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DECLARATION OF  
COVENANTS AND RESTRICTIONS  
FOR  
LONG LAKE  
WAKE COUNTY, NORTH CAROLINA**

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RESTATED  
DECLARATION OF  
COVENANTS AND RESTRICTIONS  
FOR  
LONG LAKE

WAKE COUNTY, NORTH CAROLINA

THIS RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS is made on this 28<sup>TH</sup> day of AUGUST, in the year Two Thousand Two by Pulte Home Corporation, a Michigan corporation ("Pulte") and will replace and supersede in its entirety that certain Declaration of Covenants and Restrictions for Long Lake recorded with the Register of Deeds of Wake County, North Carolina in Book 9396, Page 02061 and Book 9493, Page 0944.

WITNESSETH:

WHEREAS, Pulte is the owner of that certain tract or parcel of land lying and being in Wake County, North Carolina which is described on Exhibit A, attached to and made a part of this Declaration (the real property which is described on Exhibit A hereto being herein referred to as the "Long Lake Property"); and

WHEREAS, Pulte intends to develop the Long Lake Property as a planned community to be named "Long Lake" that will include various types of residential housing; and

WHEREAS, Pulte also intends to provide certain open spaces, parks, landscape areas and other facilities and amenities for the use and enjoyment of the owners and residents of the aforesaid Long Lake community; and

WHEREAS, in order to insure the enjoyment of the aforesaid open spaces, parks, landscape areas and other facilities by the owners and residents of the Long Lake community, and in order to protect the value of the "Membership Property" (as that term is defined in this Declaration), it is desirable to create an association to own, maintain and administer such open spaces, parks, landscape areas and other facilities, and to administer and enforce the covenants and restrictions imposed by this Declaration on the individually owned properties, and to collect, hold and disburse the charges and assessments provided for in this Declaration; and

WHEREAS, it is intended that every owner of any of the said Membership Property automatically, and by reason of such ownership and this Declaration, become a Member of the aforesaid association and be subject to its valid rules and regulations and the assessments and charges made by such association.

NOW THEREFORE, the Declarant does hereby submit the "Lots" and the "Master Common Elements" (as those terms are hereinafter defined) to the provisions of this Declaration.

ARTICLE I

DEFINITIONS

As used in this Declaration, the following terms shall have the meanings ascribed to them in this Article I, such definitions being cumulative of those set forth elsewhere in this Declaration. In addition, all terms used in this Declaration which are defined in the Act shall have the meanings ascribed to them in the Act, unless other definitions are ascribed to them in this Declaration.

"Act" shall mean the North Carolina Planned Community Act, General Statutes of North Carolina Sections 47F-1-101 through 47F-3-120.

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"Annual Assessment" shall have the meaning specified in Section 4 of Article V hereof, and shall constitute the assessments which, pursuant to the provisions of Article V hereof, shall be levied by the Association against the Membership Property each year for the purpose of raising the funds necessary to pay the "Annual Expenses" (as that term is defined in Section 3 of Article V hereof).

"Articles of Incorporation" shall mean the Articles of Incorporation of the Association, as the same may be amended from time to time.

"Association" shall mean the Long Lake Homeowners Association, Inc., a North Carolina non-profit membership corporation.

"Bylaws" shall mean the Bylaws of the Association, as the same may be amended from time to time.

"Declarant" shall mean Pulte Home Corporation, a Michigan corporation, and shall also include (a) any successor or assign of Pulte Home Corporation who shall acquire the entire interest in the Long Lake Property which was owned by the immediate predecessor-in-title of such successor or assign, and (b) any successor or assign to whom Pulte Home Corporation shall specifically assign the rights, privileges, duties and obligations of the Declarant under this Declaration; provided, however, that at all times only one party shall have the status of the Declarant under this Declaration.

"Executive Board" shall mean the Board of Directors of the Association.

"First Mortgage" shall mean a Mortgage conveying a first priority lien upon or security title to any Membership Property.

"HUD" shall mean the United States Department of Housing and Urban Development and, in the event that said Department shall be abolished and its operations transferred to another division of the United States government, such other division.

"Limited Common Elements" shall mean certain portions of the Master Common Elements which are reserved for the exclusive use and benefit of the owners within a particular Neighborhood or Neighborhoods, but less than all of the Neighborhoods of the Long Lake Property. Limited Common Elements shall not include any Membership Property which shall be acquired by the Association through foreclosure of the lien in favor of the Association. Limited Common Elements shall include, but not be limited to, townhouse common areas, limited common areas, limited open space, townhouse open space and private streets.

"Lot" shall mean each additional plot or parcel of the Long Lake Property, other than Master Common Elements, or Limited Common Elements which shall be designated for separate ownership and occupancy, as shown on a plat which shall be recorded in the Office of Register of Deeds of Wake County, North Carolina. A Lot shall also include, without limitation, an individual townhome lot in any townhome development that may be constructed as Membership Property. In addition, as used in this Declaration, the term "Lot" shall also mean a "Lot" within the meaning of the Act, such that all provisions of the Act relative to "Lots" shall apply to the "Lots" within the meaning of the Declaration.

"Long Lake Property" shall mean the entirety of the real property described on Exhibit A, hereto attached and made a part hereof and any additions thereto made pursuant to Article II, Section 2.

"Master Common Elements" shall mean all real and personal property submitted to this Declaration which is owned, controlled or leased by the Association for common use and enjoyment of the Members, including, without limitation, all of the real and personal property which shall be conveyed and transferred to the Association by the Declarant pursuant to Section 1 of Article III of this Declaration. Master Common Elements shall not include any Membership Property which shall be acquired by the Association through foreclosure of the lien in favor of the Association, as provided for in Article V of this Declaration. Master Common Elements shall include, but not be limited to, Stormwater Control Measures, water and sewer lines which serve Long Lake Property that are located outside of any public street right-of-way or City of Raleigh utility easement (excluding those lines serving a single

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Lot), master common areas, master common open space, common open space, cluster open space, open space and master open space areas identified on recorded plats.

"Member" shall mean the Declarant, until the termination of the Class B Membership, as provided in Section 3 of Article IV of this Declaration, and every other Person who is the record title owner of any Lot.

"Membership Property" shall mean, all portions of the Long Lake Property which are now and hereafter subjected to this Declaration.

"Mortgage" shall mean a mortgage or deed of trust or other instrument conveying a lien or security title to property.

"Neighborhood" shall mean a portion of the Long Lake Property which may be identified as a Neighborhood by Declarant when, in Declarant's sole discretion, the portion may be comprised of or contain Lots which are adjacent or contiguous or which are similar or comparable in character, size, scope, number, Annual Expenses, appearance, intended use or maintenance requirements.

"Person" shall mean a natural person, corporation, partnership, association, trust or other entity.

"Stormwater Control Agreement" shall mean that certain Stormwater Escrow Protection Easement and Access Maintenance Agreement by and among Declarant, the Association and the City of Raleigh recorded in Book 9570, Page 1275 Wake County Registry, North Carolina.

"Stormwater Control Measures" shall mean and refer to the lake located on the Long Lake Property, its dam, the retention and detention basins, the constructed wetlands and buffers located within the Long Lake Property designated as drainage easements, private storm drainage and access easement, private storm drainage easement, storm drainage and access easement, stormwater management area and stormwater management easement on the recorded plats, together with other stormwater measures including storm drainage pipes, which serve the Long Lake Property and are located outside the public street rights-of-way (excluding those pipes and stormwater measures serving a single Lot).

"Subdivision Plat" shall mean, collectively the Long Lake Tract 2 Phase 1, prepared by Charles R. Brown of Withers & Ravenel Engineering & Surveying, Inc., recorded in the Book of Maps of Wake County Registry, North Carolina, in Book 2002, Pages 699, 700 and 701, as re-recorded in Book 2002, Pages 1253, 1254 and 1255 containing 7.38 acres, the Long Lake Tract One, Phase One, prepared by Charles R. Brown of Withers & Ravenel Engineering & Surveying, Inc., recorded in the Book of Maps of Wake County Registry, North Carolina, in Book 2002, Pages 1102, 1103, 1104 and 1105, as re-recorded in Book 2002, Pages 1295, 1296, 1297 and 1298 containing 54.27 acres and any and all other plats of survey which shall be recorded pursuant to the provisions of Article II, Section 2 of this Declaration for the purpose of subjecting additional portions of the Long Lake Property to this Declaration as Membership Property.

"VA" shall mean the United States Department of Veterans Affairs and, in the event that said Department shall be abolished and its operations transferred to another division of the United States government, such other division.

## ARTICLE II

### MEMBERSHIP PROPERTY

Section I. Membership Property Hereby Subjected to this Declaration. The Declarant, for itself and its successors and assigns, does hereby covenant that the Long Lake Property is hereby subjected to this Declaration as Membership Property.

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The Declarant, for itself, its successors and assigns, hereby further covenants that the Long Lake Property shall hereafter be held, transferred, sold, conveyed, used, leased, occupied, mortgaged or otherwise encumbered subject to all of the terms, provisions, liens, charges, easements, covenants and restrictions set forth in the Act and in this Declaration as applicable to Membership Property and Lots, including, but not limited to, all lien and assessment provisions set forth in this Declaration. All of the terms, provisions, liens, charges, easements, covenants and restrictions set forth in this Declaration as applicable to Membership Property and Lots shall be a permanent charge on, and shall run with, the Membership Property and Lots.

Section 2. Additions to Membership. Real property in addition to the Membership Property may hereafter become subject to this Declaration in the following manner:

(a) Additions in Accordance with a Master Plan of Development. The Declarant, its successors and assigns, shall have the right but not the obligation, without further consent of the Association or its Members, to bring within the scheme and operation of this Declaration all or any portions of the real property that are contiguous to the Long Lake Property, as added to under the terms of this section, but such right shall cease to exist on April 1, 2011. Such additions must not collectively total more than 200 acres, must be approved by the City of Raleigh and may not conflict with legal declarations recorded in the Office of the Register of Deeds of Wake County.

The additions authorized under this and the succeeding subsection shall be made by filing of record in the Office of the Register of Deeds of Wake County one or more supplementary Declaration of Covenants and Restrictions with respect to such additional property or properties, executed by the Declarant and, if different, the owner(s) of the additional property or properties (hereinafter sometimes referred to as a "Supplemental Declaration"). Supplemental Declarations shall be approved by the Attorney for the City of Raleigh.

Any supplemental declaration(s) may specify such specific use restrictions and other covenants and restrictions to be applicable to the added property and may contain such complementary additions and modifications of this Declaration as may be necessary or convenient, in the sole judgment of the Declarant and, if different owner(s), the owner(s) of the additional property, to reflect and adapt to any difference in character of the added properties. In no event, however, shall any such supplementary Declaration modify or add to the covenants and restrictions established by this Declaration so as to negatively affect the Long Lake Property; however, this provisions shall not be interpreted to prohibit or prevent any properly instituted change in the amount of the "Assessments" (as hereinafter defined) payable by a Member of the Association by reason of any such additions.

(b) Other Additions. Upon approval in writing of the Association, pursuant to authorization by a two-thirds (2/3) or more vote of each class of Members, voting at a duly called meeting, and approved by the City Attorney of the City of Raleigh, North Carolina, the owner of any property who desires to add such property to the scheme of this Declaration and subject such property to the jurisdiction of the Association must file of record a Supplemental Declaration as described in subsection (a) above. Only those lands that are contiguous to Long Lake Property, as added to under this section, may be added to the scheme of this Declaration but such additions must not collectively total more than 200 acres. Any approval by the Association pursuant to this subsection shall be evidenced by the Association executing any such Supplemental Declaration(s). The Declarant shall have the right to approve any such addition to the scheme of this Declaration except during such times when Class II membership is terminated pursuant to this Declaration.

(c) All Master Common Elements shown on any additional properties related to the scheme of this Declaration will be conveyed to the Association as set forth in Article III, Section 1 hereof.

Section 3. All Lots Bear the Burdens and Enjoy the Benefits of this Declaration. Every Person who is a record owner of a fee or undivided fee interest in any Membership Property does, by acceptance of a deed or other conveyance thereto, and by acceptance of such ownership, and by taking record title to such Membership Property, agree to all of the terms and provisions of this Declaration. Each of the Lots is subject to all the burdens, and enjoys all the benefits, made applicable thereto hereunder.

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Section 4. Easements Over the Lots. The Lots shall be subjected to, and the Declarant does hereby grant to the appropriate grantees thereof, the following easements:

- (a) Each Lot shall be subject to all easements which are shown and depicted on the Subdivision Plat as affecting and burdening such Lot;
- (b) Each Lot shall be subject to an easement for slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity that might interfere with slopes or which might create erosion or sliding problems or which might change, obstruct or retard drainage flow;
- (c) Each Lot shall be subject to an easement for the entry by the authorized agents and representatives of the Association to go upon such Lot under the circumstances, and for the purposes, described in Articles VI and VIII of this Declaration;
- (d) Each Lot shall be subject to the easements described in the Stormwater Control Agreement;
- (e) Those Lots shown on the Subdivision Plat as having a "sign easement" shall be subject to an easement for the installation, maintenance and repair of an entrance monument or sign by the Association;
- (f) Those Lots shown on the Subdivision Plat as having a "landscape easement" shall be subject to an easement for the installation and maintenance of the landscaping, walls and fences located on the area designated on the Subdivision Plat. No members, his contractors, tenants or family members shall remove or damage any landscape situation within the landscape easement;
- (g) Those Lots shown on the Subdivision Plat as having a "pedestrian access easement" shall be subject to an easement for access across, over and through the area designated on the Subdivision Plat;
- (h) Those Lots shown on the Subdivision Plat as having a "sight distance easement" shall be subject to an easement restricting the owner of such Lots from placing vehicles or erecting any landscaping structure or improvement that would impede the line of vision within that area; and
- (i) Each Lot shall be subject to a non-exclusive perpetual access easement for the repair, maintenance or reconstruction of any dwelling located on an adjoining Lot where the dwelling is located closer than five (5) feet from the lot line common to such adjoining lots. The repair, maintenance or reconstruction shall be done expeditiously and, upon completion of the work, the owner of the benefited Lot shall restore the adjoining burdened Lot to as near the same condition as that which prevailed prior to the commencement of such repair work as is reasonably practicable.

### ARTICLE III

#### MASTER COMMON ELEMENTS

Section 1. Master Common Elements. The Declarant shall have the right to transfer and convey to the Association any portion of the Long Lake Property. All portions of the Long Lake Property which the Declarant shall so transfer or convey to the Association (prior to the conveyance of title to the first Lot shown of the Subdivision Plat containing such portions of the Long Lake Property to be so conveyed to the Association) shall thereafter constitute Master Common Elements. There shall be no limitation on the portions of the Long Lake Property which the Declarant may transfer and convey to the Association as Master Common Elements pursuant to this Article III, nor on the improvements which may be located on such Master Common Elements. All Master Common Elements within the additional Membership Property will be conveyed to the Association prior to the conveyance of title to the first Lot shown on the Subdivision Plat for that additional Membership Property.

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Master Common Elements shall be conveyed to the Association prior to the conveyance of title to the first Lot shown on that same plat. Any portions of the Long Lake Property which shall be transferred to the Association by the Declarant (a) shall be conveyed to the Association by limited warranty deed free of debt encumbrance prior to the conveyance of title to the first Lot shown on the same plat as the portions of the Long Lake Property to be so conveyed to the Association, and (b) shall be conveyed to the Association subject to the rights and easements set forth in Sections 2 and 3 of this Article III, irrespective of whether the deed of conveyance shall make a specific reference to such rights and easements. Provided that the conveyance of Master Common Elements to the Association satisfies the requirements set forth in subparagraphs (a) and (b) hereof, any portion of the Long Lake Property which the Declarant may elect to convey to the Association as Master Common Elements may be subject to such covenants, restrictions, easements and non-debt encumbrances as shall be determined by the Declarant in its sole discretion and subject to the ordinances of the City of Raleigh.

By joining in the execution of this Declaration, the Association does hereby covenant and agree to accept all conveyances of the Master Common Elements which may be made to it pursuant to, and in accordance with, the terms and provisions of this Section 1.

**Section 2. Members' Rights in Master Common Elements.** Every owner of any Lot shall have a non-exclusive right and easement of enjoyment and use in and to the Master Common Elements and such right and easement shall be appurtenant to, and shall pass with, the title to the Lot(s) owned by such owner. Such right and easement of enjoyment and use are and shall be subject to the easements which are described in Section 3 of this Article III and to the right of the Association to promulgate reasonable rules and regulations regarding the use of Master Common Elements, and the right of the Association, as provided in the Bylaws, to suspend the enjoyment rights of the owner of any Lot, except access, during any period in which any assessment which is due to the Association from such owner remains unpaid, and such period as the Executive Board may consider reasonable for any infraction of its published rules and regulations; provided, that such suspended lot owner shall first be given notice, opportunity to be heard and to present evidence to the Executive Board, and notice of the decision.

**Section 3. Easements Over Master Common Elements.** All Master Common Elements shall be subject to, and Declarant and the Association do hereby grant, the following easements:

(a) An easement in favor of the applicable party across, in, under, over and through the Master Common Elements for the purposes of the construction, installation, repair, maintenance and use of all utility and drainage facilities as exist on the date of this Declaration and as may exist from time to time;

(b) An easement across, in, under, over and through the Master Common Elements for the purposes of access and maintenance of the Stormwater Control Measures as described in the Stormwater Control Agreement; and

(c) An easement in favor of Declarant for the exclusive use of such portions of the Master Common Elements as may be reasonably desirable, convenient or incidental to the construction and installation of improvements on, and the sale of, any Lots, including, but not limited to, sales and business offices, storage areas, construction yards and signs. Such easements shall be exercisable by any and all persons who the Declarant shall authorize to exercise the same, including, without limitation, real estate sales agents and brokers and builders of residences upon the Lots, irrespective of whether such persons are affiliated with the Declarant. Such easements shall exist notwithstanding any provision of this Declaration which might be construed to the contrary, but shall terminate at such time as the construction on the Lots of residential buildings has been completed and all of the Lots shall have been conveyed to owners thereof who shall not have acquired the Lots for the purpose of immediate resale of the same. Such easements shall and do exist without affecting the obligation of the owner of any Lot to pay assessments or charges coming due during such period of time as portions of the Master Common Elements shall be used by authorized persons pursuant to the exercise of the easements herein stated. In the event any construction or installation of improvements work is performed on the Master Common Elements or affects the Master Common Elements, the Master Common Elements shall be restored to its condition prior to such work.

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(d) Greenway -- City of Raleigh Approval. Notwithstanding any other provisions of this Declaration, the Association, Owners, Members, Members' guests or invitees, or families of Members shall not, within any portion of the Master Common Elements which is greenway area dedicated to the City of Raleigh, without the prior written consent of the City of Raleigh:

- (i) Grant easement of any nature whatsoever;
- (ii) Remove any trees or vegetation;
- (iii) Erect gates, fences or other structures;
- (iv) Place any garbage receptacles;
- (v) Fill or excavate;
- (vi) Plant vegetation or otherwise restrict or interfere with the use, maintenance and preservation of said greenway in its natural state, including without limitation, recreational pursuits such as walking, bicycling and other similar activities by the general public.

It is understood and agreed that within any greenway area, the City of Raleigh may erect trails, trail markers, place litter receptacles, and other convenience facilities and adopt and amend regulations concerning the use of the greenway (including without limitation hours of operation), which shall be equally applicable to the general public and the owners of any Lot. The Association and the owners of any Lot may adopt such other regulations governing the use of the greenway, not inconsistent with those adopted by the City and may enter into agreements with the City of Raleigh as is deemed appropriate to insure the maintenance and upkeep of the greenway in its natural state, free of litter and unsightly debris.

- (e) All streets located on the Master Common Elements shall be subject to a perpetual, non-exclusive easement for pedestrian and vehicular travel to and from all portions of the Long Lake Property.

Section 4. Insurance. As provided in Section 47F-3-113 of the Act, it shall be the duty of the Association to obtain and maintain in effect at all times a policy of casualty insurance on all improvements located on the Master Common Elements. The amount of such policy shall be in amount that is no less than eighty percent (80%) of the replacement cost of the improvements to be insured with deductibles in amount to be determined by the Executive Board. It shall also be the duty of the Association to obtain and maintain in effect at all times a comprehensive policy of public liability insurance. The comprehensive policy of public liability insurance shall have a minimum of One Million Dollars (\$1,000,000.00) coverage, and shall provide for such deductibles, as shall be determined by the Executive Board. During the existence of the Class B membership of the Association, both insurance's may be provided by a self-insurance program maintained by the Declarant.

Section 5. Damage or Destruction. In the event that any improvements located on any Master Common Elements shall be damaged or destroyed on account of the occurrence of any casualty, the Executive Board shall proceed with the filing and settlement of all claims arising under any policy of insurance maintained by the Association with respect to such improvements and shall obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed improvements.

Any such damage or destruction shall be repaired or reconstructed unless it shall be decided, within ninety (90) days after the occurrence of the casualty, by eighty percent (80%) of the total vote of all then existing classes of Membership of the Association not to so repair or reconstruct such damage; provided however the Stormwater Control Measures shall be repaired so long as mandated by the Raleigh City Code. In the event that it shall be so decided not to repair or reconstruct any such damage or destruction, the proceeds of any insurance as may become payable to the Association as a result of such damage or destruction shall be applied to such purposes as may be determined by the Executive Board.

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Section 6. Sale or Abandonment of Master Common Elements. In no event shall the Association abandon, sell, grant a security interest in or transfer any portion of the Master Common Elements unless such abandonment, sale or transfer shall be first approved in writing by: (a) the owners of no fewer than eighty percent (80%) of the Lots; (b) the holders of no fewer than eighty percent (80%) of the First Mortgages existing in regard to the Lots; and (c) HUD, VA and the Declarant, until such time as the Class B Membership shall terminate (as provided for in Article IV, Section 3 of this Declaration), provided however, any open spaces, areas of any kind and Stormwater Control Measures shall not be conveyed so long as mandated by the Raleigh City Code.

## ARTICLE IV

### THE ASSOCIATION

Section 1. The Association. Prior to the date this Declaration has been filed for record with the Register of Deeds of Wake County, North Carolina, the Declarant has caused the Association to be formed, and the Association does now exist, under its Articles of Incorporation and Bylaws.

The Association is and shall be responsible for the ownership, management and operation of the Master Common Elements, the maintenance and repair of the Stormwater Control Measures located on the Long Lake Property in compliance with the Stormwater Operations and Maintenance Manual and Budget for Long Lake Subdivision dated 7/19/02 (the "Operations Manual"), which is attached hereto as Exhibit "B", the enforcement of the covenants and restrictions set forth in this Declaration, the collection of all assessments provided for in Article V of this Declaration, and the performance of such other duties and the provision of such services as the Executive Board shall deem to be in the best interests of the Members. The Association shall have all the power and authority provided in the Association by the provisions of Section 47F-3-102 of the Act. Without limiting the generality of the foregoing, the Association shall have the specific power and authority: (a) to provide landscape and grounds maintenance services for real property which does not constitute Master Common Elements, or Landscape Easements, including real property owned by any governmental entity and (b) to maintain, repair and replace, and pay charges for electric service to, any street lights that are located within the right-of-way of any public road if the applicable governmental entity shall neglect to do the same, and, in the case of both of the activities identified in clauses (a) and (b) hereof, the Executive Board shall have determined that the carrying out of such activities by the Association is in the interest of the Members.

The Declarant's plan for the development of the Long Lake Property contemplates that the Lots located in different portions of the Membership Property will be developed with separate and distinct types of residential structures, and that the Association may provide certain services (such as landscaping and grounds maintenance and property insurance coverage) for the benefit of certain Lots that it will not provide for other Lots. There shall be no requirement that the services to be provided by the Association be provided uniformly to all of the Membership Property and the Executive Board shall have the specific power and authority to cause the Association to provide certain services to certain Lots that it shall not provide to other Lots.

Section 2. Membership. Every person who is, or who becomes, a record owner of a fee or undivided fee interest in any Lot is and shall be a Member of the Association; provided, however, that any such person who holds such interest merely as security for the performance of an obligation shall not be a Member of the Association. The transfer of ownership of a fee or undivided fee interest in any Lot shall automatically transfer membership in the Association, and in no event shall such membership be severed from the ownership of such Lot.

Section 3. Classes of Membership; Voting Rights. The Association shall have two classes of voting membership: Class A and Class B.

(a) Class A. The Class A Members shall be all those persons holding an interest required for membership in the Association, as specified in Section 2 of this Article IV, except for the Class B Member. The Class A Members shall be entitled to full voting privileges on the earliest of the following dates to occur: (i) the date which the Declarant may so designate by a written designation executed by both the Declarant and by the holder or

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holders of any Mortgage upon any portion of the Long Lake Property which is owned by the Declarant and which is recorded with the Register of Deeds of Wake County, North Carolina, (ii) the date on which the Declarant shall have conveyed to individual owners thereof seventy-five (75%) of the Lots, or (iii) April 1, 2011. Before the earliest of these dates to occur, the Class A Members shall be entitled to vote only on (a) any proposal of merger, consolidation or dissolution of the Association; (b) any proposal pursuant to Article IX of this Declaration to amend this Declaration; and (c) any other matter for which it is herein specifically provided, or for which it is provided by the Act or the North Carolina Nonprofit Corporation Code, that approval of each and every class of membership of the Association is required.

When entitled to vote, the Class A Members shall be entitled to cast one (1) vote for each Lot in which they hold an interest required for membership by Section 2 of this Article IV. If only one of the multiple owners of a lot is present at a meeting of the association, the owner who is present is entitled to cast all the votes allocated to that lot. If more than one of the multiple owners are present, the votes allocated to that lot may be cast only in accordance with the agreement of a majority in interest of the multiple owners. Majority agreement is conclusively presumed if any one of the multiple owners casts the votes allocated to that lot without protest being made promptly to the person presiding over the meeting by any of the other owners of the lot.

(b) Class B. The Declarant shall be the sole Class B Member. Class B membership shall be a full voting membership and, during its existence, the Class B Member shall be entitled to vote on all matters and in all events. Without limiting the generality of the foregoing, the Class B Member will itself elect all of the members of the Executive Board until the termination of the Class B membership. At such time as the Class A Members shall be entitled to full voting privileges, as provided in paragraph (a) hereof, the Class B membership shall automatically terminate and cease to exist, and the Class B Member shall be and become a Class A Member insofar as it may then hold any interest required for membership by Section 2 of this Article IV.

From and after the date on which the Class B membership automatically terminates and ceases to exist, such membership shall not be renewed or reinstated.

Section 4. Suspension of Membership Rights. The membership rights of any Member of the Association, including the right to vote and to use the Master Common Elements, may be suspended by the Executive Board pursuant to the authority granted in the Bylaws. Any such suspension shall not affect such Member's obligation to pay assessments coming due during the period of such suspension and shall not affect the permanent charge and lien on the Member's property in favor of the Association.

Section 5. Meetings of the Membership. All matters concerning the meetings of Members of the Association, including the time at which and the manner in which notice of any said meeting shall be given to Members, the quorum required for the transaction of business at any meeting, and the vote required on any matter, shall be as specified in the Act, the North Carolina Nonprofit Corporation Code, this Declaration, or in the Articles of Incorporation or the Bylaws.

Section 6. Association Acts Through Its Executive Board. The Executive Board shall have the power and authority to exercise all of the power and authority of the Association, as provided for in Section 1 hereof. Whenever approval of, or action or inaction by, the Association is referred to or called for in this Declaration, such action, inaction or approval shall be by the Executive Board of the Association, unless it is specifically stated in this Declaration, the Act, the Articles of Incorporation or the Bylaws with respect to such action, inaction or approval that the Members of the Association must vote. No member of the Executive Board of the Association or any officer of the Association (including, without limitation, any such individual who shall have been elected by a vote of the Class B Member) shall be personally liable to any owner of any Member for any mistake of judgment or for any other act or omission of any nature whatsoever, except for any acts or omissions found by a court of competent jurisdiction to constitute gross negligence or fraud.

Section 7. Professional Management. The Association may, but shall not be obligated to, obtain and pay for the services of any person or other entity to manage the affairs of the Association, or any part thereof, and may enter into such agreements for the management of the Master Common Elements as the Executive Board deems to

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be in the best interests of the Association. Any professional management contract executed during Class B memberships and shall contain a termination clause without cause upon the giving of 90 days notice.

## ARTICLE V

### ASSESSMENTS

**Section 1. Assessments; Lien Therefor.** Each person other than the Declarant who shall own any Lot, by acceptance of a deed or other conveyance thereto, and by acceptance of such ownership, and by taking record title thereto, shall be deemed to covenant and agree to pay to the Association all assessments and charges which are levied by the Association against the Lot(s) owned by such person in accordance with the terms and provisions of this Declaration, including but not limited to the provisions of Article VI, Section 3 of this Declaration.

As more fully provided in Section 47F-3-116 of the Act, all sums lawfully assessed by the Association against any Lot and the owner thereof, which shall remain unpaid for a period of thirty (30) days from the date of such assessment, shall constitute a lien in favor of the Association on such Lot when a claim of lien is filed of record in the office of the clerk of superior court of the county in which the Lot is located. Such lien shall be prior and superior to all other liens whatsoever, except:

- (a) liens for ad valorem taxes and other governmental assessments on the Lot;
- (b) any lien that was properly recorded prior to the docketing of the claim of lien in the office of the clerk of superior court;
- (c) the lien of any First Mortgage or the lien of any prior Mortgage recorded in the Deed Records of Wake County, North Carolina prior to the recording of this Declaration; or
- (d) the lien of any secondary purchase money Mortgage covering the Lot, provided that neither the grantee nor any successor grantee on the Mortgage is the seller of the Lot.

**Section 2. Personal Obligation of Members.** Each member of the Association other than the Declarant, by acceptance of a deed or other conveyance to the Lot(s) owned by such member, irrespective of whether it shall be so expressed in any such deed or other conveyance, and by acceptance of ownership of such Lot (s), and by taking record title to such Lot(s), shall be deemed to covenant and agree to pay to the Association:

- (a) His share of the Annual Assessments which shall be levied by the Association in accordance with Section 4 hereof; and
- (b) When properly authorized in accordance with Section 5 hereof, special assessments, such annual and special assessments to be fixed, established and collected from time to time as hereinafter provided.

All such assessments, together with interest thereon and costs of collection thereof, as hereinafter provided, shall be the personal obligation of the person who is the owner of the Lot against which such assessments are levied at the time such assessments become due and payable. The covenant to pay assessments herein stated is and shall be a covenant running with the land.

**Section 3. Purposes of Assessments.** The assessments levied by the Association pursuant to this Article V shall be used to pay the costs and expenses which the Association shall incur in connection with the performance of its duties and responsibilities pursuant to this Declaration, the Articles of Incorporation and the Bylaws (such costs and expenses being herein referred to as the "Annual Expenses"). Without limiting the generality of the foregoing, the Annual Expenses shall include the costs of: repair and maintenance of all Master Common Elements; payment of all governmental charges, taxes and assessments which shall be levied against all Master Common Elements; payment of all costs and expenses incurred in connection with the maintenance and repair of the lake and

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dam as outlined in the Operations Manual, payment of all costs and expenses incurred in connection with the maintenance and repair of the Stormwater Control Measures as outlined in the Stormwater Control Agreement, payment of all costs and expenses incurred by the Association in connection with its operations, including, without limitation, the payment of electricity charges for all lighting located on Long Lake Property which does not serve a particular Lot; payment of costs of irrigation of Master Common Elements; payment of the premiums for all policies of property and liability insurance maintained by the Association with respect to Master Common Elements; payment of the premiums for all fidelity bonds which shall be obtained by the Association; the maintenance of reserves for the repair and replacement of improvements located on the Master Common Elements and for such other purposes as the Executive Board shall determine, in all cases in such amounts as the Executive Board shall determine; the payment of the fees of such management firms as the Executive Board shall employ; escrow payments to the City of Raleigh pursuant to the Stormwater Control Agreement and payment of the fees for the provision of such professional services as the Executive Board shall determine to be required by the Association, including legal, accounting and architectural services.

**Section 4. Determination of Annual Assessment.** Prior to the commencement of each fiscal year of the Association (said fiscal year being specified in the Bylaws), the Executive Board shall estimate the total amount of the Annual Expenses which are anticipated to be incurred by the Association during such fiscal year and shall determine the amount which will be deposited during such fiscal year into reserve funds maintained by the Association. The Executive Board shall thereupon adopt a budget for the Association's expenditures and reserve funding based upon such estimate and providing for the total annual assessment to be levied against the members of the Association for such fiscal year (the total assessment which shall be so determined and levied against all of the members of the Association for any fiscal year is herein referred to as the "Annual Assessment"). In connection with its determination of the amount of the Annual Assessment, the Executive Board shall also determine the amount of the Annual Expenses which, in the judgment of the Executive Board, will benefit less than all of the Lots (such as Annual Expenses which the Association shall incur for the provision of any services to some, but less than all, of the Lots) and the amount of the Annual Expenses which shall significantly disproportionately benefit all of the Lots. The amounts of the Annual Expenses which the Executive Board shall determine as benefiting less than all of the Lots shall be specially assessed equitably among all of the Lots so benefited, and shall be made a part of the Annual Assessment which shall be payable by the owners of the Lots so benefited.

In addition, the amount of the Annual Expenses which the Association shall incur in regard to any Limited Common Elements shall be specially assessed among all of the Lots which shall have the exclusive use of such Limited Common Elements, and shall be a part of the Annual Assessment which shall be payable by the owners of such Lots.

Within 30 days after adoption of the budget and prior to the commencement of the fiscal year during which any Annual Assessment is to be levied, the Association shall send to each Member a copy of the budget so adopted for the Association by the Executive Board, together with a statement setting forth both the gross amount of the Annual Assessment which shall be payable for such fiscal year and the specific amount of such Annual Assessment which shall be levied against the Lot(s) owned by such Member, 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 Executive Board shall set a date for a meeting of the lot owners to consider ratification of the budget, such meeting to be held not less than 10 days nor more than 60 days after mailing of the summary and notice. There shall be no requirement that a quorum be present at the meeting. For increases in Annual Assessments over the previous years' Annual Assessment of 10% or less, the budget is ratified unless at the meeting 90% or more of each Class of the membership of all owners of Lots of the Association rejects the budget. The budget is ratified for all other increases in Annual Assessments over the previous years' Annual Assessment unless at the meeting two-thirds or more of each Class of the membership of all owners of Lots in the Association rejects the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the owners of Lots shall be continued until such time as the owners of Lots ratify a subsequent budget proposed by the Executive Board.

Following ratification of the budget, each lot shall be liable for that share of each ratified Annual Assessment. The amount of each Annual Assessment which shall be levied against each Lot shall be due and

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payable to the Association in such installments as the Executive Board shall determine, and after notice of the same shall have been given to all of the Members, shall be paid to the Association when due without further notice.

At the closing of each Lot, the owner of each Lot shall pay a capital contribution to the Association in an amount to be determined by the Association. Such capital contribution shall be used by the Association for the purposes described in Section 3 of this Article.

**Section 5. Lots Owned by Declarant.** Notwithstanding any term or provision of this Declaration which may be construed to the contrary, no Lot owned by the Declarant shall be subject to any assessment provided for in this Article V, provided however, in the event the Declarant leases a Lot to a third party, such Lot thereafter shall be subject to assessments. Rather, all Lots owned by the Declarant shall be exempt from the payment of all assessments for so long as such Lots are owned by the Declarant. At such time as any Lot which is owned by the Declarant shall be conveyed or transferred away by the Declarant, all liens and assessments provided for in this Article V shall become immediately levied against such Lot and the owner of such Lot shall immediately become liable for the payment of all such assessments. The amount of each Annual Assessment which shall become so payable with respect to any Lot shall be prorated according to the respective portions of the fiscal year that such Lot was owned by the Declarant and by such successor owner.

#### **Section 6. Effect of Non-Payment of Assessments; Remedies of the Association.**

(a) In the event that any member of the Association shall fail to pay, within thirty (30) days after the date the same is due and payable, any annual or special assessment, or any installment of any annual or special assessment which is payable by him to the Association, the entire amount of such assessment, including the portion thereof which would otherwise be payable in installments, may be declared by the Executive Board to be immediately due and payable in full to the Association. As more fully provided in the Act, all such amounts so declared by the Executive Board to be due and payable in full to the Association shall be secured by the lien of the Association on every Lot owned by the delinquent member, which when filed of record in the Office of the Clerk of Superior Court, Wake County, such lien shall bind such Lot or Lots in the hands of the then owner, and his heirs, devisees, successors and assigns.

(b) All amounts which the Executive Board shall declare to be due and payable pursuant to this Section 6 shall bear interest from the date of delinquency at the lower of the rate of eighteen (18%) percent per annum or the highest rate permitted by law, and the Association may bring legal action against the member of the Association personally obligated to pay the same, or foreclose its lien upon the Lot or Lots of such member, in either of which events such member shall also be liable to the Association for all costs and attorneys' fees which the Association shall incur in connection with the collection of such delinquent amounts.

(c) The Association may foreclose the claim of lien in like manner as a mortgage on real estate under power of sale under Article 2A Chapter 45 of the General Statutes.

### **ARTICLE VI**

#### **ARCHITECTURAL RESTRICTIONS AND ARCHITECTURAL CONTROL**

**Section 1. Architectural Restrictions Applicable to Lots.** There shall be no restrictions under the terms and provisions of this Declaration on the original design of the houses located on the Existing Lots.

**Section 2. Architectural Restrictions Applicable to Additional Membership Property.** It is the intent of the Declarant for the development of the Long Lake community that different portions of the Membership Property will be subject to different architectural restrictions, even though the architectural restrictions to which any part of the Membership Property will be subject to will be enforced by the Executive Board pursuant to the terms and provisions of this Declaration. Not all of the Membership Property will be subject to the same architectural

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restrictions. Each Supplemental Declaration will set forth the architectural restrictions that will apply to the additional Membership Property which shall be subjected to this Declaration as Membership Property by the Declarant's execution and recording of such Supplemental Declaration. All architectural restrictions which shall be set forth in any Supplemental Declaration shall thereafter be as binding on the Membership Property which is the subject of such Supplemental Declaration as if such architectural restrictions were set forth in their entirety in this Declaration.

**Section 3. Combination of Lots.** Unless the same shall be prohibited or restricted under the terms of any other declaration of covenants to which the same may be subject, the owner of any two or more contiguous Lots shall have the right to cause such Lots to be combined together into one Lot by furnishing the Executive Board with a notice of his intent to do so. Upon the receipt by the Executive Board of any such notice, the Lot created by such combination shall thereafter be deemed to be a single Lot for all purposes of this Declaration, except as hereinafter provided. Notwithstanding the foregoing, the amount of assessments for which such single Lot shall be thereafter liable pursuant to the provisions of Article V of this Declaration shall be equal to the total assessments for which all of the Lots which were so combined would have been liable had such combination not taken place.

**Section 4. Architectural Control.**

(a) No building, fence, wall, garage, patio, carport, playhouse, children's play equipment, exercise equipment, swimming pool, mail-box or any other structure shall be commenced, constructed, installed, erected or maintained upon any Membership Property, nor shall any exterior addition to, change in (including, without limitation, any change in the type of roofing material or in the color of the paint, stain or varnish), or alteration of, any structure located on any Membership Property be made until complete and final plans and specifications, setting forth the information hereinafter described, shall have been submitted to, and approved in writing by, the Executive Board. It shall be the duty of the Executive Board to approve or disapprove each request for approval of the construction of a structure on a Lot, or the alteration of an existing structure located on any Lot.

(b) The plans and specifications which must be submitted to the Executive Board prior to the commencement of any structure upon any Lot, or the alteration of any existing structure on any Lot, as hereinabove provided, shall contain at least the following information:

(i) In the case of a proposed new structure, a site plan showing the shape and size of the proposed structure and its location on the Lot on which the same is proposed to be constructed;

(ii) In the case of a proposed alteration to or change in an existing structure, a description of the proposed alteration or change, including a color and material sample, if applicable; and

(iii) In either case, such additional information as the Executive Board may require concerning the proposed structure or alteration.

(c) All approvals and disapprovals by the Executive Board of the plans and specifications for any structure to be constructed or altered on any Membership Property shall be conclusive and binding upon all Members.

(d) It shall be the duty of the Executive Board to maintain in effect a series of standardized designs of fences that may be erected upon the Lots. Said standardized fence designs which shall be so maintained by the Executive Board are hereinafter referred to as the "Approved Fence Details." The Executive Board may modify and change the Approved Fence Details, and adopt additional Approved Fence Details, at any time, and from time to time, as the Executive Board believes to be in the best interests of the owners of the Lots. There shall be no requirement that every Approved Fence Detail be available for every Lot; rather, certain Approved Fence Details may be available only for certain Lots. The Executive Board shall furnish the owner of any Lot with a copy of the then existing Approved Fence Details upon such Lot owner's request.

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In no event shall any fence be erected on any Lot unless (i) the design of such fence shall conform to the Approved Fence Details then available for the particular Lot and (ii) the specific location of the fence on the Lot shall have been approved in writing by the Executive Board.

(e) The Association shall upon demand at any time, furnish to any owner of any Lot a certificate in writing signed by an officer of the Association, stating that any building, fence, wall, garage, patio, carport, playhouse, swimming pool, mail-box or other structure erected upon such owner's Lot, or any exterior addition to, change in, or alteration of any structure owned by such Member on a Lot, is in compliance with the provisions of this Section 4 of Article VI, and such certificate shall be conclusive as to whether the same is in such compliance.

(f) In the event that any construction or alteration work is undertaken or performed upon any Membership Property without application having been first made and approval obtained as provided in paragraph (a) of this Section 4, said construction or alteration work shall be deemed to be in violation of this covenant, and the Person upon whose Membership Property said construction or alteration work was undertaken or performed may be required to restore to its original condition, at his sole expense, the property upon which said construction or alteration was undertaken or performed. Upon the failure or refusal of any Person to perform the restoration required herein, the Executive Board, or their authorized agents or employees, may, after fourteen (14) days' notice to such Person, enter upon the property upon which such unauthorized construction or alteration work has been performed, and make such restoration as the Executive Board, in the exercise of its discretion, may deem necessary or advisable. The Person upon whose Membership Property such restoration work shall have been so performed shall be personally liable to the Association for all direct and indirect costs which the Association shall incur in the performance of such restoration work, and the liability for such cost shall be secured by all the liens, and shall be subject to the same means of collection, as the assessments provided for in Article V of this Declaration. Such costs shall be paid to the Association by the Person liable for the same at the same time as the next due Annual Assessment payment, as provided in Section 4 of Article V of this Declaration, or at such earlier time, and in such installments, as the Executive Board shall determine.

Section 5. Declarant Exemption. Notwithstanding anything stated to the contrary herein, the Declarant shall be exempt from the architectural control provisions set forth in Section 4 of this Article VI. Nothing contained in this Article VI shall be construed as prohibiting any construction by the Declarant upon any Lot while such Lot is owned by the Declarant. The exemption of the Declarant from the architectural control provisions of Section 4 of this Article VI shall survive the termination of the Class B Membership.

Section 6. Architectural Advisory Committee. The Executive Board shall be authorized to appoint an architectural advisory committee to advise it and assist it in connection with its performance of its responsibilities under Section 4 of this Article VI. The functions which may be performed by any such architectural advisory committee shall include reviewing plans and specifications which are submitted to the Executive Board in connection with proposals to construct or alter improvements upon the Lots and to make recommendations to the Executive Board with respect to such plans and specifications.

## ARTICLE VII

### RESTRICTIONS

In order to provide for the maximum enjoyment of the Membership Property by all of the residents and occupants thereof, and to provide protection for the value of the same, the use of the Membership Property shall be restricted to, and shall be only in accordance with, the following provisions:

Section 1. Single-Family Use. All of the Lots shall be restricted exclusively to attached and unattached single-family residential use. The term "single-family" shall include four unrelated people as provided in the Raleigh City Code. No Lot shall at any time be used for any commercial, business or professional purpose. Notwithstanding the foregoing, however, nothing set forth in this Section 1 shall prohibit: (a) the Declarant from conducting such sales, leasing and promotional activities on any Lot as said Declarant shall determine; or (b) the owner of any Lot from using a portion of a building located on such Lot as an office, provided that such use does not

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create regular customer or client traffic to and from such Lot and no sign, logo, symbol or nameplate identifying such business is displayed anywhere on such Lot.

**Section 2. Other Use Restrictions.** Any Supplemental Declaration may set forth additional use restrictions that will apply to the additional Membership Property which shall be subjected to this Declaration as Membership Property by the Declarant's execution and recording of such Supplemental Declaration. Any additional use restrictions which shall be set forth in any Supplemental Declaration shall thereafter be as binding on the Membership Property which is the subject of such Supplemental Declaration as if such use restrictions were set forth in their entirety in this Declaration, and will be enforceable by the Executive Board and the Members pursuant to the terms and provisions of this Declaration. Not all of the Membership Property must be subject to the same use restrictions.

**Section 3. Prohibited Activities.** No noxious or offensive activity shall be conducted on any Membership Property. Each owner of any Lot, his family, tenants, guests and invitees, shall refrain from any act or use of his Membership Property which could reasonably cause embarrassment, discomfort, annoyance or nuisance to any other resident or residents of any other Lot.

**Section 4. Nuisances.** No nuisance shall be permitted to exist upon any Membership Property. Without limiting the generality of the foregoing, no exterior lights, speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for reasonable security purposes, shall be located, used or placed on any Lot, or any portion thereof.

**Section 5. Trash; Animals.** No portion of any Membership Property shall be used as a dumping ground for rubbish, trash or garbage, nor shall any trash or garbage be permitted to accumulate upon any Membership Property. Garbage containers shall be buried or screened on each Lot so that the same shall not be visible from the street or from any part of any other Lot.

No Membership Property shall be used for the keeping or breeding of livestock animals or poultry of any kind, except that a reasonable number of household pets may be kept, provided that they are neither kept for breeding nor maintained for any commercial purpose, and provided that none of such pets are permitted to be a source of annoyance to any other resident or residents of any other Lot.

**Section 6. Signs.** Except as hereinbelow provided, no sign of any kind or character shall be erected on any portion of any Lot, or displayed to the public on any portion of any Lot, without the prior written consent of the Executive Board. The restriction herein stated shall include the prohibition of placement of any sign within a building located on any Lot in a location from which the same shall be visible from the outside and the placement of any sign in or upon any motor vehicle.

It shall be the duty of the Executive Board to adopt specifications for signs that may be posted on the Lots to advertise the same for sale or rent and to promulgate such specifications. Unless the display of any such sign is prohibited under the terms of any other restrictions to which the particular Lot may be subject, the owner of every Lot shall have the right to post one such sign on his Lot, provided that such sign complies with the specifications for the same that shall have been so adopted by the Executive Board.

**Section 7. Antennas; Aerials; Satellite Dishes.** No antennas, aerials, satellite dishes or other reception devices having a diameter or diagonal measurement greater than one meter shall be installed on any Membership Property. So long as reception of an acceptable quality is not precluded, the antenna, aerial, satellite dish or other reception device of appropriate size shall be located only on that portion of a Lot which is least visible from public view and shielded so as to minimize any risk and to ensure a nuisance is not created.

**Section 8. Clotheslines.** No clothesline shall be erected on any portion of any Membership Property.

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Section 9. Window Air-Conditioners. No air-conditioner shall be installed in any window of any building located on any Lot, nor shall any air-conditioner be installed on any building located on any Lot so that the same protrudes through any exterior wall of such building.

Section 10. Temporary Structures. Subject to the right of the Declarant to promote the sale of Lots, no structure of a temporary character, including, without limitation, any trailer, tent, shack, garage or other building, shall be permitted on any Lot at any time, whether temporarily or permanently, except with the prior written consent of the Executive Board; provided, however, that temporary structures may be erected or placed upon a Lot for use in connection with the repair or construction of structures upon such Lot.

Section 11. Commercial Vehicles; Trailers; Boats; Automobiles. No commercial vehicle, boat, trailer, boat trailer, camper, truck or utility trailer shall be permitted to be stored, parked or repaired upon any Lot unless the same is entirely confined within a garage located on such Lot and the door of such garage is kept in a closed position. No automobile may be parked upon any Lot unless the same is parked on a pavement area located on such Lot for such purpose, and the same is in operating condition and has affixed thereto a then current license tag and, if applicable, operating sticker.

Section 12. Enforcement by Members. In the event that the owner of any Lot, or any Person who is entitled to occupy any Lot, shall fail to comply with or abide by any restriction set forth in this Article VII, then, in addition to his rights under Section 1 of Article X of this Declaration, the owner of any other Lot who is aggrieved by such failure of compliance or abidance shall have the right to proceed at law or in equity to compel such owner or such occupant to comply therewith and abide thereby. Additionally, any owner of any Lot who, or whose lessee, shall fail to comply with or abide by any such restriction shall be liable for any damages as may be suffered by any other owner of any Lot as a consequence of such failure.

## ARTICLE VIII

### MAINTENANCE OF MEMBERSHIP PROPERTY AND LANDSCAPING

#### Section 1. Maintenance of Membership Property.

(a) All Membership Property, including, without limitation all Lots and all buildings and other improvements located on any Lots, shall be kept and maintained in a neat and attractive condition which is satisfactory to the Executive Board by the owner(s) thereof or other party (such as a community association) who shall have the responsibility for maintaining the same.

(b) No children's play equipment, exercise equipment, picnic equipment, athletic equipment or any similar item may be placed upon any Membership Property if the same is not satisfactory to the Executive Board.

All determinations made by the Executive Board concerning whether any Membership Property is in a satisfactory condition, and whether any item placed upon any Membership Property is satisfactory, shall be conclusive and binding upon all Members.

Section 2. Failure of Maintenance. In the event that any Membership Property shall not be maintained in a condition which is satisfactory to the Executive Board, or if any item which is unsatisfactory to the Executive Board shall be kept upon any portion of the Membership Property, the Executive Board shall have the right, exercisable by it or through its agents or employees, and after giving to the owner of such Membership Property at least fourteen (14) days' notice and an opportunity to correct the unsatisfactory condition or to remove the unsatisfactory item, to enter upon the Membership Property and correct the unsatisfactory condition or to remove the unsatisfactory item, including, without limitation, cutting the grass, weeds, and other vegetation, and removing dead trees, shrubs and other plants, and removing the unsatisfactory item. The owner of the Membership Property upon which such work is performed by the Association (or its agents or employees) shall be personally liable to the

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Association for all direct and indirect costs as may be incurred by the Association in connection with the performance of such work, and the liability for such costs shall be secured by all the liens, and shall be subject to the same means of collection, as are the assessments and charges provided in Article V of this Declaration. In addition, all such costs shall be paid to the Association by such owner at the same time as the next due Annual Assessment payment, as provided in Section 4 of Article V of this Declaration, or at such earlier time, and in such installments, as the Executive Board shall determine.

## ARTICLE IX

### AMENDMENT

The terms, provisions, covenants and restrictions of this Declaration may be amended upon the approval of such amendment by (a) those Members of the Association who own in the aggregate, no fewer than sixty-seven percent (67%) of the Lots not owned by the Declarant, (b) the Declarant, if the Declarant shall then own any Lot or any other portion of the Long Lake Property, and (c) HUD and VA, if the Class B membership has not terminated, as provided in Article IV, Section 3 of this Declaration. The approval of any such amendment by the Members of the Association shall be given by each such Member either casting a vote in favor of such amendment at a meeting of the Members of the Association duly called for such purpose, or by such Member signing a written approval of such amendment after the date on which such meeting was held, notwithstanding anything set forth to the contrary in the Articles of Incorporation or Bylaws. If any such amendment is required to be approved by the Declarant, such approval shall be given only by such Person executing a written approval of the same. In addition, no amendment of this Declaration relating to Stormwater Control Measures and escrow funds held with the City of Raleigh, shall be effective unless approved in writing by the attorney or deputy attorney for the City of Raleigh.

Any amendment to the terms, provisions, covenants or restrictions of this Declaration shall become effective only upon the recording with the Register of Deeds of Wake County, North Carolina, of an instrument certified by the incumbent President of the Association setting forth such amendment and stating that the approval of the Members of the Association which, under the provisions of this Article IX, is required for such amendment to be effective, has been given and obtained, and containing the written approval of the Declarant and/or HUD and VA, if the same is required (as hereinabove provided).

The matters set forth in such instrument shall be presumed to be true and accurate and the amendment which is set forth in such instrument shall be effective, unless it shall be determined by a court of competent jurisdiction that the matters certified to in such instrument are not true and accurate.

Each Person who shall own any Lot, by acceptance of a deed or other conveyance thereto, and by acceptance of such ownership, and by taking record title thereto, and each holder of a Mortgage upon any portion of any Lot, by acceptance of such Mortgage, thereby agrees that the terms, provisions, covenants and restrictions of this Declaration may be amended as provided in this Article IX.

## ARTICLE X

### MISCELLANEOUS

Section 1. Failure of Enforcement. In the event that the Association shall fail to enforce the compliance with any of the provisions of this Declaration by the owner of any Lot, then the owner of any other Lot shall have the right to file an action in a court of competent jurisdiction for an order from such court requiring that the Association enforce such compliance; provided, however, in no event shall the Executive Board, or any officer of the Association, or any of their agents, be personally liable to anyone on account of their failure to enforce any of the terms, provisions or restrictions set forth in this Declaration.

Section 2. Waivers. In no event shall the failure by the Association to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, provisions or agreements set forth in this

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Declaration be construed as a waiver or relinquishment of the future enforcement of any such term, covenant, condition, provision, or agreement. The acceptance of performance of anything required to be performed with knowledge of the breach of a term, covenant, condition, provision or agreement shall not be deemed a waiver of such breach, and no waiver by the Association of any term, covenant, condition, provision or agreement shall be deemed to have been made unless expressed in writing and signed by a duly authorized officer of the Association.

**Section 3. Duration.** This Declaration, and all of the terms, easements, provisions, liens, charges, restrictions and covenants set forth herein, shall run with and bind the land (the Membership Property"), shall be and shall remain in effect, and shall inure to the benefit of, and be enforceable by, the Association, and by any owner of any Membership Property, their respective legal representatives, heirs, successors and assigns, perpetually.

**Section 4. Notices.** Any notice required to be sent to any Member of the Association pursuant to any provision of this Declaration may be served by depositing such notice in the mails, postage prepaid, addressed to the Member to whom it is intended, at the address which such Member shall have furnished to the Secretary of the Association in accordance with the Bylaws, or, in the absence of any such address having been so furnished to the Secretary of the Association, at the address of any Lot owned by such Member. The date of service shall be the date of mailing.

**Section 5. Severability.** Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if any provision of this Declaration or the application thereof to any Person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

**Section 6. Enforcement.** Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any Person or Persons or other entities violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the Lots, to enforce any liens created by this Declaration.

**Section 7. Successors to Declarant.** In no event shall any Person or other entity succeeding to the interest of the Declarant by operation of law or through purchase of the Declarant's interest in all or any portion of the Membership Property at foreclosure, sale under power or by deed in lieu of foreclosure, be liable for any act, omission or matter occurring, or arising from any act, omission or matter occurring, prior to the date such successor succeeded to the interest of the Declarant.

**Section 8. Stormwater Control Measures.** The Raleigh City Code requires stormwater runoff from the Long Lake Property be controlled and nitrogen loading from stormwater runoff from the Long Lake Property be reduced. To comply with the City Code, Stormwater Control Measures will be installed and maintained. Failure to maintain the Stormwater Control Measures is a violation of the Raleigh City Code potentially subjecting each Member to significant daily civil penalties and other enforcement actions. Consequently, on behalf of each Member, the Association shall maintain, replace, replace and reconstruct the Stormwater Control Measures so that at all times the Stormwater Control Measures shall perform as designed and at all times shall comply with all applicable laws, ordinances, regulations, rules, and directives of governmental authorities. In addition, the Association shall perform maintenance of the Stormwater Control Measures as set forth in Exhibit B. In the event that the Association neglects or fails to maintain, repair, replace, or reconstruct the Stormwater Control Measures, each Member shall be jointly and severally responsible for such tasks, as required by the City of Raleigh. In the event that the Member thereafter performs such maintenance, repair, replacement, or reconstruction, said Member shall be entitled to reimbursement from the Association for the cost thereof, or, if the Association should fail to reimburse the Member, said Member shall be entitled to a pro-rata contribution for such costs from the Member of every other Lot.

**Section 9. Cluster Unit Development.** The Long Lake Property is part of a cluster unit development, approved by the City of Raleigh, in which residential density transfers are permitted; therefore, even though some

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Lots or improved Lots may appear to contain enough land area to construct additional dwelling units or create additional Lots or improved Lots, prior density transfers approved within the cluster unit development may, in fact, preclude approval by the City of Raleigh of additional dwellings or further subdividing of Lots or improved Lots.

Section 10. Density. The Long Lake Property is currently zoned R-4. The Long Lake Property at the time of the recordation of this Declaration consists of approximately 212.5 acres. Based on the existing zoning of the area, the maximum allowable dwelling units for The Long Lake Property, without rezoning, is approximately 850 dwelling units. The maximum area allowed to be developed hereunder includes an additional 400 acres, and the maximum number of dwelling units on such land, if developed, shall not exceed 1600 total additional dwelling units if an additional 400 acres is in fact annexed and all of such area is subject to zoning of R-4. The maximum density in any portion of The Long Lake Property shall not exceed ten dwelling units per acre.

Section 11. Private Streets. All private streets located on the Master Common Elements shall be subject to a perpetual non-exclusive easement for pedestrian and vehicular travel to and from all portions of The Long Lake Property.

In no case shall the City of Raleigh be responsible for failing to provide any emergency or regular fire, police or other public service to any cluster unit development, unit ownership (condominium) development, group housing development, townhouse development, or mobile home park or their occupants when such failure is due to lack of access to such areas due to inadequate maintenance, or any other factor within the control of the developer, homeowners association, or occupants.

In no case shall the City of Raleigh or the State of North Carolina be responsible for maintaining any private street. Such responsibility shall rest with the Association and occupants in that such private streets will not be constructed to the minimum standards sufficient to allow their inclusion for public maintenance.

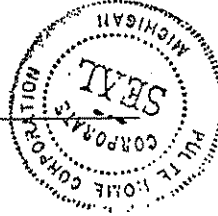
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IN WITNESS WHEREOF, Pulte Home Corporation and Long Lake Homeowners Association, Inc. have caused this Declaration to be executed by their duly authorized officers on the day and year first above written.



PULTE HOME CORPORATION

By: *Lawrence E. Lippincott*  
Lawrence E. Lippincott  
City President



[CORPORATE SEAL]

LONG LAKE HOMEOWNERS ASSOCIATION, INC.

By: *Lawrence E. Lippincott*  
Lawrence E. Lippincott  
President

[CORPORATE SEAL]



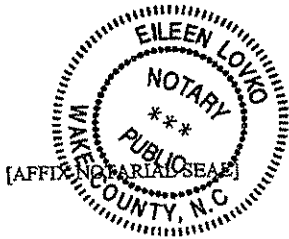
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STATE OF North Carolina

COUNTY OF Wake

I, a Notary Public of the County and State aforesaid, do hereby certify this 28 day of August, 2002, personally came before me Lawrence E. Lippincott, who, being by me duly sworn says that he is a City President of Pulte Home Corporation, a Michigan corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said writing was signed and sealed by him, on behalf of said corporation by its authority duly given and that he acknowledged the said instrument to be the act and deed of the corporation.

Witness my hand and official seal this 28 day of August, 2002.



Eileen Lovko  
Notary Public

My Commission Expires:

12/27/04

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STATE OF North Carolina  
COUNTY OF Wake

I, a Notary Public of the County and State aforesaid, do hereby certify this 28 day of August, 2002, personally came before me Lawrence E. Lippincott, who, being by me duly sworn says that he is President of Long Lake Homeowners Association, a North Carolina corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said writing was signed and sealed by him, on behalf of said corporation by its authority duly given and that he acknowledged the said instrument to be the act and deed of the corporation.

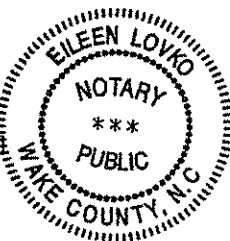
Witness my hand and official seal this 28 day of August, 2002.

Eileen Lovko  
Notary Public

My Commission Expires:

12/27/04

[AFFIX NOTARIAL SEAL]



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## EXHIBIT A

BEGINNING at a point in the eastern right-of-way of US Highway 70, said point also being the northwest corner of the property now formerly owned by Prudential Insurance Company of America, as recorded in Deed book 6578, Page 644, Office of the Register of Deeds, Wake County, North Carolina, and as also shown on Book of Maps 1986, Page 1334, Office of the Register of Deeds, Wake County, North Carolina; thence from said Point of Beginning, and along and with the eastern right-of-way of US Highway 70, North  $41^{\circ} 39' 05''$  West 1,504.75 feet to a point; thence cornering and leaving said eastern right-of-way and running along and with the common property line of property now or formerly owned by Water Garden Office Park LLC as recorded in Deed Book 6853, Page 369, Office of the Register of Deeds, Wake County, North Carolina, the following courses and distances: (1) North  $00^{\circ} 37' 17''$  East 662.92 feet to an iron pipe found; (2) South  $49^{\circ} 19' 52''$  East 54.66 feet to an iron pipe found; (3) North  $00^{\circ} 34' 51''$  East 2,726.27 feet to a point; thence cornering and running with the southern property line of property now formerly owned by Haral Associates as recorded in Deed Book 3558, Page 30, Office of the Register of Deeds, Wake County, North Carolina, South  $88^{\circ} 36' 46''$  East 933.36 feet to an iron pipe found; thence with the western property line of property now or formerly owned by Paul and Linda Bedo, as recorded in Deed Book 4076, Page 950 and Wayne Timberlake as recorded in the Deed Book 7250, Page 352, Office of the Register of Deeds, Wake County, North Carolina, South  $00^{\circ} 19' 20''$  East 455.03 feet to an iron pipe found; thence with the western property line now or formerly of T. Everett Nichols, Jr. and wife Jean as recorded in Deed Book 1797, Page 432, Office of the Register of Deeds, Wake County, North Carolina, South  $00^{\circ} 29' 46''$  East 341.40 feet to an iron pipe found; thence with the western property line now or formerly of Keith B. and Mary H. Roberts as recorded in Deed Book 1797, Page 431 and as shown on Book of Maps 1993, Page 621, Office of the Register of Deeds, Wake County, North Carolina, South  $00^{\circ} 27' 25''$  East 341.30 feet to an iron pipe found; thence cornering with the southern property line of Keith B. Roberts as referenced above, South  $87^{\circ} 44' 20''$  East 656.82 feet to an iron pipe found; thence with the southern property line now or formerly of James W. and Barbara Conner as recorded in Deed Book 5633, Page 682, Office of the Register of Deeds, Wake County, North Carolina, South  $87^{\circ} 48' 42''$  East 194.97 feet to an iron pipe found; thence with the southern property line now or formerly of Keith B. and Mary H. Roberts as recorded in Deed Book 1797, Page 431, Office of the Register of Deeds, Wake County, North Carolina, South  $87^{\circ} 48' 42''$  East 486.72 feet to a point in the western right-of-way of Pinecrest Road; thence with the western right of way of Pinecrest Road (60 feet right-of-way) the following courses and distances: 1) South  $12^{\circ} 58' 59''$  East 8.74 feet to a point; 2) South  $15^{\circ} 18' 04''$  East 60.37 feet to a point; 3) South  $16^{\circ} 35' 12''$  East 39.41 feet to a point; 4) South  $17^{\circ} 51' 13''$  East 49.15 feet to a point; 5) South  $18^{\circ} 37' 48''$  East 47.81 feet to a point; 6) South  $19^{\circ} 26' 00''$  East 48.57 feet to a point; 7) South  $19^{\circ} 29' 17''$  East 47.68 feet to a point; and 8) South  $19^{\circ} 04' 46''$  East 23.30 feet to a point; thence South  $82^{\circ} 55' 31''$  West 93.83 feet to an

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LEGAL DESCRIPTION (CONTINUED)

iron pipe found; thence South 00° 23' 27" West 530.16 feet to a point; thence North 85° 32' 59" East 178.76 feet to a point in the western right of way of Pinecrest Road; thence continuing with the western right of way of Pinecrest Road the following courses and distances: 1) South 05° 48' 35" West 3.63 feet to a point; 2) South 08° 54' 21" West 46.54 feet to a point; 3) South 12° 02' 35" West 44.96 feet to a point; 4) South 14° 53' 32" West 50.19 feet to a point; 5) South 17° 54' 35" West 45.41 feet to a point; 6) South 20° 15' 32" West 47.87 feet to a point; 7) South 21° 37' 54" West 50.32 feet to a point; 8) South 21° 56' 09" West 51.39 feet to a point; 9) South 22° 38' 48" West 48.44 feet to a point; 10) South 22° 33' 32" West 49.61 feet to a point; 11) South 22° 33' 55" West 48.91 feet to a point; 12) South 23° 01' 45" West 48.97 feet to a point; 13) South 23° 00' 09" West 49.37 feet to a point; 14) South 22° 47' 00" West 48.67 feet to a point; 15) South 22° 19' 06" West 48.95 feet to a point; 16) South 21° 08' 10" West 50.57 feet to a point; 17) South 19° 22' 35" West 51.26 feet to a point; 18) South 15° 39' 55" West 52.24 feet to a point; 19) South 09° 06' 06" West 51.86 feet to a point; 20) South 01° 50' 30" West 51.55 feet to a point; 21) South 03° 17' 58" East 53.46 feet to a point; 22) South 06° 16' 28" East 49.64 feet to a point; 23) South 07° 32' 44" East 44.83 feet to a point; 24) South 07° 55' 40" East 50.53 feet to a point; 25) South 07° 44' 16" East 50.03 feet to a point; 26) South 08° 01' 45" East 54.39 feet to a point; 27) South 08° 26' 13" East 49.47 feet to a point; 28) South 08° 29' 30" East 50.46 feet to a point; 29) South 09° 14' 20" East 51.82 feet to a point; 30) South 08° 55' 29" East 49.76 feet to a point; 31) South 08° 56' 22" East 49.84 feet to a point; 32) South 09° 13' 46" East 50.04 feet to a point; 33) South 09° 25' 35" East 49.62 feet to a point; 34) South 09° 24' 36" East 50.53 feet to a point; 35) South 10° 10' 55" East 50.24 feet to a point; 36) South 10° 34' 00" East 49.40 feet to a point; 37) South 11° 10' 33" East 51.11 feet to a point; 38) South 11° 40' 08" East 50.14 feet to a point; 39) South 12° 03' 46" East 50.76 feet to a point; 40) South 11° 51' 44" East 49.94 feet to a point; 41) South 11° 56' 30" East 50.81 feet to a point; 42) South 11° 12' 28" East 52.00 feet to a point; 43) South 11° 12' 28" East 51.83 feet to a point; 44) South 09° 50' 21" East 48.51 feet to a point; 45) South 08° 48' 52" East 50.55 feet to a point; 46) South 06° 50' 15" East 48.88 feet to a point; 47) South 04° 17' 28" East 47.62 feet to a point; 48) South 02° 31' 48" East 49.08 feet to a point; 49) South 00° 38' 21" East 49.80 feet to a point; 50) South 01° 10' 16" West 49.99 feet to a point; 51) South 01° 49' 00" West 49.93 feet to a point; and 52) South 03° 11' 00" West 51.93 feet to a point; thence leaving the right-of-way of Pinecrest Road and with the northern boundary of property now or formerly owned by Carolina Power & Light as recorded in Deed Book 3825, Page 734, Office of the Register of Deeds, Wake County, North Carolina, and also shown on Book of Maps 1986, Page 1334, Office of the Register of Deeds, Wake County, North Carolina, North 88° 01' 45" West 559.70 feet to a point; thence with the northern property line of Prudential Insurance Company as referenced above, North 88° 01' 45" West 897.99 feet to the point and place of beginning and being all of Tract A, containing 190.54 acres, more or less, as shown on survey entitled, "Boundary Survey Price - Parsons Tract", prepared by Withers & Ravenel Engineering & Surveying, Inc., dated June 19, 2000, reference to which is hereby made.