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Granville County, NC
Kathryn Crews Averett Reg of Deeds
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Prepared by/mail to: Harrold Law Firm, PLLC, 3323 Alamance Drive, Raleigh, NC 27609

NORTH CAROLINA

COUNTY OF GRANVILLE

MARSHALL LANDING SUBDIVISION

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Declaration"), made on this 4th day of August, 2006 by **BDG MARSHALL ASSOCIATES, LLC**, a North Carolina limited liability company ("Declarant"), and **NANCO CUSTOM HOMES, INC.** ("Nanco"), a North Carolina corporation;

WITNESSETH:

THAT WHEREAS, the Declarant and Nanco are the owners of certain property located in Granville County, North Carolina, constituting approximately 41 acres, more or less, which is more particularly described in Exhibit A attached hereto and incorporated herein by this reference. Nanco is the owner of Lots 21, 22 and 33, Marshall Landing Subdivision, and joins in this Declaration in order to subject those lots to this Declaration.

WHEREAS, Declarant and Nanco will convey the said property, subject to certain protective covenants, conditions, restrictions reservations, liens and charges as hereinafter set forth;

NOW THEREFORE, Declarant and Nanco hereby declare that all of the property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the real property. These easements, covenants, restrictions, and conditions shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in the described properties or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

Section 1.1. **“Act”** means the North Carolina Planned Community Act (Chapter 47F of the North Carolina General Statutes), as amended from time to time, or any corresponding provisions of succeeding law.

Section 1.2. **“Additional Property”** shall have the meaning set forth in Section 2.2 below.

Section 1.3. **“Amenities”** shall mean the facilities constructed, erected or installed on the Common Areas, as the same may change or be added to from time to time.

Section 1.4. **“Annual Assessments”** means the assessments described in Section 6 below.

Section 1.5. **“Architectural Committee”** shall mean and refer to a committee of up to three (3) Persons, appointed by the Board (subject to the following sentence) and charged with reviewing and passing judgment upon the design of proposed Buildings and other Structures, as described in Article VIII below. The initial Architectural Committee shall be Declarant, until such time as the Board appoints the members of the Architectural Committee.

Section 1.6. **“Association”** shall mean and refer to the Marshall Landing Homeowners Association, Inc., a North Carolina non-profit corporation formed, or to be formed by Declarant, together with its successors and assigns.

Section 1.7. **“Board of Directors”** or **“Board”** means those persons elected or appointed and acting collectively as the Directors of the Association, unless a contrary intent is evident. The Board shall constitute not less than three (3) persons.

Section 1.8. **“Building”** shall mean and refer to a residential structure, constructed or erected on a Lot.

Section 1.9. **“Bylaws”** shall mean and refer to the bylaws of the Association, as they may now or hereafter exist and may change from time to time.

Section 1.10. **“Common Area”** shall mean and refer singularly or collectively, as applicable, to all land, improvements and other properties now or hereafter owned by or in the possession of the Association or Declarant and being specifically designated by Declarant by plat, supplemental declaration, deed or other written instrument as Common Area for the Property, such land, improvements and other properties being subject to this and being Declaration and/or any applicable supplemental declaration, and being subject to control and maintenance assessments by the Association. Common Area shall also include any waterlines, storm water drainage lines and sewer lines that may be located within the Common Area and not within municipal sanitary sewer easements.

Section 1.11. **“Declarant”** shall mean and refer to BDG Marshall Associates, LLC, a North Carolina limited liability company, and its successors and assigns to whom the rights of Declarant hereunder are expressly transferred, in whole or in part, and subject to such terms and conditions as the Declarant may impose.

Section 1.12. **“Declaration”** shall mean and refer to this Declaration of Covenants, Conditions and Restrictions, and all subsequent valid amendments thereto.

Section 1.13. **“Declarant Control Period”** means the period commencing on the date of recordation of this Declaration with the Granville County Registry and continuing until the earlier of: (a) January 1, 2010; (b) the date on which at least eighty percent (80%) of the Lots contain occupied houses; or (c) the date on which the Declarant transfers, in writing, its Development Rights to the Association.

Section 1.14. **“Development Rights”** means all rights of control and/or approval granted to Declarant, as Declarant, under this Declaration, including, but not limited to, the rights granted under Article II below.

Section 1.15. **“Lot”** shall mean the any numbered lot on the Plat, or any subsequent recorded map of the Property with the exception of the Common Area and area designated as open space.

Section 1.16. **“Member”** shall mean and refer to every person or entity who holds membership in the Association.

Section 1.17. **“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, including contract sellers, but excluding those having such interest merely as security for the performance of any obligation.

Section 1.18. **“Person”** shall mean and refer to any individual, corporation, partnership, association, trustee, or other legal entity.

Section 1.19. **“Plat”** shall mean the map entitled “Marshall Landing” by Dan Hatch, Surveyor, recorded in the Granville County Registry or any amended or other map of the Property so recorded in the Granville County Registry.

Section 1.20. **“Property”** shall mean and refer to that certain real property described on Exhibit A hereto, and such additions thereto as may hereinafter be brought within the jurisdiction of the Association.

Section 1.21. **“Structure”** shall have the meaning set forth in Section 8.2 below.

Section 1.22. **“Supplemental Declaration”** shall have the meaning set forth in Section 2.2 below.

ARTICLE II
PROPERTIES; ANNEXATION OF ADDITIONAL PROPERTIES

Section 2.1. Property Made Subject To Declaration. The Property is hereby made subject to this Declaration and (subject to the right of Declarant to, as hereinafter described, amend and/or supersede in whole or in part, this Declaration by Supplemental Declarations) the Property shall be owned, held, leased, transferred, sold, mortgaged and/or conveyed by Declarant, the Association and each Owner subject to this Declaration and the controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens set forth in this Declaration.

Section 2.2. Annexation of Additional Property. If Declarant is the owner from time to time of any property adjacent to the Property ("Additional Property") which it desires to add to the scheme of this Declaration, it may do so by filing of record a "Supplemental Declaration" or "Declaration of Annexation" (therein so called) which shall extend the scheme of this Declaration to such Additional Property; provided, however, that such Supplemental Declaration or Declaration of Annexation, as applied to the Additional Property covered thereby, may include such specific additional controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens as may be set forth in such Supplemental Declaration or Declaration of Annexation; and if a person or entity other than Declarant desires to add property to the scheme of this Declaration, such property may only be so added if the Declarant gives written consent thereto and if such consent is given, such property shall be considered Additional Property.

Section 2.3. Contents of Supplemental Declaration. Supplemental Declarations may set forth the controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens to which the Additional Property covered thereby shall be subject. Such controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens may contain additions, deletions and modifications from those contained in this Declaration, as the parties subjecting such Additional Property to the scheme of this Declaration may desire; provided if such party is other than Declarant, as a condition to such party's right to so impose such additions, deletions or modifications, such party must obtain the prior written consent thereto of Declarant. In no event shall such Supplemental Declaration revoke, modify or add to the controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens established by this Declaration or a previously filed Supplemental Declaration as it applies or they apply to the original Property or to previously added portions of Additional Property.

Section 2.4. Conveyance of Common Area Upon Annexation. Subsequent to recordation of the Supplemental Declaration by the Declarant, the Declarant shall deliver to the Association one or more deeds conveying the Common Area, if any, within the Additional Property annexed as such Common Area is developed, as set forth in Article V, Section 5.4 of this Declaration.

Section 2.5. Additional Amenities. It is expressly understood that the Association may, from time to time, add to or alter the Amenities, including additions of capital nature. Such addition could potentially include, by way of example, recreational facilities, a fitness facility, tennis courts, or an exercise trail. This Section shall not require or even infer any such additions to the Amenities, such potential additions being at the pleasure of the Association. The cost of such additional Amenities may be paid for through a special assessment.

Section 2.6. Common Area Improvements provided by Declarant. Declarant shall convey to the Association the common areas designated on the Plat, if any.

ARTICLE III
MEMBERSHIP

Every person or entity who is a record Owner of a fee or undivided fee interest in any Lot which is subject to the Declaration, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership. The Board of Directors may make reasonable rules relating to the proof of ownership of a Lot.

ARTICLE IV
VOTING RIGHTS

Section 4.1. Voting Classes. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all those Owners with the exception of the Declarant. Class A Members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article III. When more than one Person holds such interest in any Lot, all such Persons shall be Members, and 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 and no fractional vote may be cast with respect to any Lot.

Class B. The Class B member shall be the Declarant. The Class B Member shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership by Article III, provided, that Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs first;

(a) When the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership, but provided that the Class B membership shall be reinstated if thereafter and before the time stated in subparagraph (b) below, such Additional Property is annexed to the Property such that the total votes outstanding in Class B membership again exceeds the total votes outstanding in Class A membership, or

(b) On January 1, 2010.

Section 4.2. Suspension of Voting Rights. The right of any Member to vote may be suspended by the Board of Directors for just cause pursuant to its rules and regulations as they may now or hereafter exist and may change from time to time.

ARTICLE V
PROPERTY RIGHTS

Section 5.1. Members' Easements of Enjoyment. Every Member shall have a non-exclusive right and easement of enjoyment in and to the Common Area, if any, including the rights of ingress and egress, and such easement shall be appurtenant to and shall pass with the right to every Lot, subject to each of the following provisions:

(a) The right of the Association, in accordance with its articles and Bylaws, to borrow money for the purpose of improving the Common Area and in aid thereof to mortgage the Common Area, or any portion thereof, provided the rights of such mortgagee in said Common Area Property shall be subordinate to the rights of the owners hereunder.

(b) The right of the Association to dedicate or transfer all or any part of the Common Area for utility, drainage, pedestrian walkway and cable television easements and other similar purposes.

(c) The right of the Association to prescribe regulations governing the use, operation and maintenance of the Common Area and their Amenities (including limiting the number of guests of Members who may use the Common Area) subject to limitations established by Declarant on such right to impose regulations.

(d) The right of the Association to take such steps as are reasonably necessary to protect the Common Area within the jurisdiction of the Association against foreclosure.

(e) The right of the Association to charge reasonable admission and other fees for the use of recreational facilities and other amenities on the Common Area within the jurisdiction of the Association.

(f) Actions contemplated under subparagraph (a) and (b), above shall not be taken until the following action occurs: Members entitled to cast eighty percent (80%) of all the votes of the Association have voted in person or by proxy for such action at a meeting duly called for said purpose, notice of which was sent to every Member not less than fifteen (15) nor more than thirty (30) days in advance of the meeting.

The instrument effecting such dedication, transfer, conveyance or mortgage shall be sufficient if executed by appropriate officers of the Association and contains a recital of the above provisions, and that they have been complied with.

Section 5.2. Declaration of Use. Any Member may delegate his right of enjoyment to the Common Area to the members of his family, his tenants, or contract purchasers who reside on the Property and to his guests and invitees.

Section 5.3. Suspension of Rights of Use. Any Member's right to use and enjoyment of Common Areas may be suspended during any period in which that member is in default in payment of any annual or special assessment levied by the Board of Directors, as provided in the Bylaws. Such rights may also be suspended, after notice and hearing, for a period not to exceed thirty (30) days, for violation of any rules and regulations established by the Board of Directors governing the use of the Common Area.

Section 5.4. Title to the Common Area. Declarant shall dedicate and convey (by deed without warranty) the fee simple title to the Common Area to the Association, free and clear of all encumbrances and liens other than the lien of current taxes and assessments not in default and utility easements, other encumbrances and mineral interests outstanding and of record in Granville County, North Carolina, on or (at Declarant's sole option) prior to January 1, 2010. Common Area may be conveyed by Declarant to the Association in whole or in part from time to time.

ARTICLE VI
COVENANT FOR ASSESSMENTS

Section 6.1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, hereby covenants, and every other Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association:

- (a) Annual assessments or charges which are common expenses; and
- (b) Special assessments for capital improvements.

Notwithstanding any provision herein to the contrary the assessment for each Lot owned by Declarant shall be twenty-five percent (25%) of the assessment which is applicable for a Lot titled in a name other than the Declarant; provided, however, that Declarant shall pay the full assessment on any Lot which has been leased by Declarant and on which an occupiable Building is located. Furthermore, any provision of this Declaration to the contrary notwithstanding, the Declarant may, at its sole election and discretion, postpone, in whole or in part, the date on which the assessment shall commence as to a Lot or Lots provided the Declarant maintains the Common Areas for which no assessment is being collected during the period of such postponement.

Such assessments shall be fixed, established, and collected from time to time as hereinafter provided.

The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall constitute a lien upon the Lot and improvements thereon when filed of record in the appropriate office of Granville County. Each such assessment, together with such interest and costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of the Lot at the time the assessment fell due. All assessments shall be shared equally by the owners of each Lot, except as otherwise provided in this section.

Section 6.2. Purpose of Assessments. The assessments levied by the Association shall be used for the purposes of enforcing and carrying out the terms and provisions hereof and of any Supplemental Declaration applicable to the Property and promoting the enjoyment and welfare of the Owners of Lots, and in particular, but without limitation, for the (i) development and maintenance of the Common Area; (ii) payment of premiums for hazard insurance in connection with the Common Area, and any Amenities thereon and public liability and other insurance of such Association; (iii) paying the costs of labor, equipment (including the expense of leasing any equipment) and material required for, and management and supervision of, the Common Area; (iv) carrying out the duties of the Board of such Association; and (v) carrying out the purposes of such

Association as stated in its Articles of Incorporation, Bylaws, and as stated herein or in any applicable Supplemental Declaration.

Section 6.3. Amount of Annual Assessment.

(a) Initial Assessment. To and including December 31, 2006, the initial annual assessment shall not be in excess of Two Hundred Seventy and No/100 Dollars (\$270.00) per Lot (prorated from the date of recordation of this Declaration through December 31, 2006) the exact amount of which shall be determined from time to time as provided in this Article VI.

(b) Increase by Association. From and after January 1, 2007, the annual assessment effective for any year may be increased by the Board of Directors, without a vote of the membership, to an amount which may not exceed the original assessment (or revised assessment determined pursuant to Subparagraph (c) below) plus five percent (5%) of said assessment per year since 2006 or the year the revised assessment was established, whichever is later. Notwithstanding the foregoing, for the year 2007, the annual assessment may increase without a vote of the membership by an amount greater than five percent (5%) over the 2006 annual assessment, it being understood that the Property is in the early stages of development and 2006 is unlikely to provide an accurate and complete representative figure for annual assessments.

(c) Increase by Members. From and after December 31, 2007, the annual assessment may be increased by a percentage greater than permitted by this Article by an affirmative vote of two-thirds (2/3) of each class of Members who are voting in person or by proxy, at a meeting duly called for such purpose, written notice of which, setting forth the purpose of the meeting, shall be sent to all Members not less than fifteen (15) day nor more than thirty (30) days in advance of the meeting. The limitations herein set forth shall not apply to an increase in assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

(d) Criteria for Establishing Annual Assessments. The Association is required to set the annual assessment high enough to enable the Association to establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Areas. The fund shall be maintained out of annual assessments for common expenses as provided for in this article. In establishing the annual assessment for any assessment year, the Board of Directors shall set the annual assessment high enough to cover all current costs and expenses of the Association, any accrued debts, and reserves for future needs.

(e) Decrease of Annual Assessment. The Board of Directors may decrease the annual assessment from time to time if in its opinion such decrease is prudent.

Section 6.4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the costs of construction or reconstruction, unexpected repair, or replacement of a described capital improvement upon the Common Area, including the Amenities, the necessary fixtures and personal property related thereto; provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which, setting forth the purpose of the meeting, shall be sent to all

Members not less than fifteen (15) days nor more than thirty (30) days in advance of the meeting. The amount of the proposed assessment need not be stated.

Section 6.5. Uniform Rate of Assessments. Subject to Section 6.1 above, the annual assessment and special assessments must be fixed at a uniform rate for all Lots, on a per Lot basis, and may be collected on a semi-annual basis.

Section 6.6. Quorum for Any Action Authorized Under Sections 6.3 and 6.4. At the first meeting called, as provided in section 6.3 and 6.4 above, the presence at the meeting of members or proxies entitled to cast sixty percent (60%) of all the votes for each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, subsequent meetings may be called, subject to the notice requirement set forth in Sections 6.3 and 6.4 and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the next preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the next preceding meeting.

Section 6.7. Date of Commencement of Annual Assessments. Unless postponed by the Declarant, as provided in section 6.2 of this Article, the annual assessments provided for herein shall commence as to any Lot, on the first day of the first month following subjection of the Lot to this Declaration. The first annual assessment shall be adjusted according to the number of months remaining in the fiscal year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto not later than thirty (30) days following each establishment thereof. The due dates and appropriate penalties for late payment shall be established by the Board of Directors. The Association shall upon demand at any time furnish a certification in writing signed by an officer of Association setting forth whether the assessments on a specified lot have been paid. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been made and shall be binding upon the Association as of the date of its issuance.

Section 6.8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments or special assessments which are not paid when due shall be delinquent and shall constitute a lien on the Lot of the delinquent owner. If the assessments or special assessments are not paid within thirty (30) days after the due date, assessments or special assessments shall bear interest from the date of delinquency at the lesser of the highest lawful rate or eighteen (18%) percent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same and/or foreclose the lien against the Lot, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment or special assessment. No Owner may waive or otherwise escape liability for the assessment or special assessment provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 6.9. Subordination of Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. A sale or any transfer of any Lot shall not affect the assessment liens; provided, however, that the sale or transfer of any Lot pursuant to foreclosure of a first mortgage or deed of trust or any proceeding in lieu of foreclosure thereof shall extinguish the lien of such assessments as to payment which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from the liability for any assessment thereafter becoming due or from the lien thereof.

Section 6.10. Annual Assessment to be Collected at Closing. At the closing of each sale of a Lot to a party other than Declarant, the prorated annual assessment for that Lot shall be collected from the buyer of the Lot.

Section 6.11. Management of Funds. All funds collected through assessments shall be managed by the Association subject to the provisions of this Declaration. Disbursement of funds collected from Lot Owners shall be as directed by the Board of Directors.

ARTICLE VII MAINTENANCE OF PROPERTY

Section 7.1. Maintenance of Common Areas. Maintenance of Common Areas, and all Amenities and structures located therein, including operation and maintenance of the Level Spreaders as described in Exhibit B attached hereto, shall be supervised by the Association. Funds for such maintenance shall be supplied from the annual assessment.

Section 7.2. Maintenance of Lots. If in the opinion of the Board, an Owner fails to maintain the Owner's Lot in a neat and orderly condition or otherwise neglects his property and allows unsightly conditions to develop, the Board, after thirty (30) days written notice to the Owner, may, but is not obligated to, take steps to remedy the problem. Such remedy may include, but shall not be limited to; the removal of debris or junked cars, the mowing of grass or cutting of brush and the painting or repair of structures located on the property. The Board may bill such Owner for all expenses incurred in correcting the problem. Every Owner by acceptance of a deed covenants to pay said bill. Upon failure to pay said bill, the Board may file a lien against said property and enforce said lien by action at law. Alternatively, or in addition to the above, the Board shall have all remedies available at equity to require the specific performance of an Owner's obligation to maintain that Owner's Lot in a neat and orderly condition.

Section 7.3. Declarant's Inaction. Neither the execution and recordation of this Declaration, nor the recordation of any other instrument subjecting any land in the Property to protective covenants, conditions or restrictions or other provisions shall obligate or require (i) Declarant to grant any right, power, duty or privilege of any nature or kind to the Association or to any other entity except as expressly set forth herein, or (ii) Declarant to perform any act permitted by this Declaration or by any other recorded instrument, or to enforce any covenant, condition, restriction or other provision hereof or thereof, or to do anything which it does not, in its sole discretion, elect to do so.

ARTICLE VIII GENERAL POWERS AND DUTIES OF THE BOARD; ARCHITECTURAL CONTROL AND INSPECTION

Section 8.1. Powers and Duties of the Board of an Association. In addition to those rights and duties set forth in Article V, the Board of the Association, for the mutual benefit of the Owners of such Association, shall have the following powers and duties:

(a) To improve, maintain or cause to be maintained the Common Area, including, but not limited to, planting, moving, pruning, fertilizing, preservation and replacement of the landscaping and the upkeep and maintenance of sidewalks and other amenities in such Common

Area, and the upkeep and maintenance of sprinklers, sprinkler mains and laterals, sprinkler heads, equipment, water pumps, wells, signs, lighting and planting boxes located in such Common Area.

(b) To enter into agreements with the appropriate governmental authorities to enable the Association to improve and maintain the Common Area;

(c) To make reasonable rules and regulations for the use and operation of the Common Area, and to amend them from time to time, provided that if such amendment is proposed prior to January 1, 2010, such amendment must also be approved by Declarant before it may become effective;

(d) To enter into agreements or contracts with insurance companies with respect to insurance coverage relating to the Common Area;

(e) To enter into agreements or contracts with utility companies with respect to utility installation, consumption and service matters relating to the Common Area;

(f) To borrow funds to pay costs of operation of such Association, which borrowings may be secured by assignment or pledge of rights against Owners who are in default in regard to the payment of assessments due to the Association or by liens on other Association assets, if the Board of the Association sees fit;

(g) To enter into contracts, maintain one or more bank accounts, and, generally, to have all the powers necessary or incidental to the operation and management of the Association;

(h) To sue or defend in any court of law in behalf of the Association and to provide adequate reserves for repairs and replacements;

(i) To make available to each Member of the Association within sixty (60) days after the end of each year an annual report and, upon the written request of the Members of the Association holding at least three-fourth (3/4) of the eligible votes of the Association at such time, to have such report audited (at the expense of such Association) by an independent certified public accountant, which audited report shall be made available to each Member of the Association within thirty (30) days after completion;

(j) Subject to the terms hereof to adjust the amount, collect, and use any insurance proceeds to repair damage or replace lost property; and if proceeds are insufficient to repair damage or replace lost property, to assess the Members of the Association in proportionate amounts to cover the deficiency;

(k) To exercise for the Association all powers, duties and authority vested in or delegated by this Declaration, the Bylaws of the Association, or the Articles of Incorporation of the Association to the Association and not reserved to the Members of such Association or Declarant by other provisions of this Declaration any applicable Supplemental Declaration, the Bylaws of such Association or the Articles of Incorporation of such Association;

(l) To declare the office of a member of the Board of the Association to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of such Board;

(m) To employ a manager or firm to manage the affairs and property of the Association, to employ independent contractors, or such other employees as the Board of such Association may deem necessary, and to prescribe their duties and to set their compensation;

(n) To retain the services of legal and accounting firms;

(o) To enforce the provisions of this Declaration, and any applicable Supplemental Declaration and any rules made hereunder or under any such applicable Supplemental Declaration and to enjoin and/or, in its discretion, seek damages or other relief from any Member of such Association for violation of such provisions or rules;

(p) To contract with any third party or any Owner (including, without limitation, Declarant) for performance, on behalf of such Association, of services which the Association is otherwise required to perform pursuant to the terms hereof or pursuant to any applicable Supplemental Declaration, such contracts to be at competitive rates and otherwise upon such terms and conditions and for such consideration as the Board of the Association may deem proper, advisable and in the best interest of such Association;

(q) To take any and all other actions and to enter into any and all other agreements as may be necessary or proper for the fulfillment of its obligations hereunder or under any applicable Supplemental Declaration, for the operational protection of the Association or for the enforcement of the controls, covenants, conditions, restrictions and development standards contained herein; and

(r) To set assessments, whether annual or special, as provided herein.

Section 8.2. Architectural and Landscaping Control. Declarant from time to time may establish and modify, architectural standards for the control of the design of all Structures and Landscaping and other work within the Property, Prior to initial construction of a Building on a Lot, the Architectural Committee must approve the Owner's home plan.

Except for initial improvements by Declarant, no construction, erection, or installation of any improvements, including, but not limited to, Buildings, outbuildings, garages, carports, gazebos, swimming pools, tennis courts, fences, walls, screen (whether by plants or structures) and other structures (individually a "Structure" and collectively "Structures"), shall be undertaken upon the Property unless the site plans, building plans, and specifications therefore, showing the nature, kind, shape, height, materials and location of the proposed improvements shall have been submitted to the Architectural Committee or its agent and expressly approved in writing. No grading, excavation, tree removal (except as provided herein) or change of exterior color or other work which in any way alters the exterior appearance of any Structure or Lot be done without the prior approval of the Architectural Committee. No subsequent alteration or modification of any existing improvements nor construction, erection, or installation of additional improvements may be undertaken on any of the Property without prior review and express written approval of the Architectural Committee.

In the event an Owner desires to construct a house, the Owner shall, prior to the commencement of any construction, submit in sequence to Architectural Committee the following materials: (i) a "preliminary concept plan" which shall include schematic site plans, floor plans and exterior elevations and materials; (ii) "design proposals" which shall include more detailed building and site design plans and specifications sufficient and definite in detail so that there can be

determined the character, exterior appearance, exterior materials and colors, and the quality and kind of building and landscape materials proposed; (iii) "construction plans and specifications" which shall be a true extension of the preliminary concept plan and design proposals, including a plot plan, sealed by a surveyor, in detail and to scale and (iv) the applicable review fee that is then in effect for reviewing such plans. The Architectural Committee shall, in writing, within ten (10) days after receipt of each fully completed and adequate required submittal which it deems complete, approve, reject or approve, subject to change, such plans, proposals and specifications as are submitted to it as required above. After approval, any change in location, plot plan, exterior colors or exterior materials must be re-submitted for approval. Failure to obtain approval of Architectural Committee of all such plans, proposals, specifications and plot plan prior to the commencement of any construction shall be deemed a material breach hereof and Architectural Committee shall then have the right, in addition to any other rights permitted by law or in equity, to proceed in the courts to obtain a mandatory injunction requiring any construction done without said approval to be torn down or removed forthwith.

The architectural plans for such alteration or addition must be drawn and sealed by a registered architect or engineer. In general, the construction of fences, walls and other Structures and the planting of screens will not be permitted if in the opinion of the Architectural Committee such construction or planting constitutes an unreasonable obstruction of the view of another Owner.

In the event that the Architectural Committee fails to approve or disapprove the site or design or any proposed improvements within ten (10) days after plans and specifications therefore have been submitted and received, approval will not be required, and the requirements of this Article will be deemed to have been fully met; provided, that the plans and specifications required to be submitted shall not be deemed to have been received by the Declarant or the Association if they contain erroneous data or fail to present adequate information upon which the Declarant or the Association, as the case may be, can arrive at a decision.

The Declarant and/or the Architectural Committee shall have the right, at its election, but shall not be required, to enter upon any of the Property during site preparation or construction, erection, or installation of improvements to inspect the work being undertaken and to determine that such work is being performed in conformity with the approved plans and specifications and in a good and workmanlike manner, utilizing approved methods and good quality materials.

Section 8.3. Liability Limitations. Neither Declarant, nor any Member nor any Board nor any directors on any Board (or any one of them) nor the officers (if any) of Declarant or of the Association nor any member of the Architectural Committee and/or any other committee established by the Association shall be personally liable for debts contracted for or otherwise incurred by the Association or for a tort of another Member, whether or not such other Member was acting on behalf of an Association or otherwise. Neither Declarant, the Association, nor the directors, officers, agents or employees of either thereof shall be liable for any actual, incidental or consequential damages for failure to inspect any premises, improvements or portions thereof or for failure to repair or maintain the same. Declarant, the Association or any other person, firm or association liable to make such repairs or maintenance shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any premises, improvements or portions thereof. The Association shall, to the extent permitted by applicable law, indemnify and defend all members of the Board of the Association and all members of the Architectural Committee from and against any and all loss, cost,

expense, damage, liability, action or cause of action arising from or relating to the performance by the Board of the Association and/or such Architectural Committee of their duties and obligations except for any such loss, cost, expense, damage, liability, action or cause of action resulting from the gross negligence or willful misconduct of the person is) to be indemnified.

Section 8.4. Articles of Incorporation and Bylaws. The Articles of Incorporation and Bylaws of the Association, as the same may be amended from time to time, are fully incorporated into this Declaration by reference.

Section 8.5. Declarant Rights in the Association. Until the expiration of the Declarant Control Period, the Board shall have no authority to, and shall not undertake any action, without the prior written consent of the Declarant or its agent expressly authorized for such purpose, which shall:

- (a) Prohibit or restrict in any manner the sales and marketing program of the Declarant or restrict or limit in any manner the use by the Declarant of any portion of the Property for the sale and/or resale of Lots or improvements thereupon;
- (b) Decrease the level of maintenance services of the Association provided by the Board;
- (c) Make any special or individual assessment or impose any fine upon the Declarant's Lots or the Declarant;
- (d) Modify, amend or alter the recorded plats of the Property;
- (e) Terminate or cancel any contracts of the Association entered into by the Board;
- (f) Terminate or waive any rights of the Association under this Declaration;
- (g) Convey, lease, mortgage, alienate or pledge any easements or any part of the Common Area;
- (h) Accept the conveyance, lease, mortgage, alienation or pledge of any real or personal property to the Association;
- (i) Terminate or cancel any easements granted hereunder or by the Association;
- (j) Terminate or impair in any fashion any easements, powers, or rights of the Declarant hereunder;
- (k) Restriction the Declarant's right of the use, access, and enjoyment of any the Property;
- (l) Cause the Association to default on any obligation under any contract or this Declaration;
- (m) Restrict in any respect the use by the Declarant of any office or other facility in the Property for any purpose, including managing or operating the Association.

Section 8.6. Notice of Meetings. Notice of all Association meetings shall be provided to all Members by hand delivery or U.S. Mail not less than ten (10) days nor more than sixty (60) days in advance of the applicable meeting.

ARTICLE IX RULES AND REGULATIONS

Section 9.1. Common Area. The Board of Directors of the Association shall have the power to formulate, amend, publish, and enforce reasonable rules and regulations concerning the use and enjoyment of the Common Area. Such rules and regulations, along with all policy resolutions and policy actions taken by the Board of Directors, shall be recorded in a book of resolutions which shall be maintained in a place convenient to the Owners and available to them for inspection during normal business hours.

Section 9.2. Rules and Regulations for Parking of Vehicles. The Board of Directors of the Association shall have the power to formulate, publish, amend and enforce reasonable rules and regulations concerning the parking of any type of vehicle on the Property, including Common Areas. Said rules may provide, without limitation, the following:

- (a) A definition of a “recreational vehicle” and regulations covering the parking of recreational vehicles on private streets;
- (b) That campers, motor scooters, motorcycles, motorbikes, plans, boats, trailers, trucks and commercial vehicles of any kind that the Board designates cannot be parked on any street within the Subdivision, in any Common Area or on any Lot, except in areas designated for that purpose, if any; and
- (c) Limitations on the period of time and extent to which a motor vehicle may be repaired on the premises, and that all motor vehicles parked on private streets or in Common Area are to have currently valid license plates issued by a state in the United States and insurance coverage which satisfies North Carolina Department of Transportation requirements for insurance coverage of motor vehicles licensed in the State of North Carolina.

ARTICLE X RESTRICTIVE COVENANTS; MAINTENANCE

Section 10.1. Lot Size. A Lot shall have a width and the minimum building set back line and an area that meets the minimum requirements of the Granville County Zoning Ordinances. Adjustments may be made in the line between two Lots so long as the area of any Lot is not reduced by more than ten percent (10%), the adjustments do not violate the Granville County Zoning Ordinances, and other restrictions herein set forth are observed. Upon any recombination of lots, the setbacks and side line clearances from new Lot lines shall be applicable and set backs from former Lot lines shall no longer be required. No combination of Lots shall increase the number of Lots above the number existing before recombination, except as hereinafter set forth.

Section 10.2. Land Use. No Lot shall be used except for residential purposes; provided, however, that nothing herein shall prevent the conversion of portions of Lots to public or private streets. No building shall be erected, altered, placed or permitted to remain on any Lot other than

one detached single-family dwelling not to exceed two and one-half (2 1/2) stories in height (inclusive of the garage or basement area), not more than two (2) car private garages, and outbuildings incidental to residential use. Provided, however, that Declarant reserves the right to use any dwelling located on a Lot as an office and/or model which may be shown to prospective purchasers of units.

Section 10.3. Dwelling Size. No dwelling shall be permitted on any Lot unless the dwelling has, exclusive of decks, porches, breezeways, steps, basements and garages, a minimum of 1900 square feet of heated living area in a one-story house and a minimum of 2100 square feet of heated living area in a two-story or larger house.

Section 10.4. Building Location. The setbacks shall be those required by the Granville County Zoning Ordinance.

Section 10.5. Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved over the rear ten (10) feet or each Lot. In the event that the owner of any Lot shall acquire land adjacent to and in the rear of such Lot, such Lot Owner may relocate the easement herein established over the rear line to conform to the increase in the size of his Lot, provided that alteration in drainage does not thereby adversely affect the drainage of any other Lot or interfere with the rights of the Owners of other property within this subdivision to services rendered by the easement herein created. Such relocated easement shall be the same width as the original easement. A map of such relocated easement shall be recorded at the Granville County Register of Deeds Office.

Section 10.6. Temporary Structure. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently.

Section 10.7. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose.

Section 10.8. Utility Yard. Garbage cans shall be kept in a screened utility yard and not visible from the street or an adjacent Lot.

Section 10.9. Mail Box Posts; Yard Light Posts and Lights. All mail box support posts shall be of material and design as initially approved by Declarant or by an Architectural Committee. One style of post and light shall be used throughout the entire Property.

Section 10.10. Signs. No sign of any kind, except an owner and street number identification, shall be displayed to the public's view on any Lot except one professional sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sale period unless prior approval of the Declarant or Architectural Committee has been obtained.

Section 10.11. Driveways. All driveways shall be concrete, asphalt or brick unless a different material has been approved by the Declarant or the Architectural Committee.

Section 10.12. Prohibition Against Television Antennae, Satellite Dishes and Clotheslines. Television antennae, satellite dishes wider than four (4) feet in diameter, and outdoor clotheslines are prohibited on the Property unless approved in writing by the Architectural Committee.

Section 10.13. Duty of Maintenance. The Owner of each Lot shall have the duty and responsibility, at such Owner's sole cost and expense, to keep that part of the Property owned by such Owner, including Structures thereon, ground and drainage easements or other rights-of-way incident thereto, in accordance with the terms and provisions of this Declaration (to the extent applicable) and of any applicable Supplemental Declaration and in a first-class, well-maintained, safe, clean and attractive condition at all times. Such maintenance includes, but is not limited to, the following:

- (1) Prompt removal of all litter, trash, refuse and waste;
- (2) Lawn mowing on a regular basis;
- (3) Tree and shrub pruning;
- (4) Watering by means of a lawn sprinkler system and/or hand watering as needed;
- (5) Keeping exterior lighting and mechanical facilities in working order and clean;
- (6) Keeping lawn and garden areas alive;
- (7) Removing and replacing any dead plant material;
- (8) Keeping vacant land well maintained and free of trash and weeds;
- (9) Keeping parking areas and driveways in good repair;
- (10) Complying with all governmental health and police requirements;
- (11) Repainting of Structures; and
- (12) Repair of exterior damage to Structures.

Section 10.14. Occupancy. The number of occupants in each residential Structure shall not exceed (i) the family member of one (1) family only; or (ii) two (2) individuals unrelated by blood or marriage per bedroom in that particular Structure. No transient tenants may be accommodated; provided, however, that the guests and invitees of Lot occupants may reside on the Lot for a maximum period of thirty (30) days per calendar year. A Lot owned or leased by a corporation, partnership, fiduciary, or any other entity may be occupied by an officer, director, partner, owner, beneficiaries, or employees of such entity, or by family members or guests of any of the foregoing.

Section 10.15. Leasing. No Lot or portion thereof shall be leased for transient or hotel purposes. An Owner may nevertheless lease the entire Lot provided that: (i) each lease must be in writing, must be for a period of not less than one (1) year, and must provide that it is subject to this Declaration and the Bylaws and that any failure of the tenant to comply with the terms of the Declaration and the Bylaws shall be a default under the lease; and (ii) all leasing/management activities for a Lot to be leased must be conducted through the management company designated for that purpose by the Association. The Owner shall promptly provide the Association with copies of any and all leases entered into by Owner. In no event, however, shall a portion of a Lot (as opposed to the entire Lot) be sold, conveyed, leased or subleased. No more than 20% of the Lots may be leased at any one time.

Section 10.16. Tree Cutting; Landscaping. Except for clearing areas shown on an approved site plan for construction, no trees, shrubs, bushes or other vegetation having a trunk diameter of three (3) inches or more at a point two feet above the ground level may be cut, pruned, mutilated or destroyed at any time without the prior written approval of the Association, or if so designated, its Architectural Committee; provided, however, that dead or diseased trees, shrubs, bushes or other vegetation shall be cut and removed promptly from any Lot by the Owner thereof after such dead or diseased condition is first brought to the attention of the Association or Architectural Committee and permission for such cutting and removal has been obtained.

Section 10.17. Completion of Construction Activity; Requirement of Bond. The exterior of all Buildings, Structures or other improvements must be completed within one (1) year after commencement of construction, except where, in the sole discretion of the Board, such completion within one (1) year is not possible or would result in great hardship to the Owner or builder due to strike, fire, national emergency or natural calamity. To ensure the timely completion of construction and the compliance with the terms of this Declaration, the Architectural Committee may require in its discretion, as a condition of Architectural Committee approval of submitted plans, that the Owner provide a construction bond, in form and content satisfactory to the Architectural Committee.

Section 10.18. Electronic Monitoring Systems. An audible siren, horn, bell, or other noisemaking device shall be permitted in connection with an electronic monitoring or alarm system.

Section 10.19. Colors. No exterior colors on any Structure shall be permitted that, in the sole judgment of Declarant or the Architectural Committee, would be inharmonious or discordant or incongruous. Any future exterior color changes desired by an Owner must be first approved by the Architectural Committee.

Section 10.20. Factory Built Structures. No structure of any kind of what is commonly known as "factory built", or "mobile home" type construction shall be erected on any Lot.

Section 10.21. Underground Utility Lines. All electric, telephone, gas, cable television and other utility lines shall be installed underground.

Section 10.22. Trucks, Commercial Vehicles, Recreation Vehicles, Mobile Homes, Boats, Campers & Trailers.

(a) No commercial truck, commercial van, recreation vehicle (other than sports utility vehicles) or other commercial vehicle of any kind shall be permitted to be parked on any Lot for a

period of more than twenty-four (24) hours unless such vehicle is necessary in the actual construction and/or maintenance activities taking place on that Lot, or is a job-related vehicle of an Owner.

(b) All vehicles parked on any Lot must be licensed vehicles.

(c) None of the aforementioned vehicles shall be used as a domicile or residence, either permanent or temporary.

(d) Paragraphs (a) through (c) shall not be deemed to prohibit any temporary facility otherwise permitted pursuant to this Declaration.

Section 10.23. Casualty Destruction to Improvements. In the event that a Structure or other improvement is damaged or destroyed by casualty loss or other loss then within a reasonable period of time after such incident, as determined by Declarant, the Owner thereof shall either commence to rebuild or repair the damaged Structure or improvement and diligently continue such rebuilding or repairing until completion or properly clear the damaged Structure or improvement and restore or repair the Lot in a manner aesthetically satisfactory to Declarant. As to any such reconstruction of a destroyed Structure or improvement, the same shall only be replaced with Structures or improvements as are approved by Declarant or the Architectural Committee as provided herein.

Section 10.24. No Implied Waiver. The failure of Declarant to object to an Owner or another person's failure to comply with the covenants and restrictions contained herein shall in no event be deemed a waiver by Declarant, or any other Person having an interest herein, of its rights to object to the same and to seek compliance therewith in accordance with the provisions of this Declaration.

ARTICLE XI RIGHTS OF FIRST MORTGAGEES AND INSURERS OF FIRST MORTGAGES

Any institutional holder of any mortgage on a Lot will, upon request in writing to the Association, be entitled to (a) inspect the books and records of the Association during normal business hours, (b) receive written notice of all meetings of the Association and the right to designate a representative to attend all such meetings, (c) receive written notice of any condemnation or casualty loss that affects either a material portion of the project or the Lot securing its mortgage, (d) receive written notice of any sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of any Lot on which it holds the mortgage, (e) receive written notice of a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association, (f) receive written notice of any proposed action that requires the consent of a specified percentage of mortgage holders, (g) be furnished with a copy of any insurance policy owned by the Association, and (h) to be furnished with at least one copy of the annual financial statement and report of the Association, prepared by a certified public accountant designated by the Association, including a detailed statement of annual carrying charges or income collected and operating expenses. The Association may require the payment of expenses incurred in preparing copies and mailing of documents furnished to mortgage holders pursuant to this Article.

ARTICLE XII GENERAL PROVISIONS

Section 12.1. Enforcement. In addition to rights granted elsewhere herein, if any Owner or occupant has failed in any of the duties or responsibilities of such Owner as set forth in this Declaration (to the extent applicable) or in any applicable Supplemental Declaration, then the Board of the Association or Declarant may give such person written notice of such failure and such person must within ten (10) business days after receiving such notice (which notice shall be deemed to have been received upon deposit in an official depository of the United States mail, addressed to the party to whom it is intended to be delivered,) perform the care and maintenance required or otherwise perform the duties and responsibilities of such Owner. Should any such person fail to fulfill this duty and responsibility within such period, then the Association, acting through its authorized agent or agents, or the Declarant, acting through its authorized agent or agents, shall have the right and power to enter onto the premises and perform such care and maintenance otherwise to any person. The Owner of Lot on which such work is performed shall be liable for the cost of such work together with interest on the amounts expended by such Association or the Declarant in performing such work computed at the highest lawful rate from the date(s) such amounts are expended until repaid to such Association or the Declarant, as the case may be, and for all costs and expenses incurred in seeking the compliance of such Owner with his duties and responsibilities hereunder and shall reimburse such Association or the Declarant, as the case may be, on demand for such costs and expenses (including interest as above provided). If such Owner shall fail to reimburse such Association or the Declarant, as the case may be, within thirty (30) days after mailing to such Owner of a statement for such costs and expense by such Association or the Declarant, then, without limitation of any other rights of such Association or Declarant, such Association may issue a special assessment against such Owner. In addition to the above, and without limiting any similar rights herein granted, the Board may impose fines against any Lot for a violation of any of the terms and covenants as set forth in this Declaration. Said fines shall be treated as a special assessment due to the Association, and as such will be a lien against the Owner's Lot. Fines shall be paid not less than thirty (30) days after notice of the imposition or assessment of the fines. The fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may otherwise be entitled. The Board may impose a fine not to exceed One Hundred and No/100 Dollars (\$100.00) per day for a violation of the terms and covenants of this Declaration, said violations may include, without limitation, violations of the rules and regulations of the Architectural Committee, violations of the Declaration regarding the proper procedures for obtaining architectural approval, failure to construct any Structure in accordance with approved plans or in the timely manner required hereunder, or failure to properly maintain the Structures or landscaping on one's Lot.

Section 12.2. Insurance. In the event the Association becomes the owner of any buildings, or other improvements, or personal property, located within the Common Area, the Board of Directors shall obtain hazard insurance (if available) in an amount equal to the maximum insurable replacement value as determined annually by the Board of Directors with the assistance of the insurance company providing such coverage. Such coverage shall provide protection against loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and such other risks as from time to time shall be customarily covered with respect to buildings and properties similar in construction, location and use.

The Board of Directors shall also procure and maintain public liability and property damage insurance, insuring each member of the Board of Directors; the manager, if any; and the Association against any liability to the public or to homeowners (and their invitees, agents, and employees) arising out of or incident to the ownership and/or use of the Common Area and facilities, or such

other areas for which the Association is responsible. The insurance shall be issued on a comprehensive liability basis and shall contain a cross liability endorsement under which the rights of each named insured under the policy shall not be prejudice with respect to his action against another named insured. The amount of such public liability insurance shall be determined by the Board of Directors, but in no event shall it be less than \$1 million per occurrence with regard to the Association and each individual director.

There shall also be obtained such other insurance coverage as the Board of Directors shall determine from time to time to be desirable and necessary. Premiums upon insurance policies purchased by the Board of Directors shall be paid by the Board of Directors as a common expense of the Association.

Section 12.3. Severability. Invalidation of any one or more of the covenants, conditions or restrictions of this Declaration by judgment or court order by a court of competent jurisdiction shall in no way affect any other provisions of this Declaration, which shall remain in full force and effect to the full extent under applicable law.

Section 12.4. FHA/VA Approval. Notwithstanding any provisions in this instrument to the contrary, as long as there is a Class B membership, and if Declarant desires to qualify sections of the Property for Federal Housing Administration or Veterans Administration approval (but not otherwise), the following actions will require the prior approval of Federal Housing Administration or the Veterans Administration: Annexation of additional properties, amendment of the Declaration of Covenants, Conditions and Restrictions, merger and consolidations, dissolution and exchange of Common Areas.

Section 12.5. Term of Declaration; Amendment. The covenants, conditions and restrictions of this Declaration shall run with and bind the Property for a term of thirty (30) years from the date this Declaration is recorded in the Granville County Registry, after which time they shall be automatically extended for an unlimited number of successive periods of ten (10) years each, unless the Members, by an eighty percent (80%) vote, elect not to so continue the Declaration and record an instrument to that effect. This Declaration may be amended by an instrument signed by the Owners of not less than two-thirds (2/3) of the voting authority hereunder, as described in Article IV, provided however that Declarant may amend this Declaration without the consent of the Owners during the Declarant Control Period.

Furthermore, the Declarant, for so long as it controls the Board, and thereafter, the Board of Directors, may amend this Declaration without the consent of the Owners and hereby reserves the right to act on behalf of the owners to conform this Declaration to the requirements of any law or governmental agency having legal jurisdiction over the Property or to qualify the Property or any units therein for mortgage or improvement loans made, guaranteed or insured by a governmental agency, including, without limitation, Veterans Administration, Federal Housing Administration, Federal National Mortgage Association, Housing and Urban Development and Federal Home Loan Mortgage Corporation, or to comply with the requirements of law or regulations of any governmental corporation or agency regarding purchase of mortgage interests in units by such agency. A letter from any such agency stating that a change is desired or necessary in order to qualify the Property or any units for loans eligible to be guaranteed by, insured by or purchased by such agency, shall be sufficient authority for the amendment of this Declaration.

Section 12.6. Certification of Amendment. If any amendment to this Declaration is executed by the Owners, each such amendment shall be delivered to the Board of Directors of the Association. Thereupon, the Board of Directors, shall, within thirty (30) days do the following:

(a) Reasonably assure itself that the amendment has been executed by the Owners of the required number of Lots. For this purpose, the Board may rely on its roster of members and shall not be required to cause any title to any Lot to be examined;

(b) Attach to the amendment a certification as to its validity, which certification shall be executed by the Association in the same manner that deeds are executed. The following form of certification is suggested:

CERTIFICATION OF VALIDITY OF AMENDMENT TO COVENANTS,
CONDITIONS AND RESTRICTIONS OF MARSHALL LANDING SUBDIVISION

By authority of its Board of Directors, Marshall Landing Homeowners Association, Inc. hereby certifies that the foregoing instrument has been duly executed by the Owners of _____ percent of the voting authority of Lots of Marshall Landing Subdivision and is, therefore, a valid amendment to the existing covenants, conditions and restrictions of Marshall Landing Subdivision.

Marshall Landing Homeowners Association, Inc.

President

ATTEST:

Secretary

(c) Immediately, and within the thirty (30) day period aforesaid, cause the amendment to be recorded in Granville County, Registry.

All amendments shall be effective from the date of recordation in the Granville County Registry, provided, however, that no such amendment shall be valid until it has been indexed in the name of the Marshall Landing Homeowners Association, Inc. When any instrument purporting to amend the covenants, conditions and restrictions has been certified by the Board of Directors, recorded and indexed as provided by this Section, it shall be conclusively presumed that such instrument constitutes a valid amendment as to all persons thereafter purchasing any Lots.

Section 12.7. Notice. Whenever written notice to an Owner (including Declarant) is required hereunder, such notice shall be given by the mailing of same, postage prepaid, to the address of such Owner appearing on the records of the Association. If notice is given in such manner, such notice shall be conclusively deemed to have been given by placing same in the United States mail properly addressed, with postage prepaid, whether received by the addressee or not.

Section 12.8. Titles. The titles, headings and captions which have been used throughout this Declaration are for convenience only and are not to be used in construing this Declaration or any part thereof.

Section 12.9. No Exemption. No Owner or other party may exempt himself from the coverage hereof or obligations imposed hereby by non-use of such Owner's Lot(s) or of the Common Area.

Section 12.10. Statutory Authority. To the extent specific statutory authority for the making of this Declaration shall be deemed necessary, this Declaration shall be construed in accordance with Chapter 47F of the North Carolina General Statutes. Liens for assessments would be asserted as a lien under N.C.G.S. 47F-3-116 if statutory authority is deemed necessary.

Section 12.11. No Reversionary Interest. No provision hereof shall be deemed to vest in Declarant or any other person any reversionary interest in any lot.

ARTICLE XIII EASEMENTS

Section 13.1. Easements Reserved by Declarant. Easements for installation, maintenance, repair and removal of utilities and drainage facilities are reserved by Declarant for itself, its successors and assigns, over, under and across the Lots (other than the portions thereof used as building sites). Full right of ingress and egress shall be had by Declarant at all times over the Lots (other than the portions thereof used as building sites) for the installation, operation, maintenance, repair or removal of any utility together with the right to remove any obstruction that may be placed in such easement that would constitute interference with the use of such easement, or with the use, maintenance, operation or installation of such utility. Declarant shall have the right to assign and convey, in whole or in part, the easements reserved by it hereunder to one or more public utility companies. No new easements shall be established hereafter without consent of the Owner of the Lot which is subjected to such an easement. It is understood and agreed that Declarant has the right to impose other easements on Lots which it owns.

Section 13.2. Easements Appurtenant to Lots. All Common Area, shall be subject to an easement in favor of every Lot to which they are adjacent or which they are designated to serve and shall be deemed appurtenant to each such Lot, whereby the owner of each such Lot shall be entitled to use them as a means of ingress, egress and regress and such other uses shall have been designated. Such easement shall be superior to the lien of every mortgage or deed of trust.

Section 13.3. Emergencies. Every Lot shall be subject to an easement for entry by the Association for the purpose of correcting, repairing, or alleviating any emergency condition which arises upon any Lot and that endangers any building or portion of the Common Area.

Section 13.4. Easement for Governmental Agencies. An easement is hereby established over the Common Area, streets and utility easements as shown on the Plat for the benefit of applicable governmental agencies, public utilities companies and public service agencies as necessary for setting, removing and reading of meters, replacing and maintaining water, sewer and drainage facilities, electrical, telephone, gas and cable antenna lines, fire fighting, garbage collection, postal delivery, emergency and rescue activities and law enforcement activities.

Section 13.5. Emergency Vehicle Access. Neither the Association nor Members shall restrict emergency vehicle access.

Section 13.6. Notwithstanding anything to the contrary, the easements reserved, granted or dedicated herein are perpetual, shall run with the land and shall be binding on successors or assigns of the Property

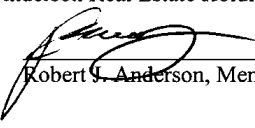
[the remainder of this page intentionally blank – signature and notary follows]

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this instrument to be duly executed the day and year first above written.

DECLARANT:

BDG Marshall Landing Associates, LLC,
a North Carolina limited liability company

By: Anderson Real Estate Holdings, LLC

By: 
Robert J. Anderson, Member Manager

STATE OF NORTH CAROLINA

COUNTY OF Wake

I, the undersigned, a Notary Public of the County and State aforesaid, certify that the following person(s) personally appeared before me this day, and

- ☒ I have personal knowledge of the identity of the principal(s)
☐ I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a _____
☐ A credible witness has sworn to the identity of the principal(s);

each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Robert J. Anderson

Date: 8/4/06

M. Bradley Harrold
Notary Public
Printed name: M. Bradley Harrold

Stamp/Seal

My commission expires: 8/16/08



Nanco Custom Homes, Inc.,
a North Carolina limited liability corporation

By: [Signature]
Name: Robert W. Nance
Title: President

STATE OF NORTH CAROLINA

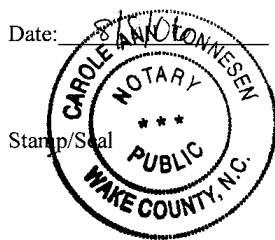
COUNTY OF Wake

I, the undersigned, a Notary Public of the County and State aforesaid, certify that the following person(s) personally appeared before me this day, and

- ☐ I have personal knowledge of the identity of the principal(s)
☒ I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a NC Drivers License
☐ A credible witness has sworn to the identity of the principal(s);

each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: _____

Date: 8/5/2010



Stamp/Seal

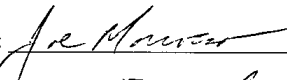
[Signature]
Notary Public
Printed name: Carole Ann Tonnesen

My commission expires: 3/4/2011

CONSENT OF MORTGAGEE

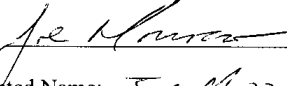
Wachovia Bank, National Association, being the Beneficiary under that certain Deed of Trust from Declarant to TRSTE, Inc., Trustee, recorded in Book 1097 at Page 883, Granville County Registry, conveying the property described on **Exhibit A** attached to this Declaration, hereby: (a) consents to the recordation of this Declaration and the imposition of the provisions hereof to the real property described in **Exhibit A** (the "Property"); and (b) subordinates the lien and operation of the Deed of Trust to this Declaration and the provisions contained herein. In the event of a foreclosure of the Deed of Trust, or a transfer of any portion of the Property in lieu of foreclosure, Beneficiary and Trustee agree that the purchaser at any such foreclosure or the transferee under any such deed in lieu of foreclosure shall take title to the Property together with and subject to all of the terms and conditions of this Declaration. The execution of this Consent of Mortgagee by the Beneficiary shall not be deemed or construed to have the effect of creating between the Beneficiary and Declarant the relationship of partnership or of joint venture, nor shall it be deemed to impose upon the Beneficiary any of the liabilities, duties or obligations of the Declarant under this Declaration. Beneficiary executes this Consent of Mortgagee solely for the purposes set forth above. The Trustee also joins in and executes this Consent as Trustee for the purposes set forth above.

TRUSTEE: TRSTE, Inc.

By: 
Printed Name: Joe Morrecco
Title: Vice President

BENEFICIARY

Wachovia Bank, National Association

By: 
Printed Name: Joe Morrecco
Title: Vice President

STATE OF NORTH CAROLINA

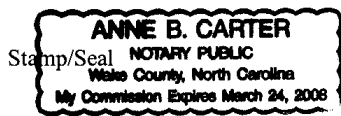
COUNTY OF Wake

I, the undersigned, a Notary Public of the County and State aforesaid, certify that the following person(s) personally appeared before me this day, and

- ☒ I have personal knowledge of the identity of the principal(s)
☐ I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a _____
☐ A credible witness has sworn to the identity of the principal(s);

each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Vice President - Joe Morrocco

Date: 8-4-06



Anne B. Carter
Notary Public
Printed name: Anne B. Carter
My commission expires: 3-24-08

STATE OF NORTH CAROLINA

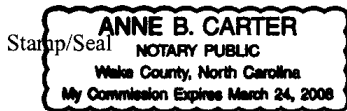
COUNTY OF Wake

I, the undersigned, a Notary Public of the County and State aforesaid, certify that the following person(s) personally appeared before me this day, and

- ☒ I have personal knowledge of the identity of the principal(s)
☐ I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a _____
☐ A credible witness has sworn to the identity of the principal(s);

each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Vice President - Joe Morrocco

Date: 8-4-06



Anne B. Carter
Notary Public
Printed name: Anne B. Carter
My commission expires: 3-24-08

EXHIBIT A

BEING all of Lots 1 through 33, inclusive, Marshall Landing Subdivision, along with the right-of-way of Anterra Drive and Armida Drive, as shown on a map recorded in Plat Book 34, Page 19, Granville County Registry.

EXHIBIT B

Operation and Maintenance Schedule for Level Spreaders

for

Marshall Landing Subdivision Granville County, North Carolina

The level spreader is defined as an elongated, level threshold, designed to diffuse stormwater runoff.

Maintenance activities shall be performed as follows:

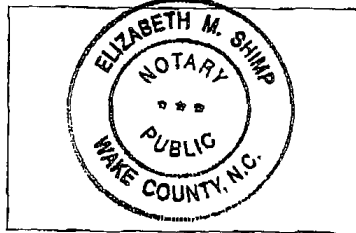
1. After construction and until vegetation has been established, level spreader(s) shall be inspected after every rainfall. Thereafter, level spreader(s) shall be inspected *at least* every month and more frequently during the fall season and after heavy rainfall events:
 - a. Accumulated sediment, leaves, and trash shall be removed; and repairs made if required.
 - b. Inspect level spreader(s) for evidence of scour, undercutting, settlement of the structure, and concentrated flows downhill from the level spreader(s).
 - c. A level elevation shall be maintained across the entire flow-spreading structure at all times. Repair or replace the level spreader if it is damaged.
 - d. Mow vegetative cover to a height of six (6) inches and prune plants if they cover over half of the level spreader surface.
 - e. Repair eroded areas and replace/replant dead or damaged vegetation.
2. The contractor should avoid the placement of any material on and prevent construction traffic across the structure. If the measure is damaged by construction traffic, it shall be repaired immediately.
3. Inspect and repair the collection system (e.g., catch basins, pipes, swales, riprap) four (4) times a year to maintain proper functioning.

I acknowledge and agree by my signature below that I am responsible for the performance of the maintenance procedures listed above. I agree to notify DWQ of any problems with the system or prior to any changes to the system or responsible party.

Print name: Robert J. Anderson
Title: Managing Member
Address: 7000 Silk Forks Rd Suite 115 Raleigh, NC 27615
Phone: 919-427-9360
Signature: [Signature]
Date: 9-22-05

Note: The legally responsible party should not be a homeowners association unless more than 50% of the lots have been sold and a resident of the subdivision has been named the president.

I, Elizabeth M. Shimp, a Notary Public for the State of North Carolina County of Wake, do hereby certify that Robert J. Anderson personally appeared before me this 22 day of September, 2005, and acknowledge the due execution of the foregoing level spreader maintenance requirements. Witness my hand and official seal,



SEAL.

My commission expires March 27, 2008