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RALEIGH, NORTH CAROLINA 27619

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR DOMINION PARK

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This Declaration of Covenants, Conditions and Restrictions is made this 5th day of January, 1987, by PEREGRINE DEVELOPMENT, INC., a Texas corporation, (hereinafter referred to as Declarant);

WHEREAS, Declarant is the owner of the real property described in Exhibit A attached hereto and incorporated herein by reference. Declarant intends by this Declaration to impose upon the Properties mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of residential property within DOMINION PARK, the planned unit development made subject to this Declaration and amendments thereto by the recording of this Declaration. Declarant desires to provide a flexible and reasonable procedure for the overall development of the Properties and the interrelationship of the component residential neighborhoods, and to establish a method for the administration, maintenance, preservation, use, and enjoyment of such Properties as are now or may hereafter be subjected to this Declaration;

NOW, THEREFORE, Declarant hereby declares that all the Properties described in Exhibit A and any additional property as may by declaration of annexation be added to and subjected to this Declaration shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of and which shall run with the real property subjected to this Declaration and which shall be binding on all parties having any right, title, or interest in the described Properties or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Dominion Park Homeowners Association, Inc., a North Carolina nonprofit corporation, its successors and assigns. The Board of Directors or Board shall be the elected body having its normal meaning under North Carolina nonprofit corporate law.

Section 2. "Bylaws" shall refer to the adopted Bylaws of the Association, and incorporated herein by this reference.

Section 3. "Common Area" shall mean all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners. The initial Common Area to be owned by the Association shall be conveyed to the Association prior to the conveyance of a subdivision lot to any Residential Unit Lot purchaser. Common Area shall also include all water lines outside public streets which serve the Properties and all wastewater treatment lines outside of public streets or public easements which serve the Properties, but shall not include water and wastewater treatment lines which serve only the Lot on which they are located.

Section 4. "Common Expenses" shall mean and include the actual and estimated expenses of operating the Association, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the Bylaws, and the Articles of Incorporation of the Association.

Section 5. "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing in the Property. Such standard may be more specifically determined by the Board of Directors of the Association.

Section 6. "Declarant" shall mean and refer to Peregrine Development, Inc. and its successors and assigns to whom the rights and privileges of Declarant hereunder are expressly transferred, in whole or in part, and subject to such terms and conditions as the Declarant may impose.

Section 7. "Declaration of Annexation" shall mean a Declaration which adds additicnal property to that covered by this Declaration. Such Declaration may, but is not required to impose, expressly or by reference, additional restrictions and obligations on the land submitted by the

Declaration of Annexation to the provisions of this Declaration.

Section 8. "Eligible Mortgage Holder" shall mean a holder, insurer, or guarantor of a first mortgage on a unit who has requested notice of certain matters from the Association as hereinafter and in the Association's Bylaws provided.

Section 9. "Eligible Votes" shall mean those votes available to be cast on the issue at hand. A vote which is for any reason suspended is not available to be cast.

Section 10. "Lot" shall mean a portion of the Properties other than the Common Area intended for any type of independent ownership and use as may be set out in this Declaration and as shall be shown on the plats of survey filed with this Declaration or amendments thereto.

Section 11. "Member" shall mean and refer to a person or entity entitled to membership in the Association, as provided herein.

Section 12. "Mortgage" means any mortgage, deed of trust, and any and all other similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of an obligation.

Section 13. "Mortgagee" shall include a beneficiary or holder of a deed of trust, as well as a mortgagee.

Section 14. "Mortgagor" shall include the trustor of a deed of trust, as well as a mortgagor.

Section 15. "Owner" shall mean and refer to one or more persons or entities who hold the record title to any Residential Unit or Lot which is part of the Properties, but excluding in all cases any party holding an interest merely as security for the performance of an obligation.

Section 16. "Person" means a natural person, a corporation, a partnership, trustee, or other legal entity.

Section 17. "Property or Properties" shall mean and refer to the real property described on page one of this Declaration and such additional real property as may be added in accordance with this Declaration.

Section 18. "Residential Unit" shall mean a structure intended for any type of independent ownership for use and occupancy as a residence by a single family.

For the purposes of this Declaration, a Residential Unit shall come into existence when substantially complete or upon the issuance of a certificate of occupancy or compliance by the appropriate local governmental entity.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owner's Easement of Enjoyment. Every Owner shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any facility now or hereafter situated or constructed upon the Common Area and to impose reasonable limits on the number of guests who may use the facilities;

(b) the right of the Association to suspend an Owner's voting rights and the right to use any of the facilities for any period during which any assessment of the Association against that Owner's Lot remains unpaid, and for any infraction by an Owner of the Association's rules and regulations for the duration of the infraction and for an additional period thereafter not to exceed thirty (30) days (the Association may not prevent an Owner from using the Common Area for ingress and egress to his Lot;

(c) the right of the Declarant, with regard to the Properties which may be owned for the purpose of development, to grant easements in and to the Common Area contained within the respective Properties to any public agency, authority, or utility for such purposes as benefits only the Properties or portions thereof and Owners or Lots contained therein. No such grant or conveyance shall be effective unless an instrument agreeing to such has been approved (i) by at least two-thirds (2/3) of the votes which those Class A members of the Association which are present or represented by proxy are entitled to cast at a meeting duly called for such purpose, and (ii) by the Class B member of the Association, so long as such membership shall exist; provided, however, no such grant or conveyance shall impair the rights of ingress or egress of an Owner to and from his Lot.

(d) the right of the Association to borrow money for the purpose of improving the Common Area, or any portion thereof, for acquiring additional Common Area, or for constructing, repairing, or improving any facilities located or to be located thereon, and to give as security for the payment of any such loan a mortgage conveying all or any portion of the Common Area, provided two-thirds (2/3) of each Class of members present at a meeting called for such purpose shall approve; provided, however, the lien and encumbrance of any such mortgage given by the Association shall be subject and subordinate to any and all rights, interests, options, easements, and privileges reserved or established in this Declaration for the benefit of Declarant or any Owner, or the holder of any mortgage, irrespective of when executed; and

(e) the right of the Association to dedicate or transfer all or any portion of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members of the Association. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved (i) by at least two-thirds

(2/3) of the votes which those Class A members of the Association which are present or represented by proxy are entitled to cast at a meeting duly called for such purpose, and (ii) by the Class B member of the Association, so long as such membership shall exist; provided, however, no such conveyance or dedication shall impair the rights of ingress or egress of an Owner to and from his Lot.

(f) The right of the Association to offer membership to use any facilities located on the Common Area to individuals or other entities who do not own residential units within the Properties. Such membership shall be at fees and prices determined by the Association. No such membership shall be for a period longer than one year.

Provided further that any individual or entity who owns a residential unit on the Property described on Exhibit B, regardless of whether he is a member of the Association, shall have the right to purchase a membership to use the facilities located on the Common Area (including but not limited to tennis courts, pool and clubhouse). Such membership shall be at fees and prices for membership to clubs in the area that offer similar facilities.

Provided, however, that no provision of this subparagraph of (f) may be invoked until the Raleigh Board of Adjustment has granted a special use permit, as required by Section 10-2073(c)(27) of the Raleigh City Code.

(g) Article II, Section 1(c) may not be amended without the written consent of Declarant.

Section 2. Aerials and Antennas. No radio or television or other aerial, antenna, dish, tower, or other transmitting or receiving structure, or support thereof, shall be erected, installed, placed, or maintained unless so erected, installed, placed, or maintained entirely within the enclosed portion of the individual Residential Unit or unless prior written consent is obtained from the Board of Directors.

Section 3. Exterior Lighting. No exterior lighting fixture (other than standard fixtures approved by the New Construction Committee or the Modifications Committee or installed by Declarant) shall be installed within or upon any Residential Unit/Lot without adequate and proper shielding of the fixture. No lighting fixture shall be installed that may become an annoyance or a nuisance to owners or occupants of adjacent properties. All modifications of exterior lighting must be approved in writing by the Modifications Committee, in advance, as provided in Article XI, Section 3, of the Declaration.

Section 4. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws of the Association and subject to reasonable rules, regulations, and limitations as may be adopted in accordance therewith, his or her right of enjoyment to the Common Area and facilities to the members of his or her family, tenants, and social invitees and shall be deemed to have made a delegation of all such rights to the occupants of any leased Lot/Residential Unit.

Section 5. Owner's Right to Ingress, Egress, and Support. Each Owner shall have the right to ingress and egress over, upon, and across the Common Area necessary for access to his or her Lot and shall have the right to lateral support for his or her Lot, and such rights shall be appurtenant to and pass with the title to each Lot.

Section 6. Use of Lots. Except as may be otherwise expressly provided in this Declaration, each Lot designated for single family dwellings shall be used for residential purposes only as a residence for a single family related by blood, adoption, or marriage; no trade or business of any kind may be conducted. Lease or rental of a Lot or any building thereon for residential purposes shall not be considered to be a violation of this covenant, so long as the lease is in compliance with reasonable rules and regulations as the Board of Directors may promulgate. Any lessee or tenant shall in all respects be subject to the terms and conditions of this Declaration, the Bylaws, and the rules and regulations adopted hereunder.

No trailer, tent or other temporary structure shall be allowed to remain on any Lot except in connection with Declarants construction and development of the Properties. No garage shall at any time be used for human habitation temporarily or permanently, except for domestic servants employed by the Owner of the Lot upon which the garage is located.

Without the prior written consent of the Association's Board of Directors, nothing shall be done or kept on any Lot or on the Common Area or any part thereof to increase the rate of insurance on the Properties or any part thereof over what the Association, but for such activity, would pay. Noxious, destructive, or offensive activity, or any activity constituting an unreasonable source of annoyance, shall not be conducted on any Lot or on the Common Area or any part thereof. Each Owner shall refrain from any act or use of his or her Lot which could reasonably cause embarrassment, discomfort, or annoyance to other Owners, and the Board of Directors shall have the power to make and to enforce reasonable rules and regulations in furtherance of this provision.

No immoral, improper, offensive, or unlawful use shall be made of the Property, or any part thereof, and all valid laws, ordinances, and regulations of all governmental agencies having jurisdiction thereof shall be observed. All laws, order, rules, regulations or requirements of any governmental agency having jurisdiction thereof, relating to any portion of the Property, shall be complied with, by and at the sole expense of the owner or the Association, whichever shall have the obligation to maintain or repair such portion of the Property.

Without the prior written approval of the New Construction Committee (NCC) (see Article XI), no building shall be located on any Lot designated for single family dwellings less than thirty (30) feet from the front Lot line. Without the prior written approval of the NCC no building shall be located on any corner lot designated for single family dwellings less than thirty (30) feet from the front lot line and twenty (20) feet from the side street. Violations of greater than three (3) feet shall require the written approval of the adjoining property owner(s).

Except with the prior written approval of the NCC no dwelling shall be constructed on a Lot designated for single family dwellings unless it meets the following minimum sizes:

(a) Single story: Twelve Hundred (1200) square feet;

(b) One and one-half (1-1/2) or two (2) story: Thirteen Hundred (1300) square feet;

exclusive of porches, breezeways, steps and garages.

Section 7. Use of Common Area. No planting or gardening shall be done, and no fences, hedges, or walls shall be erected or maintained upon the Common Area or upon any Lot, except in accordance with the initial construction of the improvements located thereon or as approved by the Association's New Construction Committee (NCC). No antennas may be erected upon the Property, except the Association may erect a master antenna serving the members. Except for the right of ingress and egress, the Owners of Lots may use the property outside their respective Lots only in accordance with reasonable regulations as may be adopted by the Association's Board of Directors or as is expressly provided herein. It is expressly acknowledged and agreed by all parties concerned that this Section is for the mutual benefit of all Owners and is necessary for the protection of all Owners.

Section 8. Signs. Except as hereinafter provided for Declarant or as required by the local government authority, no advertising signs (except one "For Rent" or "For Sale" sign per unit of not more than two feet by three feet (2' x 3'), billboards, unsightly objects, or nuisances shall be erected, placed, or permitted to remain on the Property subject to this Declaration.

Section 9. Rules and Regulations. The Board of Directors may establish reasonable rules and regulations concerning the use of the Common Area, facilities located thereon, and individual Lots. Copies of such regulations and amendments thereto shall be furnished by the Association to all Owners prior to the rule's effective date. Such regulations shall be binding upon the Owners, their families, tenants, guests, invitees, and agents until and unless such regulation, rule, or requirement shall be specifically overruled, cancelled, or modified by the Board or the Association in a regular or special meeting by the vote of Class A members holding a majority of the total votes in the Association and by the vote of the Class B member, so long as such membership shall exist. The Board shall have the authority to impose reasonable monetary fines and other sanctions, and monetary fines may be collected by lien and foreclosure, as provided in Article X.

Section 10. Declarant's Reserved Easement. Declarant hereby reserves such easements through the Properties as may be reasonably necessary for the purposes of discharging its obligations for the construction and development of Dominion Park, and completing the development of the Property described in Exhibit B, which easements shall exist as long as reasonably necessary for such purposes.

Section 11. Storage and Parking of Vehicles. There shall be no outside storage or parking upon any Lot or the Common Area of any automobile, commercial vehicle, truck, tractor, mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft, boat trailer, or any other transportation device of any kind, except in accordance with rules and regulations designated and promulgated by the Board. No owners or tenants shall repair or restore any vehicle of any kind upon any Lot or Common Area, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility.

Section 12. Pets. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on the Properties, except that no more than a total of three (3) dogs, cats, or other normal household pets may be kept in residences subject to rules and regulations adopted by the Association through its Board of Directors, provided that such pets are not kept, bred, or maintained for any commercial purpose. The Board shall have the absolute power to prohibit a pet from being kept on the Properties, including inside residences constructed thereon.

Section 13. Reservation of Development Rights. The Land described on Exhibit B to this Declaration is reserved for future development by the Declarant, its successors in title or assigns, in accordance with plans and specifications approved by the City of Raleigh or other appropriate governmental authority. Nothing contained in this Declaration or the maps referred to on Exhibits A and B shall prohibit the development of said property as long as it receives the approval of the City of Raleigh or other appropriate governmental authority.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every person or entity who is the record owner of a fee or undivided fee interest in any Lot or Residential Unit that is subject to this Declaration shall be deemed to have a membership in the Association. Membership shall be appurtenant to and may not be separated from such ownership. The foregoing is not intended to include persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more persons, shall have more than (1) membership per Lot or Residential Unit owned. In the event the Owner of a Lot or Residential Unit is more than one person or entity, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership, including the right to vote, may be exercised by a Member or the Member's spouse, but in no event shall more than one (1) vote for each class of membership applicable to a particular Lot or Residential Unit be cast for each Lot or Residential Unit.

Section 2. Voting. The Association shall have two (2) classes of membership, Class A and Class B, as follows:

(a) Class A. Class A Members shall be all Owners with the exception of the Class B Members, if any.

Class A Members shall be entitled on all issues to one (1) vote for each Lot or Residential Unit in which they hold the interest required for membership by Section 1 hereof; there shall be only one (1) vote per Lot or Residential Unit; provided, however, no vote shall be cast or counted for any Lot or Residential Unit not subject to assessment. When more than one person or entity holds such interest in any Residential Unit Lot, the vote for such Lot or Residential Unit shall be exercised as those persons or entities themselves determine and advise the Secretary of the Association prior to any meeting. 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.

Any Owner of Residential Units which are leased may, in the lease or other written instrument, assign the voting right appurtenant to that Residential Unit to the lessee, provided that a copy of such instrument is furnished to the Secretary prior to any meeting.

(b) Class B. Class B Membership shall be the Declarant and any successor of Declarant who takes title for the purpose of development and sale and who is designated as such in a recorded instrument executed by Declarant. The Class B Member shall originally be entitled to Two Hundred and Eighty-Six (286) votes; this number shall be decreased by one (1) vote for each Class A Member existing at any one time. The Class B membership shall terminate and become converted to Class A membership upon the happening of the earlier of the following:

(i) When the total outstanding Class A votes equal or exceed Two Hundred and Fifteen (215);

(ii) December 31, 1991; or

(iii) When, in its discretion, the Declarant so determines.

From and after the happening of these events, whichever occurs earlier, the Class B Member shall be deemed to be a Class A Member entitled to one (1) vote for each Lot or Residential Unit in which it holds the interest required for membership under Section 1 hereof. At such time, the

Declarant shall call a meeting, as provided in the Bylaws of the Association for special meetings, to advise the membership of the termination of Class B status.

ARTICLE IV

MAINTENANCE

Section 1. Association's Responsibility.

(a) The Association shall maintain and keep in good repair the Common Area and the maintenance and repair of such utility lines, pipes, wires, glass, conduits, and systems which are a part of the Common Area. The maintenance of the Common Area shall be deemed to include, but not be limited to, maintenance, repair, and replacement, subject to the insurance and casualty loss provisions contained herein, at the Association's sole cost and expense, of all trees, fences, shrubs, grass, streets, parking spaces, walks, and other improvements upon the Common Area. The Association shall also have the responsibilities to provide for the payment of ad valorem taxes and public assessments levied against the Common Areas.

The Association shall have a perpetual easement and right of entry upon each Lot to the extent reasonably necessary to perform the maintenance required of it by this Article. Such maintenance shall be done expeditiously shall restore the Lot to as near the same condition as that which prevailed prior to commencement of the work as is reasonably practicable.

Section 2. Owner's Responsibility.

(a) Except as provided in Section 1 of this Article, all maintenance of the Lot or Residential Unit and all structures, parking areas, and other improvements within or upon the Lot or Residential Unit shall be the sole responsibility of the Owner thereof who shall perform such maintenance in a manner consistent with the Community-Wide Standard of the Properties and the applicable covenants.

(b) In the event that the Board of Directors of the Association, by a two-thirds (2/3) vote, determines that (i) any Owner has failed or refused to discharge properly his or her obligations with regard to the maintenance, repair, or replacement of items for which he or she is responsible hereunder; or (ii) that the need for maintenance, repair, or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, his or her family, guests, lessees, invitees, agents, employees, or independent contractors and is not covered or paid for by insurance, in whole or in part, then, in that event, the Association, except in the event of an emergency situation, shall give the Owner written notice of the Association's intent to provide such necessary maintenance, repair, or replacement, at the Owner's sole cost and expense; the notice shall set forth with reasonable particularity the maintenance, repairs, or replacement deemed necessary. The Owner shall have fifteen (15) days within which to complete the maintenance, repair, or replacement, or, in the event that such maintenance, repair, or replacement is not capable of completion within the fifteen (15) day period, to commence such work which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair, or replacement at Owner's sole cost and expense, and the cost shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Lot.

Section 3. Wastewater Treatment Facilities. Until such time as the Properties are linked to the sewer system of a local government, the Properties shall be served by a wastewater treatment plant owned by the Declarant. Costs of maintenance and repair of said plant and the lines servicing it shall be a Common Expense of the Association. Upon connection of the Properties to a sewer system, the Declarant shall be entitled to remove said plant and dispose of it in its discretion.

ARTICLE V

INSURANCE

Section 1. Insurance. The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain insurance for all insurable improvements on the Common Area. This insurance shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard.

The Board shall also obtain a public liability policy covering the Common Area, the Association, and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. The public liability policy shall have at least a Five Hundred Thousand ($500,000) Dollar single person limit as respects bodily injury and property damage, a One Million ($1,000,000) Dollar limit per occurrence, and a Two Hundred Fifty Thousand ($250,000) Dollar minimum property damage limit. Premiums for all insurance on the Common Area shall be common expenses of the Association; premiums for insurance provided to other associations or Parcels shall be charged to those associations or Parcels. The policy may contain a reasonable deductible, and the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association as Trustee for the respective benefitted parties, as further identified in (b) below. Such insurance shall be governed by the provisions hereinafter set forth:

(a) All policies shall be written with a company licensed to do business in North Carolina and holding a rating of XI or better in the Financial Category as established by A. M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating.

(b) All policies on the Common Area shall be for the benefit of the Owners and their mortgagees as their interests may appear; all policies secured at the request of a Parcel Committee shall be for the benefit of the Owners and their Mortgagees of Residential Units/Lots within the Parcel.

(c) Exclusive authority to adjust losses under policies in force on the Properties obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no mortgage having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(d) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their mortgagees.

(e) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Research Triangle area.

(f) The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners, and their respective tenants, servants, agents, an guests;

(ii) a waiver by the insurer of its rights to repair, and reconstruct, instead of paying cash;

(iii) that no policy may be cancelled, invalidated, or suspended on account of any one or more individual Owners;

(iv) that no policy may be cancelled, invalidated, or suspended on account of the conduct of any Director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner, or mortgagee;

(v) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(vi) that no policy may be cancelled or substantially modified without at least ten (10) days' prior written notice to the Association.

In addition to the other insurance required by this Section, the Board shall obtain, as a common expense, worker's compensation insurance, if and to the extent necessary, and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds. The amount of fidelity coverage shall be determined in the directors' best business judgment, but may not be less than three (3) months' assessments, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be cancelled or substantially modified without at least ten (10) days' prior written notice to the Association.

Section 2. Individual Insurance. By virtue of taking title to a Residential Unit subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that he will carry blanket all-risk casualty insurance on his Residential Unit. Each individual Owner further covenants and agrees that in the event of a partial loss or damage and destruction resulting in less than total destruction, the individual Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction. In the event that the structure is totally destroyed and the individual Owner determines not to rebuild or to reconstruct, the individual Owner shall clear the Residential Unit of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction.

Section 3. Disbursement of Proceeds. Proceeds of insurance policies owned by the Association shall be disbursed as follows:

(a) If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repairs or construction to the Common Area or, in the event no repair or reconstruction is made, shall be retained by and for the benefit of the Association and placed in a capital improvements account.

(b) If it is determined, as provided for in Section 4 of this Article, that the damage or destruction to the Common Area for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed in the manner as provided for excess proceeds in Section 3(a) of this Article V.

Section 4. Damage and Destruction.

(a) Immediately after the damage or destruction by fire or other casualty to all or any part of the Properties covered by insurance written in the name of the Association, the Board of Directors, or its duly authorized agent, shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Properties. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Properties to substantially the same condition in which they existed prior to the fire or other casualty.

(b) Any damage or destruction to the Common Area shall be repaired or reconstructed unless at least seventy-five (75%) percent of the total vote of the Association shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason the amount of the insurance proceeds to be paid as a result of such damage or destruction, on reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No mortgagee shall have the right to participate in the determination of whether the Common Area damage or destruction shall be repaired or reconstructed.

(c) In the event that it should be determined by the Association in the manner described above that the damage or destruction of the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the Properties shall be restored to their natural state and maintained as an undeveloped portion of the Common Area by the Association in a neat and attractive condition.

Section 5. Repair and Reconstruction. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall use general funds or seek a special assessment as permitted in Article X, Section 4.

ARTICLE VI

NO PARTITION

Except as is permitted in the Declaration or amendments thereto, there shall be no physical partition of the Common Area or any part thereof, nor shall any person acquiring any interest in the Properties or any part thereof seek any such judicial partition until the happening of the conditions set forth in Section 4 of Article V in the case of damage or destruction, or unless the Properties have been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

ARTICLE VII

CONDEMNATION

Whenever all or any part of the Common Area shall be taken (or conveyed in lieu of and under threat of

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condemnation by the Board acting on the written direction of all Owners) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as Trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant and at least seventy-five (75%) percent of the Class A Members of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available therefor, in accordance with plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, the above provisions in Article V hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors of the Association shall determine.

ARTICLE VIII

ANNEXATION OF ADDITIONAL PROPERTY

<u>Section 1</u>. <u>Annexation of Additional Land</u>. Subject to the consent of the owner thereof, upon the written consent or affirmative vote of the Members holding a majority of the votes of the Association present or represented by proxy at a meeting duly called for such purpose, the Association may annex real property to the provisions of this Declaration and the jurisdiction of the Association by filing of record in the Official Records of the County of Wake, North Carolina, a Declaration of Annexation in respect to the Properties being annexed.

Any such Declaration of Annexation shall be signed by the President and the Secretary of the Association, and the owner of the properties being annexed, and any such annexation shall be effective upon filing in the Wake County Registry unless otherwise provided therein. The time within which and the manner in which notice of any such meeting of the Members of the Association, called for the purpose of determining whether additional property shall be annexed, and the quorum required for the transaction of business at any such meeting, shall be as specified in the Bylaws of the Association for regular or special meetings, as the case may be.

The additional lands shall be deemed annexed to the Properties on the date of recordation of the Declaration of Annexation, and no action or consent on the part of any other person or entity shall be necessary to accomplish the annexation except the City of Raleigh if required by its ordinances.

Section 2. Additional Requirements for Annexation. In addition to the above requirements required by this Article, additional lands which have not been approved by the City of Raleigh for inclusion in the Properties may be annexed only if they are contiguous to the Properties, contain at lest five (5) acres, and are not in conflict with the legal documents for the Properties.

ARTICLE IX

RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 1. Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon (including furnishings and equipment related thereto, if any), and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions of this Declaration and the Bylaws.

Section 2. Services. The Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Properties, whether such personnel are furnished or employed directly by the

Association or by any person or entity with whom or with which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Properties or the enforcement of this Declaration. The Association may, but shall not be required to, arrange as an Association expense with third parties to furnish water, trash collection, sewer service, and other common services to each Lot.

Section 3. Personal Property and Real Property for Common Use. The Association, through action of its Board of Directors, may acquire and hold, tangible and intangible personal property and real property and dispose of personal property. The Board may not dispose of common real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests located within the properties described in Exhibit A conveyed to it by the Declarant or conveyed to it as part of annexations approved by members in accordance with Article VIII.

Section 4. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or the Bylaws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 5. Self-Help. In addition to any other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon a Lot or Residential Unit or any portion of the Common Property to abate or remove, using such force as may be reasonably necessary, any erection, thing or condition which violates this Declaration, the Bylaws, the rules and regulations, or the use restrictions. Unless an emergency situation exists, the Board shall give the violating Owner ten (10) days' written notice of its intent to exercise self-help. All costs of self-help, including reasonable attorney's fees actually incurred shall be assessed against the violating Owner and shall be collected as provided for herein for the collection of assessments.

Section 6. Right of Entry. The Association shall have the right, in addition to an not in limitation of all the rights it may have, to enter into Residential Units or Lots for emergency, security, or safety purposes, which right may be exercised by the association's Board of Directors, officers, agents, employees, managers, and all police officers, firefighters, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after reasonable notice to the owner or occupant of the Residential Unit or Lot.

ARTICLE X

ASSESSMENTS

Section 1. Purpose of Assessment. The assessments provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of Lots, including the maintenance of the Common Area, all as may be more specifically authorized from time to time by the Board of Directors.

Section 2. Creation of Assessments. There are hereby created annual assessments for Common Expenses as may be from time to time specifically authorized by the Board of Directors. Annual Assessments shall be allocated equally among all Lots within the Association and shall be for expenses determined by the Board to be for the benefit of the Association and Common Area. Each Owner, by acceptance of his or her deed, is deemed to covenant and agree to pay these assessments plus Special Assessments as hereinafter set forth in this Article. All such assessments, together with interest not to exceed the maximum rate (but in no event greater than 10%), late charges, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made.

Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment arose. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors which may include, without limitation, acceleration of the annual assessment for delinquents;

unless the Board otherwise provides, the assessments shall be paid in monthly installments.

The Association is specifically authorized to enter into subsidy contracts with Declarant or other entities for the payment of some portion of the Common Expenses; provided, however, the Veterans' Administration shall be advised of and approve any form of subsidy contract entered into between the Declarant and Association. Such contract or contracts shall be for the benefit of and enforceable by the Association and its Members.

<u>Section 3</u>. <u>Computation of Assessment</u>. It shall be the duty of the Board, at least sixty (60) days before the beginning of the fiscal year and thirty (30) days prior to the meeting at which the budget shall be presented to the membership, to prepare a budget covering the estimated costs of operating the Association during the coming year. The budget shall include a capital contribution establishing a reserve fund in accordance with a capital budget separately prepared. The Board shall cause a copy of the budget, and the amount of the assessments to be levied against each Lot for the following year to be delivered to each Owner at least fifteen (15) days prior to the meeting. The budget and the assessments shall become effective unless disapproved at the meeting by a vote of at least a majority of both classes of the total Association membership.

Notwithstanding the foregoing, however, in the event the membership disapproves the proposed budget or the

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Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the then current year shall continue for the succeeding year.

Provided, however, the Board may not, without the vote or written assent of a majority of the voting power of the Association, which shall include a majority of the voting power of the Association residing in Members other than Declarant, impose a general assessment per Lot which is more than ten (10%) percent greater than the general assessment for the immediately preceding fiscal year.

Section 4. Special Assessments. In addition to the annual assessments authorized in Section 2 of this Article, the Association may levy a Special Assessment; provided, however, such assessment shall have the vote or written assent of fifty-one (51%) percent of each Class of Members; provided, however, after the conversion of the Class B membership, any such assessment shall have the vote or written assent of fifty-one (51%) percent of the total voting power of the Association. The Association may also levy a Special Assessment against any Member to reimburse the Association for costs incurred in bringing a Member and his or her Lot into compliance with the provisions of the Declaration, the Amendments thereto, the Articles, the Bylaws, and the Association Rules and Regulations, which Special Assessment may be levied upon the vote of the Board after notice and an opportunity for a hearing for the affected Member.

Section 5. Lien for Assessments. All sums assessed against any Lot pursuant to this Declaration, together with late charges, interest, costs, and reasonable attorney's fees actually incurred, as provided herein, shall be secured by a lien on such Lot in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Lot, except for (a) liens of ad valorem taxes; or (b) liens for all sums unpaid on a first Mortgage or on any Mortgage to Declarant duly recorded in the land records of Wake County, North Carolina and all amounts advanced pursuant to such Mortgage and secured thereby in accordance with the terms of such instrument.

All other persons acquiring liens or encumbrances on any Lot after this Declaration shall have been recorded in such records shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessment on a specified Lot has been paid. Any certificate so given shall be conclusive evidence of payment of the assessment stated therein.

<u>Section 6</u>. <u>Effect of Nonpayment of Assessments; Remedies of the Association</u>. Any assessments which are not paid when due shall be delinquent. Any assessment delinquent for a period of more than ten (10) days shall incur a late charge in an amount as the Board may from time to time determine. The Association shall cause a notice of delinquency to be given to any member who has not paid within ten (10) days following the due date. If the assessment is not paid within thirty (30) days, a lien, as herein provided, shall attach and, in addition, the lien shall include the late charge, interest, not to exceed the maximum legal rate (in no event greater than 10%), on the principal amount due, and all late charges from the date first due and payable, all costs of collection, reasonable attorney's fees actually incurred, and any other amounts provided or permitted by law. In the event that the assessment remains unpaid after sixty (60) days, the Association may, as the Board shall determine, institute suit to collect such amounts and to foreclose or enforce its lien. Each Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association or its agents the right and power to bring all actions against him or her, personally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other

Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage, or convey the unit. No Owner may waive or otherwise except liability for the assessments provided for herein, including, by way of illustration, but not limitation abandonment of the Lot.

All payments shall be applied first to costs and attorney's fees, then to late charges, then to interest, then to delinquent assessments, then to any unpaid installments of the annual assessment or Special Assessments which are not the subject matter of suit in the order of their coming due, and then to any unpaid installments of the annual assessment or Special Assessments which are the subject matter of suit in the order of their coming due.

Section 7. Capital Budget and Contribution. The Board of Directors shall annually prepare a capital budget which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect to both amount and timing by annual assessments over the period of the budget. The capital contribution required shall be fixed by the Board and included within the budget and assessment. A copy of the capital budget shall be distributed to each member in the same manner as the operating budget.

Section 8. Subordination of the Lien to First Deeds of Trust and First Mortgages. The lien of the assessments, including interest, late charges, costs (including attorney's fees) provided for herein, shall be subordinate to the lien of any first Mortgage upon any Lot. The sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to judicial or nonjudicial foreclosure of a first Mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from lien rights for any assessments thereafter becoming due. Where the Mortgagee of a first Mortgage of record or other purchaser of a Lot obtains title, his or her successors and assigns shall not be liable for the share of the common expenses or assessments by the Association chargeable to such Lot which became due prior to the acquisition of title to such Lot by such acquirer. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all the Lots, including such acquirer, his or her successors and assigns.

Section 9. Capitalization of Association. Upon acquisition of record title to a Lot from Declarant (or from a party to which the rights of Declarant has been extended), each Owner shall contribute to the capital of the

Association an amount equal to one-sixth (1/6) of the amount of the annual assessment for that Lot as determined by the Board. Payments pursuant to this Section are not to be considered as advance payments of annual assessments.

Section 10. Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence as to each Lot or Residential Unit on the first day of the month following the later of these two events occurs:

(a) the Lot or Residential Unit becomes subject to this Declaration; or

(b) the appropriate official of the appropriate local government issues a certificate of occupancy or its equivalent stating that the Residential Unit or the Residential Unit constructed on the Lot is substantially complete and available for occupancy.

The first assessment shall be adjusted according to the number of months then remaining in that fiscal year.

Section 11. Assessments by Declarant.

(a) After the commencement of assessment payments as to any Lot, Declarant, if any, covenants and agrees to pay the full amount of the annual assessment for each such Lot it owns on which there is located an occupied Residential Unit; notwithstanding anything contained herein to the contrary, the Declarant shall be required to pay only twenty-five (25%) percent of the annual assessment for other Lots upon which assessments are due.

(b) Notwithstanding anything to the contrary herein, the Declarant may contribute assessments due from it in services or materials or a combination of services and materials, rather than in money, (herein collectively called in-kind contribution). Provided, however, that the Declarant shall only be entitled to credit for those in-kind services and contributions for which monies have been budgeted for in the current capital or operating budgets. The amount by which monetary assessments shall be decreased as a result of any in-kind contributions shall be the fair market value of the contribution. If the Declarant and the Association agree as to the value of any contribution, the value shall be as agreed. If the Association and the Declarant cannot agree as to the value of the contribution, the Declarant shall supply the Association with a detailed explanation of the service performed and material furnished, and the Association shall acquire bids for performing like services and furnishing like materials from three (3) independent contractors approved by the Declarant who are in the business of providing such services and materials. If the Association and the Declarant are still unable to agree on the value of the contribution, the value shall be deemed to be the average of the bids received from the independent contractors.

ARTICLE XI

ARCHITECTURAL STANDARDS

Section 1. Enforcement. The Board of Directors shall have the authority and standing, on behalf of the

Association, to enforce in courts of competent jurisdictions decisions of either Committee established in subsections (2) and (3) of this Article XI. This Article may not be amended without the Declarant's written consent, so long as the Declarant owns any land subject to this Declaration or subject to annexation to this Declaration.

No construction, which term shall include within its definition staking, clearing, excavation, grading, and other site work, and no plantings or removal of plants, trees, or shrubs shall take place except in strict compliance with this Section, until the requirements thereof have been fully met, and until the approval of the appropriate Committee has been obtained.

Section 2. New Construction Committee. The New Construction Committee (NCC) shall have exclusive jurisdiction over all original construction on any portion of the Properties. The NCC shall prepare and, on behalf of the Board of Directors, shall promulgate design guidelines and application procedures. The standards and procedures shall be those of the Association, and the NCC shall have sole and full authority to prepare and to amend the standards and procedures. It shall make both available to Owners, builders, and developers who seek to engage in development of or construction upon all or any portion of the Properties and who shall conduct their operations strictly in accordance therewith. Until all the Properties contained in Exhibit A have been conveyed to purchasers in the normal course of development and sale, the Declarant retains the right to appoint all members of the NCC, which shall consist of at least three (3), but no more than five (5), persons. There shall be no surrender of this right prior to that time, except in a written instrument in recordable form executed by Declarant. Upon the expiration of such right, the Board of Directors shall appoint the members in the same manner as provided in subsection (b) for the Modification Committee.

Section 3. Modifications Committee. The Modifications Committee (MC) shall consist of at least three (3) and no more than five (5) members, all of whom shall be appointed by the Board of Directors. The MC shall have exclusive jurisdiction over modifications, additions, or alterations made on or to existing Residential Units or structures containing Residential Units/Lots and the open space, if any, appurtenant thereto; provided, however, the MC may delegate this authority to the appropriate board or committee of any residential association subsequently created or subsequently subjected to this Declaration so long as the MC has determined that such board or committee has in force review and enforcement practices, procedures and appropriate standards at least equal to those of the MC. Such delegation may be revoked and jurisdiction reassumed at any time by written notice.

The MC shall promulgate detailed Standards and Procedures governing its area of responsibility and practice. In addition thereto, the following shall apply. Plans and specifications showing the nature, kind, shape, color, size, materials, and location of such modifications, additions, or alterations, shall be submitted to the Modifications Committee for approval as to quality of workmanship and design and harmony of external design with existing structures, and as to location in relation to surrounding structures, topography, and finish grade elevation. No permission or approval shall be required to repaint in accordance with an originally approved color scheme, or to rebuild in accordance with originally approved plans and specifications. Nothing contained herein shall be construed to limit the right of an owner to remodel the interior of his or her residence, or to paint the interior of his or her residence any color desired. In the event the MC fails to approve or to disapprove such plans or to request additional information reasonably required within forty-five (45) days after submission, the plans shall be deemed approved.

ARTICLE XII

MORTGAGEE RIGHTS

The following provisions are for the benefit of holders, insurers, or guarantors of first mortgages on Lots in the Properties. To the extent applicable, necessary, or proper, the provisions of this Article XII apply to both this Declaration and to the Bylaws of the Association. Where indicated, these provisions apply only to eligible holders, as hereinafter defined.

Section 1. Notices of Action. An institutional holder, insurer, or guarantor of a first mortgage, who provides written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the unit number), (therefore becoming an eligible holder), will be entitled to timely written notice of:

(a) any proposed termination of the Association;

(b) any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Lot on which there is a first mortgage held, insured, or guaranteed by such eligible holder;

(c) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the mortgage of such eligible holder, insurer, or guarantor, where such delinquency has continued for a period of sixty (60) days;

(d) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; or

(e) any proposed action which would require the consent of eligible holders, as required in Section 2 and 3 of this Article.

Section 2. Other Provisions for First Lien Holders. To the extent possible:

(a) Any restoration or repair of the Properties after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with this

Declaration and the original plans and specifications unless the approval of the eligible holders of first mortgages on Lots to which at least fifty-one (51%) percent of the votes of Lots, subject to mortgages held by such eligible holders are allocated, is obtained.

(b) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation must require the approval of the eligible holders of first mortgages on Lots to which at least fifty-one (51%) percent of the votes of Lots, subject to mortgages held by such eligible holders, are allocated.

Section 3. Amendments to Documents. The following provisions do not apply to amendments to the constituent documents or termination of the Association made as a result of destruction, damage, or condemnation pursuant to Section 2(a) and (b) in this Article, or to the addition of land in accordance with Article VIII.

(a) The consent of at least seventy-five percent (75%) of the Class A votes and of the Declarant so long as it owns any land subject to this Declaration and the approval of the eligible holders of first mortgages on units to which at least sixty-six and two thirds percent (66 2/3%) of the votes of units subject to a mortgage appertain, shall be required to terminate the Association.

(b) The consent of at least sixty-six and two-thirds percent (66 2/3%) of the Class A votes and of the Declarant so long as it owns any land subject to this

Declaration and the approval of eligible holders of first mortgages on Lots to which at least fifty-one (51%) percent of the votes of Lots subject to a mortgage appertain, shall be required to materially amend any provisions of the Declaration, Bylaws, or Articles of Incorporation of the Association, or to add any material provisions thereto, which establish, provide for, govern, or regulate any of the following:

(i) voting;

(ii) assessments, assessment liens, or subordination of such liens;

(iii) reserves for maintenance, repair, and replacement of the Common Area;

(iv) insurance or fidelity bonds;

(v) rights to use of the Common Area;

(vi) responsibility for maintenance and repair of the Properties;

(vii) expansion or contraction of the Properties or the addition, annexation, or withdrawal of Properties to or from the Association;

(viii) boundaries of any Lot;

(ix) leasing of Lots;

(x) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey his or her Lot;

(xi) establishment of self-management by the Association where professional management has been required by an eligible holder; or

(xii) any provisions included in the Declaration, Bylaws, or Articles of Incorporation which are for the express benefit of holders, guarantors, or insurers of first mortgages on Lots.

Section 4. Books and Records. The Association is required to make available to lenders, and to holders, insurers or guarantors of any first mortgage, current copies of the Declaration and by Bylaws, Rules and Regulations of the Association, and the books, records and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances.

Any holder of a first mortgage is entitled, upon written request, to a financial statement for the immediately preceding fiscal year.

Section 5. Special FHLMC Provision. So long as required by The Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing four Sections of this Article. Unless two-thirds (2/3) of the first mortgagees or Owners give their consent, the Association shall not:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Area which the Association owns, directly or indirectly (the granting of easements for public utilities or for other public purposes consistent with the intended use of the

Properties shall not be deemed a transfer);

(b) change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner;

(c) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Lots and of the Common Area;

(d) fail to maintain fire and extended coverage insurance, as required by this Declaration; or

(e) use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such Properties.

The provisions of this Section 5 shall not be construed to reduce the percentage vote that must be obtained from mortgagees or Owners where a larger percentage vote is otherwise required for any of the actions contained in this Section.

First mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies, or secure new casualty insurance coverage upon the lapse of a policy, for the Common Area, and first mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

It is Declarant's intention that the development qualify for the possible sale of mortgages encumbering Lots to the Federal National Mortgage Association and/or the Federal Home Loan Mortgage Corporation. The requirements contained in this Section are to effectuate that purpose. Should either the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Section or make any such requirements less stringent, this Section shall automatically be amended to reflect such changes.

ARTICLE XIII

GENERAL PROVISIONS

Section 1. Enforcement. The Association or any Owner, shall have the right to enforce, by any proceeding in law or in equity, all restrictions, conditions, covenants, reservations now or hereinafter imposed by the provisions of this Declaration or the Bylaws and rules and regulations of the Association. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Duration. The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall insure to the benefit of and shall be enforceable by the Association or the Owner of any Properties subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for an unlimited number of successive periods of ten (10) years each, unless an instrument in writing, signed by sixty-six and two thirds percent (66 2/3%) of the then Owners, has been recorded in the Wake County Registry within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same.

Section 3. Amendment. Prior to the sale of the first Residential Unit, Declarant may amend this Declaration. After such sale, this Declaration may be amended only by the affirmative vote (in person or by proxy) or written consent of Members representing sixty-six and two-thirds (66-2/3%) percent of the total voting power of the Association. Any amendment must be recorded in the Register of Deeds Office of Wake County, North Carolina. No amendment shall be effective unless approved by the Raleigh City Attorney. So long as there is a Class B membership, any amendment to the Declaration shall require the prior approval of the Veterans' Administration.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

Section 4. Certification of Amendment. If any amendment to these covenants, conditions and restrictions is executed pursuant to Section 3 above, each such amendment shall be delivered to the Board of Directors of this Association. Thereupon, the Board of Directors, shall, within thirty (30) days do the following:

(a) Reasonably assure itself that the amendment has been executed or approved by the Owners of the required percentage of members. (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 DOMINION PARK

By authority of its Board of Directors, Dominion Park Community Services Association, Inc. hereby certifies that the foregoing instrument has been duly executed by members entitled to cast two-thirds (2/3) of the votes of the Class A membership and two-thirds (2/3) of the votes of the Class B membership, (if still applicable) and is, therefore, a valid amendment to the existing covenants, conditions and restrictions of Dominion Park.

By:____________________
President

ATTEST:

____
Secretary

Section 5. Indemnification. The Association shall indemnify every officer and director against any and all expenses, including counsel fees, reasonably incurred by or imposed upon any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer or director. The officers and directors (except to the extent that such officers and directors are members of the Association) shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasence, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 6. Easement and Right of Entry for Repair, Maintenance and Reconstruction. If any dwelling is located closer than five (5) feet from its Lot line, the Owner thereof shall have a perpetual access easement and right of entry over the adjoining Lot to the extent reasonably necessary to perform repair, maintenance or reconstruction of his dwelling. Such repair, maintenance, or reconstruction shall be done expeditiously and, upon completion of the work, the Owner shall restore the adjoining Lot to as near the same condition as that which prevailed prior to the commencement of the work as is reasonably practicable.

Section 7. Encroachments. All Lots and the Common Area shall be subject to easements for the encroachment of initial improvements constructed on adjacent lots by the Declarant to the extent that such initial improvements actually encroach, including, without limitation, such items as foundations, walls, overhanging eaves, gutters, downspouts, and exterior storage rooms. If any encroachment shall occur subsequent to subjecting the Property to this Declaration as a result of settling or shifting of any building or as a result of any permissible repair, construction, reconstruction, or alteration, there is hereby created and shall be a valid easement for such encroachment and for the maintenance of the same. Every Lot shall be subject to an easement for entry and encroachment by the Declarant for a period not to exceed eighteen (18) months following conveyance of a Lot to an Owner for the purpose of correcting any problems that may arise regarding grading and drainage. The Declarant, upon making entry for such purpose, shall restore the affected Lot or Lots to as near the original condition as practicable.

Section 8. Greenway. Notwithstanding any other provisions of these Declarations, the Association, Owners, Members, their Tenants, guests, invitees, families, agents, employees or independent contractors shall not, within the greenway area (if any) shown on the Maps of the Properties referred to above, without the prior written consent of the appropriate local government:

(a) Remove any trees or vegetation;

(b) Erect gates, fences, or other structures;

(c) Place any garbage receptacles;

(d) Fill or excavate;

(e) Plant vegetation or otherwise restrict or interfere with the use, maintenance, and preservation of said greenway in its natural state, including without limitation, recreation pursuits such as walking, bicycling, and other similar activities by the general public.

It is understood and agreed that within this greenway area, the appropriate local government 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.

The Association may adopt such other regulations governing the use of the greenway, not inconsistent with those adopted by the appropriate local government and may enter into such agreements with the appropriate local government as is deemed appropriate to insure the maintenance and upkeep of the greenway in its natural state, free of litter and unsightly debris.

Section 9. Providing for Traffic Flow. It shall be the responsibility of the Association to maintain uninterrupted traffic flow along all private streets within the Properties. If it is necessary for "no parking" signs, street lights or other necessary traffic aides to be erected in order to accomplish this, this shall be done at the expense of the Association as a common expense.

In no case shall the local government authority or other agency which provides emergency or regular fire, police or other public service for the Properties, be responsible for failing to provide any such service to the Properties or any of its occupants when such failure is due to inadequate design or construction, blocking of access routes, or any other factor within the control of the developer, Association, or occupants.

Section 10. Easements for Utilities. There is hereby reserved to the Association blanket easements upon, across, above, and under the Properties for access, ingress, egress, installation, repairing, replacing, and maintaining all utilities serving the Properties or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone, and electricity, as well as storm drainage and any other service such as, but not limited to, a master television antenna system, cable television system, or security system which the Association might decide to have installed to serve the Properties. It shall be expressly permissible for the Association or its designee, as the case may be, to install, repair, replace, and maintain or to authorize the installation, repairing, replacing, and maintaining of such wires, conduits, cables, and other equipment related to the providing of any such utility or service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the Board shall have the right to grant such easement.

The Declarant reserves the right to subject the Properties to a contract with any utility company for the installation of utility lines, light and other utility poles, etc., which may require an initial payment and/or a continuing monthly payment to said company by the owner of each Lot.

The Declarant reserves the right to subject the Properties to a contract with the appropriate telephone company for the installation of under ground telephone cables which may require in initial and/or continuing monthly payment to said telephone company by the Owner of each Lot within said Property.

There is hereby reserved to governmental agents an easement over the properties for garbage collection, setting and reading meters and mail delivery.

Section 11. Construction and Sale. Notwithstanding any provisions contained in the Declaration to the contrary, so long as construction and initial sale of Residential Units shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such residences, including, but not limited to, business offices, signs, model units, and sales offices, and the Declarant shall have an easement for access to such facilities. The right to maintain and carry on such facilities and activities shall include specifically the right to use residences owned by the Declarant and the clubhouse complex, if any, which may be owned by the Association, as models and sales offices. This Section may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this Section shall terminate upon the earlier of (a) fifteen (15) years from the date this Declaration is recorded or (b) upon the Declarant's recording a written statement that all sales activity has ceased.

Section 12. Additional Protective Covenants. Nothing herein shall affect the Declarant's right to establish from time to time additional appropriate protective covenants for portions of the Properties.

Section 13. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 14. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration 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 15. Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

Section 16. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now-living descendants of Elizabeth, Queen of England.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

PEREGRINE DEVELOPMENT, INC.

By: ______________________
President

ATTEST:

Charles B. Nelson
Secretary

NORTH CAROLINA

WAKE COUNTY

I, the undersigned, a Notary Public in and for the said State and County, do hereby certify that Charles B. Nelson personally appeared before me this day and acknowledged that he is ____________Secretary of PEREGRINE DEVELOPMENT, INC., a corporation, and that by authority duly given as the act of the corporation, the foregoing instrument was signed in its name by its _________President, sealed with its corporate seal, and attested by him self as its ________Secretary.

WITNESS my hand and notarial seal this the 5th day of ~~December, 1986.~~ January 1987

David H. Bland
Notary Public

DAVID H. BLAND NOTARY PUBLIC WAKE COUNTY, N.C.

My Commission Expires:

5-24-91

lhs/dhb72

NORTH CAROLINA — WAKE COUNTY
The foregoing certificate ___ of David H. Bland
______________________ Notary(y)(ies) Public is (are) certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof.

KENNETH C. WILKINS, Register of Deeds

By Gladys C. Smith
Asst./Deputy Register of Deeds

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EXHIBIT A

Being all of the following:

a. Tract 1, consisting of 13.26 acres and captioned "Permanent Common Open Space";

b. Tract II, consisting of 1.04 acres and captioned "Permanent Common Open Space";

c. The two hundred eighty six single family house lots, consisting of Blocks A, B, C, D, E, F, G, H, and J (74.54 acres);

d. Street right of way (19.94 acres).

All as shown on that map entitled "Dominion Park Phase I" by Glenn D. Ward & Associates dated November 10, 1986, and recorded in six pages in Book of Maps 1987, Page 3 through 8 of the Wake County Registry.

bfc/dhb/dhb13

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Exhibit B

BEING all of the following:

a. Tract III, consisting of 10.74 acres and captioned "Future Development";

b. Tract IV, consisting of 103.82 acres and captioned "Non Permanent Common Open Space Future Development"

c. Tract V, consisting of 20.22 acres and captioned "Future Northern Wake Expressway"

d. Tract VI, consisting of 39.39 acres and captioned "Non Permanent Common Open Space Future Development";

all as shown on that map and entitled "Dominion Park Phase I" by Glenn D. Ward & Associates dated November 10, 1986 and December 3, 1986 and recorded in seven pages in Book of Maps 1987, Pages 3 through 9 of the Wake County Registry.