

KNOWN ALL MEN BY THESE PRESENTS, that CHADWICK SHORES, INC. of Brunswick County, North Carolina, do hereby covenant and agree to end with all other persons, firms and corporations which may at any time hereafter own or acquire any legal or equitable interest in and to any lot or portion of the lands in Stump Sound Township, Onslow County, North Carolina, comprising the subdivision known as "CHADWICK SHORES, INC.", Sections One and Two, as appears of record in Map Book 19, Pages 75 and 76, Slides 172A and 172B, Onslow County Registry, and reference is hereby made to said maps for a more accurate description of said lots.

These restrictions are to replace the restriction heretofore recorded in Book 547, Page 285 of the Onslow County Registry.

1. Said lot shall be known and described as a residential lot, and no structure shall be erected on such residential lot other than one detached single-family dwelling, not to exceed two stories in height, and a one-to-three car garage, which may include servant's quarters.

2. All lots within said subdivision shall be used for residential purposes only except Lots 1, 2, 3 and 4 in Block "A" and Lots 1 and 2 in Block "B" may also be used for commercial purposes.

3. No building shall be erected on said residential lot nearer than 75 feet to the front lot line or closer than 50' to back line. No building shall be erected nearer than 7 feet to the side lot lines. This covenant shall also apply to garage or carports attached to the dwelling.

4. Said lots shall not be re-subdivided without the written consent of Chadwick Shores, Inc.

5. No noxious or offensive trade or activity shall be carried on upon said lot not shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

6. No trailer, basement, or ten, shack, garage, barn or other outbuilding erected on said lots shall at any time be used as a residence, either permanently or temporarily, not shall any residence of a temporary nature be permitted.

7. No structure shall be moved onto said lots and no shell home shall be erected or located on any lot regardless of cost. The term "shell home" shall mean the construction of

outside walls, including doors, windows, roof and foundation, by a contractor or other party with the interior areas not being completed or to be completed by the owner or some other person.

8. All outside walls of all buildings shall be built either of brick, stone, asbestos shingles or wood.

9. No dwelling shall be erected having a heated floor area of less than 1,100 square feet, not including porches, breezeways or attached garages.

10. No outside toilet facilities may be constructed or utilized. All sanitary facilities must be constructed in accordance with generally recognized good standards for health and meet local and state regulations. Septic tank and well locations must comply with local health regulations.

11. Easements for all utilities purposes, including the installation and maintenance of utilities of any nature, and full rights of access, and ingress and egress for purposes of installation and maintenance thereof, are expressly reserved to the said Chadwick Shores, Inc., their heirs, successors and assigns.

12. No fence shall be erected on any lot to a height of more than 4 feet in any area forward of the point fixed by the rear edge of the dwelling. No fences of any type shall be erected so as to unreasonably deprive adjoining owners of light and air.

13. No trash, ashes, garbage or other refuse shall be dumped, stored or accumulated on any lot.

14. Any dwelling or improvement on any lot which is destroyed in whole or in part by fire or other casualty must be rebuilt or all debris removed, and the lot restored to a slightly condition with reasonable promptness, provided, however, that in no even shall such debris remain on such lot longer than three (3) months.

15. No stripped, partially wrecked, or junked motor vehicle, or part thereof, shall be permitted to be parked or kept on any lot. All motor vehicles of any type kept on any lot shall have current United States registration and inspection certificates.

16. No sign, billboard or other advertising structure of any kind may be erected or maintained upon any lot. Provided, however, that construction identification signs approved by the developer showing the lot number and name of the builder ay be exhibited upon the lot during the period of construction. "For Sale" signs, for purposes of advertising the lot and improvements, being the exception to this restriction.

17. All dwelling connection for all utilities including, but not limited to, water, electricity, gas, telephone and television shall be run underground from the pooper connection points to the dwelling structure in such manner as may be acceptable to the appropriate utility authority.

18. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets in a reasonable number may be kept

provided they are not kept, bred, or maintained for any commercial purpose and provided further, that such pets do not constitute a danger or nuisance to other lot owners or to the neighborhood.

19. All driveways must be improved by hard surface or gravel.

The forgoing covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty(20) years from May 1, 1981, after which time said covenants shall be automatically extended for successive periods of five years each unless an instrument signed by a majority in number of the then owners of the lots has been executed and recorded agreeing to change, modify or rescind said covenants in whole or in part.

Enforcement of these covenants shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages.

The invalidation of any one of these covenants by judgement or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

CHADWICK SHORES  
HOMEOWNERS ASSOCIATION  
RESTRICTIONS AND REGULATIONS

THIS DECLARATION is made this 5<sup>th</sup> day of February 1993, by PENINSULA DEVELOPMENT COMPANY, INC., a North Carolina corporation ("Declarant") of Onslow County, North Carolina.

WHEREAS, Declarant is the owner of a certain lots located in Onslow County, North Carolina. (hereinafter referred to as "Development Area") and being more particularly described on Exhibit A.

AND WHEREAS, said property is a "residential subdivision" which may include parks, playgrounds, open spaces, and other community facilities for the benefit of the community, (hereinafter referred to as "Project").

AND WHEREAS, Declarant desires to provide for the preservation and enhancement of the property values and amenities within said community and to provide for the maintenance of common areas, properties and improvements located thereon, and to this end desires to subject Project property to the covenants, restrictions, easements, charges and liens as are hereinafter set forth, each and all of which are for the benefit of said real property and each present and future owner thereof.

AND WHEREAS, additional owners may subject other lots in said development to the terms and conditions set forth herein by subscribing their names hereto along with a designation of their lot(s) and in doing so made their lot(s) a part of the "Development Area" and subject to all terms and conditions regulating same.

NOW THEREFORE, it is hereby declared that the Project property described herein is and shall be held, transferred, sold, conveyed and occupied subject to covenants, restrictions, easements, charges and liens hereinafter set forth: said property being more particularly described as follows:

BEING all of that property as shown on Exhibit A, attached hereto and incorporated herein by reference as if fully set forth.

1. Definitions:

- a. "Association" shall mean and refer to CHADWICK SHORES HOMEOWNERS ASSOCIATION, Inc., a North Carolina non-profit corporation, its successors and assigns.
- b. "Common Area" shall mean all real property owned by the Association, if any, for the common use and enjoyment of the Owners.
- c. "Declarant" shall mean and refer to PENINSULA DEVELOPMENT COMPANY, INC., a North Carolina corporation, its successors and assigns.
- d. "Declaration" shall mean and refer to this instrument as may from time to time be amended.
- e. "Living Unit" or "Unit" shall mean and refer to any portion of a structure situated upon the Properties designed and intended for use and occupancy as a residence by a single family.
- f. "Property" or "Properties" shall mean and refer to any of the real property which is or may be subject to this Declaration or Supplemental Declaration.
- g. "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, and with the exception of any lot which is not buildable because it is not suitable for a sanitary septic tank as determined by the local health authority, and includes any improvements thereon, if any. In the even an unbuildable lot as defined herein becomes buildable for any reason, then in that even, it shall then become a "lot" as defined in this paragraph.
- h. "Owner" shall mean and refer to the record owner, whether one or more person or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as a security for the performance of an obligation.

- i. "Parcel" shall mean and refer to a portion or part of real property, together with the improvements located thereon, which becomes subject to this Declaration. This term shall include any additions to the existing Properties as herein provided.
- j. "Supplemental Declaration" shall mean and refer to any declaration of covenants, restrictions, easements, charges and liens recorded by the Declarant, or its successors and assigns, which applies to a specific Parcel within the Properties.
- k. "Project Property or Area" shall mean the total of the real property incorporated herein and described herein above in Exhibit A together withal lots subjected hereto by consent of the owners, said consent evidenced by a document attached hereto executed by said owners designating said lots together with all structures and other improvements thereon, together with such other portions of the Development Area by amendment of this Declaration.
- l. "Development Area" shall include that property described in Exhibit A, and those lots subjected hereto by the owners thereof, all or part of which may from time to time be submitted to and made subject to the terms of this Declaration.

2. Expansion of Properties into Development Area:

The Declarant for itself and its successors and assigns hereby expressly reserves the right, but shall in no way be obligated, to expand the properties which are subject to this Declaration without the consent or joinder of the Owners of Lots or persons or entities having a lien or security interest in such Lots by adding from time to time with the consent of the owner of said lot, any other lot or lots within the Chadwick Shores Subdivision, a map of which is recorded in Book\_\_\_\_, Page\_\_\_\_, Onslow County Registry.

An amendment to this Declaration shall be made and recorded in the Office of the Register of Deeds of Onslow County, North Carolina, to include each portion of the real property which is to be included within this Declaration, and each such portion of the real property shall constitute an addition to the Properties.

3. Common Areas:

- a. Dedication. The Common Areas, if any, in each Parcel shall be dedicated as such by the Declarant or its successors and assigns, by deed to the Association and by the recording of a plat with the Onslow County Registry designating said common area.
- b. Maintenance. The Association shall be responsible for the exclusive management and control of the Common Areas and all improvements located thereon including recreational facilities, landscaping, fixtures and equipment related thereto, except as otherwise may be provided for in a Supplemental Declaration. This paragraph specifically empowers, but does not limit other powers, the Association to control and regulate the hours and periods of operation of all recreational facilities in the development area, and all maintenance of landscaping in the Development area,

even if in areas subject to a Sub-association created by amendment to this Declaration or the recording of a Supplemental Declaration.

- c. Owner's Easement of Enjoyment: Section 1. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(1) the right of the Association to limit the number of guest of members;

(2) the right of the Association to suspend the right to use the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(3) 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 subject to such conditions as may be agreed to by the Association.

(4) the right of the Association to impose regulations for the use and enjoyment of the Common Area and improvements thereon, which regulations may further restrict the use of the Common Area.

Section 2. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property. Recreation facilities, if any, situated upon the Properties may be utilized by guests of Owners or tenants subject to the rules and regulations of the Association governing said use and as established by its Board of Directors.

- d. Restriction on Alienation: Notwithstanding anything contained herein to the contrary, the Association shall not alienate in any way or transfer all or any part of the Common Areas without the prior approval of all holders of outstanding first priority mortgages against any of the Properties that are subject to this Declaration; provided, however, this restriction shall not be applicable to grants of easements for utilities, storm sewer, sanitary dedication to the public.

#### 4. Association: Voting Rights:

a. Every Owner of a Lot shall belong to the Association and that Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

b. Each lot shall be entitled to one vote, to be case by its Owner. If there are more than one owner, 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. However, so long as the Declarant, Peninsula Development Company, Inc., or its successors or assigns, owns more than twenty-five (25) lots in Chadwick Shores, no amendment, modification, change,

alteration or termination of this Declaration shall be effective without the Declarant's written consent thereto.

5. Assessments:

Section 1. Purpose of Assessments:

The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the owners in the Properties and for capital improvements and maintenance of the Common Areas and any improvements thereon.

Section 2. Creation of the Lien and Personal Obligations of the Assessments:

The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed, therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association:

- (1) annual assessments or charges
- (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided;
- (3) to the appropriate government taxing authority, a pro rata shares of ad valorem taxes levied against the Common Area if the Association shall default in the payment therefor for a period of six (6) months, all as hereinafter provided.

The annual and special assessments, together with interest thereon and cost of collection thereof, as hereinafter provided, shall be a charged 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 and cost, and reasonable attorneys' fees (as provided in North Carolina General Statutes Section 6-21.2) incurred by the Association in collection delinquent assessments shall also be the personal obligation of the person or entity who was the Owner at the time when the assessment became due. The obligation of an Owner for delinquent assessments shall not pass to his successors or assigns in title.

Section 3. Minimum Annual Assessment:

Assessments shall commence beginning the first day of the month following conveyance of the Common Area to the Homeowner's Association. The Declarant shall pay assessments in the amount of one hundred percent (100%) on the normal assessment on lots owned by Declarant as defined in Paragraph 1.g. herein.

The owner of each Lot upon which there has been completed a structure shall be obligated to pay the full amount of the assessment. For the purposes of this paragraph, "completed" structures shall mean a structure which has actually tapped into any water or wastewater treatment system or has had provided to it either such service by private means.

The owner of a Lot upon which construction is not complete shall pay only one-half (1/2) the annual assessment but be fully obligated to pay in full any other assessments or taxes levied against the Lot. The determination of the "completion" shall be made by the Association on the first day of January and the first day of July of each year and shall be binding for the remainder of the six (6) month period as to that Lot.

The Initial Annual Assessment shall be \_\_\_\_\_ (\$\_\_\_\_\_) per year.

Section 4. Collection of Assessments:

(a) The First pro rata payment of the balance of the current year assessment shall be due and payable the beginning of the first day of the month following conveyance of the common area to the Homeowner's Association. In addition, thereto, at closing, the Declarant shall cause to be collected from the purchaser, an amount equal to two twelfths of the then current minimum annual assessment for said lot and an amount equal to the Purchaser's pro rata share of the next due annual insurance premium payable by the Association. This shall be used for the sole purpose and use as a working capital fund. The Board of Directors shall fix the amount of the assessment against each lot at least thirty days in advance of the annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors of the Association and the Board of Directors shall have the authority to require the assessment to be paid in pro rata monthly installments, quarterly and semi-annually as well as annually. The Association shall, upon demand, and for a reasonable charge furnish a certificate signed by an officer of the association setting forth whether the assessments on a specified lot have been paid.

(b) From and after January 1, 199\_, the maximum assessment may be increased each year not more than ten (10%) percent above the maximum assessment for the previous year without a vote of the membership. Except, however, increases attributable solely to the addition of new amenities, new Common Areas or police and security purposes, shall not be subject to this limitation.

(c) From and after January 1, 199\_, the maximum annual assessment may be increased above ten (10%) percent by a vote of two-thirds (2/3) of members of each class who are voting in person or by proxy, at a meeting duly called for this purpose. Except, however, increase attributable solely to the annexation of new areas including new Common Areas shall not be subject to this limitation.

Section 5. Special Assessments for Capital Improvements:

In addition to the annual assessments authorized above, the Association may levy in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the members of each class who are voting in person or by proxy at a meeting duly called for this purpose.



Section 6. Remedies for Non-Payment of Assessments:

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 maximum rate allowed by law, together with such late fees as may be set by the Board. The association may bring an action at law against the Owner personally obligated to pay any assessments and interest of foreclose the lien created herein in the same manner as prescribed by the laws of the State of North Carolina for the foreclosure of Deeds of Trust. Costs and reasonable attorneys' fees (as set forth in Section 2 above) of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by the non-use of the Common Area or abandonment of his dwelling unit or site.

In the event of such action at law and in the further even that such action results in a judgment being entered against the Owner and in favor of the Association, the, and in that event, Judgement in such a manner and to the extent provided and permitted by the laws of the State of North Carolina.

Section 7. Subordination of the Lien to Mortgages:

The Lien of the assessments provided for herein shall be subordinate to the lien of any mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgages foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessment as to payments which become due prior to such sale or transfer. No sale or transfer shall relive such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

6. Rights of Mortgages:

a. Notice of Action: A holder or insurer of a mortgage, upon written request to the Association (such request to state the name and address of such holder or insurer and the description of secured properties) will be entitled to timely written notice of:

1. Any condemnation or casualty loss that affects either a material portion of the project or the Lot securing its mortgage.

2. Any sixty (60) day delinquency in the payment of assessments or charges owned by the Owner of any Lot upon which it holds a mortgage.

3. A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

4. Any proposed amendment to the project instruments effecting a change in the boundaries of any Lot, ownership of Common Elements, if any, the number of votes in the Association pertaining to any Lot or any proposed change in the restrictions on the properties.

7. Restriction on Further Subdivision:

No Lot which has been designated as such by Declarant by either recorded plat or by Supplemental Declaration shall be further subdivided or separated into smaller Lots, without the prior written consent of the Association. This restriction shall not apply, however, to PENINSULA DEVELOPMENT COMPAN, INC.

8. Easements:

The Declarant or Association may grant permits, licenses, and easements over any common area or utility easement reserved elsewhere for utilities, roads or other purposes reasonably necessary or useful for the Project maintenance or operation of the Project.

9. Remedies:

In the event of a violation or breach of any of these restriction, covenants, agreements and conditions by any person or concern claiming by, through or under the undersigned or by virtue of any judicial proceedings, the Association, its successors and assigns and the owners of the numbered lots in the subdivision, or any of them, jointly or severally, shall have the right to proceed at law or in equity to compel compliance with the terms thereof or to prevent the violation or breach of any of them. The failure to enforce any right, reservation, restriction or condition contained herein, however long continued, shall not be deemed a waiver of the right to do so thereafter as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement.

10. Remedies Extended to the State of North Carolina:

To ensure that this subdivision is maintained consistent with the laws of the State of North Carolina, the State of North Carolina is specifically empowered to take such acts necessary by and through its officers to enforce any of determining whether the insurance at least equals the full replacement cost. The deductible shall be paid by the party who would be responsible for the repair in the absence of insurance and in the event of multiple parties shall be allocated in relation to the amount each party's loss bears to the total.

11. Insurance:

Section 1: The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk insurance, for all insurable improvements on the Common area. If blanket all-risk coverage is not reasonably available, then at a minimum an insurance policy providing fire and extended coverage shall be obtained. This insurance shall be in an amount sufficient to cover one hundred (100%) percent of the replacement cost of any repair or reconstruction in the event of damage or destruction from an insured hazard.

The Board shall also obtain a public liability policy covering the Common Area, the Association and its Members for all damage or injury caused by the negligence of the Association of any of its members or agents. The public liability policy shall have at least a One Million and no/100 (\$1,000,000.00) Dollar single person limit as respects bodily injury and property damage, a Three Million and no/100 (\$3,000,000.00) Dollar limit per

occurrence, and a Five Hundred Thousand and no/100 (\$500,000.00) Dollar minimum property damage limit.

Premiums for all insurance on the Common Area shall be common expenses for the association. This policy may contain a reasonable deductible, and the amount thereof shall be added to the face amount of the policy including an easement which shall affect any riparian and littoral rights.

Cost of insurance coverage obtained by the Association of the Common Area shall be included in the regular assessment, or by special assessment.

All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association as Trustee for the respective benefitted parties, as further identified in (b) below. Such insurance shall be governed by the provisions hereinafter set forth.

(a) All policies shall be written with a company licensed to do business in North Carolina which holds a Best's rating of A or better and is assigned a financial size category of XI or larger as established by A.M Best Company, Inc., if reasonably available, or, if not available the most nearly equivalent rating.

(b) All policies on the Common Area shall be for the benefit of Owners and their Mortgagees as their interest may appear.

(c) Exclusive authority to adjust losses under policies in force on the Properties obtained by the Association shall be vested in the Association's Board of Directors' provided, however, no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(d) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their mortgagees.

(e) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the area.

(f) The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide the following:

(i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners, and their respective tenants, servants, agents, and guests;

(ii) a waiver by the insurer of its rights to repair, and reconstruct, instead of paying cash;

(iii) that no policy may be cancelled, invalidated or suspended on account of anyone or more individual Owner;

(iv) that no policy may be cancelled, invalidated, or suspended on account of the conduct of any Director, officer or employee of the Association or its duly authorized 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 manager, any Owner, or mortgagee.

(v) that any “other insurance” clause in any policy exclude individual Owners’ policies from consideration; and

(vi) That no policy may be cancelled or substantially modified without at least thirty (30) days prior written notice to the Association.

In addition to the other insurance required by this Section, the Board shall obtain, as a common expense, worker’s compensation insurance, if and to the extent necessary, and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association’s funds. The amount of fidelity coverage shall be determined in the director’s best business judgement but may no be less than three (3) months assessments, plus reserves on hand reviewed and adjusted annually, with minimum of \$25,000.00. Bonds shall contain a waiver of all defenses based upon the exclusion of person serving without compensation and any not be cancelled or substantially modified without at least (30) days prior written notice to the Association.

The Association shall purchase officers and directors liability insurance, and every Director and every officers of the Association shall be indemnified by the Association against all expenses and liabilities, including attorney’s fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a Director or Officer of the Association, whether or not he is a Director of Officer at the time such expenses are incurred, except in such cases wherein the Director of Officer is adjudged guilty of willful misfeasance of malfeasance in the performance of his duties; provided, that in the even of any claim for reimbursement of indemnification hereunder based upon a settlement by the Director or Officer seeking such reimbursement or indemnification, the indemnification herein shall only apply if the Board of Directors approves such settlement and reimbursement as being in the best inters of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or Officer may be entitled.

## Section 2. Disbursement of Proceedings.

Proceeds of insurance policies shall be disbursed as follows:

(a) If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such cost of repairs or reconstruction to the Common Area or, in the event no repair or reconstruction is made, after making such settlement as is necessary and appropriate with the affected Owner or Owners and their mortgage(s) as their interest may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

(b) If it is determined, as provided for in Section 4 of this Article, that the damage or destruction to the Common Area for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed in the manner provided for excess proceeds in Section 3(a) above.

### Section 3. Damage and Destruction.

(a) Immediately after the damage or destruction by fire or other casualty to all or any part of the Properties covered by insurance written in the name of the Association, the Board of Directors, or its duly authorized agent, shall proceed with the filing and adjustment of all claims arising under such insurance and obtain a reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Properties. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Properties to substantially the same condition in which they existed prior to the fire or other casualty.

(b) Any damage or destruction to the Common Area shall be repaired or reconstructed unless the Voting Members representing at least seventy-five (75%) percent of the total vote of the Association whose common property is damaged, shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available, provided, however, such extension shall not exceed sixty (60) additional days. Not mortgagee shall have the right to participate in the determination of where the Common Area damaged or destroyed shall be repaired or reconstructed.

(c) In the event that it should be determined in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Properties shall be restored to its natural state and maintained by the Association in a neat and attractive condition.

### Section 4. Repair and Reconstruction.

If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the members of each class, levy a special assessment against all Owners in proportion to the number of Lots owned, provided, if the damage or destruction involves a Lot or Lots only Owners of the affect Lots shall be subject to such assessment. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

## 12. Amendment:

(a) This declaration is subject to being altered, modified, cancelled or changed at any time as to said subdivision as a whole or as to any subdivided lot or part thereof by written instrument signed by eighty percent (80%) of the owners of the total number of lots in

Chadwick Shores, excluding any lots owned by Peninsula Development Company, Inc. So long as the Declarant, Peninsula Development Company, Inc., or its successors or assigns, owns more than twenty-five (25) lots in Chadwick Shores, no amendment, modification, change, alteration or termination of this Declaration shall be effective without the Declarant's written consent thereto. No amendment made pursuant to this Section shall be effective until duly recorded in the Office of the Court for Onslow County, North Carolina.

13. Declarant's Rights:

Any or all of the special rights and obligations of the Declarant may be transferred to other person or entities, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the county in which this Declaration is recorded. Nothing in this Declaration shall be construed to require Declarant or any successor to develop any of the property set forth in Exhibit A in any manner whatsoever.

Notwithstanding any provisions contained in the Declaration to the contrary, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Common Area such facilities and activities as in the sole opinion of Declarant, successors and assigns, may be reasonably required, convenient, or incidental to the sale, re-sale, or rental of such Lots, including, but not limited to, business offices, signs, model units, and sales/rental offices. The Declarant shall have an easement for access to such facilities and activities shall include specifically the right to use residences owned by the Declarant, if any, and any which may be owned by the Association.

The Declarant shall have the rights (i) to use or grant the use of a portion of the Common Area for the purpose of aiding in the sale, or rental, or management of Lots; (ii) to use portions of the Property for parking for prospective purchasers or lessees of Lots and such other parties as the Declarant determines; (iii) to erect and display signs, billboards and placards and store and keep the same on the property; (iv) to distribute audio and visual promotional material upon the Common Area.

So long as the Declarant continues to have rights under this paragraph, no person or entity shall record any declaration of restrictions and protective covenants or similar instrument affecting any portion of the Properties without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of restrictions and protective covenants or similar instrument being void and of no force and effect unless subsequently approved by recorded consent by the Declarant.

This provision may not be amended without the express written consent of the Declarant, provided, however, the rights contained in this provision shall terminate upon the earlier of (a) fifteen (15) years from the date this Declaration is recorded, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

14. General Provisions:

1. Severability: Invalidation of any one of the covenants or restrictions by judgement or court order shall in no way affect any other provisions which shall remain in full force and effect.
2. Captions: The captions used in this Declaration are inserted solely as a matter of convenience and shall not be relied upon or used in construing the effect or meaning of any of the text of this Declaration.
3. Construction: Whenever the context so requires, the use herein of any gender shall be deemed to include the plural and the plural shall include the singular.
4. Litigation: No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of seventy-five (75%) percent of the membership and a majority of the Board of Directors. This Section shall not apply however to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of personal assessments, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by the Declarant or is approved by the percentage votes and pursuant to the same procedures necessary to institute proceedings as provided above.

IN TESTIMONY WHEREOF, Declarant, has caused this instrument to be executed in its corporate name by its President, attested to by its Secretary, its common corporate seal affixed hereto, all as the act and deed of the said corporation and by authority of its Board of Directors duly and legally given this day and year first above written.

EXHIBIT A

BEING all of that property owned by Peninsula Development Company, Inc. as shown on plat entitled "CHADWICK SHORES, INC.", prepared by Jan K. Dale, Registered Land Surveyor. Said map being duly recorded in Map Book 19, at Pages 75 & 76, in the Office of the Register of Deeds for Onslow County.