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Alamance, NC
DAVID J.P. BARBER REGISTER OF DEEDS

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DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
THE GLENMOORE SINGLE FAMILY HOMES AT MACKINTOSH
ON THE LAKE

THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF THE FLAG OF THE UNITED STATES OF AMERICA AND THE FLAG OF THE STATE OF NORTH CAROLINA. THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF POLITICAL SIGNS.

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**DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
THE GLENMOORE SINGLE FAMILY HOMES AT MACKINTOSH ON THE
LAKE**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE GLENMOORE SINGLE FAMILY HOMES AT MACKINTOSH ON THE LAKE is made this 18th day of October, 2006 by CAMBRIDGE ISENHOUR HOMES, INC., a North Carolina corporation, having an office in Forsyth County, North Carolina (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Alamance, State of North Carolina, which is more particularly described as follows:

All of the land shown on the plat entitled THE GLENMOORE SINGLE FAMILY HOMES AT MACKINTOSH ON THE LAKE, Phases I and II, recorded in Plat Book 70, Page 247 and Plat Book 70, Page 354, in the Office of the Register of Deeds of Alamance County, North Carolina, and subsequent plats or amendments thereto (hereinafter, the "Property" or the "Properties");

WHEREAS, it is the intent of the Declarant hereby to cause the above-described property to be subjected to this Declaration of Covenants, Conditions, and Restrictions;

WHEREAS, Declarant desires to create on the Property an exclusive residential community of single-family detached, residential home to be named The Glenmoore Single Family Homes at Mackintosh on the Lake;

WHEREAS, Declarant desires to insure the attractiveness of the community, to prevent any future impairment thereof, to prevent nuisances, to preserve, protect and enhance the values and amenities of all properties within the community and to provide for the maintenance and upkeep of the Common Elements, as hereinafter defined; and to this end, desires to subject the real property hereinabove described, to the coverage of the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Property and each owner thereof;

WHEREAS, the Declarant has deemed it desirable, for the efficient preservation, protection and enhancement of the values and amenities in the community and the Common Elements, to create an organization to which will be delegated and assigned the powers of owning, maintaining and administering the Common Elements and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created;

WHEREAS, Declarant has incorporated or will incorporate under North Carolina law, **THE GLENMOORE SINGLE FAMILY HOMES AT MACKINTOSH ON THE LAKE HOMEOWNERS ASSOCIATION, INC.**, as a non-profit corporation for the purpose of exercising and performing the aforesaid functions; and

WHEREAS, the Properties shall be conveyed subject to the terms and conditions of this Declaration as well as the terms and conditions of the Master Residential Declaration of Covenants, Conditions, and Restrictions for Mackintosh on the Lake as recorded in Book 2203, Page 740, Alamance County Registry.

NOW, THEREFORE, Declarant hereby declares that all of the Property described above, and such additions thereto as may be hereafter made pursuant to the terms of this Declaration, shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with such real property and be binding on all parties having any right, title or interest in the Properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I DEFINITIONS

SECTION 1. ADDITIONAL PROPERTY. "Additional Property" shall mean and refer to the property located adjacent to the Property. For the purpose of determining whether property is adjacent to the Property, any of the following shall be deemed not to separate otherwise adjacent property: Common Elements, rights-of-way of public roads and utilities, greenways or other properties owned by any Governmental Authority, and rivers and streams.

SECTION 2. ASSOCIATION. "Association" shall mean and refer to **THE GLENMOORE SINGLE FAMILY HOMES AT MACKINTOSH ON THE LAKE HOMEOWNERS ASSOCIATION, INC.**, its successors and assigns.

SECTION 3. BOARD. "Board" shall mean and refer to those persons elected or appointed to act collectively as the directors of the Association.

SECTION 4. COMMITTEE. "Committee" shall mean and refer to the Architectural Control Committee referred to in Article VI.

SECTION 5. COMMON ELEMENTS or COMMON AREA. "Common Elements" or Common Area" shall mean and refer to all real property owned by the Association (whether owned in fee or by way of license or easement) or leased by the Association, other than a Lot. The Common Elements to be owned by the Association at the time of the conveyance of title of the first Lot is described as follows:

All of the land designated "Common Elements" or "Common Area" as shown on the plat entitled THE GLENMOORE SINGLE FAMILY HOMES AT MACKINTOSH ON THE LAKE, Phases I and II, recorded Plat Book 70, Page 247 and Plat Book 70, Page 354, in the Office of the Register of Deeds of Alamance County, North Carolina, and subsequent plats or amendments thereto.

Declarant reserves the right, in its sole discretion, to convey or cause to be conveyed to the Association from time to time and without the consent of the Association or its Members, additional property, which property may include any portion of the Property, including any Additional Property annexed by Declarant pursuant to Article X, Section 4, hereof. The Association shall accept any such conveyance of property, and thereafter such property shall be held and maintained by the Association as Common Elements. Improvements, which may include without limitation, roadways, sidewalks, landscaped areas, retention or detention ponds, or erosion control devices, may be located on such additional Common Elements. Declarant does not contemplate the construction of any recreational improvements or amenities within the Common Elements (i.e., swimming pool, tennis courts, clubhouse, etc.). Except as otherwise provided in Section 47F-3-1-113 of the Planned Community Act, the Association shall be required to promptly repair and replace any portion of the Common Elements for which the Association is required to maintain casualty insurance pursuant to the Bylaws of the Association which is damaged or destroyed.

The Association also may acquire additional Common Elements with the consent of the Members of the Association entitled to cast at least sixty-seven percent (67%) of the votes of the Members of the Association, who are voting, in person or by proxy, at any meeting duly called for such purpose, provided however, during the Declarant's Development Period, the consent and approval of the Declarant to acquisition will be

required. The foregoing notwithstanding, any conveyance of property to the Declarant which is a portion of the property subject to the Master Declaration, as hereinafter defined, shall not require any vote or consent by the Association. For conveyance of additional Common Elements to be effective, the deed or instrument conveying to the Association additional Common Elements must: (1) be executed on behalf of the Association by its duly authorized officers; (2) contain an attestation by the officers executing the instrument on behalf of the Association that the requisite Owner and Declarant approval, if required, has been obtained and is evidenced by written acknowledgments signed by the Owners approving the amendment and, if required, Declarant, and that such acknowledgments are made a part of the minute book of the Association, and (3) be properly recorded in the Alamance County Registry.

SECTION 6. DECLARANT. "Declarant" shall mean and refer to Cambridge Isenhour Homes, Inc., its successors and assigns, and if such successor and assign should acquire all rights, title and interest in the Property then owned by it, and to whom Cambridge Isenhour Homes, Inc. has expressly transferred, and assigned all of its rights, title and interest under this Declaration, or any amendment or modification thereof, said successor and assigns shall have all of the interests, rights and authority granted herein to the original Declarant. "Declarant" shall also mean the "Developer", as hereinafter defined, should the Developer, pursuant to Article II of this Declaration, become the Declarant.

SECTION 7. DECLARANT'S DEVELOPMENT PERIOD. "Declarant's Development Period" shall mean and refer to a period of time commencing on the date this Declaration is recorded in the Office of the Register of Deeds of Alamance County, North Carolina, and continuing for so long as Declarant, or its successors or assigns, shall own a Lot within the Properties.

SECTION 8. DECLARATION. "Declaration" shall mean and refer to this Declaration, as amended from time to time.

SECTION 9. DEVELOPER. "Developer" shall mean and refer to MACINTOSH, L.L.C., a Virginia limited liability company.

SECTION 10. DEVELOPER PROPERTY. "Developer Property" shall mean and refer to the property subject to the Master Declaration and being the property owned by the Developer. The Property, as hereinafter defined, which is subject to this Declaration is a portion of the Developer Property and additional Developer Property will be conveyed to the Declarant in phases to become a part of the Property.

SECTION 11. FHA. "FHA" shall mean and refer to the Federal Housing Administration of the Department of Housing and Urban Development.

SECTION 12. SINGLE FAMILY HOMES PLATS. "Single Family Homes Plats" shall mean and refer to the plats captioned The Glenmoore Single Family Homes at Macintosh on the Lake recorded in Plat Book 70, Page 247 and Plat Book 70, Page 354, Alamance County Registry, as amended, and any future plats made subject to this Declaration.

SECTION 13. GOVERNMENTAL AUTHORITY. "Governmental Authority" shall mean and refer to any town, city, county or state authority having jurisdiction over the Property.

SECTION 14. LOT. "Lot" shall mean and refer to any separately numbered plot of land shown upon any now or subsequently recorded subdivision plat of the Property intended for single family, residential purposes and shall include any improvements constructed thereon, and "Lots" shall refer to all such Lots collectively. Declarant hereby reserves the right to reconfigure, from time to time and without the consent of the Owners or the Members of the Association, the boundaries of any Lot or Lots owned by Declarant and to thereby create additional Lots, eliminate existing Lots or create additional Common Elements; provided, however, in no event shall the Property contain a greater number of Lots than the number from time to time permitted by the Governmental Authority, nor shall any Lot within the Property contain fewer square feet than the minimum number of square feet from time to time required by the Governmental Authority. If Declarant elects to exercise its right to revise the boundaries of one or more of the Lots owned by Declarant, Declarant shall record a revised plat of the affected Lot or Lots. Upon recording of such revised plat, each Lot shown on the previously recorded plat or plats, the boundaries of which are revised by the revised plat, shall cease to be a "Lot" as defined in this Declaration, and each newly configured Lot shown on the revised plat shall be a "Lot" as defined in this Declaration.

SECTION 15. MASTER ASSOCIATION. "Master Association" shall mean and refer to The Macintosh on the Lake Community Association, Inc., a North Carolina nonprofit corporation formed for the purposes set forth in the Master Declaration, including without limitation, the purpose of maintaining, preserving and administering the "Master Association Common Elements," as hereinafter defined.

SECTION 16. MASTER ASSOCIATION COMMON ELEMENTS. "Master Association Common Elements" shall mean and refer to all real property owned by the

Master Association for the Common use and enjoyment of the members of the Master Association as more fully described in the Master Declaration, as amended from time to time.

SECTION 17. MASTER DECLARATION. "Master Declaration" shall mean and refer to the Master Residential Declaration for Macintosh on the Lake recorded in Deed Book 2203, Page 740, in the Office of the Register of Deeds, Alamance County, North Carolina, as amended from time to time.

SECTION 18. MEMBER. "Member" shall mean and refer to every person or entity that holds membership with voting rights in the Association.

SECTION 19. OWNER. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, as hereinafter defined, but excluding tenants and those having such interest merely as security for the performance of an obligation.

SECTION 20. PERIOD OF DECLARANT CONTROL. "Period of Declarant Control" shall mean and refer to the period of time commencing on the date this Declaration is recorded in the Office of the Register of Deed of Alamance County, North Carolina, and continuing until the earlier of: (i) ten years from the date this Declaration is recorded in the Office of the Register of Deeds of Alamance County, North Carolina; or (ii) such time as seventy-five percent (75%) of the Lots shown on the plat recorded in Book 70, Page 247 and Plat Book 70, Page 354, Alamance County Registry, and any subsequent plats made subject to this Declaration (herein "Single Family Homes Plats") have been conveyed by Declarant, a successor declarant or an affiliate of Declarant, to an Owner other than Declarant, a successor declarant or an affiliate of Declarant; provided however, if after the expiration of such period of time, the Single Family Homes Plats are amended to add additional lots and fewer than seventy-five percent (75%) of the Lots shown on the Single Family Homes Plats have been conveyed by Declarant, a successor declarant or an affiliate of Declarant, to an Owner other than Declarant, a successor declarant or an affiliate of Declarant, such period of time shall be reinstated and shall continue until the earlier of (i) ten years from the date any such additional lots are subjected to this Declaration; or (ii) such time as seventy-five percent (75%) of the lots shown on the Single Family Homes Plats, as amended, have been conveyed by Declarant, a successor declarant or an affiliate of Declarant, to an Owner other than Declarant, a successor declarant or an affiliate of Declarant, provided however, notwithstanding anything herein to the contrary, the Period of Declarant Control shall continue until all of the Residences, as hereinafter defined, are constructed and "as built" plats filed with the Office of the Register of Deeds of Alamance County, North Carolina, as required by the appropriate Governmental Authority.

SECTION 21. PLANNED COMMUNITY ACT. "Planned Community Act" shall mean and refer to the provisions of Chapter 47F of the General Statutes of North Carolina.

SECTION 22. RESIDENCE(S). "Residence(s)" shall mean and refer to any building or portion of a building, located on a Lot within the Property which is constructed for use or occupancy as a single family residence for no more than one family unit.

SECTION 23. VA. "VA" shall mean and refer to the Department of Veterans Affairs.

ARTICLE II RIGHTS OF DEVELOPER

SECTION 1. DEVELOPMENT OF ADDITIONAL LAND. Pursuant to a purchase agreement between Declarant and Developer (hereinafter referred to as the "Contract"), Developer has sold and conveyed to Declarant the Property described in this Declaration, and has contracted to sell to Declarant other real property that may become part of the Properties by annexation to this Declaration, such other real property being referred to herein as "Developer Property". It is the intent of Developer and Declarant that any Developer Property will be annexed into the Declaration only after it is acquired by Declarant from Developer. However, Developer and Declarant also acknowledge the following: (i) for one or more reasons it may be necessary for Developer Property to be annexed to the Declaration prior to its conveyance to Declarant; (ii) if, for any reason, Declarant does not purchase all of the Developer Property, Developer may need the ability to deal with it as a Declarant under the Declaration; and (iii) Developer, in developing the Property, the Developer Property, and/or other portions of Mackintosh On The Lake (the development in which the Properties and the Developer Property is located, referred to herein as the "Development"), may need certain rights to access and work in portions of the Common Elements and may need certain easements over, under and through the Common Elements and Lots. Accordingly, the rights and easements described in this Article hereby are reserved by and granted to Developer, its successors and assigns.

SECTION 2. ANNEXATION OF DEVELOPER PROPERTY TO THE DECLARATION. Developer agrees to annex portions of the Developer Property to this Declaration prior to conveyance to the Declarant, to the extent necessary to satisfy the requirements of any Governmental Authority, including the FHA, Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or other governmental agency or lender who provides governmental insured loans for Residences on Lots in the Subdivision. Notwithstanding anything herein to the contrary: (i) prior to becoming a

Declarant under this Declaration, Developer has the right, without the consent or vote of any Member of the Association, to annex any part or all of the Developer Property to this Declaration, and (ii) from and after becoming a Declarant under this Declaration, Developer has all of the rights of the Declarant to annex to this Declaration any part or all of the Developer Property or any other Additional Property.

SECTION 3. CONVEYANCE OF COMMON ELEMENTS TO ASSOCIATION. Developer has conveyed or will convey to Declarant or to the Association, real property that is intended to be Common Elements under the Declaration. Developer has the right to enforce the provisions of this Declaration pertaining to conveyance of the Common Elements to the Association.

SECTION 4. DEVELOPER'S RIGHT TO ACQUIRE COMMON ELEMENTS. In connection with its development of the Property, the Developer Property, and/or the Development, Developer has the right to accept conveyance of Common Elements from the Association in order to correct erroneous conveyances of Common Elements, to eliminate unintentional setback violations or other improvements onto portions of the Common Elements, or to enhance the utility of the Common Elements retained by the Association, and to require the Association to convey Common Elements for any of the foregoing purposes.

SECTION 5. DEVELOPER'S ASSESSMENTS. Until such time, if any, that Developer becomes the Declarant or a Co-Declarant under this Declaration, Developer and all Lots and other portions of the Properties owned by Developer, are exempt from all assessments under the Declaration, and Developer shall have no votes in the Association with respect to such exempt property, except that Developer shall be a voting Member of the Association with respect to all Lots owned by Developer on which Residences have been constructed and occupied, and shall have an obligation to pay assessments with respect to such Lots. Following any uncured default by Declarant and/or failure of Declarant to purchase any portions of the Developer Property under the Contract, Developer may exercise all of the Declarant rights under the Declaration with respect to all such portions of the Developer Property by recording in the Alamance County Registry one or more Supplemental Declarations establishing its Declarant rights.

SECTION 6. DEVELOPER'S EASEMENTS. Developer, for itself and its agents, contractors, and subcontractors, hereby reserves the following non-exclusive rights and easements over, under and through the Common Elements (for these purposes, the term "Common Elements" includes all portions of the Property intended to be Common Elements

but not yet owned by the Association - for example, a private street right-of-way that has not been conveyed to the Association) and over, under and through all public and private storm water drainage easements and utility easements located on Lots:

- (a) The right to cause the Declarant or Association to grant perpetual utility easements on, over, under, across and through Common Elements as may be reasonably necessary for development of the Properties, the Developer Property, and/or the Development, and the Declarant or Association, as applicable, upon request shall execute any document or plat establishing such easement to facilitate recording of same in the Alamance County Public Registry. For the purposes of this Article, "utility" or "utilities" include, without limitation, water, sanitary sewer, storm water drainage, electricity, telephone, natural gas, cable television, internet service, greenway easements, and buffers required by any Governmental Authority. Such easements may be granted by written instrument or described on a recorded plat, and may be publicly-dedicated or private easements. Insofar as reasonably practicable, and except for any portions thereof that by necessity must be at or above the surface of the ground, all utilities installed, used and maintained pursuant to such easements shall be underground. Unless specifically excluded therefrom, the grants of all such easements are deemed to include a right of ingress, egress and regress over and upon all necessary portions of the Common Elements and Lots as reasonably required to facilitate the exercise of such easements.
- (b) The right to install, use and maintain in the Common Elements such utilities as may reasonably be required for development of the Properties, the Developer Property, and/or the Development.
- (c) The right to install, use and maintain in the Common Elements signs, landscaping (including, without limitation, grass, plants, lighting, and irrigation), fencing and other decorative features in connection with the development of the Property, the Developer Property, and/or the Development. Following any uncured default by Declarant and/or failure of Declarant to purchase any portions of the Developer Property under the Contract, this right also includes the right to maintain in the Common Elements signs advertising for sale or rent any part or all of the Property, the Developer Property, and/or property in the Development owned by Developer and signs providing

directions to any part or all of the Properties, the Developer Property, and/or the Development owned by Developer. This right to maintain such advertising and directional signs is assignable by Developer to any other Owner of any of the Property, Developer Property, or Development.

- (d) The right to construct, improve, repair, replace and maintain any and all private streets, driveways and alleys that constitute any part of the Property, in accordance with any requirements of the applicable Governmental Authority and/or in accordance with any contractual obligations of Developer to Declarant or to any other person or legal entity.
- (e) The right to construct, improve, repair, replace, relocate and maintain all storm water drainage pipes and equipment and facilities for transporting, storing, and/or discharging storm water from the Property, the Developer Property, and/or Development, in accordance with the requirements of any applicable Governmental Authority and/or in accordance with any contractual obligations of Developer to Declarant or to any other person or legal entity. Easements rights reserved by Developer under this subparagraph (e) also are hereby granted to the Master Association and may also be exercised by the Master Association in accordance with its rights under the Master Declaration.
- (f) A non-exclusive right of pedestrian and vehicular ingress, egress and regress over and upon all Common Elements and Lots, as applicable, for the purposes of exercising the rights and easements granted or reserved to Developer in this Article; provided, however, that, with respect to vehicular ingress, egress and regress, to the extent reasonably practicable, Developer shall use only those portions of Common Elements designed or designated for use by vehicles, such as private streets, driveways and alleys.
- (g) A nonexclusive right and easement at all times to enter upon any portion of any easement to the extent necessary to gain access to and maintain improvements and facilities in such easement and/or to exercise its rights as Developer or Declarant under this Declaration or the Master Declaration, and no such entry shall be deemed a trespass.
- (h) Developer may exercise all of its rights under this Article without the prior approval or consent of any person or legal entity, including the Declarant, Owners, and the Association, and without the payment of any fee or charge to Declarant, Owners, or the Association for the exercise of such rights.

SECTION 7. TERMINATION OF DEVELOPER'S RIGHTS AND EASEMENTS. Except with regard to the rights reserved for the Master Association in this Article, the rights and easements granted to Developer in this Article shall automatically terminate, without the execution or recording of any other document, upon the later of the following dates: (i) on the date that Developer has conveyed to the Declarant or the Association all portions of the Developer Property required to be conveyed by the Contract; (ii) on the date that Developer completes all of its development obligations to Declarant pursuant to the Contract; (iii) on the date that Developer completes its development obligations to any other purchaser of any part or all of the Developer Property in the event that Declarant fails to purchase all of the Developer Property required by the Contract; or (iv) on such date that Developer completes all of its development obligations of the applicable Governmental Authority to the Properties, the Developer Property, and Development; or (v) at the end of the Development Period under the Master Declaration; or (vi) at the end of the Declarant's Development Period under this Declaration. In addition to the foregoing, Developer may at any time terminate any part or all of its rights and easements reserved in this Article by recording in the applicable Register of Deeds' office one or more instruments terminating any part or all of such rights and easements.

SECTION 8. AMENDMENT OF THIS ARTICLE. Notwithstanding any other provisions of this Declaration to the contrary, as long as the easements or rights reserved by or for Developer in this Article exist as provided herein, the provisions of this Article may not be amended without the written consent of Developer.

SECTION 9. NOT SUBJECT TO ARCHITECTURAL CONTROL. With respect to any exercise of its rights under this Article or any other Article, Section, or provision of this Declaration, Developer is not subject to the jurisdiction of the Committee or any requirements of any architectural approval or control provisions of this Declaration.

SECTION 10. COMPLIANCE WITH LAWS. Developer's exercise of all rights and easements under this Article shall comply with all applicable Governmental Authority laws, ordinances and regulations.

ARTICLE III PROPERTY RIGHTS

SECTION 1. RULES AND REGULATIONS. The Board may establish reasonable rules and regulations concerning the use of the Common Elements and improvements located thereon from time to time. The Association may impose reasonable monetary fines and other sanctions for the violation of established rules and regulations and for the violation of any

of the covenants and contained in this Declaration, which monetary fines and sanctions shall be assessed and collected pursuant to the provisions of Articles V and X hereof. Copies of such rules and regulations and the amendments thereto shall be furnished by the Association to all Owners upon request. All such rules and regulations shall be binding upon the Owners, their families, tenants, guests, invitees and agents until and unless such regulation, rule or requirement shall be specifically overruled, canceled or modified by the members of the Board entitled to cast at least two thirds (2/3) of the votes of the Board, who are voting, in person or by proxy, at a meeting duly called for such purpose, provided however, during any Period of Declarant Control, Declarant must also consent to such action.

SECTION 2. OWNERS' EASEMENTS OF ENJOYMENT. Every Owner shall have a right and easement of enjoyment in and to the Common Elements, which shall be pertinent to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the easements herein reserved by Declarant or Developer are created in favor of the Association, the Master Association, and their members;
- (b) the right of the Association to permit the use of and to charge reasonable admission and other fees for the use of any recreational facility, if any, situated upon the Common Elements;
- (c) the right of the Association to suspend the voting right by the Owner of any Lot for a period during which any assessment against such Lot remains unpaid and for any period during which such Lot or any Owners or occupant thereof are in violation of the terms of this Declaration or the published rules and regulations of the Association and for a period not to exceed sixty (60) days after any such violation;
- (d) the right of the Association to dedicate or transfer non-exclusive easements on, over and upon all or any part of the Common Elements for such purposes and subject to such conditions as may be agreed to by the Board, provided however, no such dedication or transfer shall be effective unless an instrument executed on behalf of the Association by its duly authorized officers, agreeing to such dedication or transfer, has been recorded;
- (e) the right of the Association, pursuant to Section 47F-3-112 of the Planned Community Act and with the consent of the Members entitled to cast at least eighty percent (80%) of the votes of the Association, to dedicate or transfer fee title to all or any part of the Common Elements for such purposes and subject

to such conditions as may be agreed to by the Members consenting to such dedication or transfer; provided however, during Declarant's Development Period, Declarant must also consent to such action and, further provided that no such dedication or transfer shall interfere with or obstruct utility service to, or ingress, egress and regress to or from, the Lots or any remaining Common Elements or cause any Lot or any remaining Common Elements to fail to comply with applicable laws, regulations or ordinances;

- (f) the right of the Association to impose rules and regulations for the use and enjoyment of the Common Elements and improvements thereon, which regulations may further restrict the use of the Common Elements, and specifically including the right to establish rules and regulations concerning parking and vehicular traffic flow on and along the streets and roadways, whether public or private, within or abutting the Properties, which rules and regulations may restrict or prohibit on-street parking, may be enforced by towing at the expense of the vehicle's owner, by reasonable fine levied against the vehicle's owner and/or any Owner of a Lot to which such violation reasonably may be attributed, or by any other reasonable method of enforcement established by the Board;
- (g) the right of the Association to borrow money for the purpose of improving the Common Elements and facilities thereon and, with the assent of Members entitled to cast at least eighty percent (80%) of the votes of the Members of the Association, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred (any such mortgage shall be effective if it is executed on behalf of the Association by its duly authorized officers and recited that the requisite consent of Members has been obtained and documented in the Minute Book of the Association); provided however, during Declarant's Development Period, Declarant must also consent to such action, and further provided that no such mortgage, encumbrance or hypothecation or foreclosure of the lien thereby created shall interfere with or obstruct utility service to, or ingress, egress and regress to or from, the Lots or any remaining Common Elements or cause any Lot or any remaining Common Elements to fail to comply with applicable laws, regulations or ordinances; and
- (h) the right of the Association to convey to Declarant or the Master Association portions of the Common Elements for the purpose of correcting erroneous conveyances of Common Elements or eliminating unintentional violations of

setback requirements or for the purpose of enhancing the utility of the Common Elements to be retained by the Association; provided however, no such conveyance shall interfere with or obstruct utility service to, or ingress, egress and regress to or from the Lots or any remaining Common Elements or cause any Lot or any remaining Common Elements fail to comply with applicable laws, regulations or ordinances.

SECTION 3. OWNER'S DELEGATION OF RIGHTS. Any Owner may delegate, in accordance with the Bylaws, its right of enjoyment of the Common Elements and facilities to the members of his or her family, his or her tenants or contract purchasers who reside on the Lot of such Owner.

SECTION 4. LEASES OF LOTS. Any lease agreement between an Owner and a lessee for the lease of such Owner's Lot shall provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration, the Master Declaration, the Articles of Incorporation and Bylaws of the Association and that any failure by the lessee to comply with the terms of said documents shall be a default under the terms of the lease. All leases of Lots shall be in writing and shall have a term of not less than one (1) month. Other than the foregoing, there is no restriction on the right of any Owner to lease its Lot.

SECTION 5. PROPERTY RIGHTS PURSUANT TO MASTER DECLARATION. As more particularly set forth in the Master Declaration and the governing documents of the Master Association, each Owner shall have the right to use and enjoy any Master Association Common Elements and any improvements now or hereafter located thereon, subject to the terms and conditions of the Master Declaration.

ARTICLE IV MEMBERSHIP AND VOTING RIGHTS

SECTION 1. MEMBERSHIP. Every person or entity who or which is a record Owner of a fee simple undivided fee interest in any Lot, including Declarant and any affiliated entity, shall be a voting Member of the Association. The foregoing is not intended to include persons or entities that hold an interest in a Lot merely as security interest for the performance of an obligation. Such membership shall be appurtenant to and may not be separated from ownership of any Lot that is subject to assessment by the Association. Except as otherwise provided in Section 2 below, on all matters which the membership shall be entitled, to vote, the Member(s) owning each Lot shall be entitled to one (1) vote per Lot.

When more than one person holds an interest in any Lot, all such person shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

SECTION 2. DECLARANT'S RIGHT TO REPRESENTATION ON THE BOARD. During any Period of Declarant Control, the Declarant shall have the right to designate and select all of the Members of the Board. Whenever Declarant shall be entitled to designate and select any person or persons to serve on the Board or Committee of the Association, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation of the Association, the Bylaws of the Association, or this Declaration, and Declarant shall have the right to remove any person or persons selected by it to act and serve on the Board or Committee and to replace such person or persons with another person or other persons to act and serve in the place of any member or members of the Board so removed. Any Board member designated and selected by Declarant need not be a resident of the Properties.

ARTICLE V COVENANTS FOR MAINTENANCE AND ASSESSMENTS

SECTION 1. CREATION OF LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner for any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay: (a) to the Association and Master Association: (i) annual dues, other assessments and charges of the Association and annual dues, other assessments and charges of the Master Association provided for herein, together with interest, and late fees, costs and reasonable attorneys fees, and (ii) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided; and (b) to the appropriate governmental taxing authority: (i) ad valorem taxes levied against the Common Elements, and (ii) assessments for public improvements to or for the benefit of the Common Elements if the Association shall default in the payment of either or both for a period of six (6) months. All assessments and charges provided for herein, together with interest, and late fees, cost, and reasonable attorneys fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made when a claim of lien is filed on record in the Office of the Clerk of Superior Court of Alamance County, North Carolina. Each such assessment and charge, together with interest, any late fees, cost and reasonable attorney s fees, shall also be

the personal obligation of the Owner of such property at the time when the assessment fell due. The personal obligation for subsequent assessments shall not pass to his successors in title unless expressly assumed by them.

SECTION 2. PURPOSE OF ASSESSMENTS.

- (a) The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties and in particular for the acquisition, improvement and maintenance of the Properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Elements or the Lots, including without limitation the costs of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of any taxes assessed against the Common Elements; the maintenance of open spaces and streets within the Common Elements which have not been accepted for dedication by a public authority, roadway medians and islands (including medians and islands located in dedicated right-of-ways within the Property), drives, and parking areas within the Common Elements; the procurement and maintenance of insurance in accordance with the Bylaws; the maintenance of dams and ponds, including retention and detention ponds, or other bodies of water, if any, located within the Common Elements, except for any of the same that are maintained by the Master Association or maintained by any Government Authority; the erection, maintenance and repair of signs, entranceway, landscaping and lighting within the Common Elements, the erection, maintenance and repair of signs, entranceways, irrigation systems, landscaping and lighting within the Common Elements, road medians and islands, the cost of operating, maintaining and repairing any street lights erected by the Association or the Declarant in the right-of-way of streets (whether public or private) or in any other easement provided therefore within the Property; the payment of charges for garbage collection and municipal water and sewer services furnished to the Common Elements; the employment of attorneys and other agents to represent the Association when necessary; the provision of adequate reserves for the replacement of capital improvements including without limiting the generality of the forgoing, paving and maintenance, and any other major expense for which the Association is responsible, and such other needs as may arise.

- (b) The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Lots,

Common Elements. Such reserve fund is to be established out of regular assessments for Common expense.

- (c) All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association as the payment of any expense of operating and managing the Properties, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation, and the Bylaws of the Association. As monies for any assessments are paid to the Association by any Owner, the same may be commingled with monies paid to the Association by the other Owners. Although all funds and Common surplus, including other assets of the Association, and any increment thereto or profits derived therefrom shall be held for the benefit of the Members of the Association, no Member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer its membership interest therein, except as an appurtenance to the Member's Lot. When any Owner shall cease to be a Member of the Association by reason of the Member's divestment of ownership of the Lot, by whatsoever means, the Association shall not be required to account to such Owner for any share of the fund or assets of the Association, or which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Properties.

SECTION 3. ADOPTION OF BUDGET AND FIXING OF ANNUAL ASSESSMENTS; MAXIMUM ANNUAL ASSESSMENT.

- (a) At least thirty (30) day in advance of each annual assessment period, the Board shall establish an annual budget and fix the amount of the annual assessments in advance for the following year. Within thirty (30) days of the adoption of any proposed budget, the Board shall provide to all of the Owners a summary of the budget and a notice of the meeting to consider ratification of the budget, including a statement that the budget may be ratified without a quorum. The Board shall set a date for a meeting of the Owners to consider ratification of the budget, such meeting to be held not less that ten (10) and not more than sixty (60) days after mailing the summary and notice. The budget is ratified at that meeting unless the Owners of a majority of the Lots in

attendance at the meeting, or voting by proxy, reject the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board.

- (b) Until December 31 of the year of the conveyance of the first Lot to an Owner other than the Declarant, the maximum annual assessment (exclusive of assessments which may be levied by the Master Association) shall be \$1,176.00 per Lot, and will be collected annually. The maximum annual assessment for the calendar year immediately following the year in which conveyance of the first Lot to an Owner is made and for each calendar year thereafter shall be established by the Board and may be increased by the Board without approval of the membership by an amount not to exceed twenty-five percent (25%) of the maximum annual assessment of the previous year. The maximum annual assessment for the calendar year immediately following the year in which conveyance of the first Lot to an Owner is made and for each calendar year thereafter, the annual assessment may be increased without limit by a vote of the Members entitled to cast at least two thirds (2/3) of the votes of the Members of the Association who are voting, in person or by proxy, at a meeting duly called for this purpose; provided however, during any Period of Declarant Control, Declarant must also consent to such action.
- (c) After the Period of Declarant Control, the Board may elect to collect the annual assessment on a monthly basis.
- (d) The Board may fix the annual assessment at an amount not in excess of the maximum, subject to the provision of Section 6 of this Article.

SECTION 4. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS.

In addition to the annual assessments authorized above, the Association may levy, in any calendar year, as special assessments 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 Elements, provided that any such assessment shall have the assent of the Members entitled to cast at least two thirds (2/3) of the votes of the Members of the Associations who are voting, in person or by proxy, at a meeting duly called for this purpose, provided however, during the Declarant's Development Period, Declarant must also consent to such action. Unless the Declarant so consents, no such assessment shall be binding on the

Declarant. Except for the Declarant during the Declarant's Development Period, all special assessments shall be fixed at a uniform ratio for all Lots and may be collected on a monthly basis.

SECTION 5. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 3 AND 4 OF THIS ARTICLE. Written notice of any meeting called for the purpose of a vote of the Members required under Section 3 or 4 of this Article shall be sent to all Members no less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast twenty percent (20%) of all the votes of the Members of the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meetings shall be one half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

SECTION 6. RATE OF ANNUAL ASSESSMENT. Both annual and special assessments must be fixed at a uniform rate for all Lots; provided however, that so long as any Residence owned by the Declarant or any affiliated entity of Declarant is unoccupied as a residence, the amount of the assessment for each such Lot shall be an amount equal to twenty-five percent (25%) of the regular assessments fixed for each Lot.

SECTION 7. DATE AND COMMENCEMENT OF ANNUAL ASSESSMENTS; DUE DATES. The annual assessments provided for herein shall commence as to a Lot on the first day of the month following the date such Lot is made subject to this Declaration. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The due dates shall be established by the Board. 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.

SECTION 8. EFFECT OF NON-PAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION. Any assessment not paid with thirty (30) days after the due date shall bear interest from the due date at a rate from time to time established by the Association not to exceed eighteen percent (18%) per annum. In addition, the Association may charge a reasonable late fee, the amount of which shall be established from time to time by the Board of the Association. For assessments not paid within thirty (30) days after the due date and after notice and an opportunity to be heard, the Association may suspend privileges or services provided by the Association (except rights of access to Lots), which suspension may continue without further hearing until the delinquency is cured. The Association may bring an action at law against the defaulting Owner and such Owner's Lot in the same manner as

prescribed by the laws of the State of North Carolina for the foreclosure of a mortgage or deed of trust on real estate under the power of sale, and interest, any late fees, costs and reasonable attorneys fees for representation of the Association in such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the Common Elements or abandonment of the Lot, nor shall damage to or destruction of any improvement on a Lot by fire or other casualty result in any abatement or diminution of the assessments provided for herein.

SECTION 9. EFFECT OF DEFAULT IN PAYMENT OF AD VALOREM TAXES OR ASSESSMENTS FOR PUBLIC IMPROVEMENT BY ASSOCIATION.

Upon default by the Association in the payment to the Governmental Authority entitled thereto of any ad valorem taxes levied against the Common Elements or assessments for public improvements to the Common Elements, which default shall continue for a period of six (6) months, each Owner of a Lot in the development shall become personally obligated to pay to the taxing or assessing governmental authority a portion of such unpaid taxes or assessments in an amount determined by dividing the total taxes and/or assessments due the governmental authority by the total number of Lots in the development. If such sum is not paid by the Owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the Lot of the then Owner, its heirs, devisees, personal representatives and assigns, and the taxing or assessing Governmental Authority may either bring an action at law or elect to foreclose the lien against the Lot of the Owner.

SECTION 10. SUBORDINATION OF THE LIEN FOR ASSESSMENTS TO THE LIEN OF FIRST MORTGAGES.

When the holder of a first mortgage or first deed of trust of record, or other purchaser of a Lot obtains title to the Lot as a result of foreclosure of the first mortgage or first deed of trust or deed in lieu of foreclosure, such purchaser and its heirs, successors and assigns shall not be liable for the assessments against such Lot which become due prior to the acquisition of title to such Lot by such purchaser. Such unpaid assessments shall be deemed to be common expenses collectible from all Owners including such purchaser, its heirs, successors and assigns. Such sale or transfer of any Lot which is subject to any such first mortgage or deed of trust, pursuant to a foreclosure thereof or any proceeding in lieu of foreclosure thereof shall extinguish the lien of such assessments as to the payment thereof which became due prior to such sale or transfer; provided however, no such sale or transfer shall relieve such Lot or the Owner thereof from liability for any assessments thereafter becoming due or from the lien thereof.

