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NORTH CAROLINA

PITT COUNTY

DECLARATION OF CONDITIONS, RESTRICTIONS
AND COVENANTS RUNNING WITH THE LAND

KNOW ALL MEN BY THESE PRESENTS, Joseph D. Speight and wife, Maxine A. Speight, do hereby covenant and agree to and with all other persons, firms or corporations now owning or hereafter acquiring as owners any tract or parcel of land in the area designated or located in or near Pitt County, North Carolina known as Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 of Moss Bend, Section I, recorded in Map Book 33, Pages 55 and 56, of the Pitt County Registry; said tracts are hereby subjected to the following covenants and restrictions as to the use thereof, running with the land by whomsoever owned to wit:

1. These covenants are to run with the land and shall be binding on all parties and persons claiming under them until January 1, 2006, at which time said covenants shall be automatically extended for successive periods of ten years unless by a vote of a majority of the then owners of the tracts it is agreed to change said covenants in whole or in part.

2. If the undersigned or its successors or assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or persons owning any real property situated in said development to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate any such covenants and either to prevent him or them from so doing or to recover damages or other dues for such violation, except the party of the first part is specifically excluded from any liability for damages.

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

4. No structure shall be erected, placed or permitted to remain on any residential plot other than one detached single family dwelling and other outbuildings incident to the residential use of the plot. No structure of any type shall be started on any of the above described tracts until the plans of such structure and the

plot plan showing the location of such structure has been approved by Joseph D. Speight or the architectural committee of the Moss Bend Homeowners Association, Inc. Such action in either event must be in writing.

5. Lot 7 and Lot 16 may be divided once each provided that in no case shall any subdivided plot be less than 3/4 acre for Lot #7 or 1.5 acres for Lot #16. Divisions of lots shall comply with Pitt County Subdivision regulations or an approved variance of said regulations. No other lots may be subdivided.

6. No buildings shall be located on any residential building plot nearer to any lot line than as shown on the recorded plat. No building shall be located nearer than 10 feet to any side lot line.

7. All trees on lot lines shall be maintained as a buffer between residential plots. Any trees destroyed by construction, natural causes or any other cause shall be replaced by owner of said tract.

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

9. No trailer, basement, tent, shack, garage, barn or other outbuilding erected in the tract shall at any time be used as a residential temporarily or permanently nor shall any structure of a temporary character be used as a residence, except a family fallout shelter built in conformity to plans and location approved by the Office of Civil Defense Mobilization and Joseph D. Speight or the architectural committee of Moss Bend Homeowners Association, Inc.

10. No barns, stables, and outbuildings for the purpose of maintaining horses shall be permitted on any lot.

11. No dwelling costing less than \$80,000 nor having less than 2000 square feet of living area shall be permitted on any tract except a dwelling costing not less than \$64,000.00 and having at least 1600 square feet of living area shall be permitted on Lot 1 and a dwelling costing not less than \$72,000.00 and having at least 1800 square feet of living area shall be permitted on Lot 2, it being the intention to require in each instance the erection of such a dwelling as would have cost not less than the minimum cost

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required if the same had been erected in January, 1986 in this locality. That is, the above cost is to be estimated on a basis of January, 1986 construction costs in this locality.

12. Nothing herein contained shall be construed as imposing any covenants or restrictions on any property of the owners of this tract of land other than those properties to which these Restrictive Covenants specifically apply.

13. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat as above referred to. The easement area of each tract and all improvements in it shall be maintained continuously by the owner of the tract except for those improvements for which a public authority or utility company is responsible. Furthermore, an easement of ten feet in width for the installation and maintenance of underground utilities is reserved along any lot line abutting a street.

14. All individual purchasers from and after this date shall be required to keep their respective tracts free and clear of weeds, rubbish, trash, debris and other matter.

15. There is hereby dedicated as a private road, that property shown as Landing Circle, on the map hereinabove referred to along with an easement for the owner of each lot, their heirs and assigns for ingress, egress and regress over and above Landing Circle.

16. The declarant, for each lot owned within the subdivision, hereby covenants, and each owner of any lot by the acceptance of a deed therefore, whether or not it shall be expressed in such deed, is deemed to covenant and agree and accept membership in Moss Bend Homeowners Association, Inc. The charter of said corporation is recorded in Book 25 Page 508 of the Book of Corporations of the Pitt County Register of Deeds.

17. Moss Bend Homeowners Association, Inc. shall be regulated pursuant to the By-Laws of Moss Bend Homeowners Association, Inc., a copy of which is recorded in the office of the Register of Deeds of Pitt County.

18. It shall be the duty and power of Moss Bend Homeowners Association, Inc. to maintain and repair the streets and any common areas within the subdivision and to pro-rate the cost of any such

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maintenance or repairs to the owner of each lot within the subdivision. Such proration for maintenance or repairs of the road shall be made by assessing to each lot owner, based on the front footage of their lot abutting on Landing Circle, as a percentage of the total road frontage of Landing Circle and dividing it into the total expenditure which would constitute the amount due by each lot owner. Any other costs for maintenance or repairs of any common areas within the subdivision shall be pro-rated on a per lot basis by taking the total number of lots and dividing it into the total expenditure which would constitute the amount due by each lot owner.

19. All assessments by Moss Bend Homeowners Association, Inc., together with interest, costs and reasonable attorneys fees, shall be a charge and lien on the lot against which each assessment is made, if such assessment is not paid within 30 days after notice is sent to each owner. Such assessments, together with interest, costs and reasonable attorneys fees, shall also be the personal obligation of the person who has the ownership of such property at the time when the assessment falls due. The obligation for delinquent assessments shall run with the land and pass to the successors in title.

IN WITNESS WHEREOF, the declarant has executed this document the day and year first above written and adopted the word "Seal" appearing afte their name as their own.

Joseph D. Speight (SEAL)
JOSEPH D. SPEIGHT
Maxine A. Speight (SEAL)
MAXINE A. SPEIGHT

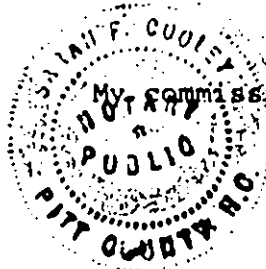
NORTH CAROLINA

COUNTY OF PITT

I, Joseph F. Cooley, a Notary Public of the aforesaid County and State do hereby certify that JOSEPH D. SPEIGHT and wife, MAXINE A. SPEIGHT, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and Notarial Seal, this the 24th day of January, 1986.

Joseph F. Cooley
NOTARY PUBLIC



My commission expires: June 27, 1989

NORTH CAROLINA: Pitt County
The foregoing certificate of Joseph F. Cooley N. P. of Pitt Co, NC
is certified to be correct.
Filed for registration at 12:54 o'clock P M this 28th day of January, 1986.

ELVIRA T. ALLRED, Register of Deeds

By Elvira T. Allred

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BY-LAWS
OF
MOSS BEND HOMEOWNERS ASSOCIATION, INC.

ARTICLE I
NAME AND LOCATION

The name of the corporation is Moss Bend Homeowners Association, Inc., hereinafter referred to as the "Association". The principal office of the corporation shall be located at Route 1 Box 71D Grimesland, Pitt County, North Carolina, but meetings of members and directors may be held at such places within the State of North Carolina, County of Pitt, as may be designated by the Board of Directors.

ARTICLE II
DEFINITIONS

Section 1: "Association" shall mean and refer to Moss Bend Homeowners Association, Inc., its successors and assigns.

Section 2: "Properties" shall mean and refer to that certain real property described in the Declaration of Conditions, Restrictions, and Covenants 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 the Owners.

Section 4: "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 5: "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the 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 6: "Declarant" shall mean and refer to Joseph D. Speight and wife Maxine A. Speight their heirs and assigns, if such heirs or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7: "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Office of the Register of Deeds of Pitt County, North Carolina.

Section 8: "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

Section 9: "Mortgagee" shall mean and refer to persons, firms or corporations holding a recorded lien appearing of record in the Pitt County Registry against any Lot as defined in Section 4 hereof.

ARTICLE III
MEETING OF MEMBERS

Section 1: Annual Meetings. The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on the same day and the same month of each year thereafter, at the hour of 8:00 o'clock p.m. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2: Special Meetings. Special meetings of the members may be called at any time by the president or by the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (1/4) of all of the votes of the Class A membership.

Section 3: Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 15 days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4: Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5: Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot.

Article IV

BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE

Section 1: Number. The affairs of this Association shall be managed by a Board of three (3) directors, who need not be members of the Association.

Section 2: Term of Office. At the first annual meeting the members shall elect one director for a term of one year, one director for a term of two years and one director for a term of three years; and at each annual meeting thereafter the members shall elect three directors for a term of three years.

Section 3: Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4: Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5: Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE V

NOMINATION AND ELECTION OF DIRECTORS

Section 1: Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members.

Section 2: Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VI

MEETINGS OF DIRECTORS

Section 1: Regular Meetings. Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

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Section 2: Special Meetings. Special Meetings of the Board of Directors shall be held when called by the president of the Association, or by any two directors, after not less than three (3) days notice to each director.

Section 3: Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1: Powers. The Board of Directors shall have power to:

(a) adopt and publish rules and regulations governing the use and maintenance of the Common Area, private road and any facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting rights and right of use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations;

(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

(e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties; provided always, any contract for professional management must contain a clause requiring not more than 90 days termination notice.

(f) procure, maintain and pay premiums on a master policy of hazard insurance on the buildings standing on the "lots" on the "properties" in an adequate amount, and to equitably assess the owners of the same for their pro-rata portion of such expense.

Section 2: Duties. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A members who are entitled to vote;

(b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(c) as more fully provided in the Declaration, to:

(1) fix the amount of the any assessment against each Lot at least thirty (30) days in advance of each assessment;

(2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each assessment; and

(3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same.

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

- (e) procure and maintain, at all times, adequate hazard insurance on the property owned by the Association and sufficient liability insurance to adequately protect the Association;
- (f) cause all officers or employees, including officers and employees of professional management, having fiscal responsibilities to be bonded, as it may deem appropriate;
- (g) cause the Common Area to be maintained;
- (h) cause the exterior of the dwellings to be maintained.

ARTICLE VIII

OFFICERS AND THEIR DUTIES

Section 1: Enumeration of Officers. The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2: Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3: Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year or until his successor is elected and qualified, unless he shall sooner resign, or shall be removed, or otherwise be disqualified to serve.

Section 4: Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, having such authority, and perform such duties as the Board may, from time to time, determine.

Section 5: Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6: Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaced.

Section 7: Multiple Officer. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8: Duties. The duties of the officers are as follows:

President

(a) The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

Vice-President

(b) The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

(c) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board. He shall maintain a registry for mortgagees or properties of members of the Association, and, upon satisfactory arrangements for reimbursement of expenses incurred, advise such mortgagees of an owner or any delinquency of as much as thirty (30) days of the payment of such owner's annual assessment, and to furnish to

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such mortgagee annual reports and other financial data; and he shall notify such mortgagee of any condemnation procedures filed against the Association and to advise them if such action results in an award for damages to the Association's property of \$10,000.00 or more.

Treasurer

(d) The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

ARTICLE IX
MORTGAGEES OR LIENHOLDERS

Any Mortgagee of or lienholder on, any lot may file with the Moss Bend Homeowners Association a declaration of his interest therein. Thereafter, the consent of seventy-five percent (75%) of the mortgagees or lienholders on all lots in Moss Bend, then under mortgagees or lien, shall be required in order for the association to:

(a) Remove, abandon, or substantially alter any property taken under its control for the use and benefit of the owners of properties in Moss Bend, from its original use and purpose, or from its status for common use.

(b) Diminish the voting interest of any lot owner to less than one vote for each lot in Moss Bend, or increase the total votes to a larger number than the total number of lots in Moss Bend.

(c) Dedicate any common areas to any public agencies other than for normal utility easements.

(d) Substantially alter the terms of the By-Laws of the Moss Bend Homeowners Association, Inc., or the Declaration of Conditions, Restrictions and Covenants of Moss Bend.

(e) Abridge the right of a mortgagee of lots in Moss Bend to protect the common area from jeopardy for unpaid taxes, liens and assessments, and in the event any mortgagee shall pay overdue taxes, insurance premiums, or assessments on common property, impair the right to such mortgage to immediate reimbursement from the Association for all sums so expended in the protection of the common elements.

ARTICLE X
COMMITTEES

The Association shall appoint an Architectural Control Committee, as provided in the Declaration, and a nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE XI
BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member or a mortgagee of any member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE XII
ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association any assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eight (8%) per cent per annum, and the Association may bring an action at law against the Owner personally

obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessment provided for herein by nonuse of the Common Area, private road or abandonment of his Lot.

ARTICLE XIII
CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: Moss Bend Homeowners Association, Inc., and the words: "CORPORATE SEAL", in the center thereof.

ARTICLE XIV
AMENDMENTS

Section 1: These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy, except that the Federal Housing Administration of the Veterans Administration shall have the right to veto amendments while there is Class B membership.

Section 2: In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE XIV
INSURANCE AND CASUALTY LOSSES

Section 1: Insurance. The Association's Board of Directors or its duly authorized agent shall have the authority to and shall obtain insurance for all insurable improvements constructed on the Common Property against loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief, in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. The Board of Directors of the Association or its manager shall also obtain a public liability policy covering the Common Property and facilities thereon in such amounts and in such form as shall be determined by the Board of Directors of the Association covering the Association, the Board of Directors and officers of the Association, all agents and employees of the Association, and all Lot Owners and other persons entitled to use the Common Property and facilities thereon. Premiums for all such insurance shall be common expenses paid for by the Association. Such insurance shall be governed by the following provisions:

- (a) All policies shall be written with a company licensed to do business in the State of North Carolina.
- (b) Exclusive authority to negotiate and accept settlement under policies hereafter in force on the Common Property shall be vested in the Association's Board of Directors.
- (c) The Association's Board of Directors or its manager shall conduct an annual insurance review which shall include a replacement cost appraisal, without respect to depreciation, of all insurable improvements constructed on the Common Property.
- (d) The Association's Board of Directors or its manager shall be required to make every reasonable effort to secure insurance policies that will provide for the following: (1) a waiver of subrogation by the insurer as to any claims against the Association, its Board of Directors, its manager, or its members and their respective families, tenants, agents and guests, with respect to property coverage, except for arson and fraud; (2) a waiver by the insurer of its right to repair or reconstruct instead of paying cash; (3) that the policies cannot be cancelled, invalidated or suspended on account of the conduct of any one or more members or on account of the conduct of any director, officer or employee of the Association or its manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its agent, mortgagee or any member.

Section 2: Insurance Trustee. All casualty insurance policies purchased by the Association shall provide that proceeds covering property losses shall be paid to an insurance trustee, which

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shall be the Association or a bank or other financial institution having trust powers with offices in North Carolina, as may from time to time be approved by the Board of Directors of the Association, which insurance trustee in herein sometimes referred to as the "Depository". In the event the Association shall act as insurance trustee, then the provisions of this Declaration which by their context contemplate the "Depository" as a party separate from the Association shall not apply. The duty of the Depository shall be to receive such proceeds as are paid and hold the same for the purposes elsewhere state herein.

Section 3: Damage and Destruction.

(a) Immediately after any damage or destruction by fire or other casualty to all or any part of the Common Property and common facilities, the Association's Board of Directors or its manager shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damages or destroyed property. Repair or reconstruction, as used in this Article means repairing or restoring the property to substantially the same condition in which it existed prior to the fire or other casualty. Subject to subsection (b) and (d) hereof, all such damage or destruction shall be repaired or reconstructed as soon as practicable after any such casualty shall occur.

(b) If the estimated cost to repair or reconstruct the property which is damaged or destroyed exceeds the amount of insurance proceeds and other funds, if any, available to meet the same, then, subject to the assent of at least two-thirds (2/3rds) or the votes of each Class of members in the Association who are voting in person or by proxy at a meeting duly called for such purpose, the Association's Board of Directors may levy a special assessment against the Lot Owners to provide the additional funds needed for such repair or reconstruction. Unless the estimated cost to repair or reconstruct is \$5,000.00 or less, the proceeds from insurance and special assessments, if any, shall be deposited with the Depository and disbursed as hereinafter provided.

(c) In the event that the insurance proceeds and assessments, if any, paid to the Depository are in excess of the Depository's expenses and cost of repair or reconstruction, such excess shall be disbursed to the Association as hereinafter provided.

(d) Any such damage or destruction to the Common Property and common facilities shall be repaired or reconstructed unless a special assessment requiring membership approval shall be required and the members of the Association shall fail to approve the same within sixty (60) days after the casualty, in which event the damaged or destroyed area or areas shall not be repaired or reconstructed, but rather shall be cleaned up and maintained in a neat and attractive condition. If, for any reason, the amount of the insurance proceeds to be paid as a result of such damage or destruction is not made available to the Association within thirty (30) days after the casualty, then said sixty (60) day period shall be extended correspondingly until such information shall be made available to the Association. In all cases, the Depository may rely upon a certificate signed by the manager of the Association, if any, or by the President and Secretary of the Association, to determine whether damage or destruction is to be repaired or reconstructed.

Section 4: Disbursement of Proceeds.

(a) If the damage or destruction is not to be repaired, then, after paying or making provision for the expenses of the Depository, the net proceeds of any insurance paid to the Depository shall be disbursed to the Association to pay for the cost of cleaning up the Common Property and for such other purposes as the Board of Directors of the Association shall determine.

(b) If the damage or destruction for which the insurance proceeds are paid to the Depository is to be repaired or reconstructed, then, after paying or making provision for the expenses of the Depository, the remaining proceeds shall be disbursed to defray the cost of such repairs or reconstruction as herein provided. Any proceeds remaining after defraying such costs shall be disbursed to the

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Association for such purposes as the Board of Directors of the Association shall determine.

(i) Minor Damage. If the amount of the estimated cost of reconstruction and repair is \$5,000.00 or less, then the construction fund shall be disbursed in payment of such costs upon the order of the Association; provided, however, that upon written request to the Depositary by the holder of any mortgage affecting that portion of the Common Property being repaired or reconstructed, such fund shall be disbursed in the manner hereafter provided for the reconstruction and repair of major damage. Under the latter circumstances, any special assessments collected by the Association for repair or construction shall also be deposited with the Depositary and disbursed in the same manner.


(ii) Major Damage. If the amount of the estimated cost of reconstruction and repair is more than \$5,000.00, then the construction fund shall be disbursed in payment of such costs in the manner required by the Board of Directors of the Association and upon approval of a registered architect or licensed professional engineer selected and employed by the Board of Directors of the Association to supervise the work, or upon approval of a builder selected and employed by the Board of Directors of the Association to supervise or perform the work provided such builder is approved by the holder of any mortgage affecting that portion of the Common Property being repaired or reconstructed.

(iii) Certificate. Notwithstanding the provisions herein, the Depositary shall not be required to determine whether or not sums paid by Lot Owners upon assessment shall be deposited by the Association with the Depositary, nor to determine whether the disbursements from the construction fund are to be upon the order of the Association or upon approval of any third party, nor whether a disbursement is to be made from the construction fund, nor to determine any other fact or matter relating to its duties hereunder. Instead, the Depositary may rely upon a certificate of the Association made by its President and Secretary or manager, if any, as to any or all of such matters and stating the name of the payee and the amount to be paid; provided that when the holder of any mortgage encumbering that portion of the Common Property which is being repaired or reconstructed shall specifically request the Depositary to do so in writing, the approval of a registered architect, licensed professional engineer or approved builder shall be first obtained by the Association.

ARTICLE XVI
MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, being the Incorporator of the Moss Bend Homeowners Association, Inc. has hereunto set his hand and seal, this the 28th day of January, 1986.

 (SEAL)
STEPHEN F. HORNE II

NORTH CAROLINA
COUNTY OF RITCHEY

I, Robin M. Miller, a Notary Public of the aforesaid County and State, do hereby certify that Stephen F. Horne II personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes herein set forth.

Witness my hand and Notarial Seal, this the 28th day of January, 1986.



Robin M. Miller
Notary Public

My Commission Expires: _____