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BARBARA M GRAY, REGISTER OF DEEDS DARE CO, NC



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**FIFTH SUPPLEMENT TO  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF SANDERLING**

Prepared by and return to Robert B. Hobbs, Jr., Attorney  
Hornthal, Riley, Ellis & Maland, LLP  
Post Office Box 310  
Nags Head, North Carolina 27959

STATE OF NORTH CAROLINA  
COUNTY OF DARE

This Fifth Supplement to Declaration of Covenants, Conditions and Restrictions, dated October 8, 2003, by SANDERLING HOMES ASSOCIATION, INC., a North Carolina nonprofit corporation (hereinafter referred to as the "Association") and JENNIFER J. FROST, unmarried, and LILIAS J. MORRISON, unmarried ( Jennifer J. Frost and Liliias J. Morrison may be collectively referred to hereinafter as the "Owner").

WITNESSETH:

WHEREAS, the Association is the entity charged with the powers of maintaining and administering the Community Properties and facilities and with administrating and enforcing the covenants, conditions and restrictions of, and collecting and disbursing the assessments and charges created by, the Declaration of Covenants, Conditions and Restrictions of Sanderling dated July 26, 1977, and recorded in Book 248, Page 661, in the Office of the Register of Deeds of Dare County, North Carolina, as amended by First Amendment to Declaration of Covenants, Conditions and Restrictions, dated October 27, 1977, and recorded in Book 253, Page 281, in the Office of the Register of Deeds of Dare County, North Carolina, and as supplemented by First Supplement to Declaration of Covenants, Conditions and Restrictions, dated July 11, 1978 and recorded in Book 264, Page 661, in the Office of the Register of Deeds of Dare County, North Carolina, and as supplemented by Second Supplement to Declaration of Covenants, Conditions and Restrictions, dated August 9, 1978 and recorded in Book 266, Page 90, in the Office of the Register of Deeds of Dare County, North Carolina, and as amended by Second Amendment to Declaration of Covenants, Conditions and Restrictions, dated April 23, 1979, and recorded in Book 279, Page 84, in the Office



of the Register of Deeds of Dare County, North Carolina, and as supplemented by Third Supplement to Declaration of Covenants, Conditions and Restrictions, dated June 22, 1979, and recorded in Book 281, Page 228, in the Office of the Register of Deeds of Dare County, North Carolina, and as supplemented by Fourth Supplement to Declaration of Covenants, Conditions and Restrictions, dated May 2, 1979 and recorded in Book 281, Page 234, in the Office of the Register of Deeds of Dare County, North Carolina, and as amended by Third Amendment to Declaration of Covenants, Conditions and Restrictions, dated October 6, 2001 and recorded in Book 1417, Page 491, in the Office of the Register of Deeds of Dare County, North Carolina (as corrected by Correction to Third Amendment filed in Book 1471, Page 480, Dare County Registry) (all of said documents being hereinafter referred to collectively as the "Declaration"); and

WHEREAS, Owner is the holder of the fee title to the real property described below (the "Additional Property"), and Owner desires to submit the Additional Property to the provisions, terms and conditions of the Declaration; and

WHEREAS, pursuant to Article One, Section 2 of the Declaration, additional real property may become subject to the Declaration by recordation of supplemental declarations wherein any such real property is specifically made subject to and governed by the Declaration; and

WHEREAS, the Association is the successor in interest and assignee of all of the rights under the Declaration previously held by the developer, Venture Management, Incorporated; and as such has the power to permit additional real property to become subject to the Declaration at the request of the owner of such real property; and

WHEREAS, on October 12, 2002, the Board of Directors of the Association approved the addition of the Additional Property to the Sanderling Community and The Properties; and

WHEREAS, the Annual Meeting of the Members of the Association (being the Owners of Lots constituting The Properties) was held, after due notice, on October 12, 2002, and at such meeting, a quorum was present, and more than two-thirds of the Members present in person or by proxy at the meeting approved the addition of the Additional Property to the Sanderling Community and The Properties, pursuant to Article V, Section 3 of the Bylaws of the Association.

NOW, THEREFORE, in accordance with the provisions of Article One, Section 2 of the Declaration and Article V, Section 3 of the Bylaws of the Association, and in consideration of the premises and the benefits accruing to the Owner, the Owner and the Association expressly and specifically declare that the Additional Property described below is and shall be held, transferred, sold, conveyed, and occupied subject to and governed by all of the terms and provisions of the covenants, conditions, restrictions, rights and obligations contained in the Declaration and any present or future amendment thereto, and by the provisions of the North Carolina Planned Community Act (Chapter 47F of the North Carolina General Statutes, hereinafter the "Act"), except as to such provisions of the Act that were or are expressly modified pursuant to the terms of the Declaration and any present or future amendment thereto.



The Additional Property is described as follows:

All that certain parcel of land lying and being in Atlantic Township, Dare County, North Carolina, and beginning at an iron stake located at the southeast corner of Lot 68 as shown on a map of Sanderling Phase 2 recorded in Plat Cabinet A, Slides 90 and 91 in the Office of the Register of Deeds of Dare County, North Carolina, said iron stake also being located in the West right of way line of Skimmer Way; running thence from said beginning point and with the West right of way line of Skimmer Way due South 129.89 feet to a point, the beginning of a curve to the right into Oyster Catcher Lane; running thence with said curve to the right in a southwesterly direction an arc distance of 29.82 feet to a point in the North right of way line of Oyster Catcher Lane, as shown on the above mentioned plat; and running thence with said right of way line of Oyster Catcher Lane on a curve to the left in a westerly direction 52.29 feet to a point, and continuing with said right of way line of Oyster Catcher Lane South 77° 50' 08" West 40.56 feet to a point in the proposed extended East right of way line of State Road 1200; and running thence with said proposed East right of way line, as extended, North 6° 23' 34" West 168.90 to a point, the southwest corner of Lot 68 as shown on a map of Sanderling Phase 2; running thence with the South line of said Lot 68 South 89° 09' 59" East 128.58 feet to the point and place of beginning.

Being the same property conveyed to Jennifer J. Frost and Liliias J. Morrison by Deed dated February 26, 1979 and filed in Book 275, Page 111, Dare County Registry.

The above described property may also be legally referred to as Lot 68A, Phase 2B, Sanderling, as described in this Fifth Supplemental Declaration of Sanderling.

IN WITNESS WHEREOF, the Association and the Owner have duly executed the foregoing instrument as of the day and year first above written.

SANDERLING HOMES ASSOCIATION, INC.

BY: Woodruff MacDauld  
President

Jennifer J. Frost (SEAL)  
JENNIFER J. FROST

Liliias J. Morrison (SEAL)  
LILIAS J. MORRISON

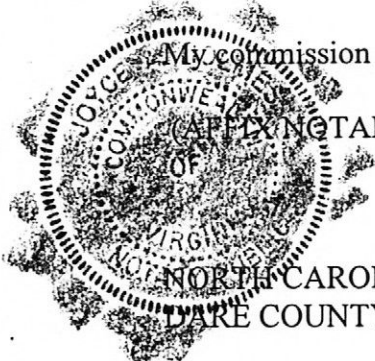


STATE OF Virginia  
COUNTY/CITY OF Cheslerfield

I, Joyce A Holmes, a Notary Public of the County or City of Cheslerfield and State aforesaid, certify that William Macdonald personally came before me this day and acknowledged that (he)(she) is President of SANDERLING HOMES ASSOCIATION, INC., a North Carolina Nonprofit Corporation, and that (he)(she), as President, being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official stamp or seal, this 8<sup>th</sup> day of October, 2003.

Joyce A. Holmes  
Notary Public



My commission expires: June 30, 2007

(AFFIX NOTARY SEAL)

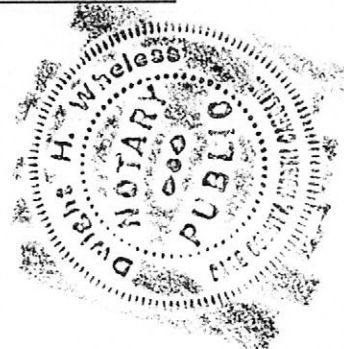
I, Dwight H. Wheless, a Notary Public, of the County of DARE, and State aforesaid, certify that JENNIFER J. FROST, unmarried, and LILIAS J. MORRISON personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and seal this 15<sup>th</sup> day of July, 2003.

Dwight H. Wheless  
Notary Public

(AFFIX NOTARY SEAL)

My commission expires: 9/24/2007





NORTH CAROLINA  
DARE COUNTY

The foregoing or annexed certificate(s) of Joyce A Homes  
Dwight H Wheeler, Notaries Public  
\_\_\_\_\_ is/are certified to be correct.

This 17 day of Oct, 2003.

Babara M Gray  
Register of Deeds

BY: \_\_\_\_\_  
Deputy/Assistant