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STATE OF NORTH CAROLINA

COUNTY OF PAMLICO

JOYCE E. CARAWAN
AMENDED RESTRICTIVE COVENANTS
REGISTERED OF DEEDS
HEADWATERS SINGLE FAMILY SUBDIVISION
PAMLICO COUNTY, N. C.

THIS DECLARATION OF AMENDED PROTECTIVE COVENANTS, RESTRICTIONS AND EASEMENTS, dated for purposes of reference only this 25th day of March, 1993, by WEYERHAEUSER REAL ESTATE COMPANY, a corporation qualified to do business in the State of North Carolina (hereinafter "Declarant").

RECITALS:

Declarant, by recordation of a subdivision plat, subdivided certain property shown on said plat into lots intended for utilization for construction of single family homes. The subdivision plat, prior to conveyance of any Lots, was amended and rerecorded in Plat Cabinet A, Slide 74-9, Pamlico County Registry, and all property shown thereon is hereinafter referred to as the "Subdivision." Each numbered lot shown on the amended recorded plat is referred to herein as the "Lot." Within the Subdivision and located between Lots 15 and 16 is an area consisting of 1.66 acres, from which a boat ramp and pier extend, which area, including boat ramp and pier, is hereinafter referred to as the "Common Area."

Declarant recorded restrictive covenants for the Headwater Single Family Subdivision, which restrictive covenants were recorded in Book 271, Page 512, Pamlico County Registry. In order to accomplish the purposes hereinafter set forth, Declarant has determined it is in its best interest, and in the best interest of all perspective owners of Lots within the Subdivision, for the Restrictive Covenants previously recorded to be amended in their entirety. It is therefore the intent of Declarant that these Amended Restrictive Covenants replace and supersede entirely those Restrictive Covenants recorded in Book 271, Page 512, Pamlico County Registry, and upon recordation of these Amended Restrictive Covenants, said previously recorded Restrictive Covenants shall be of no further force and effect.

Within the Subdivision and as shown on the recorded plat, there has been dedicated one (1) or more street rights-of-way, and there has been (or will be) constructed within each such right-of-way, in accordance with applicable construction standards of the State of North Carolina, a subdivision road. Access to each Lot within the Subdivision is over one (1) or more streets shown on the recorded plat of the Subdivision.

In order to maintain the streets providing access to the Subdivision as shown on the recorded plat until maintenance is assumed by the State of North Carolina, to maintain the Common Areas, and in order to enforce these Restrictive Covenants and to provide an organization for the benefit of the owner of each Lot

RETURNED TO: J. R. Thompson
DATE RETURNED: 4-21-93

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MOREHEAD CITY, NORTH CAROLINA 28557-137

within the Subdivision, Declarant has chartered a North Carolina nonprofit corporation named Headwaters Homeowners Association, Inc. (the "Association"). The owner of each Lot is a member of the Association, and the owner of each Lot is obligated to pay dues and assessments to the Association for the benefit of the Association and the owner of each Lot within the Subdivision. The organization and operation of the Association is described in these Restrictive Covenants and in the By-Laws of the Association.

It is the desire and intention of Declarant, for its benefit and with the intent of preserving the value of each Lot, to restrict the utilization of and improvements on each Lot within the Subdivision in accordance with guidelines established herein. Therefore, Declarant hereby subjects the property described hereinafter to the terms and provisions of these Restrictive Covenants for the use and benefit of all present and future Lot owners within the Subdivision.

1. DESCRIPTION. This Declaration shall run with the land and shall bind and inure to the benefit of the owner of each Lot within the Subdivision, and the property made subject to these Restrictive Covenants is all of the property shown on that plat of the subdivision recorded in Plat Cabinet A, Slide 74-9, Pamlico County Registry, as the same may be amended from time to time.

2. ADDITIONAL PROPERTIES. Declarant reserves no right to subject additional property to the terms and provisions of these Restrictive Covenants.

3. SINGLE FAMILY UTILIZATION. This Restrictive Covenant restricts all numbered Lots subjected to its terms to use only for single family residential purposes. No home or other structure constructed within the Subdivision shall be utilized for commercial purposes, except that Declarant or its assigns shall be entitled to use any structure located within the Subdivision for purposes of assisting in the sale of Lots within the Subdivision.

4. BUILDING AND SITE RESTRICTIONS. The Architectural Control Committee must give prior approval of any removal of any tree of a size of four inches in diameter or greater from any Lot or the construction of any improvement or structure on any Lot in accordance with the procedures described in Paragraph 5 of these Restrictive Covenants. In addition, the following restrictions shall apply:

(a) No detached garage, storage shed, or carport shall be permitted unless architecturally compatible with the primary dwelling structure on the Lot. No such structure, even if approved, shall be constructed on a Lot until the residential structure on the Lot is completed or substantially completed.

(b) No more than one (1) single family house shall be allowed per Lot.

(c) All homes must be "stick built," on site, and no modular home shall be located within the Subdivision and no homes constructed elsewhere shall be allowed to be conveyed into and located on a Lot within the Subdivision. No temporary structures shall be allowed.

(d) No "For Rent" or similar sign shall be allowed on any Lot, or shall be placed so as to be visible from any public or private street.

(e) No "For Sale" sign shall be allowed, unless said sign is of a size no greater than four (4) square feet in size, and the number of such signs shall be limited to one (1) sign per adjoining road front and one (1) sign per adjoining navigable waterway, each such allowed sign to face a different road or a waterway. No such sign shall remain on any Lot, or shall be placed so as to be visible from any public or private street, prior to a valid and binding listing agreement being signed with the broker placing said sign on the Lot (unless the sign reads "For Sale By Owner"), and any such sign must be removed within three (3) business days following the execution of a valid contract of sale for the Lot upon which such sign is located, regardless of whether or not the purchase contract contains any conditions.

(f) The minimum square footage of heated, enclosed living space for each approved residential structure shall be 1,400 square feet; a minimum of 1,000 square feet of such space must be located in the first living floor of the residential structure. Carports, garages, attics, porches, patios and decks shall not be considered heated, enclosed living space.

(g) There are no absolute building setback requirements other than those that may be imposed by a local government or those shown on the recorded plat of the subdivision. However, no structure will be allowed within 40 feet of any street right of way, 10 feet of any side Lot line or 75 feet of any waterway unless the Architectural Control Committee determines that the enforcement of any such suggested setback will impose no hardship on any owner of any other Lot, and further finds that the particular features of the Lot upon which the structure is sought to be constructed is best utilized by allowing construction at variance with the suggested setbacks contained herein. As used herein, a fence will not be considered a structure. NOTWITHSTANDING ANY SUGGESTED SETBACK, THE ARCHITECTURAL CONTROL COMMITTEE SHALL HAVE COMPLETE AUTHORITY TO DETERMINE THE APPROPRIATE BUILDING SITE ON EACH AND EVERY LOT. THERE IS NO PRESUMPTION THAT SUCH APPROVED BUILDING LOCATION SHALL BE WITHIN TEN FEET OF ANY SIDE LOT LINE, WITHIN 40 FEET OF ANY STREET RIGHT OF WAY OR WITHIN 75 FEET OF ANY WATERWAY.

(h) Bulkheads, piers and the utilization of other riparian rights by construction of improvements or structures shall only be allowed after approval by the Architectural Control Committee and all applicable governmental agencies, and no such structures will be allowed unless said structures are compatible with similar or proposed improvements on other Lots and after a finding that the construction of such structures will not unduly interfere with the riparian rights or reasonable property expectations of the owners of other Lots within the Subdivision. The type of construction utilized for bulkheads may be controlled by the Architectural Control Committee based on appearance, function and environmental engineering criteria.

It is expressly understood that the purchaser of a Lot on the water can have only one (1) pier located on or adjacent to the Lot and this pier can be designed only to accommodate four (4) or fewer boat slips. The boat slips shall be for the sole use of Lot owners and their guests.

(i) The heights of structures shall be subject to approval of the Architectural Control Committee in accordance with the standards set out in Paragraph 5 hereunder.

(j) Fences are subject to the complete jurisdiction of the Architectural Control Committee as to location, style, materials and height. As used herein, fences shall include walls, barricades, shrubbery or other impediments to reasonable mobility and visibility. Absent an extraordinary showing of need by the owner of a Lot, no fence shall be allowed along any Lot line or closer to any water line than the nearest residential structure. The Architectural Control Committee shall only approve the construction of a fence upon a determination that the fence is aesthetically pleasing; does not detract from the reasonable value of any Lot and does not unreasonably impede the view of any water course or other attractive feature from any other Lot.

(k) No satellite receiving dish, radio antennae or other similar device shall be located on any Lot except in a location approved by the Architectural Control Committee. The Architectural Control Committee shall approve the location of such device only upon making an affirmative finding that the location of the device on the Lot is in the area of minimum visibility from any surrounding Lot or from any street, and upon a further finding that the proposed location will not significantly detract from the aesthetic values of the Subdivision.

(l) No approval of the tree removal for purposes of construction shall be given until construction plans are submitted for approval, and no such tree removal shall be undertaken more than sixty (60) days prior to commencement of construction of the primary residential structure.

(m) No activity, whether active or passive, that is reasonably considered a nuisance by the Association shall be allowed on any Lot. This prohibition includes any activities within any structure, on any Lot or on any street or common area. The Association is specifically authorized by Paragraph 15 of these Restrictive Covenants to adopt rules regarding conduct and use of any Lot; however, the Association may find any conduct or use of a Lot to be a nuisance notwithstanding the fact that such conduct is not specifically prohibited by these Restrictive Covenants or by an adopted rule. If any conduct is deemed by the Association to be a nuisance, and to the extent that such conduct is not specifically prohibited by the provisions of these Restrictive Covenants or by an adopted rule, the Association shall give written notice to the offending owner specifying the nature of the nuisance, and requesting that such nuisance be terminated. If such nuisance is not terminated within a reasonable time thereafter, the Association may exercise those remedies by law provided.

5. ARCHITECTURAL CONTROL COMMITTEE PROCEDURES. The Architectural Control Committee shall be composed of three (3) members who shall be appointed by the Board of Directors of the Association. At least thirty (30) days prior to the anticipated commencement of any landscaping or construction of any structure or improvement on any Lot, the owner of such Lot (or his duly appointed agent) shall submit to the Chairman of the Architectural Control Committee a survey of the Lot, which survey shall show each Lot corner. There shall further be shown on said survey the proposed location of all proposed and existing structures or improvements, including driveways, bulkheads, piers, patios, decks and walkways. There shall further be provided to the Architectural Control Committee sufficient building elevations and other site plans, including a statement of exterior building materials and proposed exterior colors, to allow the Architectural Control Committee to appropriately and accurately evaluate what is proposed for construction on the Lot. The location of the septic tank, including drain fields, shall also be delineated. All drawings and plans shall be prepared neatly and to scale. There shall be submitted two copies of all information required to be submitted.

Within thirty (30) days after receipt of all required information, the Architectural Control Committee shall submit in writing to the owner of the Lot whether or not the requested improvements are approved. Unless a response is given by the Architectural Control Committee within thirty (30) days, the plan shall be deemed approved. The response of the Association may be an approval, a denial, an approval with conditions or a request for additional information. A request for additional information shall be deemed a determination that the information submitted was inadequate, and the thirty (30) day time for response shall only commence upon receipt of the requested additional information. If approval with conditions is granted, and construction then begins,

the construction shall be deemed approval by the owner of the Lot of the conditions imposed.

The Architectural Control Committee shall approve the plans as submitted, if all required information is submitted, and the following affirmative findings are made by the Architectural Control Committee:

(a) that the improvements sought to be constructed will not have negative economic impact on any other Lot within the Subdivision;

(b) that all required specific building standards and other conditions contained within the Restrictive Covenants and other applicable legal documents have been complied with;

(c) that the improvements are architecturally compatible with proposed or constructed improvements on other Lots within the Subdivision; and

(d) the natural features of the Lot have been retained to the maximum extent feasible.

Any owner of any Lot disagreeing with the finding of the Architectural Control Committee may appeal the decision to the Board of Directors of the Association by giving written notice of appeal to the President of the Association within fifteen (15) days following receipt of notice of denial. The Board of Directors of the Association shall then review the plans, giving the Chairman of the Architectural Control Committee the opportunity to present to the Board of Directors of the Association specific reasons why the plans were denied, in the presence of the owner of the Lot or his agent, and the owner of the Lot or his agent may present information challenging the findings of the Architectural Control Committee. The decision of the Architectural Control Committee shall only be overridden by unanimous vote of the Board of Directors of the Association.

All notices required to be given herein shall be given in writing, hand-delivered or mailed postage prepaid, return receipt requested, and the Architectural Control Committee shall be obligated to specify the particular grounds upon which denial of any application is founded. One (1) set of plans, denoted as approved (or approved with specified conditions) shall be retained by the Architectural Control Committee and the other shall be returned to the applicant.

6. ASSOCIATION. The owner or owners of every Lot shall be a voting member of the Association. However, only one (1) vote shall be allowed per Lot; to the extent that there is more than one (1) owner of any one (1) Lot, said owners shall determine among themselves, and designate, one (1) voting member, which voting

member shall cast the vote allocated to said Lot. If the owners cannot agree among themselves, the Board of Directors of the Association shall determine and designate a voting member from among the owners of the Lot. The Association shall be governed by a Board of Directors, selected in accordance with the By-Laws of the Association, and the Association shall operate and do business in accordance with the terms of its By-Laws.

The Association shall have the responsibility of maintaining in good condition all streets within the Subdivision and to maintain in good, working condition all street lights or area lights constructed within the Subdivision and constructed for common benefit, to the extent such street lights or area lights are not owned and/or maintained by a public utility. The Association shall further have the responsibility of maintaining a sightly appearance along all street rights of way and utility easements, to the extent that the same are utilized for common ingress and egress or benefit.

The Association shall have the obligation to provide for itself and for the benefit of the owner of each Lot all necessary professional services to promote the proper maintenance of all streets and other common areas and to provide the smooth, proper and legal administration of the Association. These services may include services of an engineer, lawyer, accountant or other professional. The Association is specifically authorized to provide such other incidental services for the benefit of the Subdivision and in the management of the Association as deemed reasonably necessary by the Board of Directors of the Association. These purposes may include the stabilization or improvement of any shoreline. The Association shall also have an affirmative obligation to maintain all roads and other common elements in good condition, utilizing its funds so to do, notwithstanding the utilization or lack of utilization of such facilities by any or all Lot owners. It is expressly understood that the obligation of the Association to maintain streets shall end at such time as the State of North Carolina or any other governmental entity agrees to assume maintenance responsibilities for such streets.

Included in the obligation of the Association to maintain the Common Area shall be an obligation to maintain the boat ramp and pier located thereon or adjacent thereto in good, safe and functional condition.

The Board of Directors of the Association may maintain a capital reserve fund if deemed necessary by said Association, but shall be under no obligation so to do if, in the reasonable opinion of the Board of Directors of the Association, annual maintenance of streets and other common areas is sufficient to make unlikely significant and unexpected expenditures within a five year period from the due date of the current regular assessment.

In order to fund its obligations, the owner of every Lot is obligated and bound, whether or not expressly stated in any instrument of conveyance, to pay to the Association the following:

- (a) annual charges or dues; and
- (b) special assessments.

All such assessments, charges, and dues, together with any interest thereon, shall be a charge on the land and shall be a continuing lien upon the Lot against which such assessments are made. Liens shall be perfected in the manner of a mechanics or materialmen's lien under North Carolina General Statutes, and any lien for dues unpaid shall be filed within nine (9) months after the due date of the payment of such assessment. The due date shall be the first day of the fiscal year of the Association, as to annual dues; and the date established for payment of a special assessment, as more fully set out hereinafter. Any such lien may be enforced in the manner of a deed of trust with power of sale, as allowed by North Carolina General Statutes, through a foreclosure proceeding. This instrument shall be deemed to give to the President of the Association said power of sale.

Annual assessments shall be in an amount determined by a majority vote of the Directors of the Association. The initial assessment shall be \$250.00 per Lot. The fiscal year of the Association shall be the calendar year; dues for the first year of the Association, prorated by date of closing, shall be payable to the Association at closing. Declarant shall pay dues for all unsold Lots beginning on the first day of the second month following the first conveyance of a Lot to a third party by Declarant.

A special assessment may be levied from time to time by vote of a minimum of 70% of the total votes cast in any regular or special meeting, called in accordance with the By-Laws. A special assessment may be made for any purpose for which expenditures are allowed in accordance with this Declaration. The resolution approving a special assessment shall specify the date payable.

Notwithstanding any provisions of these Restrictive Covenants, including this Paragraph 6, the Board of Directors shall have authority to levy any special assessment if, in the sole discretion of said Directors, the assessment is reasonably required to protect properties impacted in case of an emergency, such as a storm causing severe erosion. In such event, the Directors shall give written notice to the members so affected as promptly as possible after the determination of said assessment and the action shall be binding as though ratified by the requisite vote of the owners of Lots.

7. ENFORCEMENT. These Restrictive Covenants, including any amendment hereto, may be enforced by any individual Lot owner; by the Association, upon action by its Board of Directors; or by Declarant, as long as Declarant owns any Lot within the Subdivision. Appropriate remedies shall include, but not be limited to, specific performance. In any action to enforce these Restrictive Covenants, including any action to collect assessments, either regular or special, or to foreclose upon any real property for payment of such assessment, all costs associated with said collection, including court costs and reasonable attorney's fees, shall be collected as an additional assessment. In addition, interest at the rate of twelve percent (12%) per annum shall be collected from the due date of any assessment, until the assessment is paid in full.

8. SETBACKS. All setback and building restriction areas, and allowable building areas, as shown on the recorded subdivision plat of the Subdivision, shall be incorporated herein by reference.

9. AMENDMENTS. These Restrictive Covenants shall continue in full force and effect until 12:00 noon on January 1, 2000, at which time it shall automatically extend for additional successive periods of ten (10) years, unless a document terminating or modifying these Restrictive Covenants is recorded prior to any renewal date in the office of the Register of Deeds of Pamlico County, which amendment shall require approval of eighty percent (80%) of the Lots subjected to these Restrictive Covenants. At any other time, these Restrictive Covenants may be amended upon affirmative vote of ninety percent (90%) of the Lots subject to these Restrictive Covenants.

10. BINDING EFFECT. All covenants, restrictions, reservations, easements and privileges contained herein shall run with the land and the grantee, by accepting any deed to any portion of such land described herein, accepts the same subject to these Restrictive Covenants and its terms and conditions and agrees for himself, his heirs, successors and assigns, to be fully bound by each and all of the terms and conditions of these Restrictive Covenants, jointly, separately, and severally.

11. RESERVATION OF RIGHTS. Declarant hereby reserves the right to utilize all streets and roads within the Subdivision for purposes of ingress and egress to Lots within such Subdivision owned by it, or for purposes of providing access to other contiguous properties owned by it. This right shall be assignable by Declarant to successors in interest to it of other contiguous properties. Any utility easements reserved as shown on any recorded plat (and all roadways shall be deemed for this purpose a utility easement) shall be available for utilization by Declarant, authorized utility companies, or by the owner of any Lot within Headwaters Single Family Subdivision, for purposes of providing utility services or necessary drainage.

12. RESUBDIVISION. No resubdivision of any single Lot shall be allowed, if any resulting Lot will be smaller in size than any of the Lots resubdivided, prior to resubdivision. Nothing contained herein shall prohibit conveyance of more than one (1) Lot, or portions of contiguous Lots, as long as the resulting Lot or Lots are greater in size than those originally subdivided. The deed of conveyance of any such resubdivided or recombined Lots shall restrict the construction thereon to one (1) single family residential home per redivided Lot, so that the maximum number of homes which can be constructed within the Subdivision shall not increase. Upon the recombination of any Lots to reduce the total number of allowable building Lots within the Subdivision, for purposes of membership in the Association and for purposes of the payment of dues and assessments, any recombined Lots shall be considered a single Lot. Furthermore, should any Lot be determined by Declarant to be unbuildable, and should such Lot then be deeded to the Association as common area, or dedicated by Declarant as a recreation or open space area for the benefit of the Association, all by document duly recorded in the office of the Register of Deeds of Pamlico County, there shall be no further dues owed from the date of such recordation; however, any dues prepaid shall not be reimbursed.

To the extent that any one (1) owner owns two (2) contiguous or adjacent Lots, and said owner constructs thereon only one (1) residence, said two (2) Lots shall be considered for purposes of voting, membership in the Association, and the payment of dues as a single Lot. The Lot shall be again considered two (2) Lots beginning with January 1 of any year following the commencement of construction of a second residence.

13. UTILITY EASEMENTS. There is hereby reserved for the benefit of the Association and the owner of each Lot within the Subdivision a utility and drainage easement running parallel to each street a width of ten (10) feet, and parallel to each side and rear Lot line a width of five (5) feet. Utilization of such easement by anyone other than the Lot owner across which such easement runs shall be made only upon approval of the Board of Directors of the Association.

14. MINOR AMENDMENT. Declarant, or its successor or assign, shall be allowed to amend these Restrictive Covenants, notwithstanding any other provision contained herein, and without joinder of any other party, for the purpose of correcting any discovered and apparent error contained herein, clarifying any ambiguity contained herein, or adding or deleting any incidental provisions deemed in the sole discretion of Declarant to be in the best interest of the Subdivision, and the owners therein. This right may be exercised, and shall be effective, only upon the recordation of a "Corrected Declaration" in the office of the Register of Deeds of Pamlico County, which Corrected Declaration

shall specifically reference this document, and the provision impacted.

15. RULES. The Board of Directors may from time to time establish rules for use of any property within the Subdivision in order to protect the value of Lots, the aesthetic qualities of the Subdivision and the tranquillity of the owners of Lots. Said rules may include, but are not limited to, reasonable restrictions on pets, rental use of homes, and parking of cars, trailers, boats, campers and other vehicles on Lots and streets. All such rules shall be effective after written notice of adoption is mailed to the record owners of all Lots. All such rules shall be enforceable as though set out within these Restrictive Covenants.

16. LOTS. Each Lot shall be maintained by its owner as to cleanliness, debris and yard and grass maintenance in a condition as good or better than its condition at time acquisition of said Lot.

17. SPICERS CREEK. There is located proximate to the Subdivision a fifteen (15) lot subdivision named Spicers Creek. Any owner of a lot within Spicers Creek may elect to utilize the boat ramp on the Common Area upon payment, in advance, of the sum of \$75.00 per year to the Association as an associate membership payment. Failure of the owner of any lot within Spicers Creek Subdivision to make such payment on or before January 15 of any given year shall, for that year, terminate the right of said owner to utilize the boat ramp for said year. Upon the making of such payment, the owner of a lot in Spicers Creek Subdivision shall be given no rights relating to membership in the Headwaters Homeowners Association, Inc., but shall only be entitled to utilize the boat ramp within the Common Area, and to utilize Headwaters drive for access thereto. Any such owner shall be required to abide by all rules and regulations relating to the Common Area as adopted by the Association from time to time. Notwithstanding any other provision of these Restrictive Covenants, this provision may not be amended or changed in any way without the consent of Declarant or its successor or assign.

IN TESTIMONY WHEREOF, said parties have caused this instrument to be executed in their corporate name by their corporate officers, and their corporate seals to be hereto affixed, all by order of

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their Board of Directors first duly given, this the day and year first above written.

WEYERHAEUSER REAL ESTATE COMPANY

BY: [Signature]
President

ATTEST:

[Signature]
Secretary

(Corporate Seal)

STATE OF NORTH CAROLINA

COUNTY OF PAMLICO

I, Nita H. Johnson, a Notary Public in and for the above-named State and County do hereby certify that personally appeared before me this day John M. Doughty, who being by me duly sworn, says that he is the President of WEYERHAEUSER REAL ESTATE COMPANY and that he knows that Nan W. Rackley is the Secretary, and that he knows the common seal of the said corporation; that the corporation's name was subscribed to the within document by him as President and was attested by its Secretary, with its corporate seal thereto affixed, and all by order of its Board of Directors duly given, and that the said instrument is the act and deed of said corporation.

WITNESS my hand and notarial seal, this 5th day of April, 1993.

Nita H. Johnson
Notary Public

My Commission Expires:

May 20, 1996

PAMLICO COUNTY - NORTH CAROLINA

The Foregoing Certificate(s) of Nita H. Johnson, Crown Co. n.c. is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

Joyce E. Carawan
By: Lue H. Brinson
Joyce E. Carawan
Register of Deeds
Deputy/Assistant

Head. Cov
Weyer
#1