STATE OF NORTH CAROLINA

COUNTY OF _____ Permit No. _____

DEVELOPER'S OPERATIONAL AGREEMENT

This AGREEMENT made pursuant to G.S. 143-215.1 (d1) and entered into this _____ day of _____, by and between the North Carolina Environmental Management Commission, an agency of the State of North Carolina, hereinafter known as the COMMISSION; and _____ , a corporation/general partnership registered/licensed to do business in the State of North Carolina, hereinafter known as the DEVELOPER.

WITNESSETH:

1. The DEVELOPER is the owner of the certain lands lying in _____ County, upon which it is erecting and will erect dwelling units and other improvements, said development to be known as _____ (hereinafter the Development).
2. The DEVELOPER desires, to construct a wastewater collection system with pumps, wastewater treatment works, and/or disposal facilities (hereinafter Disposal System) to provide sanitary sewage disposal to serve the Development on said lands.
3. The DEVELOPER has applied to the COMMISSION for the issuance of a permit pursuant to G.S. 143-215.1 to construct, maintain, and operate the Disposal System.
4. The DEVELOPER has created or shall create unit ownership in said dwellings units, other improvements and lands through filing of a Declaration of Unit Ownership (hereinafter Declaration), pursuant to Chapter 47C or 47F of the North Carolina General Statutes.
5. The DEVELOPER has caused to be formed or will cause to be formed at the time of filing of the Declaration, the (Unit Owners' Association) _____ (hereinafter Association), a non-profit corporation organized and existing under and by the virtue of the laws of the State of North Carolina, for the purpose, among others, of handling the property, affairs and business of the Development; of operating, maintaining, re-constructing and repairing the common elements of the lands and improvements subject to unit ownership, including the Disposal System; and of collecting dues and assessments to provide funds for such operation, maintenance, re-construction and repair.
6. The COMMISSION desires to assure that the Disposal System of the Development is properly constructed, maintained and operated in accordance with law and permit provisions in order to protect the quality of the waters of the State and the public interest therein.

NOW, THEREFORE, in consideration of the promises and the benefits to be derived by each of the parties hereto, the COMMISSION and DEVELOPER do hereby mutually agree as follows:

1. The DEVELOPER shall construct the Disposal System in accordance with the permit and plans and specifications hereafter issued and approved by the COMMISSION, and shall thereafter properly operate and maintain such systems and facilities in accordance with applicable permit provisions and law.
2. The DEVELOPER shall not transfer ownership and/or control of the Disposal System to the Association until construction has been completed in accordance with the permit and approved plans, and the staff of the Division of Water Resources has inspected and approved of the facilities. In order to change the name of the permit holder, the DEVELOPER must request that the permit be reissued to the Association. The request must include a copy of the Association Bylaws and Declaration.
3. The DEVELOPER shall not transfer, convey, assign or otherwise relinquish or release its responsibility for the operation and maintenance of its Disposal System until a permit has been reissued to the DEVELOPER's successor.

4. The DEVELOPER shall provide in the Declaration and Association Bylaws that the Disposal System and appurtenances thereto are part of the common elements and shall thereafter be properly maintained and operated in conformity with law and the provisions of the permit for construction, operation, repair, and maintenance of the system and facilities. The Declaration and Bylaws shall identify the entire wastewater treatment, collection and disposal system as a common element which will receive the highest priority for expenditures by the Association except for Federal, State, and local taxes and insurance.

5. The DEVELOPER shall provide in the Declaration and Association Bylaws that the Disposal System will be maintained out of the common expenses. In order to assure that there shall be funds readily available to repair, maintain or construct the Disposal System, beyond the routine operation and maintenance expenses, the Declaration and Association Bylaws shall provide that a fund be created out of the common expenses. Such fund shall be separate from the routine maintenance funds allocated for the facility and shall be part of the yearly budget.

6. In the event the common expense allocation and separate fund are not adequate for the construction, repair, and maintenance of the Disposal System, the Declaration and Association Bylaws shall provide for special assessments to cover such necessary costs. There shall be no limit on the amount of such assessments, and the Declaration and Bylaws shall provide that such special assessments can be made as necessary at any time.

7. If a wastewater collection system and wastewater treatment and/or disposal facility provided by any city, town, village, county, water and sewer authorities, or other unit of government shall hereinafter become available to serve the Development, the DEVELOPER shall take such action as is necessary to cause the existing and future wastewater of the Development to be accepted and discharged into said governmental system, and shall convey or transfer as much of the Disposal System and such necessary easements as the governmental unit may require as condition of accepting the Development's wastewater.

8. Recognizing that it would be contrary to the public interest and to the public health, safety and welfare for the Association to enter into voluntary dissolution without having made adequate provision for the continued proper maintenance, repair and operation of its Disposal System, the DEVELOPER shall provide in the Association Bylaws that the Association shall not enter into voluntary dissolution without first having transferred its said system and facilities to some person, corporation or other entity acceptable to and approved by the COMMISSION by the issuance of a permit.

9. The agreements set forth in numbered paragraphs 1, 2, 3, 4, 5, 6, 7, and 8 above shall be conditions of any permit issued by the COMMISSION to the DEVELOPER for the construction, maintenance, repair and operation of the Disposal System.

10. A copy of this agreement shall be filed at the Register of Deeds in the County(ies) where the Declaration is filed and in the offices of the Secretary of State of North Carolina with the Articles of Incorporation of the Association.

IN WITNESS WHEREOF, this agreement was executed in duplicate originals by the duly authorized representative of the parties hereto on the day and year written as indicated by each of the parties named below:

FOR THE ENVIRONMENTAL MANAGEMENT COMMISSION	_____ Name of DEVELOPER
_____ Thomas A. Reeder, Director Division of Water Resources	By: _____ (Signature)
	_____ Print Name and Title
_____ (Date)	_____ (Date)