

FOURTH SUPPLEMENTAL DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR EAST SHORES V

THIS FOURTH SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR EAST SHORES V (this "Fourth Supplemental Declaration") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 1994 by Crescent Resources, Inc., a South Carolina corporation ("Declarant").

W I T N E S S E T H:

WHEREAS, Declarant has previously filed the Declaration of Covenants, Conditions and Restrictions: East Shores dated September 14, 1990 and recorded in Book 771, Page 364, Burke County Public Registry as supplemented by that certain Supplemental Declaration of Covenants, Conditions and Restrictions: East Shores II dated October 26, 1990 and recorded in Book 773, Page 1826, Burke County Public Registry, all as amended by that certain Amendment to Declaration of Covenants, Conditions and Restrictions for East Shores and to Supplemental Declaration of Covenants, Conditions and Restrictions for East Shores II dated December 20, 1990 and recorded in Book 774, Page 1229, Burke County Public Registry and that certain Second Amendment to Declaration of Covenants, Conditions and Restrictions for East Shores and to Supplemental Declaration of Covenants, Conditions and Restrictions for East Shores II dated March 28, 1991 and recorded in Book 777, Page 1862, Burke County Public Registry and that certain Second Supplemental Declaration of Covenants, Conditions and Restrictions For East Shores III dated September 18, 1992 and recorded in Book 801, Page 342, Burke County Public Registry and that certain Third Amendment to Declaration of Covenants, Conditions and Restrictions for East Shores and to Supplemental Declaration of Covenants, Conditions and Restrictions for East Shores II and to Second Supplemental Declaration of Covenants, Conditions and Restrictions For East Shores III dated September 18, 1992 and recorded in Book 801, Page 367, Burke County Public Registry and that certain Fourth Amendment to Declaration of Covenants, Conditions and Restrictions for East Shores and to Supplemental Declaration of Covenants, Conditions and Restrictions for East Shores II and to Second Supplemental Declaration of Covenants, Conditions and Restrictions For East Shores III dated June 23, 1993 and recorded in Book 809, Page 9, Burke County Public Registry, and that certain Third Supplemental Delaration of Covenants, Conditions and Restrictions for East Shores IV dated December 8, 1993

DRAWN BY AND MAIL TO:

Brent M. Milgrom, Jr.  
Parker, Poe, Adams & Bernstein (Box 10)  
2600 Charlotte Plaza  
Charlotte, NC 28244

BMM/404(1-21-94)

FILED  
LOUISE ANDERSON  
Book 820, Page 618  
'94 FEB -9 A11:42  
Louise Anderson  
REGISTER OF DEEDS  
BURKE CO., N.C.

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and recorded in Book 817, Page 1234, Burke County Public Registry (collectively referred to hereinafter as the "Declaration");

WHEREAS, pursuant to Article II, Section 2 of the Declaration Declarant may cause additional property made subject to the terms and scheme of the Declaration by filing a Supplemental Declaration in Burke County Public Registry;

WHEREAS, Declarant desires to cause those certain six (6) Boatslips located within the Phase III Pier which are designated as Boatslips 20 through 25 on Exhibit A attached hereto and incorporated herein by reference (the Additional Phase III Boatslips") to be made subject to the terms and scheme of the Declaration; and

WHEREAS, Declarant desires to cause that certain property located in Burke County, North Carolina and more particularly set forth on that certain map of East Shores Phase V, recorded in Map Book 10, Page 218 of the Burke County Public Registry (the "Phase V Property" or "Phase V") to be made subject to the terms and scheme of the Declaration.

NOW, THEREFORE, Declarant, by this Fourth Supplemental Declaration, hereby declares that (subject to certain rights of amendment, as set forth in the Declaration) all of the Phase V Property and Additional Phase III Boatslips is, are and shall be held, sold, conveyed and occupied subject to the Declaration as supplemented by this Fourth Supplemental Declaration and the easements, covenants, conditions, restrictions, charges and liens set forth therein and in this Fourth Supplemental Declaration, all of which shall run with the title to the Phase V Property and be binding upon and inure to the benefit of all parties having or acquiring any right, title or interest in and to the Additional Phase III Boatslips and the Phase V Property, or any part thereof, their heirs, successors and assigns, subject to the following additional terms and conditions:

## ARTICLE I

### DEFINITIONS

Section 1.1. "Additional Property" as defined in the Declaration shall be deemed to include the Phase V Property (as defined above).

Section 1.2. "Boatslips" as defined in the Declaration shall be deemed to include the Additional Phase III Boatslips (as defined above).

Section 1.3. "Club Lot" as defined in the Declaration shall be deemed to include each of the Phase V Lots.

Section 1.4. "Common Area" or "Common Areas" as defined in the Declaration shall be deemed to include any property shown and designated on the Phase V Map as "Common Area."

Section 1.5. "Lot" or "Lots" as defined in the Declaration shall be deemed to include the separately numbered parcels depicted on the Phase V Map, which Lots do not include the Common Areas.

Section 1.6. "Map" as defined in the Declaration shall be deemed to include the Phase V Map as defined in this Fourth Supplemental Declaration.

Section 1.7. "Non-Waterfront Lots" as defined in the Declaration shall be deemed to include Lots 39 through 44 as shown on the Phase V Map.

Section 1.8. "Phase III Boatslips" as defined in the Declaration shall be deemed to include the Additional Phase III Boatslips as defined in this Fourth Supplemental Declaration.

Section 1.9. "Phase V Map" shall mean and refer to the map entitled "East Shores - V", recorded in Map Book 10, Page 218 in the Burke County Public Registry and any revisions or rerecordings of the Phase V Map recorded by Declarant from time to time in the Burke County Public Registry.

Section 1.10. "Property" as defined in the Declaration shall be deemed to include the property shown on the Phase V Map, exclusive of the public rights-of-way shown on the Phase V Map.

Section 1.11. "Public Roads" as defined in the Declaration shall be deemed to include the road and cul-de-sac shown on the Phase V Map.

Section 1.12. "Septic Easement" shall mean and refer to the easements for septic service and for use as a septic drainage field over, across and under that portion of the Common Area as provided in Article IV hereof.

Section 1.13. "Septic Lot" shall mean and refer to each lot to which a Septic Easement is appurtenant as provided in Article IV hereof.

Section 1.14. "Waterfront Lots" as defined in the Declaration shall be deemed to include Lots 45 through 52, all as shown on the Phase V Map.

## ARTICLE II

### CLUB LOTS

Section 2.1. Designation of Club Lots. The Lots numbered 39 through 52 on the Phase V Map are hereby designated by Declarant as Club Lots, subject to the terms, conditions and restrictions applicable to Club Lots, including but not limited to the Club Assessments and Special Club Assessments, all as more particularly set forth in the Declaration.

## ARTICLE III

### ADDITIONAL PHASE III BOATSLIPS AND PHASE III BOATSLIP ASSESSMENTS

Section 3.1. Additional Phase III Boatslips. Pursuant to its authority set forth in the Declaration, Declarant hereby declares that the Additional Phase III Boatslips are and shall be held, transferred and conveyed subject to the terms, conditions and restrictions of the Declaration as supplemented hereby.

Section 3.2. Phase III Boatslip Assessments. Each of the Additional Phase III Boatslips shall be appurtenant to a Non-Waterfront Lot as designated by Declarant in deeds recorded in the Burke County Public Registry. Accordingly, each of the Phase V Non-Waterfront Lots and Lot Owners shall be subject to the terms, conditions and restrictions contained in the Declaration applicable to ownership of the Phase III Boatslips including but not limited to lien for Phase III Boatslip Assessments and Special Phase III Boatslip Assessments which each Phase V Non-Waterfront Lot Owner shall be obligated to pay as more particularly set forth in the Declaration.

## ARTICLE IV

### SEPTIC EASEMENT; DECLARANT'S OPTION TO PURCHASE COMMON AREA SUBJECT TO SEPTIC EASEMENT

Section 4.1. Septic Easement. A non-exclusive easement for the purpose of providing septic service and for use as a septic drainage field (the "Septic Easement") is hereby reserved to Declarant, and granted to the Owners of the Lots hereinafter specified as such Lots are shown on the Phase V Map (the "Septic Lots" or "Septic Lot"), over, across and under that portion of the Common Area shown and described on the Phase V Map as follows:

Septic Lots

Lot 44

Septic Easement

Area described as Common Area Septic Easement Lot 44A on the Phase V Map.

Lot 45

Area described as Common Area Septic Easement Lot 45A on the Phase V Map.

Lot 46

Area described as Common Area Septic Easement Lot 46A on the Phase V Map.

Lot 47

Area described as Common Area Septic Easement Lot 47A on the Phase V Map.

The Septic Easement shall be an appurtenance to and run with the title to the Septic Lot to which it is assigned as set forth above. Any deed, deed of trust, mortgage, transfer or other conveyance of any of the Septic Lots shall also transfer or convey the Septic Easements appurtenant thereto, even if not expressly included.

The Septic Easement herein reserved and granted shall include the right to construct, install, excavate, dig, build, maintain, operate, remove and reinstall a septic system and equipment in and upon the Septic Lot and to clear (and continue to clear as necessary) all trees, brush and other plants and to remove all rocks if necessary for the proper construction, installation and maintenance of said system, all at the sole expense of the Owner of the Septic Lot to which the Septic Easement is Appurtenant; provided, however, that if the need to repair said septic system is caused by the negligent or willful act of the Association, its successors and assigns, their agents, employees, members, invitees or licensees, then the cost to repair shall be borne by the Association or its successors and assigns. Except for damage caused by the negligent or willful act of the Association, its successors and assigns, their agents, employees, members, invitees or licensees as provided above, the Owner of the Septic Lot shall promptly and reasonably restore any portion of the surface of the Septic Easement appurtenant thereto (but not trees, brush or other plants, except grass) disturbed by the installation or maintenance of said septic system. Should the Owner of Septic Lot fail to so restore the surface of the Septic Easement appurtenant thereto, in the sole judgment of the Board of Directors, then the Board of Directors shall have the power to specially assess such Owner for the cost of said restoration in accordance with Article VIII, Section 2 of the Declaration.

In addition to the above-described rights, the Owner of the Septic Lot, to which the Septic Easement is appurtenant, its agents, independent contractors, successors and assigns, shall have the right of ingress, egress and regress over and across the Septic Easement in order to construct, install and maintain a septic system, as described above.

The Owner of the Septic Lot to which the Septic Easement is appurtenant shall be responsible for obtaining all necessary environmental permits and other permits for the installation and use of said septic system and shall hold the Association, its successors and assigns, harmless from any loss, damage or liability relating thereto, except to the extent that such loss, damage or liability results from the negligent or willful act of the Association, its successors and assigns, their agents, employees, members, invitees, or licensees. Prior to the installation of a septic system on any Septic Easement, the Owner of the Septic Lot to which such Septic Easement is appurtenant shall have the proposed location of such septic system staked and approved by the appropriate governmental authorities, and such septic system shall be approved by, and constructed and maintained in accordance with all regulations and requirements of all governmental authorities and regulatory agencies having jurisdiction thereover.

The Association shall hold fee simple title to the Common areas subject to the Septic Easements. For so long as the Subdivision is not serviced by a public or private sewer lines, no fence, building or improvement of any kind shall be constructed on the Septic Easement, and no use shall be made of the Septic Easement which is inconsistent with or may interfere in any way with the use of the Septic Easement for septic purposes. For so long as the Subdivision is not serviced by a public or private sewer lines, the Association shall not transfer, mortgage, pledge, encumber or otherwise convey the Septic Easement or any portion thereof to any other party.

The Septic Easements hereby granted and reserved shall run with the title to the Septic Lot to which the Septic Easement is appurtenant and shall be in full force and effect until such time as the Subdivision is serviced by a public or private sewer line fully servicing the Septic Lot or Lots, such that there is no need for a septic system servicing any such septic Lot or Lots. At such time as each Septic Lot is connected to a public or private sewer line and is fully connected to a public or private sewer line and is fully serviced thereby, then the Septic Easement reserved and granted hereby as an appurtenance to such Septic Lot shall terminate and shall thereafter be null and void and of no further force and effect.

Section 4.2. Declarant's Option to Purchase Common Area Subject to the Septic Easements. Declarant herein reserves and grants unto itself, its successors in interest and assigns, the exclusive right and option (the "Option") to repurchase any or all of the Common Area subject to the Septic Easements (the "Option Property"). The terms and conditions of this Option are as follows:

(A). Term. The Option Property is subject to the Septic Easements reserved and granted over, across and under the Option Property to the Owners of the Septic Lots to which such Septic Easements are appurtenant as set forth herein and as designated and shown on the Phase V Map. This Option shall become effective with respect to each portion of the Option Property on the date (the "Effective Date") that public or private sewer service is available to the Septic Lot to which such Septic Easement is appurtenant and either: (i) the Owner of such Septic Lot or any public or private utility, or governmental agency or any similar party has connected any residence on such Septic Lot to such public or private sewer line or: (ii) the Declarant has, at Declarant's cost and expense, connected any residence on such Septic Lot to such public or private sewer line. Declarant hereby reserves and grants unto itself, its successors in interest, and assigns, an non-exclusive easement for the purpose of connecting any residence on such a Septic Lot to any public or private sewer line providing service to such Septic Lot, including such access across the Septic Lot and the right to install any pipes and apparatus as may be necessary to connect any such residence to such sewer line. Notwithstanding the above, this Option shall vest in Declarant and become effective no later than the day before the date of death of the youngest lineal descendant now living of Woodard E. Farmer, Jr., Stephen M. Schreiner or Gilbert D. Stephenson, Jr., plus 21 years. Upon taking effect, this Option shall exist and continue with respect to each portion of the Option Property until 5:00 o'clock P.M. on the date thirty (30) years from the date this Option becomes effective with respect to each portion of the Option Property.

(B). Exercise. Grantor may, at any time after the Effective Date and during the option period, exercise this Option by giving written notice to the Association, deposited in the U.S. mail, certified or registered mail, return receipt requested, addressed to the Association at the address of its registered agent. Notwithstanding the date and time of the expiration of this Option set forth in Paragraph (A) hereof, Grantor shall have at least thirty (30) days in which to exercise this Option in the event that the Effective Date occurs less than thirty (30) days prior to the expiration date of this Option.

(C). Purchase Price. The purchase price for the purchase of each portion of the Option Property pursuant to this Option shall be One Dollar (\$1.00), payable in cash at closing.

(D). Closing. The closing of the purchase of each portion of the Option Property pursuant to this Option shall take place no later than thirty (30) days from the

Association's receipt of the above-described written notice of exercise of this Option, at a place and time designated by Declarant. Declarant shall furnish to the Association at closing a general warranty deed conveying fee simple marketable title to the respective portion of the Option Property, free of all encumbrances except ad valorem taxes for the current year (prorated to the date of closing), easements and restrictions of record as of the date hereof and such other encumbrances as may be assumed or specifically approved by Declarant. Declarant shall pay for all closing costs and expenses, including preparation of the deed, the excise tax (revenue stamps) required by law and the cost of recording the deed. The Association shall furnish Declarant at closing with an affidavit and indemnification agreement, in form satisfactory to Declarant, showing that all labor and materials, if any, furnished to the respective portion of the Option Property within 120 days prior to the date of closing have been paid for and agreeing to indemnify Declarant against all loss from any cause or claim arising therefrom.

(E). Parties. This Option shall be binding upon and shall inure to the benefit of Declarant and the Association, their successors in interest and assigns.

#### ARTICLE V

##### SPECIAL WATERSIDE SETBACK PROVISIONS FOR LOTS 41 THROUGH 44

Notwithstanding the fact that Lots 41 through 44 are considered Non-Waterfront Lots for the purposes of this Fourth Supplemental Declaration, each of the Lots are located adjacent to Lake James (but are separated from the Lake by a strip of land as shown on the Phase V Map). Given the specific differences in the character of these Lots as compared with other Non-Waterfront Lots, notwithstanding any provision in the Declaration to the contrary, no building, structure or other temporary or permanent improvement shall be built upon Lots 41 through 44 within fifty (50) feet of the boundary of Lake James as shown on the Phase V Map.

#### ARTICLE VI

##### MISCELLANEOUS

All capitalized terms not otherwise defined in this Fourth Supplemental Declaration shall have the same meaning as in the Declaration. Except as amended or modified hereby to reflect specific differences in character of the Additional Phase III Boatslips or the Phase V Property, all covenants, conditions, restrictions and easements established by and contained in the

Declaration shall remain in full force and effect and apply to the Additional Phase III Boatslips, Phase V Property and the Lots in Phase V.

Without limiting the foregoing, the Declarant, for each Lot in Phase V, hereby covenants, and each Owner of a Lot in Phase V 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 to the Association the Annual Assessments and Special Assessments, as defined in the Declaration and such Annual Assessments and Special Assessments shall be established and collected as provided in the Declaration.

IN WITNESS WHEREOF, Declarant has caused this Fourth Supplemental Declaration to be executed under seal effective the day and year first above written.



CRESCENT RESOURCES, INC., a South Carolina corporation

By: R.D. Stephenson Jr.  
Title: Vice President

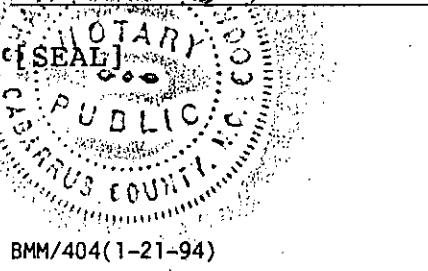
STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

This 26th day of January, 1994, personally came before me Gilbert D. Stephenson, Jr., who, being by me duly sworn, says that he is the Vice President of CRESCENT RESOURCES, INC., a South Carolina corporation, and that the seal affixed to the foregoing instrument is the official seal of the Corporation, and that said writing was signed and sealed by him/her, in behalf of said Corporation, by its authority duly given and he/she acknowledged the writing to be the act and deed of the Corporation.

Sharon C Arrowood  
NOTARY PUBLIC

My Commission Expires:  
10/13/98



BMM/404(1-21-94)

-9-

STATE OF NORTH CAROLINA—BURKE COUNTY

The foregoing certificate of Sharon C Arrowood, N.P. of said county is adjudged

to be correct. Let the instrument with its certificates, be registered. This 9 day of Feb. 19 94

Louise Anderson Louise Anderson Register of Deeds

BK0820PG0626

This map is not a certified survey and no reliance may be placed in its accuracy.

