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Onslow County, NC  
Rebecca L. Pollard Reg. of Deeds  
BK **3697** PG **899-918**

**FIRST AMENDMENT TO DECLARATION OF COVENANTS  
CONDITIONS AND RESTRICTIONS FOR  
QUEENS HARBOR SUBDIVISION**

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for QUEENS HARBOR, Swansboro, North Carolina, made this 20th day of December, 2011, by KEYSTONE CONTRACTORS, INC., a North Carolina corporation (hereinafter referred to as "Declarant").

**WITNESSETH:**

**WHEREAS**, Declarant did file a Declaration of Covenants, Easements, Conditions, and Restrictions for Queens Harbor, Section I in Book 2937 Page 168, Onslow County Registry; and

**WHEREAS**, Article XVII of said Declaration gives to the Declarant the authority to amend the said Declaration; and

**WHEREAS**, Declarant being the owner of all but two lots within the Queens Harbor subdivision does now desire to amend the said Declaration as hereinafter provided;

**NOW THEREFORE**, Declarant hereby amends the said Declaration and declares that the Lots (as defined below) and other property comprising the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, and easements set forth in this Declaration which are for the purpose of protecting the value and desirability of the Property, and which shall run with the Property and be binding on all parties owning any right, title, or interest in the Property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

The Declaration of Covenants, Easements, Conditions and Restrictions For Queens Harbor, Section I recorded in Book 2937 Page 168, Onslow County Registry are hereby repealed and stricken of record and in lieu thereof the following covenants, easements, conditions and restrictions shall apply to the Property.

**ARTICLE I**

**PROPERTY SUBJECT TO THIS DECLARATION  
ADDITIONS THERETO**

**Section 1 Existing Property:** The real property which is and shall be held transferred, sold, conveyed and occupied subject to this Declaration, irrespective of whether there may be additions thereto as hereinafter provided, is located in Onslow County, North Carolina, and is more particularly described on Exhibit "A" attached and incorporated herein (Queens Harbor, Section I, Revised).

**Section 2 Additions to Existing Property:** Additional property adjacent to or adjoining the Existing Property may be brought within the scheme of this Declaration and the jurisdiction of the Association (as defined below) by Declarant without the consent of the Association or its Members (as hereinafter defined); provided, however, that said annexations, if any, must occur within twenty (20) years after the date of the filing of this Declaration. Declarant shall not be obligated to subject any additional property to this Declaration. Such additions shall be made by filing a Supplemental Declaration of Covenants, Conditions, and

Restrictions with respect to the additional property in the Onslow County, North Carolina, Public Registry, which shall extend the scheme of this Declaration and the jurisdiction of the Association to such properties and thereby subject such additions to the benefits, agreements, restrictions and obligations set forth herein Exhibit "B".

## **ARTICLE II**

### **DEFINITIONS**

**Section 1** "Association" means Queens Harbor Home Owners Association, its successors and assigns.

**Section 2** "Common Area" means any real property and property rights owned by the Association for the common use and enjoyment of the Owners and/or designated as "HOA" Area, sign buffers, all plant easements, and private streets on the Map of the Property, together with all improvements and facilities installed upon or used in connection with such real property and property rights. The Common Areas shall include without limitations, the Association's right (if any) in and to the Private Streets and access easements, parks and ponds.

**Section 3** "Declarant" means Keystone Contractors, Inc. and any successor thereof so designated as a Declarant hereunder, which successor has purchased all remaining Lots not theretofore sold by Keystone Contractors, Inc. (or any successor Declarant) to third party purchasers. At any time, and from time to time, Declarant may relinquish any one or more of the rights granted to or reserved in favor of Declarant in this Declaration by written instrument recorded in the Onslow County Public Registry, and from and after the recording of any such instrument, the Association shall thereafter have the power to exercise such right and shall thereafter be responsible for all obligations and liabilities with respect to such right. At such time as Declarant ceases to be a Member of the Association, all rights granted to or reserved in favor of Declarant shall be deemed transferred to and exercisable by the Association, and the Association shall from and after such time be liable for all actions taken in the exercise of such rights, with the exception of the right of architectural control provided for in Article III of this Declaration, which shall be relinquished by Declarant only in the manner and at the time set forth in such Article.

**Section 4** "Lot" or "Unit" means any plot of land, with delineated boundary lines, shown upon the Map and other subdivision map of the Property recorded after the Map is recorded. In the event and Lot is increased or decreased in size by re-subdivisions or through recordation of new subdivision plats, any such newly plotted lot shall thereafter constitute a Lot for the purpose of this Declaration.

**Section 5** "Map" means that certain map of Queens Harbor Section I, Revised, as recorded in Map Book 53 Page 51 Slide L-1866 and the Recombination/Easement Plat Queens Harbor Section I Lots 33 and 34 as recorded in Map Book 63 Page 44 Slide O-77 as it appears in the Onslow County, North Carolina, Public Registry, and the map(s) of any additions to the Existing Property which may be recorded by Declarant in the Onslow County Public Registry.

**Section 6** "Member" means every person or entity that holds membership in the Association.

**Section 7** "Mortgage" means any mortgage or deed of trust constituting a recorded first lien on a Lot.

**Section 8** "Mortgagee" means the owner and holder of a mortgage at the time such term is being applied.

**Section 9** "Owner" means the recorded owner, whether one or more person or entity, of fee simple title to any Lot which is part of the Property, including contract sellers and owners of any equity or redemption, but excluding those having such interest in a Lot solely as security for the performance of an obligation.

**Section 10** "Private Streets" means any streets marked as such on any Map of the Property and/or designated by Declarant as Private Streets or until such Public Right of Ways are accepted by the appropriate public authority. The Private Streets shall include all paved portions of such

streets, adjoining curbs and gutters, all storm drains, water lines, sanitary sewer lines, and other utility facilities installed therein or thereunder, all landscaped medians therein, and adjoining landscaped areas within the full width of the right-of-way of the Private Streets as shown on any Map or as designated in writing by Declarant.

**Section 11** "Service Alley" means all Drainage, Utility and Access Easements as designated on a Final Plat and will be used for ingress, egress, and regress to and from a Lot.

**Section 12** "Service Alley Group" mean the owners of Lots that adjoin any segment of a contiguous Service Alley.

**Section 13** "Property" means the "Existing Property" described in Article I, Section 1 hereof, and any additions thereto, as are or shall become subject to this Declaration and any Supplementary Declaration under provisions of Article I, Section 2 hereof.

**Section 14** "Community" or "Queens Harbor" – The real property described in Exhibit "A", together with such additional property as is subjected to this Declaration in accordance with Article VIII.

**Section 15** "Architectural Review Board" is a committee of three (3) owners that can be appointed by the Declarant or the Association to provide a system consistent with the rules and regulations outlined herein for examining, approving, or disapproving all proposed improvements for a building site at Queens Harbor.

**Section 16** "Building Contractor Approval" is the Process and regulations set forth by the Declarant that requires each Builder/Contractor engaged in the construction of any building in Queens Harbor to submit a Queens Harbor Builders Application and must be approved by the Declarant.

### ARTICLE III

#### ARCHITECTURAL CONTROL

**Section 1** **Duration of Control:** Because Declarant may develop areas adjoining the subdivision and bring same within the scheme of this Declaration; Declarant shall retain the right of architectural control as provided for in this Article III for twenty (20) years from the date of this filing of this Declaration even though the Declarant at the time of any exercise of such control may not own a Lot. However, the Declarant may, at its sole option, surrender such right of architectural control at any time by a duly recorded written instrument, and, at such time, the Association shall have the power through an additional duly recorded written instrument to appoint an architectural review board (the "Architectural Review Board"), which Architectural Review Board, if so appointed, shall have the right of architectural control as described in the Article, and shall retain such right until said Architectural Review Board is terminated by a duly recorded written instrument executed by the Association.

**Section 2** **Extent of Control:** No building, garage, fence, wall, sidewalk, hedge, mass planting, change in grade or slope, side preparation, swimming pool, tree house, children's play house, sign, exterior illumination, monument or marker, driveway, utility facility, mailbox, well, tennis court, patio, deck, dock or pier, shrubbery, landscaping, shutters, gutters or any other structure or improvement ("Improvements") shall be commenced, erected or maintained upon any Lot nor shall an exterior addition, change or alteration there of (including change of color) or anything that would alter the outside appearance of the House be made without the prior written approval of Declarant in its sole discretion. The areas over which Declarant shall have control shall include, but shall not be limited to, the size and plan of the principal residential structure, the location of the principal residential structure on the Lot, the size and plan of any attached or unattached garage or other building, the location and manner of construction of any driveway, swimming pool, utility facility, patio, mailbox, driveway, and landscaping monuments and markers or any other exterior improvements, the composition and color of all material used on the exterior of any structure and the location and type of any shrubbery. Declarant shall also have control over the removal of any tree or other vegetation from any Lot and no party shall grade, excavate upon or otherwise alter the topography of any Lot or remove any tree or other vegetation therefrom without obtaining the prior written approval of Declarant in accordance

with its general plan of development. The Declarant reserves the right to control absolutely and solely and to decide the precise site and location of any house or dwelling or other structure upon all Lots, provided however, that such locations shall be determined only after reasonable opportunity is afforded the Lot Owner to recommend a specific site.

**Section 3 Procedure:** Any party requiring approval of any proposed Improvements to any Lot shall submit to Declarant Plans and Specifications showing in such detail and manner as Declarant shall require the nature shape, height, color, material and location of any such improvements. Declarant, in its sole and absolute discretion, may require in particular instances that such plans and specifications be accompanied by a plat prepared by a professional surveyor showing the location of the proposed Improvements on the Lot. All decisions by Declarant shall be based on Declarant's discretionary determination as to whether any particular Improvement is suitable and harmonious with the development of the property. Declarant's approval or disapproval of any proposed Improvement shall be in writing. In the event that Declarant fails to approve or disapprove any such proposed Improvement within thirty (30) after complete plans and specifications in such detail as Declarant may require have been received by it, such plans and specifications shall be deemed approved. Subsequent to the approval of any plans and specifications, the Owner shall have the responsibility for making such Improvements in accordance with the plans and specifications as approved. Approval by Declarant of any proposed Improvements shall not constitute or be construed as approval of the structural stability, design, or quality of any Improvement or the compliance of any such Improvement with applicable laws and codes. Refusal or approval of plans, specifications or location may be based upon any grounds, including purely aesthetic considerations, which in the opinion of and the sole and uncontrolled discretion of Declarant shall be deemed sufficient.

In the event any Owner violates the terms of this Section, Declarant or its duly appointed agent shall, after thirty (30) days written notice to Owner to cure such violation and failure of Owner to so cure, be entitled to enter upon the Lot(s) of Owner and cure such defect including the removal of any Improvements built in violation hereof, all at the cost and expense of Owner. Any cost and expenses incurred by Declarant or such duly appointed agent in connection with the cure of any such violation shall be a lien upon such Lot(s), and upon the failure of such Owner to reimburse Declarant or such agent for such costs and expenses upon demand, Declarant or such agent may enforce such lien against such Lot(s) in the same manner as is provided for enforcement of the Association's lien for non-payment of assessments as provided for in Article VII, Section 8, herein below. This right of the Declarant or its agent or its agent shall be in addition to all other general enforcement rights which the Declarant may have for a breach or violation of the terms of this Declaration and shall not be deemed a trespass by Declarant or its agents. Declarant reserves the right for reasonable needs, but shall not be obligated, to waive in writing any violation of this provision.

**Section 4 Site and Landscape Plan Submission:** Approvals shall be dated and shall not be effective for construction commenced more than twelve (12) months after such approval. A reasonable statement of items found unacceptable shall accompany disapproved Plans and related data. In the event approval of such plans is neither granted nor denied within thirty (30) days following receipt by the Declarant or the Association of all of the required documents with written request for approval, such approval shall be deemed granted. Refusal of approval of plans, location or specification may be based by the Declarant or the Association upon any ground which is consistent with the objectives of this Declaration, including purely aesthetic considerations, so long as such ground is not arbitrary and capricious. The Plan should be drawn to a true scale and all data shall be clear and legible. The plan shall follow design criteria as established herein.

**Section 5 Building Contractor Approval:** The Declarant has established a Builder Program for Queens Harbor. The Declarant shall have the authority to set forth rules, regulations, and requirements for the Builder Program. Before any contractor or builder may perform or engage in any construction activity on a Unit, such Contractor or builder shall: (a) be required to submit a builder application to the Declarant; (b) be approved by the Declarant to participate in the Builder Program; and (c) agree to comply with all the terms and conditions of the Governing Documents and the rules, regulations and requirements of the Builder Program. Approval of a contractor or builder shall not be construed as an endorsement of the contractor or builder by the Declarant, nor shall the Declarant be liable for any loss, damage, or injury, to any person arising out of the Owner's election to use such contractor or builder.

## ARTICLE IV

### COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

**Section 1**     **Rules and Regulations:** The Board of Directors of the Association shall have the power to formulate, amend, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the Common Areas. 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 Resolutions that shall be maintained in a place convenient to the Owners and available to them for inspections during normal business hours.

**Section 2**     **Use of Lots:** All lots and buildings shall be single-family residential lots and shall be used for residential purposes. The Developer may use one or more homes for offices and/or models for sales purposes. The foregoing shall not be construed to limit or prohibit offices within the home provided said offices are not open to the public or held out to be for public visitation use or convenience.

**Section 3**     **Subdivision of Lots:** No lot shall be subdivided, or its boundary lines changed, by sale or otherwise so as to reduce the total Lot area shown on the Map, except with the written consent of the Declarant provided same is also permitted under applicable governmental regulations and private restrictions affecting said Lot. However, the Declarant hereby expressly reserves to itself, its successors and assigns, the right to re-plat any lot and to take such other steps as are reasonably necessary to make such re-platted lot suitable and fit as a building site including, but not limited to, the relocation of easements, walkways, right-of-way, private roads, bridges, parks, recreational facilities, and other lots.

The provisions of this section shall not prohibit the combining of two (2) or more contiguous lots into one (1) larger lot or dividing a lot between adjacent properties so long as the effect of subdividing does not create an additional lot for building purposes. Following the combining of two (2) or more lots into one (1) larger lot, or dividing adjacent lots, only the exterior boundary lines of the resulting larger lots shall be considered in the interpretation of these covenants. Consolidation of lots, as described above, must be approved by the Declarant and shall be subject to one Association Membership.

**Section 4**     **Intentionally Omitted.**

**Section 5**     **Reserved Utility Easements:** In addition to the easements reserved on the Map, the Declarant reserves for itself, and its successors and assigns, a permanent easement in and the right at any time in the future to grant a permanent right of way over, under and along and area uniformly ten (10) feet in width along the front lines of each Lot for the installation and maintenance of poles, lines conduits, pipes and other equipment necessary or useful for furnishing electrical power, gas, water, sewer, telephone service and other utilities and drainage facilities. Within such areas no structures, plantings, fences or other material shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities or which may obstruct or retard the flow of water through drainage channels in such areas. The area of each Lot containing the easement and all improvements thereon shall be maintained continuously by the Owner of the Lot except for those improvements for which a Public Authority or utility company is responsible.

**Section 6**     **Easements Reserved for the Association:** The Association is hereby granted an easement for the installation and maintenance of all of the Common Areas.

**Section 7**     **Exterior Lights:** All light bulbs or other lights installed in any fixture located on the exterior of any building or on any Lot shall be clear, white or non-frost lights or bulbs, and shall be low level (not fluorescent, neon, etc.). No street lights or other high intensity lights are permitted other than those installed by Declarant.

**Section 8**     **Electrical Power** The Declarant reserves the right, at its option, to subject the Property, or any portion thereof, to a contract with Jones-Onslow Electric Member Cooperative

which may require a continuing monthly payment to Jones-Onslow Electric Member Cooperative by the Association.

**Section 9 Approval of Plans** A plot plan showing the house, driveway, walls, fences, water lines, front, rear and side elevations, together with specifications on the exterior siding, square footage, windows, doors, roofing, and exterior colors must first be submitted to Declarant for review and approval prior to the beginning of any construction to include site work.

**Section 10 Landscape Design Criteria:** Queens Harbor natural setting offers a unique environment that must be preserved as a framework for development. After completion of construction, all properties shall be landscaped. The landscape design shall be adequate in scope and compliment the design of the dwelling as well as the context of the neighborhood. Landscaping for drainage is a requirement, so careful planning needs to be done to ensure drainage from the lot into the development's drainage system. Therefore, before any landscape work may begin all planned fill must be in place and final grade achieved and inspected to ensure proper drainage.

**A. Existing Vegetation:** The removal and pruning of any tree or any area of under-story growth without permission from the Declarant is prohibited. Tree removal required in developing the property may necessitate the planting of additional trees as mitigation in order to conform to Declarant requirements or Onslow County regulations.

Driveway entrances, curb cuts, and Parking Pads are not allowed except by written approval of the Declarant.

**B. Landscape Material**

- 1) Special care should be taken to retain natural buffers of vegetation when feasible and to relocate existing vegetation worthy of retention but unsuitable in its present location. Plant groupings can be massed to control views or become the focal point of a view. The scale of the plants should enhance the architectural form of the structure and serve as a transition from the interior of the house to the exterior natural environment.
- 2) Site grading and drainage should minimize disturbance to existing grade elevations around trees. Maintaining the basic tree cover of each lot preserves the general character of the development and minimizes the amount of supplemental landscaping required softening the impact of the structure on the lot.
- 3) The use of flowering trees and shrubs is encouraged.
- 4) Care should be used in the selection of plants and flowers for size, tolerance of environment, and resistance to drought and wildlife.
- 5) Landscape approved sodded grass in the front yard with a landscape designed and planted by a reputable and competent landscape company.
- 6) Shrubs to be installed must be a minimum size of three gallons. Bedding plants, ground cover plants are not considered shrubs.
- 7) Planting beds near side property should blend with the landscaping, if already installed, on the adjacent property. Areas shown as grassed must be sodded as opposed to seeded or sprigged. Roadside right-of-ways or adjacent lots that are disturbed during construction must be graded and sodded so as to provide a continuous grass verge. Homeowners are encouraged to use ground cover in area of shade where it is difficult to grow grass.

**Section 11 Minimum House Size** The heated space for each Dwelling area, exclusive of porches, decks, and garages shall be no less than the heated square footage on each of the following lots, provided, however it is expressly understood and agreed that Declarant, in its sole discretion, may approve a ten (10%) percent variance:

<u>Lot</u>	<u>Heated Space for Each Dwelling</u>	<u>Lot</u>	<u>Heated Space for Each Dwelling</u>
6	1,800 Sq. Ft	31	2,400 Sq. Ft
7	1,800 Sq. Ft	32	2,400 Sq. Ft

8	1,800 Sq. Ft	33	2,400 Sq. Ft
9	1,800 Sq. Ft	34	2,400 Sq. Ft
10	1,800 Sq. Ft	35	2,400 Sq. Ft
11	1,800 Sq. Ft	102	1,800 Sq. Ft
22	2,000 Sq. Ft	103	1,800 Sq. Ft
23	2,000 Sq. Ft	104	1,800 Sq. Ft
24	2,000 Sq. Ft	105	1,800 Sq. Ft
30	2,400 Sq. Ft	106	1,800 Sq. Ft

**Section 12 Building Placement:** Since the establishment of inflexible setback lines for the location of houses on lots tends to force construction of houses directly to the side of other homes, with detrimental effects on privacy, view, preservation of important trees and other vegetation, ecological and related considerations, no specific setback lines shall be established by this Declaration.

**Section 13 Building Completion:** The exterior of all houses and other structures must be completed within twelve (12) months after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the Owner or builder, due to strikes, fires, national emergency or natural calamities.

**Section 14 Number of Dwellings and Height:** No structure shall be erected, altered, placed or permitted to remain on any Lot, except one single-family dwelling not to exceed 40 feet in height measured from the average ground elevation to the peak of the roof, unless the Declarant or its successor, as the case may be, approves in writing a structure of more than two-and-a-half stories, and one accessory buildings and a detached private garage or guest facilities and shall conform to the standards of Article III

**Section 15 Limitation on Impervious Surfaces:** The following covenants are intended to ensure ongoing compliance with State Stormwater Management Permit Number SW8 050504 as issued by the Division of Water Quality under NCAC 2H.1000. The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the storm water management permit. These covenants are to run with the land and be binding on all persons and parties claiming under them. The covenants pertaining to storm water may not be altered or rescinded without the express written consent of the State of North Carolina, Division of Water Quality. Alteration of the drainage as shown on the approved plan may not take place without the concurrence of the Division of Water Quality. The maximum allowable built-upon area is as listed below. The allotted amount includes any built-upon area constructed with the lot property boundaries, and that portion of the right-of-way between the front Lot line and the edge of the pavement. Built-upon area includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, coquina and parking areas, but does not include raised, open wood decking, or the water surface of swimming pools.

Lots	Built Upon Areas per Lot	Lots	Built Upon Areas per Lot
6	3700 Sq. Ft	31	4000 Sq. Ft
7	3700 Sq. Ft	32	4200 Sq. Ft
8	4000 Sq. Ft	33	4100 Sq. Ft
9	4300 Sq. Ft	34	5000 Sq. Ft
10	4300 Sq. Ft	35	4000 Sq. Ft
11	3700 Sq. Ft	102	4500 Sq. Ft
22	3700 Sq. Ft	103	3400 Sq. Ft
23	3700 Sq. Ft	104	4550 Sq. Ft
24	4200 Sq. Ft	105	4550 Sq. Ft
30	4200 Sq. Ft	106	3900 Sq. Ft

Common Area is: 1270 Sq. Ft.

Filling in or piping of any 3:1 vegetable conveyances (ditches, swales, etc.) associated with the development, except for average driveway crossings, is strictly prohibited by any persons. A thirty foot wide vegetated buffer must be maintained between all built-upon areas and the mean high water line of surface waters. All roof drains shall terminate at least thirty (30) feet from the mean high water mark of surface waters. Filling in, piping, or altering any designated 5:1 curb outlet swale associated with the development is prohibited by any person. This project proposes

a curb outlet system. Each designated curb outlet swale or one hundred (100) feet vegetated area shown on the approved plan must be maintained at a minimum of one hundred (100) feet long with 5:1 (H:V) side slopes or flatter, have a longitudinal slope no steeper than five percent (5%), carry the flow from a ten (10) year storm in a non-erosive manner, and maintain a dense vegetated cover, and be located in either a dedicated common area or a recorded drainage easement.

**Section 16 Outbuildings and Similar Structures:** No trailer, camper or other structure of a temporary nature shall be erected or allowed to remain upon any Lot and no trailer, camper, shack, tent, garage, barn, or other structure of a similar nature shall be used as a residence either temporarily or permanently upon any Lot; provided, however, that this Section shall not be construed to prevent the Declarant from permitting any third party building a structure upon any lot to erect temporary structures during construction. Out buildings and/ or accessory buildings shall be constructed in accordance to the architectural character and harmony with the main structures. Refer to Article III for guidelines.

**Section 17 Nuisances and Unsightly Materials:** No noxious, offensive, or illegal activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or become an annoyance to the neighborhood. Basketball goals are prohibited from and adjacent to all Public and Private Streets. No rubbish, trash, leaves, tree branches or other debris shall be burned on a Lot at any time. All service utilities, fuel tanks, air-conditioning compressors, trash receptacles and wood piles are to be enclosed within a wall or screen of a type and size approved by the Declarant or its successor, so as to preclude the same from causing an unsightly view from any street or way within the Property or from any other residence within the Property. No fence shall be placed or permitted to remain on any lot without the approval of the Declarant.

**Section 18 Animals:** Raising, breeding, or keeping animals, livestock, or poultry of any kind, except that a reasonable number of dogs, cats (the combined number of dogs and cats not to exceed three), or other common household pets may be permitted; however, those pets which are permitted to roam free, or make objectionable noise, excessive barking, or endanger the health and safety of, or constitute a nuisance or inconvenience to the occupants of other Lot Owners, shall be removed upon the Declarant or Association's request. If the pet owner fails to honor such request, the Declarant or Association may remove the pet. Dogs shall be kept on a leash or otherwise confined in a manner acceptable whenever outside the dwelling. Pets shall be registered, licensed, and inoculated as required by law. No dangerous dog or other dangerous animal may be kept or maintained within the Community, including but not limited to, Bouviers des Flandres, Rottweiler, and any and all "pit bulldog" breeds. In order to preserve the aesthetic qualities of the Community, to maintain sanitary conditions of the Community, to prevent the spread of worms and infectious diseases on the Community, and to maximize the overall use and enjoyment of the Community, each person who keeps a pet within a Unit shall abide by rules and regulations established by the Declarant or the Association from time to time. The breach of any of these rules and regulations shall be a noxious and offensive activity constituting a nuisance.

**Section 19 Maintenance of Lots:** Each Owner shall keep his Lot in an orderly condition and shall keep the Improvements thereon in a first class and suitable state of repair promptly repairing any damage thereto by fire or other casualty. No clotheslines may be erected or maintained on any Lot. No Lot shall be used in whole or in part for storage of rubbish of any character whatsoever or for the storage of any property or thing that will cause any noise that will disturb the peace and quiet of the occupants of surrounding Lots, and no trash, rubbish, stored materials, wrecked or inoperable vehicles or similar unsightly items shall be allowed to remain on any Lot outside an enclosed structure; provided, however, that the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish or other debris for the collection by governmental or other similar garbage and trash removal units. Each Owner shall provide suitable receptacles for trash, rubbish, garbage or ashes, and such receptacles shall be located in a screened area not generally visible from the road, the adjoining Lots or from Common Areas. In the event that an Owner fails or refuses to comply with any of the foregoing, the Declarant may demand that the Owner at his address specified in the records of the Association and by posting such notice on the Lot. If the Owner has not complied therewith five (5) days thereafter, the Declarant may enter and correct the same at Owner's expense. Each Owner by acquiring a Lot(s) subject to these restrictions agrees to pay such costs promptly upon demand by Declarant. Such cost shall be a lien upon such Owner's Lot(s) and upon the failure of such Owner to pay such cost to Declarant upon demand, Declarant may enforce such lien against such Lot(s) in the



same manner as is provided for enforcement of the Association's lien for non-payment of assessments as provided for in Article VII Section 8, herein below. No such entry as provided herein shall be deemed a trespass.

**Section 20 Preservation of Trees, Natural Buffer:** All landscaping, tree cutting and site preparation work to be performed shall be approved by the Declarant prior to any such landscaping, tree cutting and site preparation work being done. Plans must be submitted for approval of the Declarant and shall include a site plan with lot lines, building outlines, driveways and parking areas. Identification of trees for which removal is requested is required. Specifically, hardwoods with a caliper of five (5") inches or more may not be cut or removed without expressed written consent of the Declarant. Owners are encouraged not to cut any wild olive, clegics, haw apple, hawthorn, dogwood, oak, chinquapin, hickory, bay, cherry, holly, or cedar trees or shrubs, no matter the diameter.

Every effort shall be made to preserve existing trees during construction except those that the owner has written consent of the Declarant to remove. Fencing and barricades should be employed to prevent root compaction. Trees damaged during construction should be treated as soon as possible.

**Section 21 Mailboxes:** Only approved mailboxes and supporting posts are permitted. No graphics will be affixed to mailboxes other than address. Such boxes and the location thereon the premises will be provided by the building contractor and may be mounted as designated by the Declarant. Any such boxes shall be considered an improvement and must remain with the Lot, and shall be maintained by the Association at the expense of the Owner of the Lot. Boxes damaged beyond repair shall be replaced by the Association at the expense of the Owner of the Lot.

**Section 22 Signboards:** No signboard, billboard, or advertising sign of any description shall be displayed upon or above any Lot by an Owner, any building contractor or other party with the exception of the following signs, none of which may be affixed to a tree:

- Signs stating the name of the resident of any Lot and the street address, the design of which shall be furnished to Declarant and shall be subject to approval of Declarant.
- During the period of construction, the general contractor's sign, but no subcontractor's sign, shall be allowed.

Only the Declarant or general contractor may post signs "For Rent" or "For Sale" which signs shall not exceed two feet by three feet in dimension, shall refer only to the Lot in which it is displayed and shall be limited to one sign per lot.

**Section 23 Satellite Dishes/ Antenna:** Satellite dishes, antennas, and similar devices for the transmission of television, radio, satellite, or other signals of any kind are not permitted, except that Declarant and the Association shall have the right, without obligation, to erect or install and maintain any such apparatus for the benefit for all or a portion of Queens Harbor; and (i) satellite dishes designed to receive direct broadcast satellite service which are two feet or less in diameter; (ii) satellite dishes designed to receive video programming service via multi-port distribution services which are one meter or less in diameter or diagonal measurement; or (iii) antennas designed to receive television broadcast signals (i), (ii), and (iii), collectively, "Permitted Devices") shall be permitted; provided, however, any such permitted Devices must be placed in the least conspicuous location on the Unit ( generally being the rear or rear roof of the House) at which an acceptable quality signal can be received and is not visible from the street, Common Area, or neighboring property or is screened from view of Adjacent Units in a manner consistent with the Community- Wide Standards and the Architectural Guidelines.

**Section 24 Common Area Alteration:** No person shall undertake, cause, or allow any alteration or construction in or upon any portion of the Common Areas except at the direction or with the express written consent of the Declarant or the Association.

**Section 25 Lease of Homes:** No dwelling unit on any Lot shall be leased for transient or hotel purposes, nor may any Owner lease less than the entire dwelling units, nor shall any lease be for any period less than six (6) months. Any lease must be in writing and provided that the

terms of the lease and occupancy of this dwelling shall be subject in all respects to the provisions of the Declaration, the By-Laws and Rules and Regulations of the Association and that any failure of any lease to comply with the terms of such documents shall constitute a default under the lease. A copy of the lease must be available to the Declarant or the Association.

**Section 26    Parking Rights and Restrictions:** Adequate off-street parking shall be provided by the Owner of each Lot for automobiles and other vehicles owned and controlled by such Owner, members of the Owner's family or guest and invitees of the Owner. No automobiles, trucks, boats, jet skis, trailers or other vehicles shall be parked on the streets or the yards, including front, side and back yards of the Lots. All such vehicles and other property shall be required to be parked within the designated driveway and parking areas, except that all boats, vessels, jet skis or similar type items must be stored in an enclosed garage. Campers, Recreational Vehicles and/ or Motor Homes will not be allowed to park on any Lot, Driveway or Street.

The following activities are prohibited within Queens Harbor unless expressly authorized in writing by the Board, and then subject to such conditions as the Board may impose:

Parking any vehicle on streets or thoroughfares within the community, or parking of commercial vehicles or equipment, mobile homes, recreational vehicles, campers, trucks, golf carts, boats, and other watercraft, trailers, snowmobiles, stored vehicles, or inoperable vehicles in places other than enclosed garages; however construction, services, and delivery vehicles shall be exempt from this provision during daylight hours for such period of time as is reasonably necessary to (provided service or to make delivery to a unit or the Common Area; provided, however that nothing herein shall prevent Declarant from maintaining one or more mobile homes/trailers on any Unit or Common Area of the Community during Development, for use as an office or otherwise.

The term "truck" as used herein is intended to refer to those vehicles of various size and designs for transporting goods, moving heavy articles or hauling quantities of cargo and which are normally used in a trade or business in which the truck is used because of its commercial capabilities and not merely as a means of transportation. This is not intended to include such dual-purpose vehicles as station wagons, jeeps, "scouts", vans, "Waggoner", "Bronco", "Blazer" or Land Rover type vehicles or sport trucks, vans, pickup trucks, and attractive vehicles driven and maintained primarily as a means of transportation, and do not have exposed equipment, signage or supplies. No automobile or other vehicle shall be parked in any front yard or any portion of a Unit, other than in its garage or in its driveway.

**Vehicle Maintenance-** No automotive, boat, or vehicle repair or maintenance (other than washing or waxing vehicles) may take place or be performed within any Unit, parking Area, driveway, easement, Common Area, or street at any time. No derelict automobiles, vehicles, boats, equipment, or machinery may be placed or kept on any Unit at any time.

**Section 27    Garage and Driveways:** Garage doors shall be placed so as to not open toward or face the street unless approved by the Declarant. Driveway placement shall be subject to approval by Declarant. Garage Doors must be kept closed except for entering and exiting.

**Section 28    Building Materials:** All homes shall be constructed on a crawl space foundation with brick, cement/stucco coating on exterior foundation walls. Concrete floor foundation may be allowed if the first floor is elevated to a height that will accommodate non operating vents, so that the house appears to be erected on a crawl space foundation. The non operating vents will be spaced in a location similar to crawl space vents. Exterior materials can be Hardi-Plank siding, Nichiha Fiber cement siding or approved equal. Other external material, such as brick, stucco, vinyl shake siding, wood, etc., may be used in a consistent or non-consistent manner and shall be approved by the Declarant. All shutters shall be color coordinated to accent the house.

**Section 29    Roofs and Dormers:** Low pitched roofs (less than 8/12) on one-story houses are not permitted except over porches or shed-type appendages to the main structure. Two-story houses may have 6/12 pitch. "Architectural" asphalt shingles, galvanized steel or aluminum with standing seams or 5-V crimp, machine cut cedar shingles (not thick, hand-split shakes), and natural or man-made slate are generally acceptable. Brightly colored roofs will not be permitted, although colors of less intensity might be approved by the Declarant.

**Section 30** **Garage Conversion:** Conversion of any detached carport or garage to finished space for use as guest quarters or other integral part of the living area on any Lot must have prior approval pursuant to Article III.

**Section 31** **Fences and Walls:** All fences and walls are to be approved by the Declarant. No chain link fencing shall be approved.

**Section 32** **Flags:** The flying of the American flag shall be permitted, so long as it is of a reasonable size. The flying of any other flags is subject to the approval of the Declarant or Association.

**Section 33** **Laundry:** In order to preserve the aesthetic features of the architecture and landscaping, each Owner, his or her family, his or her guests, or his or her tenants, shall not hang laundry from any area within public view.

**Section 34** **Walks and Driveways:** All driveways and walkways shall have a surface of concrete, asphalt, or brick, unless otherwise approved by the Declarant.

**Section 35** **Limited Access to Lots:** The Owner, in accepting title to property conveyed subject to the covenants and restrictions of this Declaration, waives all rights of uncontrolled and unlimited egress and ingress to such property (and waives such right for any person claiming entry rights by virtue of any relationship or permission of such Owner and successors-in-title) and agrees that such ingress and egress to its property shall be limited to roads, driveways, alleys, etc., built by the Declarant. No Owner may use its Unit, or allow the use of the Unit, as an access to the streets of the Community from adjoining property, except with the written consent of the Association and, during the Declarant Control Period, the consent of the Declarant.

**Section 36** **Roadway Regulation:** In order to provide for safe and effective regulation of traffic and provide continued roadway maintenance, the Declarant reserves the rights to dedicate any street in the Community to public use, and or to convey such street to any government entity. The Declarant shall have the right to establish rules and regulations governing the use of the Private Streets, including establishing speed limits thereon.

**Section 37** **Sewage Disposal System:** All sewage disposal systems will be designated, located, and constructed in accordance with the requirements, standards, and recommendations of the Onslow County Health Department and the State of North Carolina. The Owner will obtain all necessary approvals and permits prior to installing such septic tank. When Public sewer becomes available to any Unit, such Unit shall, within One (1) year thereafter, connect to public sewer. Each Owner shall be responsible for the sewer tap fee or other connection charge with respect to its connection to such public sewer.

**Section 38** **Garbage and Refuse Disposal:** No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be burned or disposed of on any Lot and shall be kept in sanitary containers. All equipment for the storage prior to disposal of such material shall be kept in a clean and sanitary condition. The placement of containers shall be kept in an enclosed area not subject to view from any person, from any direction. The Declarant reserves the right for itself, its successors and assigns, to contract for garbage services to the company providing the same. Further, while it is understood that the owners will have garbage receptacles, such receptacles shall be for domestic garbage only and the Owner shall not be authorized to dispose of any hazardous waste materials on a Unit or within a Community. The term "hazardous waste materials" shall mean any substance, material, waste, gas, or particular matter which is regulated by any local government authority, the State of North Carolina, or the United States Government as a "hazardous waste", "hazardous material", "hazardous substance", or restricted "hazardous waste".

**Section 39** **Play Yards and Children's Play Equipment:** No brightly colored play equipment will be allowed. All such equipment must be in the rear yard of the residence.

**Section 40** **Pools, Pool Enclosures, and Exterior Hot Tubs or Spas:** All pools, pool enclosures and hot tubs or spas must have Declarant approval before construction. Submittals will follow the same procedures as for residential construction. No above ground pools will be

allowed. The exception may be kiddie pools that have a water surface area less than 50 square feet and a height of less than 15 inches.

**Section 41 Vehicles to Be Licensed.** – All motorized vehicles, including golf carts, must be licensed; and a licensed operator must operate all motorized vehicles.

**Section 42 Construction Requirements:**

- a. All work on any new structure in the subdivision must be performed by a building contractor properly licensed by the State of North Carolina and in good standing as the time of construction. All construction must meet all county and state building codes, and in no event shall a structure be placed within the subdivision that does not meet, at a minimum, the requirements as set forth by these standards.
- b. Each Owner is Responsible for requiring the general contractor or subcontractor working on his property to keep all construction debris, including mud from construction vehicles, from fouling the alleys, private or public streets. The Owner at the Owner's expense will remove any such debris deposited on the streets within (24) twenty-four hours.
- c. Any damage caused by the Unit owners action or his contractor shall be replaced or repaired to the satisfaction of the Architectural Review Board, and in the event that the homeowners fail to do so within a reasonable time, the Association may make such repairs or replacements and charge same to the homeowner. In the event the payment for such repairs/replacement shall be secured by a lien on the homeowner's property in favor of the Association, this lien shall include reasonable attorney fees for enforcing the provisions of this subparagraph.

**Section 43 Street Lighting Agreement:** The developer reserves the right to subject the real property in this subdivision to a contract with an electric utility company for the installation of underground electric cables, and/or the installation of street lighting, either or both which may require an initial payment and/or a continuing monthly payment to an electric utility company by the owner of each dwelling.

**Section 44 Sight Distances at Intersections:** No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner lot within the site triangular area formed by the street property lines and a line connection from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property line extended as shown on the recorded plat. The same sight line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain with such distances of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

## ARTICLE V

### THE ASSOCIATION

**Section 1 Association Membership:** Every Owner of a Lot shall be a member of the Association which Declarant may organize at any time of its choosing. Membership shall be appurtenant to and may not be separated from ownership of any Lot. When more than one person holds an 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 (1) vote be cast with respect to any Lot.

**Section 2 Availability of Documents:** The Association shall maintain current copies of the Declaration, the By-Laws and other rules and regulations concerning the Property as well as its own books, records and financial statements, available for inspection by all Owners, mortgagees, and insurers and guarantors of Mortgages, upon reasonable notice and during normal business hours. In addition, any Mortgagee may, at its own expense, have an audited statement prepared with respect to the finances of the Association.

## **ARTICLE VI**

### **COMMON AREA - PROPERTY RIGHTS AND OBLIGATIONS**

**Section 1 Owner's Easements of Enjoyment:** Every Owner shall have a right of enjoyment and easement in and to all Common Areas, which right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to and in accordance with the terms and provisions of this Declaration, including without limitation the following provisions:

- a) The right of the Association to suspend the voting rights and enjoyment rights of an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.
- 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. No such dedication or transfer shall be effective unless the Members entitled to at least a majority of the votes appurtenant to all Lots agree to such dedication or transfer and signify their agreement by a signed and recorded written document, provided that this subsection shall not preclude the Board of Directors of the Association from granting easements for the installation and maintenance of sewerage, utilities and drainage facilities upon, over, under and across the Common Area without the assent of the membership when such easement, in the opinion of the Board, are requisite for the convenient use and enjoyment of the property.
- c) The right of the Association, with the assent of Members entitled to at least two-thirds (2/3) of the votes appurtenant to all Lots, to mortgage, pledge, deed in trust, or otherwise hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

**Section 2 Delegation of Use:**

- a) Family: The right and easement of enjoyment granted to every Owner in Section 1 of this Article may be exercised by any members of the Owner's family who occupy the residence of the Owner within the Property.
- b) Tenants or Contract Purchasers: The right and easement of enjoyment granted to every Owner in Section 1 of this Article may be delegated by the Owner to his tenants or contract purchasers who occupy a residence within the Property.
- c) The Association's right to:
  - 1) Adopt and enforce rules regulating use and enjoyment of the Common Area; Common Area and POA Areas are to be used during normal daylight hours. Use of the common areas after hours must be approved by the Declarant or Association.
  - 2) Dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Declaration. In order to provide for safe and effective regulation of traffic and provide continued roadway maintenance, the Association reserves the rights to dedicate any street in the Community to public use, and or to convey such street to any government entity;
  - 3) Mortgage, pledge, or hypothecate any or all of its real or personal property, including the Common Area, as security for money borrowed or debts incurred, subject to the approval requirements set forth in this Declaration;
  - 4) Lease any portion of the Common Area for a period of up to five (5) years, including the right to grant concession(s) at any swimming pool or other Common Area,
  - 5) Change the Use of any Common Area, notwithstanding the designation of such use on any Recorded Plat, Master Plat, or other document. For instance, the Association shall

have the right to change any area designated as "Open Space" on a Recorded Plat to another Use, so long as such use is for the common use and/or benefit of the Community.

6) Amend this declaration as provided herein.

**Section 3 Maintenance Responsibility of Association:** The Association shall have the responsibility of maintaining in good condition all Common Areas, including roadways, Private Streets, the entrance to Queens Harbor, walkways, plantings, shrubbery, amenities, or other facilities or improvements constructed thereon, and shall pay all costs of operation thereof, including premiums associated with general liability insurance insuring the Association from liability arising from ownership and operation thereof which the Board of Directors may elect to purchase. Further the Association shall be responsible for adopting rules and regulations governing utilization of all Common Areas. The association shall be obligated to accept ownership of all Common Areas designated on the Map or any other Property that by Supplementary Declaration is made subject to this Declaration. To the extent necessary, the Association may employ personnel necessary to perform its obligations.

The specific maintenance and upkeep obligations of the Association with respect to Lots include maintenance of mailboxes and paper boxes. Boxes damaged beyond repair shall be replaced by the Association at the expense of the Owner of the Lot.

The Association shall have no obligation to maintain the exterior of any building, or any other improvements on any lot. The owner of each Lot shall have an affirmative obligation to maintain the Lot and the exterior appearance of all buildings, structures, and improvements as provided in Article IV, Section 18, hereof.

**Section 4 Private Streets:** As is indicated hereinabove; the Private streets shall be part of the Common Area until accepted by appropriate public authority. The Private Streets have been initially constructed by Declarant and are intended for the use and benefit of all Owners, their guests, employees, tenants, and invitees for the purpose of ingress, egress, and regress from portions of the Property to public streets by vehicle or otherwise.

Neither the inclusion of the Private Streets on the Map nor the dedication of the Private Streets for the use and benefit of the Owners shall be construed to be an offer to dedicate the Private Streets for public use. The Association shall, at its own expense, operate, repair, maintain, and reconstruct the Private Streets, including all paved portions thereof, all curb and gutter, all irrigation systems, and all storm drains, sanitary sewer lines, and other utility facilities installed therein or thereunder, all street signs and related improvements, and all landscaped medians therein. The Association shall have the right to establish rules and regulations governing the use of the Private Streets, including establishing speed limits thereon.

The Declarant reserves unto itself and his assigns the right to dedicate the private streets to a public a municipality or NCDOT for public use and authority. The Declarant reserves this right to dedicate as long as the Declarant owns any property as expressed in Exhibit A or Exhibit B.

**Section 5 Service Alley Group Maintenance:** Maintenance Responsibility for the Service Alley will be the responsibility of each Survey Alley Group. Each Service Alley Group will be responsible for repair, maintenance and replacement of the asphalt pavement placed by the Declarant.

Service group will regulate its requirement for maintenance. A simple majority of the Lot Owners in the Service Alley Group grant authority to the Association to authorize the maintenance, repair or replacement work and create a Special Assessment to each of the Lot Owners of the Service Alley Group.

**Section 6 Service Alleys:** As is indicated hereinabove; the Service Alleys have been initially constructed by Declarant and are intended for the use and benefit of all Lot Owners of the Service Alley Group, their guests, employees, tenants, and invitees for the purpose of ingress, egress, and regress from portions of the Property to private or public streets by vehicle or otherwise.

Neither the inclusion of the Service Alleys on the Map as Drainage and Utility Access Easements nor the dedication of the Private Streets for the use and benefit of the Owners shall be construed to be an offer to dedicate the Service Alleys for public use. The Service Alley Group shall, at its own expense, by Special Assessment, repair, maintain, and reconstruct the Service Alleys, all paved portions thereof; The Service Alley Group shall have the right to establish rules and regulations governing the use of the Service Alley pavement, including establishing speed limits thereon.

## **ARTICLE VII**

### **COVENANT FOR ASSESSMENTS**

**Section 1** **Creation of the Lien and Personal Obligation of Assessments:** Every Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) general assessments or charges and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. Any such assessments or charges, together with interest, costs and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney fees, shall also be the personal or corporate obligation of the person(s), firm(s), or corporations(s) owning such Lot at the time when the assessment fell due, but such personal obligation shall not be imposed upon such Owner's successors in title unless expressly assumed by them.

The Declarant is not required to pay general or special assessments to the Association for unsold lots, and nothing in this Article shall be construed to require such payments.

**Section 2** **Purpose of Assessments:** The assessments levied by the Association shall be used exclusively to promote the health, safety, and welfare of the residents of the Property and in particular for the operation and maintenance of the Common Areas. The assessments shall also be used for the acquisition, improvement and maintenance of properties, serviced, utilities, and facilities related to the use and enjoyment of the Property, the Lots and in particular, the Common Areas, including, but not limited to: shelters, docks, kayak launch, grill, picnic table, seat, walkway, irrigation system, electrical service, water service to common areas, the cost of all repair, replacement and additions thereto; the cost of operating and maintaining the Private Streets; the cost of labor, including the cost for providing a guard for the guardhouse if a guardhouse is built by or for the Association as a capital improvement with a special assessment as provided in Section 4 hereof; equipment, materials, management and supervision thereof; the payment of taxes assessed against the Common Areas; the procurement and maintenance of insurance as permitted or required under the terms of this Declaration or the By-Laws, including without limitation casualty insurance on the Common Area, or any portion thereof, general liability insurance with respect to the Property, and directors' and officers' liability insurance for the directors and officers of the Association, any or all of which coverage the Association is hereby expressly authorized to obtain and maintain in such amounts as the Board of Directors shall deem prudent and reasonable; the employment of attorneys to represent the Association when necessary; payments of principal and interest on funds borrowed for Association purposes; and such other needs as may arise.

**Section 3** **Initial General Assessment:** The initial general assessment, due and payable to the Association, shall be prorated and paid at the time of closing of the purchase of a Lot by an Owner, so that all payments thereafter shall be due on January 1 of each year or the due date (s) which may be set by the Board of Directors as is more fully set forth in Section 7 of this article. All general assessments shall be fixed at a uniform rate for all Lots.

**Section 4** **Special Assessments for Capital Improvements:** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying in whole or in part, the cost of any construction, repair, or replacement of any common amenities, private utility facilities, or capital improvements, repayment of indebtedness or interest thereon, borrowing of funds to make property comply with zoning ordinances, borrowing of money for capital improvement or pledging or mortgaging of Association property as security for loans, including fixtures and personal property related thereto, provided that any such assessment shall be approved by no less

than a majority of the votes of the Members of the Association. All special assessments shall be fixed at a uniform rate for all Lots.

**Section 5 Working Capital Assessment:** At the time title is conveyed to an Owner by Declarant, the Owner shall contribute to the Association as a working capital reserve an amount equal to three months owner association dues. Such funds shall be used for initial operation and capital expenses of the Association, such as prepaid insurance, supplies, and furnishings, fixtures, and equipment for the common areas, etc. Amounts paid into the working capital fund are not to be considered as advance payment of general assessments. Any remaining working capital funds shall become part of the general operation funds of the Association.

**Section 6 Notice and Quorum for Any Action Authorized Under Section 4:** Written notice of any meeting called for the purpose of taking any action authorized under Section 4 hereof shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members owning one-half (1/2) of the Lots, or of persons holding proxies entitled to cast one-half (1/2) of all the votes appurtenant to all Lots, shall constitute a quorum. If the required quorum is not present, subsequent meetings may be called subject to the same notice requirement, until the required quorum is present. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**Section 7 Date of Commencement of General Assessments and Due Dates:** The general assessments provided for herein shall commence as to each Lot on the date of conveyance of each Lot to an Owner other than Declarant. Each Lot owned by Declarant shall be exempt from any assessment unless a residence is constructed thereon, in which case an assessment shall be due from and after the date of issuance of a certificate of occupancy for such residence. The first general 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 general assessment against each Lot at least thirty (30) days in advance of each general assessment period.~~ Written notice of the general assessment shall be sent to every Owner. The due dates shall be established by the Board of Directors. The board of Directors shall require the general assessments to be paid at least annually but may require the general assessments to be paid more often. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on specified Lot have been paid.

**Section 8 Effect of Nonpayment of Assessments; Remedies of the Association:** Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the highest rate allowed by law. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against such Owner's Lot in the same manner as is provided in the North Carolina General Statutes for foreclosure of mortgages under power of sale, and reasonable attorney fees of such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

**Section 9 Subordination of the Lien to Mortgages:** The liens provided for herein shall be subordinate to the lien of any Mortgage. Sale or transfer of any Lot shall not affect any assessment lien. However, the sale or transfer of any Lot is subject to any Mortgage pursuant to a foreclosure thereof, shall extinguish the lien of such assessments as to the payment thereof which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any mortgage.

**Section 10 Exempt Property:** Each Lot owned by Declarant shall be exempt from any assessment unless a residence is constructed thereon. All 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. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

**Section 11 Attorney's Fees and Costs:**



- a. In the event that the Association becomes involved in litigation with any Owner or Member with respect to this Declaration, the other Governing Documents, or the Community, then if the Association is the prevailing party in such litigation, it shall be entitled to recover from the other parties to said litigation (other than Declarant) the attorney fees, costs and expenses incurred by the Association in said litigation.
- b. In the event that Declarant, or any officer or director of Declarant, becomes involved in litigation with any Owner, Member, or the Association with respect to this Declaration, the other Governing Documents, or the Community, then if Declarant or such officer or director is the prevailing party in such litigation, Declarant and/or such officer or director, as the case may be, shall be entitled to recover from the other parties to said litigation the attorneys fees, costs and expenses incurred by Declarant and/or such officer or director, as the case may be, in said litigation.

## **ARTICLE VIII**

### **GENERAL PROVISIONS**

**Section 1**     **Enforcement:** The Declarant, the Association, or any Owner shall have the right to enforce by any proceeding at law or equity all conditions, covenants, and restrictions now or hereafter imposed by the provisions of this Declaration. Failure by such party to enforce any such covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**Section 2**     **Severability:** Invalidation of any one of the covenants, conditions or restrictions of this Declaration by judgment or court order shall in no way affect any of the other provisions not expressly held to be void. And such remaining provisions shall remain in full force and effect.

**Section 3**     **Amendment:** The covenants, conditions and restrictions of this Declaration shall run with the land and bind the Owners of Lots for a period of twenty five (25) years from the date this Declaration is recorded, after which time such covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years unless terminated or altered by a vote of seventy (70%) percent of the Owners after the expiration of said twenty five (25) year period. This Declaration may be amended during the first twenty five (25) year period by an instrument signed by the Declarant and/or the Owners of not less than seventy (70%) percent of the Lots, thereafter by an instrument signed by the Owners of not less than seventy (70%) percent of the Lots. Any amendment must be properly recorded. For the purpose of this Section, an addition to the Existing Property as provided in Article I, Section 2 hereof shall not constitute an "amendment". Notwithstanding the foregoing, the Declarant reserves the unilateral right to amend these covenants and restrictions at any time to ensure compliance with North Carolina storm water rules and regulations as may be amended from time to time.

**Section 4**     **Additional Property:** In the future, the Declarant may or may not develop additional property in the vicinity of the Property. In such event the Declarant may, in its sole and absolute discretion, either annex such additional property to the Property by recorded instrument, as hereinabove described, in which case each Lot within the annexed area shall be considered a Lot hereunder, or Declarant may separately impose the same, additional, or lesser restrictions on such additional property or may impose no restrictions whatsoever on the development of such additional property. Nothing herein contained shall be construed to impose and restrictions on or easements in any land or property now or hereafter owned by Declarant, other than the Property. Declarant shall also have the right in its sole discretion to delete any unimproved block of land from this Declaration after annexation if it deems such action desirable.

**Section 5**     **Guardhouse, Gates or Barriers:** The Declarant (or the Association, with the Declarant's consent during the Declarant Control Period) shall have the right, but not the duty, to construct and maintain a guardhouse, gates or barriers to limit access to the Community to authorized persons, including, but not limited to, Owners, their families and visitors. Reasonable rules and regulations may be adopted for car stickers or similar device identifying Owners and their families, for notification of the guardhouse by Owners of persons or service personnel

expected to visit the Community, and for other matters necessary or desirable in order to facilitate the proper operation of any such guardhouse, gates or barriers

**Section 6 Waiver of Unintentional Violations:** Declarant reserves the right, but shall not be obligated, to waive in writing and violations of the designated and approved building location line or either side Lot line, provided that such violation does not exceed ten (10%) percent of the applicable requirements and the violation thereof was unintentional.

**Section 7 Retention of Declarant Rights:** Declarant hereby reserves all Special Declarant Rights and Development Rights described or set out in N.C.G.S. Section 47F-1-103(28) and Section 47F-3-103(d). The transfer of Special Declarant Rights and Development Rights shall be done pursuant to N.C.G.S. Section 47-F-3-104.

**Section 8 Joinder:** BDC Builders, Inc. joins in the execution of this Declaration for the sole purpose of subjecting Lot 34 as recorded in Map Book 63, Page 44, Slide O-77, Onslow County Registry to this Declaration.

**Section 9 Exhibits:** Exhibit "A" and "B" attached to this Declaration are incorporated by this reference and this Article shall govern amendments of such exhibits.

IN WITNESS WHEREOF the Declarant(s) has caused this instrument to be executed and sealed as of the day and year first above written.

KEYSTONE CONTRACTORS, INC.,  
A North Carolina Corporation

By: Barden Lanier (SEAL)  
Barden Lanier, President

BDC BUILDERS, INC.,  
A North Carolina Corporation

By: Donna L. Haskell (SEAL)  
Donna L. Haskell, President

STATE OF NORTH CAROLINA  
COUNTY OF ONSLOW

I certify that the following person personally appeared before me this day, acknowledging to me that he signed the foregoing document in the capacity indicated thereon:  
Barden Lanier

Date: December 20<sup>th</sup>, 2011.

My Commission Expires:

4-6-2016

Donna L. Haskell  
Notary Public  
Donna L. Haskell  
Notary Public  
Onslow County, NC

STATE OF NORTH CAROLINA  
COUNTY OF ONSLOW

I certify that the following person personally appeared before me this day, acknowledging to me that he signed the foregoing document in the capacity indicated thereon:  
Barden Lanier

Date: December 20<sup>th</sup>, 2011.

My Commission Expires: 4-6-2016

Donna L. Haskell  
Notary Public  
Donna L. Haskell  
Notary Public  
Onslow County, NC

Exhibit "A" - Land Initially Submitted

Section I

Being all the numbered Lots, together with the Home Owners Association Lot, and the streets that serve the Lots as shown on a map entitled "Final Plat for Queens Harbor Section I, Revised, Swansboro Township" prepared by Lanier Surveying Company, and recorded in Map Book 53, Page 51, Slide L-1866 as amended by "Recombination/Easement Plat, Queens Harbor Section I", recorded in Map Book 63, Page 44, Slide O-77, Onslow County Registry.

Exhibit "B" – Land Subject to Annexation

All of the 58.26 Acre Tract of land as shown on a map entitled "Final Plat For Keystone Contractors, Inc, Swansboro Township" prepared by Lanier Surveying Company and recorded in Map Book 46, Page 78, Slide L-222 as it appears in the office of the Onslow County Registry of Deeds Office;

And

Any and all real property lying and being within one-half (1/2) mile from any boundary of the 58.26 Acre Tract described herein.