefore, a valid amendment to the existing covenants, conditions and restrictions of Cypress Trace.

CYPRESS TRACE TOWNHOMES ASSOCIATION

By \_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

(c) Immediately, and within the thirty (30) day period aforesaid, cause the amendment to be recorded in the Cumberland County Registry.

All amendments shall be effective from the date of recordation in the Cumberland County Registry, provided, however, that no such amendment shall be valid until it has been indexed in the name of this Association. When any instrument purporting to amend the covenants, conditions and restrictions has been certified by the Board of Directors, recorded and indexed as provided by this Section, it shall be conclusively presumed that such instrument constitutes a valid amendment as to all persons thereafter purchasing any Lots in Cypress Trace.

Notwithstanding the foregoing, no amendment shall be effective unless approved by the County Attorney of Cumberland County (so long as this is required by the Cumberland County Code); provided, however, that if any amendment is submitted to said County Attorney and is neither approved or disapproved within fifteen (15) days from the date of submission, it shall be conclusively presumed that the County Attorney has approved it.

Section 9. Amendment of Declaration Without Approval of Owners.

The Declarant, without the consent or approval of any other owner, shall have the right to amend this Declaration to conform to the requirements of any law of governmental agency having legal jurisdiction over the Property or to qualify the Property or any lots and improvements thereon for mortgage or improvement loans made, insured or guaranteed by a governmental agency or to comply with the requirements of law or regulations of any corporation or agency belonging to, sponsored by, or under the substantial control of, the United States Government or the State of North Carolina, regarding purchase or sale in such lots and improvements, or mortgage interests therein, as well as any other law or regulation relating to the control of Property, including, without limitation, ecological controls, construction standards, aesthetics, and matters affecting the public health, safety and general welfare. A letter from an official of any such corporation or agency, including, without limitation, the Veterans Administration, U.S. Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, Government National Mortgage Corporation, or the Federal National Mortgage Association, requesting or suggesting an amendment necessary to comply with the requirements of such corporation or agency shall be sufficient evidence

of the approval of such corporation or agency, provided that the changes made substantially conform to such request or suggestion.

No amendment made pursuant to this Section shall be effective until duly recorded in the Register of Deeds of Cumberland County.

Section 10. Amendment to Achieve Tax-Exempt Status. The Declarant, for so long as it shall retain control of the Association, and, thereafter, the Board of Directors, may amend this Declaration as shall be necessary, in its opinion, and without the consent of any owner, to qualify the Association or the Property, or any portion thereof, for tax-exempt status. Such amendment shall become effective upon the date of its recordation in the Cumberland County Registry.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this instrument this the 8th day of June, 1984, by authority of its Board of Directors.

ROBIN LYNN, INC.

By Robert H. McDonald  
Robert H. McDonald, President

ATTEST:  
Kenneth F. McDonald  
Kenneth F. McDonald, Secretary

NORTH CAROLINA  
CUMBERLAND COUNTY

I, the undersigned, a Notary Public in and for said State and County, do hereby certify that KENNETH F. McDONALD personally appeared before me this day and acknowledged that he is the Secretary of ROBIN LYNN, INC., a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, Robert H. McDonald, sealed with its corporate seal, and attested by himself as its Secretary.

WITNESS my hand and notarial seal this the 8th day of June,

1984  
MARION S. PRIDGEN  
NOTARY  
My Commission Expires:  
10/28/85

Marion S. Pridgen  
Notary Public

NORTH CAROLINA, CUMBERLAND COUNTY  
The foregoing or annexed certificate of Marion S. Pridgen

Notary Public/Notaries Public is/are certified to be correct.  
This instrument was presented for registration and recorded in this Office at Book 3006 Page 223  
This 13 day of June, 1984 at 4:35 O'clock P M.  
Marion Clerk  
Register of Deeds  
By Harlan R. Gage  
Deputy Register of Deeds

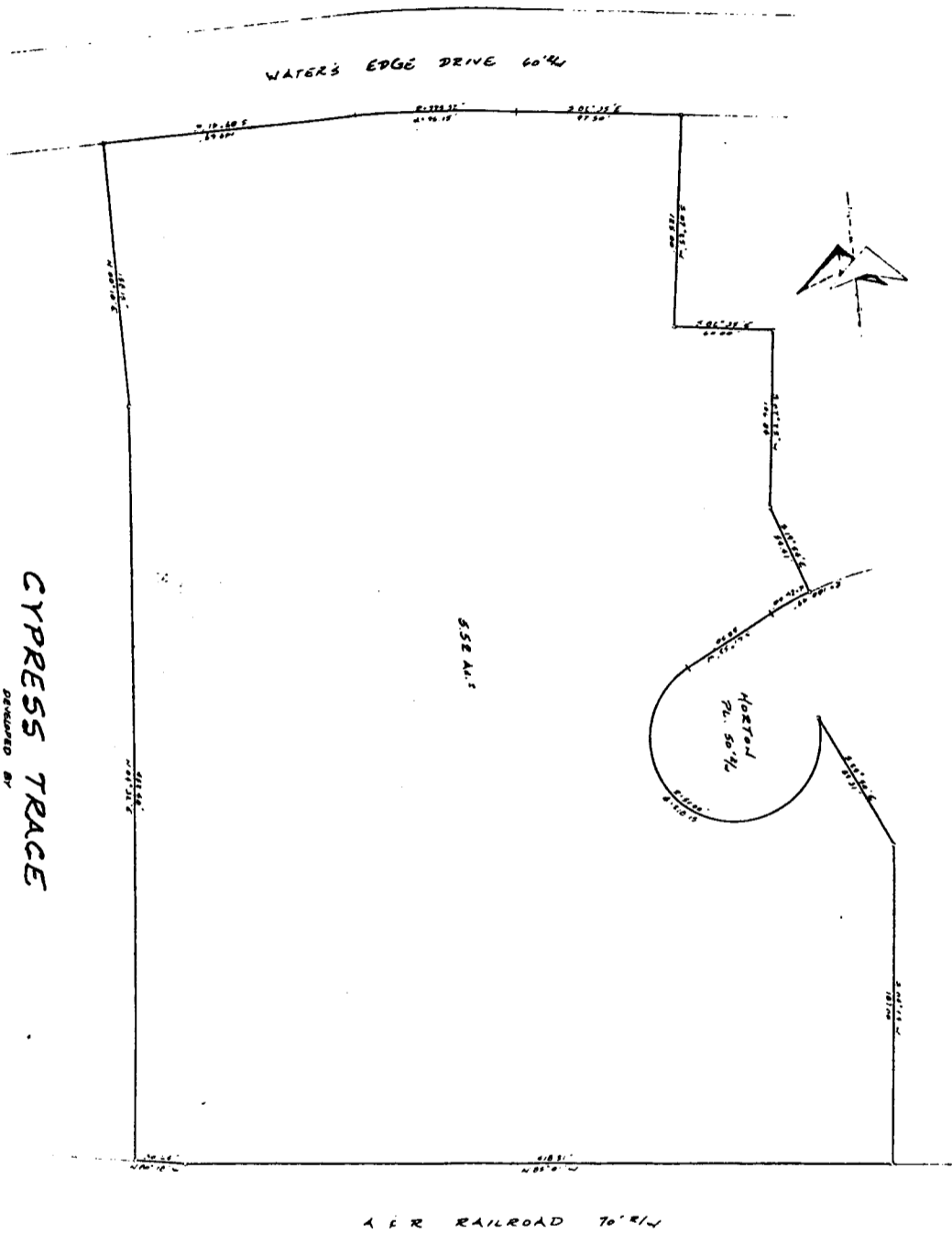


Exhibit "A"

AMENDED DECLARATION TO  
BY-LAWS  
OF

CYPRESS TRACE TOWNHOMES ASSOCIATION

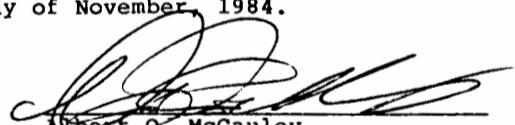
The undersigned, being the Directors of Cypress Trace Townhomes Association do hereby certify that the following amendments to the By-Laws of the Association were duly passed and effected at its meeting of June 20, 1984, and that the same are a part of the official minutes of the Association:

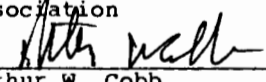
"a. Article XII, Section 3(a) is changed to read in its entirety as follows: '(a) From and after December 31, 1984, the maximum annual assessment may be increased effective January 1 of each year without a vote of the membership, by a percentage which may not exceed 5% of the previous assessment.


b. Article XII, Section 8 is changed to the extent that wherever the words "Lot in Use" or "Lots in Use" appear, they shall be deleted and the words "Lot" or "Lots" shall be substituted, respectively.

c. Article XV, Section 1 is changed by adding at the end of the paragraph, a new sentence as follows: 'At any time during which there remains Class B members of the Association, amendments to these By-Laws may be vetoed by either the Veterans Administration of PHA.'

IN WITNESS WHEREOF, we, being all of the Directors of Cypress Trace Townhomes Association have hereunto set our hands this the 30th day of November, 1984.

  
Albert O. McCauley  
Director Cypress Trace Townhomes Association

  
Arthur W. Cobb  
Director Cypress Trace Townhomes Association

  
A.N. Prewitt  
Director Cypress Trace Townhomes Association

NORTH CAROLINA  
CUMBERLAND COUNTY

I, JUDITH A. SIMMONS, a Notary Public of said County and State do hereby certify that ALBERT O. McCAULEY, ARTHUR W. COBB and A. N. PREWITT, Directors of CYPRESS TRACE TOWNHOMES ASSOCIATION personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and Notarial Seal, this the 30th day of November, 1984.



*Judith A. Simmons*  
Notary Public

My Commission Expires: 8-3-87

NORTH CAROLINA, CUMBERLAND COUNTY

The foregoing or annexed certificate of *Judith A. Simmons*

Notary Public/Notaries Public is/are certified to be correct.

This instrument was presented for registration and recorded in this Office at Book 3040, Page 125

This 12 day of December, 1984 at 11:30 O'clock A.M.

George E. Tatum  
Register of Deeds

By *Charles D. Adams*  
Deputy Register of Deeds

NORTH CAROLINA      MODIFICATION OF DECLARATION OF  
                                  COVENANTS, CONDITIONS AND  
CUMBERLAND COUNTY      RESTRICTIONS

THIS MODIFICATION, made this 30th day of November, 1984, by ROBIN LYNN, INC. hereinafter referred to as "Declarant";

W I T N E S S E T H

WHEREAS, on or about June 13, 1984, Declarant caused a certain Declaration of Covenants, Conditions and Restrictions to be filed in the Office of the Register of Deeds of Cumberland County, North Carolina, said Declaration being recorded in Book 3006, Page 223; and

WHEREAS, Declarant is the owner of certain property near the City of Fayetteville, Cumberland County, North Carolina, which is more particularly described as Cypress Trace, Section One recorded in Book of Maps 55, Page 89, Section Two and Section Three recorded in the Book of Maps 56, Page 21, Cumberland County Registry; and

WHEREAS, Declarant wishes to modify certain provisions of the Declaration of Covenants, Conditions and Restrictions recorded in Book 3006, Page 223, Cumberland County Registry; and

WHEREAS, Declarant, in accordance with Article XIII, Section 9, is empowered to modify the Declaration of Covenants, Conditions and Restrictions for purposes of conforming to the requirements of the Veterans Administration to qualify the Property for mortgage loans; and

WHEREAS, Declarant is hereby modifying the Declaration of Covenants, Conditions and Restrictions for the above stated purpose;

NOW, THEREFORE, Declarant hereby amends and modifies the following of the Declaration of Covenants, Conditions and Restrictions recorded in Book 3006, Page 223, Cumberland County Registry as follows:



a. Article IV, Section 1, Class B(b) is changed to read as follows: "on June 1, 1987."

b. Article VI, Section 1 is changed to read as follows: "Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant covenants, and every owner of a Lot purchased by acceptance of a deed from Declarant also covenants, whether or not so expressed in the deed or conveyance, that they shall pay to the Association:

(a) Annual assessments or charges which are common expenses;

(b) Special assessments for capital improvements; and

(c) Special assessments for purchase and reconstruction of townhomes as hereinafter provided.

Notwithstanding any provisions herein to the contrary, the assessment of any lot owned by Declarant, so long as it is a Class B member shall be 25% of the assessments of the Class A members.

Such assessments shall be fixed, established, and collected from time to time as hereinafter provided.

The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the lot and improvements against which each such assessment is made. Each such assessment, together with such interest and costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of the Lot at the time the assessment fell due. The personal obligation of an owner for delinquent assessments shall not pass to his successors in title unless expressly assumed by them. All assessments shall be shared equally by the owners of each Lot, except as otherwise provided in this section.

c. Article VI, Section 3(b) is changed to read as follows: "(b) Increase by Association. From and after

December 31, 1984, the annual assessment effective for any year may be increased from and after January 1 of the succeeding year by the Board of Directors, without a vote of the membership of no more than 5% of the previous assessment."

d. Article VI, Section 3(f) is changed to read as follows: "The homeowners' association shall be responsible for the provision of liability insurance, any taxes, maintenance of recreation and other facilities located on the common areas, payment of assessments for public and private capital improvements made to or for the benefit of the common areas located within the development."

e. Article VI, Section 8 is changed to read as follows: "Section 8. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall be paid in equal monthly installments and the payment of such shall commence as to each lot on the first day of the month following the conveyance of the common area to the Association. All lots in subsequently annexed sections shall be subject to assessments commencing the first day of the first month following annexation. 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 subject thereto. The due dates shall be established by the Board of Directors. The Association, upon demand at any time, shall furnish a certificate in writing 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.

f. Article XIII, Section 5 is deleted in its entirety.

g. Article XIII, Section 6 is changed by deleting the words "exchange of Common Area for other portions of the Properties."

h. Article XIII, Sections 7, 9 and 10 are changed wherever necessary to conform in substance that all amendments of any kind or nature shall require the vote of the members, in accordance with other provisions of the Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarant has executed this instrument this the 30th day of November, 1984, by authority of its Board of Directors.

ROBIN LYNN, INC.

By: Robert H. McDonald  
Robert H. McDonald, President



Kenneth F. McDonald  
Kenneth F. McDonald, Secretary

NORTH CAROLINA  
CUMBERLAND COUNTY

I, the undersigned, a Notary Public in and for said State and County, do hereby certify that KENNETH F. McDONALD personally appeared before me this day and acknowledged that he is the Secretary of ROBIN LYNN, INC., a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, Robert H. McDonald, sealed with its corporate seal, and attested by himself as its Secretary.



WITNESS my hand and notarial seal this the 30th day of November, 1984.

Judith A. Simmons  
Notary Public

My Commission Expires:  
8-3-87

NORTH CAROLINA, CUMBERLAND COUNTY  
The foregoing or annexed certificate of \_\_\_\_\_

Judith A. Simmons

Notary Public/Notaries Public is/are certified to be correct.  
This instrument was presented for registration and recorded in this Office at Book 3040 Page 69  
This 12 day of December 19 84 at 11:25 O'clock A.M.  
George E. Tatum By Elizabeth B. Adams  
Register of Deeds Deputy Register of Deeds

STATE OF NORTH CAROLINA  
COUNTY OF CUMBERLAND

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR CYPRESS TRACE, SECTION  
FOUR AND DECLARATION OF  
ANNEXATION

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS OF CYPRESS TRACE, SECTION FOUR, AND DECLARATION OF ANNEXATION, made and entered into this the 24th day of January, 1985, by and between ROBIN LYNN, INC. to ALL PROSPECTIVE PURCHASERS OR OWNERS of any of the property shown and delineated on a plat entitled "Cypress Trace, Section Four", said map being recorded in Plat Book 56, Page 83, in the office of the Register of Deeds of Cumberland County, North Carolina;

W I T N E S S E T H :

WHEREAS, Robin Lynn, Inc. heretofore executed and had recorded in Book 3006, Page 223 and Book 3040, Page 69, in the office of the Register of Deeds of Cumberland County, documents entitled "Declaration of Covenants, Conditions, and Restrictions (said documents being hereinafter referred to as the "Declaration")", which Declaration imposed certain restrictions and easements upon and granted certain rights and easements to Lot owners in Sections One, Two and Three of Cypress Trace, as said Lots are shown on maps recorded in Plat Book 55, Page 89 and Book 56, Page 21 in the office of the Register of Deeds of Cumberland County; and,

WHEREAS, Article II of said Declaration provided that Robin Lynn, Inc. could annex certain additional property to the subdivision and Robin Lynn, Inc. is executing this instrument in order to do so and in order to impose the restrictions and easements hereinafter specified and to grant the rights and easements hereinafter specified to the owners of the property in the area annexed.

NOW, THEREFORE, Robin Lynn, Inc. does hereby declare as follows:

(1) That the rules, regulations, restrictions, covenants, conditions, reservations, exceptions, and easements set forth in the instrument recorded in Book 3006, Page 223 and amended by Book 3040, Page 69, in the office of the Register of Deeds of Cumberland County, said documents being incorporated herein by reference, shall run with the property hereinafter described; shall be a burden on and a benefit to such property; shall be binding on all persons or entities having or acquiring any right, title, or interest in said property or in any part thereof; and shall inure to the benefit of each owner of any part thereof.

(2) The property hereinafter described is hereby annexed to the Cypress Trace subdivision as defined and delineated in the Declaration recorded in Book 3006, Page 223 and amended by Book 3040, Page 69, in the office of the Register of Deeds of Cumberland County.

(3) The "Common Area" in the area hereby annexed to the subdivision means those areas of land within the annexed area necessary for access, utility service and parking by the owners of the property within the subdivision, means all areas within the subdivision not included within a numbered lot, and means all the property depicted as "Common Area" on the map of "Cypress Trace, Section Four" recorded in Plat Book 56, Page 83, in the office of the Register of Deeds of Cumberland County.

(4) The "Lots" in the area hereby annexed to the subdivision which are and shall be owned in fee simple and have all the attributes on the Lots defined in the Declaration are Lots 19 through 24, all as shown and delineated on the aforesaid plat of Cypress Trace, Section Four, recorded in Plat Book 56, Page 83, in the office of the Register of Deeds of Cumberland County.

(5) The owners of the Lots and Common Area in Cypress Trace, Sections One, Two and Three shall have and are hereby granted non-exclusive easements in the Common Area in Cypress Trace, Section Four and the owners of the Lots and Common Area in Cypress Trace, Section Four shall have and are hereby granted non-exclusive easements in the Common Area in Cypress Trace, Sections One, Two and Three. All and singular of said easements shall have the characteristics and be subject to the conditions specified in the Declaration recorded in Book 3006, Page 223 and amended in Book 3040, Page 69, in the office of the Register of Deeds of Cumberland County.

(6) The property covered by this instrument is that described on the plat entitled "Cypress Trace, Section Four", as shown and delineated on a map recorded in Plat Book 56, Page 83, in the office of the Register of Deeds of Cumberland County, which map is incorporated herein by reference.

IN TESTIMONY WHEREOF, Robin Lynn, Inc. has hereunto caused this instrument to be executed by its President, attested by its Secretary, and its corporate seal to be hereto affixed, all by order of its Board of Directors first duly given, this the day and year first above written.

ROBIN LYNN, INC.

BY: Robert H. McDonald  
Robert H. McDonald, President



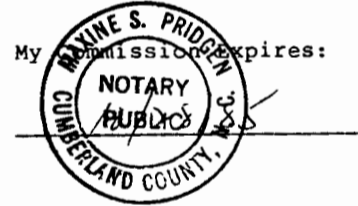
Kenneth F. McDonald  
Kenneth F. McDonald, Secretary

STATE OF NORTH CAROLINA  
COUNTY OF CUMBERLAND

I, Maxine S. Pridgen, a Notary Public in and for said County and State, do hereby certify that on the 24th day of January, 1985, before me personally appeared Robert H. McDonald with whom I am personally acquainted, who, being by me duly sworn, says that he is President and that Kenneth F. McDonald is Secretary of ROBIN LYNN, INC. the corporation described in and which executed the foregoing instrument; that he knows the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal; that the name of the corporation was subscribed thereto by the said President; that the said President and Secretary subscribed their names thereto and the said common seal was affixed, all by order of the Board of Directors of said corporation; and that the said instrument is the act and deed of said corporation.

WITNESS my hand and notarial seal, this the 24th day of January, 1985.

Maxine S. Pridgen  
Notary Public



My commission expires:

NORTH CAROLINA, CUMBERLAND COUNTY  
The foregoing or annexed certificate of Maxine S. Pridgen  
Notary Public/Notaries Public is/are certified to be correct.  
This instrument was presented for registration and recorded in this Office at Book 3046, Page 629  
This 24 day of January, 1985 at 4:10 O'clock P.M.  
George E. Tatum By Peggy McLean  
Register of Deeds Deputy Register of Deeds

16388

BOOK 3084 PAGE 171

STATE OF NORTH CAROLINA  
COUNTY OF CUMBERLAND

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR CYPRESS TRACE, SECTIONS  
FIVE, SIX AND SEVEN AND  
DECLARATION OF ANNEXATION

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS OF CYPRESS TRACE, SECTIONS FIVE, SIX AND SEVEN, AND DECLARATION OF ANNEXATION, made and entered into this the 30th day of July, 1985, by and between ROBIN LYNN, INC. to ALL PROSPECTIVE PURCHASERS OR OWNERS of any of the property shown and delineated on a plat entitled "Cypress Trace, Sections, Five, Six and Seven, said map being recorded in Plat Book 58, Page 5, in the Office of the Register of Deeds of Cumberland County, North Carolina;

W I T N E S S E T H :

WHEREAS, Robin Lynn, Inc. heretofore executed and had recorded in Book 3006, Page 223 and Book 3040, Page 69, in the Office of the Register of Deeds of Cumberland County, documents entitled "Declaration of Covenants, Conditions, and Restrictions (said documents being hereinafter referred to as the "Declaration"), which Declaration imposed certain restrictions and easements upon and granted certain rights and easements to Lot owners in Sections One, Two, Three and Four of Cypress Trace, as said Lots are shown on maps recorded in Plat Book 55, Page 89, Book 56, Page 21 and Book 56, Page 83, in the Office of the Register of Deeds of Cumberland County; and,

WHEREAS, Article II of said Declaration provided that Robin Lynn, Inc. could annex certain additional property to the subdivision and Robin Lynn, Inc. is executing this instrument in order to do so and in order to impose the restrictions and easements hereinafter specified and to grant the rights and easements hereinafter specified to the owners of the property in the area annexed.

NOW, THEREFORE, Robin Lynn, Inc. does hereby declare as follows:



(1) That the rules, regulations, restrictions, covenants, conditions, reservations, exceptions, and easements set forth in the instrument recorded in Book 3006, Page 223 and amended by Book 3040, Page 69, in the Office of the Register of Deeds of Cumberland County, said documents being incorporated herein by reference, shall run with the property hereinafter described; shall be a burden on and a benefit to such property; shall be binding on all person or entities having or acquiring any right, title, or interest in said property or in any part thereof; and shall inure to the benefit of each owner of any part thereof.

(2) The property hereinafter described is hereby annexed to the Cypress Trace Subdivision as defined and delineated in the Declaration recorded in Book 3006, Page 223 and amended by Book 3040, Page 69, in the Office of the Register of Deeds of Cumberland County.

(3) The "Common Area" in the area hereby annexed to the subdivision means those areas of land within the annexed area necessary for access, utility service and parking by the owners of the property within the subdivision, means all areas within the subdivision not included within a numbered lot, and means all the property depicted as "Common Area" on the map of "Cypress Trace, Sections Five, Six and Seven" recorded in Plat Book 58, Page 5, in the Office of the Register of Deeds of Cumberland County.

(4) The "Lots" in the area hereby annexed to the subdivision which are and shall be owned in fee simple and have all the attributes on the Lots defined in the Declaration are Lots 25 through 40, all as shown and delineated on the aforesaid plat of Cypress Trace, Sections Five, Six and Seven, recorded in Plat Book 58, Page 5, in the Office of the Register of Deeds of Cumberland County.

(5) The owners of the Lots and Common Area in Cypress Trace, Sections One, Two, Three and Four shall have and are hereby granted non-exclusive easements in the Common Area in

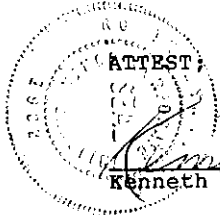
Cypress Trace, Sections, Five, Six and Seven and the owners of the Lots and Common Area in Cypress Trace, Sections Five, Six and Seven shall have and are hereby granted non-exclusive easements in the Common Area in Cypress Trace, Sections One, Two, Three and Four. All and singular of said easements shall have the characteristics and be subject to the conditions specified in the Declaration recorded in Book 3006, Page 223, and amended in Book 3040, Page 69, in the Office of the Register of Deeds of Cumberland County.

(6) The property covered by this instrument is that described on the plat entitled "Cypress Trace, Sections Five, Six and Seven", as shown and delineated on a map recorded in Plat Book 58, Page 5, in the Office of the Register of Deeds of Cumberland County, which map is incorporated herein by reference.

IN TESTIMONY WHEREOF, Robin Lynn, Inc. has hereunto caused this instrument to be executed by its President, attested by its Secretary, and its corporate seal to be hereto affixed, all by order of its Board of Directors first duly given, this the day and year first above written.

ROBIN LYNN, INC.

By: Robert H. McDonald  
Robert H. McDonald, President



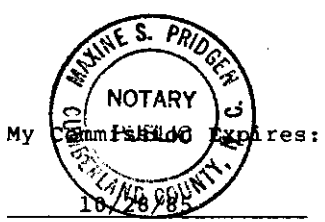
Kenneth F. McDonald  
Kenneth F. McDonald, Secretary

STATE OF NORTH CAROLINA  
COUNTY OF CUMBERLAND

I, Maxine S. Pridgen, a Notary Public in and for said County and State, do hereby certify that on the 30th day of July, 1985, before me personally appeared Robert H. McDonald with whom I am personally acquainted, who, being by me duly sworn, says that he is President and that Kenneth F. McDonald is Secretary of ROBIN LYNN, INC. the corporation described in and which executed the foregoing instrument; that he knows the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal; that the name of the corporation was subscribed thereto by the said President; that the said President and Secretary subscribed their names thereto and the said common seal was affixed, all by order of the Board of Directors of said corporation; and that the said instrument is the act and deed of said corporation.

WITNESS my hand and notarial seal, this the 30th day of July, 1985.

*Maxine S. Pridgen*  
Notary Public



NORTH CAROLINA, CUMBERLAND COUNTY  
The foregoing or annexed certificate of *Maxine S. Pridgen*  
Notary Public/Notaries Public is/are certified to be correct.  
This instrument was presented for registration and recorded in this Office at Book 3084 Page 171  
This 30 day of July, 1985 at 4:15 O'clock P M.  
George E. Tatum By *Helen J. Fisher*  
Register of Deeds Deputy Register of Deeds