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FOR
REGISTRATION

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STATE OF NORTH CAROLINA

COUNTY OF WAKE

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR WINCHESTER SUBDIVISION,
PHASE I, RECORDED IN BOOK OF
MAPS 1994, PAGE 129,
WAKE COUNTY REGISTRY.

THIS DECLARATION, made on the date hereinafter set forth by OAKLAND/VALLEY STREAM LIMITED PARTNERSHIP, a North Carolina Limited Partnership hereinafter referred to as the "Declarant";

W I T N E S S E T H:

WHEREAS, the Declarant is the owner of certain property containing 43.5465 acres more or less in the City of Raleigh, Wake County, North Carolina, a portion of which is more particularly described as Phase One, consisting of Lots 1-18 as the same is shown on the map recorded in Book of Maps 1994, Page 129, Wake County Registry;

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

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

ARTICLE I - DEFINITIONS

Section 1. "Amenities" shall mean the facilities constructed, erected or installed on the Common Areas for the use, benefit and enjoyment of Members.

Section 2. "Architectural Control Committee" shall be referred to herein as "ACC".

Section 3. "Association" shall mean and refer to VALLEY STREAM HOMEOWNERS ASSOCIATION, INC. its successors and assigns.

Section 4. "Board of Directors" or "Board" means those persons elected or appointed and acting collectively as the Directors of the Association.

Section 5. "Building" shall mean and refer to a single family dwelling constructed or erected on the Property.

Section 6. "Common Expenses" shall mean and include:

(a) All sums lawfully assessed by the Association against its members;

(b) Expenses for maintenance of the dwellings, if any, as provided in this Declaration;

(c) Expenses of administration, maintenance, repair, or replacement of the Common Areas;

(d) Expenses declared to be common expenses by the provisions of this Declaration or the Bylaws;

(e) Hazard, liability, or such other insurance premiums as the Declaration or the Bylaws may require the Association to purchase;

(f) Ad valorem taxes and public assessment charges lawfully levied against common areas;

(g) Expenses agreed by the members to be common expenses of the Association;

(h) Unpaid assessments resulting from the purchase of a dwelling at a foreclosure sale (such assessment shall be collectible from all members of the Association, including the purchaser at the foreclosure sale, his successors and assigns).

Section 7. "Common Properties" shall mean and refer to those areas of land within Winchester Subdivision which are deeded to the Association for the common use and enjoyment of all members and designated in said deed as "Common Properties," and shall include all private streets, if any, all water lines located outside public right-of-ways, public utility easements and dwelling units or sites, and all sewer lines located outside public right-of-ways, public sanitary sewer easements and dwelling units or sites. The term "Common Properties" shall also include any personal property acquired by the Association if said property is designated as "Common Properties". All "Common Properties" are to be devoted to and intended for the common use and

enjoyment of the Owners, subject to the fee schedules and operating rules adopted by the Association.

In addition to those areas deeded to the Association, all of that land designated as a 100 foot landscape buffer along Buffalo Road and a portion along the easternmost boundary line (if annexed as Additional Property), which 100 feet landscape buffer is included as a portion of certain lots, shall be for the benefit and common use and enjoyment of all owners subject to the limitations hereinafter enumerated. Also included as "Common Properties" will be the areas within the 10 foot landscape easement along Valley Stream Drive. See also Article X, Section 3.

Section 8. "Declarant" shall mean and refer to OAKLAND/VALLEY STREAM LIMITED PARTNERSHIP and its successors and assigns to whom the rights of Declarant hereunder are expressly transferred, in whole or in part, and subject to such terms and conditions as the Declarant may impose.

Section 9. "Dwelling" shall mean and refer to a place of resident constructed upon a Lot within the Property.

Section 10. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties on which such plot appears (provided said map has been approved by Declarant), with the exception of the Common Area and Limited Common Areas, if any. It is recognized that Common Area and Limited Common Areas and easements may be portions of a Lot.

Section 11. "Lot in Use" shall mean and refer to any lot on which a dwelling unit has been substantially constructed and made substantially ready for occupancy as a dwelling unit. It is the intent that when a dwelling is ready for occupancy, excepting final punch list items and home buyer to be selected by a home/buyer, that dwelling be subject to payment of full Association dues. In the event of a dispute, the ruling of the ACC shall be binding. In addition to the foregoing, a Lot may become a Lot in Use by contractual agreement between the Declarant and the Owner of such lot. Any dwelling for which a certificate of occupancy has been issued will be regarded as a "Lot in Use".

Section 12. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 13. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 14. "Person" shall mean and refer to any individual, corporation, partnership, association, trustee, or other legal entity.

Section 15. "Property" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 16. "Winchester Subdivision" or "Property" shall mean and refer to that certain real property described in Exhibit A attached hereto and incorporated by reference and such additions and/or deletions thereto as may hereafter be brought within or taken from the jurisdiction of the Association as subjected to this Declaration or any Supplemental Declaration.

ARTICLE II

PROPERTY AND PROPERTY RIGHTS IN THE COMMON AREAS

Section 1. **Property Made Subject to Declaration.** The Property is hereby made subject to this Declaration and the Property shall be owned, held, leased, transferred, sold, mortgaged and/or conveyed by Declarant, the Association and each Owner subject to this Declaration and the controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens set forth in this Declaration.

Section 2. **Annexation/Removal of Property.** If Declarant is the owner from time to time of any property ("Additional Property") which it desires to add to the scheme of this Declaration, it may do so by filing of record a Supplemental Declaration (herein so called) which shall extend the scheme of this Declaration to such Additional Property; provided, however, that such Supplemental Declaration as applied to the Additional Property covered thereby, may include such specific additional controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens as may be set forth in such Supplemental Declaration; and if a person or entity other than Declarant desires to add property to the scheme of this Declaration, such property may only be added with the assent of two thirds (2/3) of the votes of Class A and Class B members, if any. If Declarant, in the development process, deems it appropriate not to include subsequent phases in the Association, the Declarant has such right under this Declaration. It is anticipated that the Declarant will annex the land described in Exhibit A. Declarant reserves the right to annex other land contiguous to the land subject to this Declaration. All annexations undertaken by the Declarant of Additional Property must be undertaken on or

Property must be undertaken on or before December 31, 2000, and approved by the City of Raleigh.

Section 3. Contents of Supplemental Declaration. Each Supplemental Declaration shall set forth the controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens to which the Additional Property covered thereby shall be subject. Such controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens may contain additions, deletions and modifications from those contained in this Declaration, as the parties subjecting such Additional Property to the scheme of this Declaration may desire; provided if such party is other than Declarant, as a condition to such party's right to so impose such additions, deletions or modifications, such party must obtain the prior written consent thereto of Declarant and the Association, acting through its Board. In no event, shall such Supplemental Declaration revoke, modify or add to the controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens established by this Declaration or a previously filed Supplemental Declaration as it applies or they apply to the Property or to previously added Additional Property except as provided in Section 5 of this Article. All common properties contained in Additional Property will be conveyed to the Association in conformity with Article II, Section 7.

Section 4. Merger or Consolidation. Upon a merger or consolidation of the Association with another association which is a nonprofit corporation composed of owners of Additional Property, the properties, rights and obligations of the Association may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the property, rights and obligations of the Association as the surviving corporation pursuant to a merger. The surviving or consolidated association shall be considered the Association and shall administer the terms and provisions of this Declaration and any applicable Supplemental Declarations, if any, affecting the portions of the Property in the jurisdiction of such Association, together with the covenants and restrictions established upon any other properties, as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the terms and provisions of this Declaration or any Supplemental Declaration pertaining to the Property or any portion thereof except as specifically provided in this Declaration.

Section 5. Members' Easements of Enjoyment. Subject to the provisions of these Covenants and the rules and regulations of the Association, every member shall have a

right and easement of enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall run with the title of every lot, subject to the following restrictions set forth in Section 9 hereof.

Section 6. Delegation of Use. Any Member may delegate in accordance with the By-Laws of the Association, his right to enjoyment to the Common Properties and facilities to the members of his family, his tenants, or contract purchasers who reside on such Members' Lot.

Section 7. Title to Common Area. The Declarant hereby covenants, for itself, its successors and assigns that it shall convey fee simple title to the Common Area shown on the aforementioned map recorded in Book of Maps 1994, Page 129 Wake County Registry, to the Association, free and clear of all encumbrances and liens, prior to the conveyance of the first Lot, except utility, greenway and drainage easements and easements to governmental authorities. Similarly, the Declarant will convey to the Association Common Areas which are parts of WINCHESTER SUBDIVISION as those portions are annexed in the future until all Common Areas, as shown on plans approved by the City of Raleigh, have been conveyed to the Association.

Section 8. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association, in accordance with its Articles of Incorporation, to borrow money for the purpose of improving the Common Properties and in aid thereof to mortgage said properties subject to the provisions of Article XI, Section 2 of this Declaration. The right to borrow money must be subordinated to the Declaration. The Association may not use easement property as security for any loan.

(b) The right of the Association to take such steps as are reasonably necessary to protect the Common Properties against foreclosure; and

(c) The right of the Association, as provided in its By-Laws, to suspend the enjoyment of rights of any Member or any tenant of any Member for any period during which any assessment remains unpaid; and for any period not to exceed sixty (60) days for any infraction of its published rules and regulations, it being understood that any suspension for either non-payment of any assessment or a breach of the rules and regulations of the Association shall not constitute a waiver or discharge of the Member's obligations to pay the assessment; and

(d) The right of the Association to charge Members' guests reasonable admission and other fees for the use of the Common Properties and/or facilities, if any, therein; and

(e) The right of the Association to give, sell or lease all or any part of the Common Properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such gift, sale or lease shall be effective unless authorized by the vote of two-thirds (2/3) of the vote of each class of Members at a duly called meeting and unless written notice of the proposed action is sent to every Member at least twenty (20) days in advance of any action taken. A true copy of such resolution together with a certificate of the result of the vote taken and a certificate of mailing executed by the Secretary of the Association or the managing agent and such certificate shall be annexed to any instrument affecting the Common Properties, prior to the recording thereof. Such certificates shall be conclusive evidence of authorization by the membership.

Section 9. FHA, VA, FNMA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration, the Veterans Administration or the Federal National Mortgage Association: Annexation of Additional Properties, mergers or consolidations, mortgaging of Common Properties, dedication of Common Properties, and dissolution and amendment of this Declaration.

ARTICLE III - MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership per Lot. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership. The Board of Directors may make reasonable rules as to proof of ownership of a Lot in this subdivision.

ARTICLE IV - VOTING RIGHTS

Section 1. The Association shall have two classes of voting membership and fractional voting shall not be permitted.

Class A. Class A members shall be all those Owners as defined in Article III with the exception of the Declarant. Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article III. When more than one person holds such interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

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

(a) when the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership, but provided that the Class B membership shall be reinstated if thereafter and before the time stated in Subparagraph (b) below, such additional lands are annexed to the Properties without the assent of Class A members on account of the development of such additional lands by the Declarant, all as provided for in Article II, Section 2 above, or

(b) on December 31, 2000.

Section 2. The right of any Member to vote may be suspended by the Board of Directors for just cause pursuant to its rules and regulations.

ARTICLE V - PROPERTY RIGHTS

Section 1. Members' Easements of Enjoyment. Every member shall have a right and easement of enjoyment in and to the Common area (including access, ingress, and egress to and from public streets and walkways) and such easement shall be appurtenant to and shall pass with the title to every assessed Lot, subject to the following provisions:

(a) The right of the Association, in accordance with its Articles and Bylaws and with the assent of members entitled to cast two-thirds (2/3) of the votes of the entire

Class A membership and two-thirds (2/3) of the entire Class B membership, if any, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property unless prohibited by law, and the rights of such mortgagee in said properties shall be subordinate to the rights of the homeowners hereunder;

(b) The right of the Association to dedicate or transfer all or any part 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; provided, however, that no conveyance of Limited Common Area shall deprive any Member of the full use thereof. No such dedication or transfer shall be effective unless an instrument signed 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 any, has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every Member not less than 30 days nor more than 60 days in advance.

(c) The Declarant reserves the right to utilize a portion of the Common area as a sales and marketing office for the builder or builders of residences within the subdivision until all Lots within the subdivision are sold. This right by the Declarant shall not include any compensation to the Homeowners Association.

Section 2. Delegation of Use. Any Member may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contact purchasers who reside on the Property.

Section 3. Restricted Parking Rights. No boats, trailers, campers, motor homes, trucks or tractors owned by a Member, his guests, family members or tenants shall be parked within the right of way of any public or private street in or adjacent to WINCHESTER SUBDIVISION; nor shall any of these be parked on the Properties except in an enclosed garage, screened area approved by the ACC, or in areas designated by the Association. The Association shall have the right to adopt appropriate rules for the temporary parking of these items on the Properties.

Section 4. Antennas and Satellite Receiving Devices. The erection of antennas and/or satellite receiving devices of any kind whatsoever on individual Lots shall be prohibited unless specifically approved by the Architectural Committee established hereinbelow.

ARTICLE VI - COVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot in Use owned within the Property upon which a dwelling has been constructed, hereby covenants, and every other owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association:

(a) Annual assessments or charges which are common expenses; and

(b) Special assessments for capital improvements.

Notwithstanding any provisions herein to the contrary, the assessment for each Lot which is not a Lot in Use shall be twenty-five percent (25%) of the assessment of a Lot in Use. Lots owned by the Declarant shall not be subject to assessments, so long as the Declarant is not an active builder.

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

The annual and special assessments, together with interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot and improvements against which each such assessment is made. Each assessment, together with such interests and costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time the assessment fell due. The personal obligation of an Owner for delinquent assessments shall not pass to his successors in title unless expressly assumed by them. All assessments shall be shared equally by the Owners of each Lot, except as otherwise provided in this section.

Section 2. Purposes of Assessments. The assessments levied by the Association shall be used exclusively for promoting the recreation, health, safety and welfare of the residents of the Property (including those items enumerated in Article I, Section 6; enforcing these covenants and the rules of the Association; improving and maintaining the Property; and, providing the services and facilities for purposes of and related to the use and enjoyment of the Common Area and facilities.

Section 3. Amount of Assessment.

(a) Initial Assessment. To and including December 31, 1994, the initial annual assessment shall not be in excess

of Three Hundred Dollars (\$300.00) per Lot in Use, the exact amount of which shall be determined from time to time as provided in subsection (d) of this Section 3.

(b) Increase by Association. From and after December 31, 1994, the annual assessment effective for any year may be increased from and after January 1 of the succeeding year by the Board of Directors, without a vote of the membership, by a percentage which may not exceed the greater of ten percent (10%) or the percentage increase reflected in the U.S. City Average, Consumer Price Index - United States and selected areas for urban wage earners and clerical workers, all items most recent index and percentage changes from selected dates (published by the U.S. Bureau of Labor Statistics, Washington, DC), or such other Index as may succeed the Consumer Price Index, for the twelve-month period ending the immediately preceding October 1.

(c) Increase by Members. From and after December 31, 1994, the annual assessment may be increased by a percentage greater than permitted by this Article by an affirmative vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for such purpose, written notice of which, setting forth the purpose of the meeting, shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. The limitations herein set forth shall not apply to any increase in assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

(d) Criteria for Establishing Annual Assessment. The initial annual assessment shall not exceed Three Hundred Dollars (\$300.00). In establishing the annual assessment for any subsequent assessment year, the Board of Directors shall consider all current costs and expenses of the Association, any accrued debts, and reserves for future needs, but it may not increase the annual assessment in an amount in excess of the greater of ten percent (10%) or the sums derived by application of the consumer Price Index formula provided in subsection (b) without the consent of the Members required in subsection (c) of this Section 3.

(e) Each lot owner, excepting the Declarant and those persons or entities in the house building business, shall pay the sum equal to two (2) months Association dues into a working capital fund of the Association at the time of transfer of said Lot to said owner.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that

year only for the purpose of defraying, in whole or in part, the costs of construction or reconstruction, unexpected repair, or replacement of a described capital improvement upon the common area, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which, setting forth the purpose of the meeting, shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. The amount of the proposed assessment need not be stated.

Section 5. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and Lots in Use, on a per Lot and per Lot in Use basis, and may be collected on either a monthly, quarterly, semi-annual or annual basis.

Section 6. Quorum for any Action authorized under Sections 3 or 4. At the first meeting called, as provided in Section 3 or 4 of this Article, the presence at the meeting of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, subsequent meetings may be called, subject to the notice requirement set forth in Sections 3 or 4, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the next preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the next preceding meeting.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided herein for Lots in Use shall be paid in installments and the payment of such shall commence as to each Lot in Use on the first day of the first month following the date on which the first lot has become a Lot in Use. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors. The Association, upon demand at any time, shall furnish a certificate in writing signed by an officer of the Association or by its management company, setting forth whether the assessments on a specified lot have been paid. A reasonable charge may be made for providing this information. A properly executed certificate of the Association or its Management Company as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments or portion thereof which are not paid when due shall be delinquent. The Board of Directors of the Association shall have the power to establish when dues and assessments are delinquent and the late charges or penalties as a result of any delinquencies, and the rate of interest applicable to late payments. The Association may bring an action against the owner personally obligated to pay the same, and interest, costs, late payment charges and reasonable attorney's fees resulting from any such action shall be added to the amount of such assessment. If any law permits the filing of a lien and the foreclosure of such lien, or other similar action, as a method of enforcement of the Association's right to collect assessments, the Association may use such remedy. No owner may waive or otherwise escape liability for the assessment provided for herein by non use of the common area or abandonment of his Lot.

Section 9. Special Individual Assessments. The Board may impose fines against any Lot and such fines shall be treated as a Special Assessment otherwise due to the Association, and as such will be a lien against the Owner's Residential Unit or Lot. Fines shall be paid not later than thirty (30) days after notice of the imposition or assessment of the fines. These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; however, any fine paid by the offending Owner(s) shall be deducted from or offset against any damages that the Association may otherwise be entitled to recover by law from such Owner. Fines shall be as follows:

- (a) First non-compliance or violation: a fine not in excess of Fifty Dollars (\$50.00).
- (b) Second non-compliance or violation: a fine not in excess of One Hundred Dollars (\$100.00).
- (c) Third and subsequent non-compliance, or violation or violations that are of a continuing nature: a fine not in excess of One Hundred Dollars (\$100.00) for each week of continued violation or non-compliance.

Section 10. Effect of Nonpayment of Assessment. If an assessment is not paid when due, the Association may bring an action at law against the Owner personally or foreclose the lien against the Lot, and there shall be added to the amount of such assessment the costs of collection, including reasonable attorneys' fees and expenses, and interest as established by the Board. No Owner may waive or escape liability for the assessments provided for herein by non-use of the Common Properties or abandonment of his Lot. Each Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Association, or its agents or

assigns, the right and power to bring all actions against such Owner or Member personally liable for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or a deed of trust lien on real property and such Owner hereby expressly grants to the Association a power of sale in connection with foreclosure of said Lien. The Lien provided for in this action shall be in favor of the Association and shall be for the benefit of all other Owners.

Section 11. Subordination of the Lien To Mortgages. The lien of the assessments provided for herein on any Lot shall be subordinate to the lien of any first mortgage on such Lot. The transfer of any lot pursuant to such mortgage foreclosure or any proceeding in lieu thereof, 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 liability for any assessments thereafter becoming due or from the lien thereof.

Section 12. Exempt Property. Any portion of the Property dedicated to, and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein, except no land or improvements devoted to dwelling use shall be exempt from said assessment.

Section 13. Omission of Assessments. The omission of the Board, before the expiration of any year, to fix the assessments hereunder for that or the next year, shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay the assessments, or any installment thereof for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment is fixed.

ARTICLE VII - FRONT YARD MAINTENANCE AND MASS PLANTINGS

Notwithstanding the fact that the Association shall provide maintenance of Common Areas and limited common areas, each Lot owner shall be responsible for maintaining the area between his front property line and the edge of the street or pavement (including his driveway and sidewalk). No Lot Owner shall plant any vegetable garden in front of his dwelling or any mass planting on his Lot except with the prior written approval of the Architectural Committee established hereinbelow.

ARTICLE VIII - ARCHITECTURAL CONTROL

Section 1. The Architectural Control Committee ("ACC") shall consist on one (1) or more persons designated by the Declarant. At such time as Declarant no longer owns any real property within the Properties (or earlier if the Declarant shall surrender this right in a written instrument in recordable form executed by Declarant), the Declarant shall assign to the Association the rights, powers, duties and obligations of the ACC, whereupon the Board shall appoint three(3) or more persons as the members of the ACC. This Article may not be amended without the Declarant's written consent so long as the Declarant owns any real property subject to this Declaration or subject to annexation to this Declaration.

Except for the initial dwelling structure constructed on a Lot by Declarant in accordance with Declarant's general plan of development, which initial dwelling structure shall be exempt from the following approval process, so long as the plans and specifications therefor are in strict conformity with those previously approved by the Federal National Mortgage Association, Veterans Administration or Federal Housing Administration, as the case may be, no building, sign, fence, outside lighting, hedge, wall, walk, antenna, clothesline or other structure or planting shall be constructed, erected or planted until their plans and specifications showing the nature, kind, shape, height, materials, floor plans, color scheme, and location with respect to the topography and finished ground elevation shall have been submitted to and approved in writing by the ACC. The ACC shall have the right to refuse to approve any plans and specifications which are not suitable for desirable, in its sole discretion, for aesthetic or any other reasons, provided such approval is not unreasonable withheld. In approving or disapproving such plans and applications, the ACC shall consider the suitability of the proposed building, improvements, structure or landscaping and is proposed to be erected, the harmony thereof with the surrounding area and the effect thereof on a adjacent or neighboring property. In the event the ACC shall fail to specifically approve or disapprove the plans and specifications submitted in final and complete form within forty-five (45) days after written request for final approval or disapproval, such plans and specifications shall be deemed approved.

There is specifically reserved unto the ACC, the right of entry and inspection upon any Lot for the purpose of determination by the ACC whether there exists any construction of any improvement which violates the terms of any approval by the ACC or the terms of this Declaration or of any other covenants, conditions and restrictions to which

its deed or other instrument of conveyance makes reference. The ACC and the Board of Directors is specifically empowered to enforce the provisions of this Declaration by any legal or equitable remedy, and in the event it becomes necessary to resort to litigation to determine the propriety of any constructed improvements, or to remove any unapproved improvements, the prevailing party shall be entitled to recovery of all court costs, expenses and reasonable attorney's fees in connection therewith.

The Association, Declarant, ACC or any officer, employee, agent, director or member thereof shall not be liable for damages to any persons submitting plans and specifications for approval by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval, disapproval or failure to approve any plans and specifications. Every person who submits plans and specifications for approval agrees, by submission of such plans and specifications, that it will not bring any action or suit against the Association, Declarant or ACC to recover any such damages.

Section 2. If, in the event information submitted to the ACC is, in its opinion, incomplete or insufficient in any manner, it may request and require the submission of additional or supplemental information.

Section 3. Unless specifically excepted by the ACC, all improvements for which approval of the ACC is required under this Declaration shall be completed within a reasonable time from the date of commencement of said improvements or within the time set by ACC in the event that the approval is so conditioned.

Section 4. The ACC shall in all cases have the right to determine and designate building set back lines necessary to conform to the general plan of WINCHESTER SUBDIVISION, in order to preserve the integrity of the Properties and the Master Plan. In this respect the ACC's judgement and determination shall be final and binding.

Section 5. A majority of the ACC may take any action of the committee and may designate a representative to act for it. In the event of death, disability or resignation of any member of the ACC, the Board of Directors shall designate a successor.

Section 6. The ACC may adopt additional guidelines along with rules and regulations as it deems necessary to carry out its functions and purposes hereunder, provided all such rules and regulations shall be approved by the Board of Directors and made a part of this Association's Book of Resolutions.

Section 7. The Association may impose reasonable fees and charges upon Owners applying for Architectural Control approval to enable it to carry out its functions.

Section 8. In an instance where a structure has been erected, or the construction thereof is substantially advanced, in such manner that the same violates the restrictions contained in this Declaration or any other covenants which the ACC has the power to enforce, or in such manner that the same encroaches on any easement area or setback line, the ACC reserves the right to release the property from the restriction which it violated and to grant an exception to permit the encroachment by the structure over the setback line or on the easement area, so long as the ACC, in the exercise of its sole discretion, determines that the release or exception will not materially and adversely affect the health, safety and appearance of the Properties.

The ACC has the right, but not the obligation, to grant waivers for minor deviations and infractions of this Declaration. The granting of any waiver for any portion of the Properties may be given or withheld in the ACC's sole discretion and a prior grant of a similar waiver shall not impose upon the ACC the duty to grant new or additional requests for such waivers.

Any exceptions granted by the ACC shall not relieve the property owner from the responsibility from obtaining the consent of easement holders and local governmental authorities.

ARTICLE IX - USE RESTRICTIONS

Section 1. Rules and Regulations. The Board of Directors of the Association shall have the power to formulate, amend, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the front yard space of each Lot and the Common Area. Such rules and regulations, along with all policy resolutions and policy actions taken by the Board of Directors, shall be recorded in a Book of Resolutions which shall be maintained in a place convenient to the Owners and available to them for inspection during normal business hours.

Section 2. Use of Property. Each building, and the Common Area facilities shall be for the following uses and subject to the following restrictions, and in addition, to those set forth in the Bylaws:

(a) All buildings and the common area and facilities shall be used for residential and related common purposes,

except that the Declarant may use one or more buildings for offices and/or models for sales purposes consistent with the Code of Ordinances of Raleigh.

(b) No waste shall be committed on any portion of the Common Area and facilities.

(c) 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, orders, 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 of the Association, whichever shall have the obligation to maintain or repair such portions of the Property.

(d) Nothing shall be done which will impair the structural integrity of any building, or portion of the common area and facilities or which would impair or alter the exterior of any building or portion thereof, except in the manner provided in this Declaration.

(e) No industry, business, trade, occupation or profession of any kind, whether commercial or otherwise, shall be conducted, maintained or permitted on any part of the Property, except that the Declarant or its agents may use any unsold buildings for sales or display purposes.

(f) No owner shall display, or cause or allow to be displayed, to public view any sign, placard, poster, billboard or identifying name or number upon any building or any portion of the Common Area and facilities, except as allowed by the Association pursuant to its Bylaws or as required by the ordinances of the Town of Raleigh; provided, however, that the Declarant may authorize "For Sale" or "For Rent" signs on any unsold or unoccupied dwellings in suitable places on the Common Area; provided, however, that during the development of the Property and the marketing thereof, the Declarant or its agents may maintain a sales office and may erect or display such signs as the Declarant deems appropriate as aids to such development marketing, provided that such signs do not violate any applicable laws.

(g) No person shall undertake, cause or allow any alteration or construction in or upon any portions of the Common Area and facilities except at the direction or with the express written consent of the Association.

(h) The Common Area and facilities shall be used only for the purposes for which they are intended and reasonably suited and which are incident to the use and occupancy of

the dwelling, subject to any rules and regulations that may be adopted by the Association pursuant to its Bylaws.

Section 3. Quiet Enjoyment. No obnoxious or offensive activity shall be carried on upon the Property, nor shall anything be done which may be or may become a nuisance or annoyance to residents within the Property.

ARTICLE X

LAKE & BUFFER RULES AND REGULATIONS

Section 1. Lake Use. Each Owner's use and enjoyment of the lake located on the Property and other adjoining Common Properties shall be subject to the following provisions:

(a) no boats shall be allowed or permitted except for a boat used by the Association for maintenance, care and repair of the lake or facilities attendant thereto;

(b) no boats may be stored or left unattended on the lake or upon any other Common Properties;

(c) no net fishing shall be allowed or permitted;

(d) no dumping or discharge of any substance into the lake shall be allowed or permitted;

(e) the Association shall not be responsible for supervision of any activities or uses of or on the lake;

(f) at all times when the lake is being utilized for any purpose by a family, guest, invitee or licensee, the Owner shall be responsible for supervising such use; and,

(g) except in cases of emergency, no spot light or search light shall be shown over or across the lake;

It is recognized that the lake is a zoning ordinance requirement and is to be maintained as a water quality resource and as a stormwater control structure. The lake shall be maintained by the Homeowners Association as a common expense. The budget for the Homeowners Association includes the sum of \$2,200.00 for annual maintenance of the lake and the sum of \$500.00 per year in a sinking fund reserve for silt removal every six years and the sum of \$480.00 per year for structural replacement of the lake every twenty five years.

responsibility for the method, manner or means by which any Owner, the members of his family, guests, invitees, licensees, tenants, contract purchasers or others acting through Owner shall use and enjoy the lake. Accordingly, neither the Association nor Declarant shall be liable to any Owner, the members of his family, guests, invitees, licensees, tenants, contract purchasers or others acting through Owner, except where physical injury to a natural person is proximately caused by the gross negligence or recklessness of the Association or Declarant, as the case may be. This disclaimer and standard of liability shall be binding on the Association, Declarant, all Owners, members of their families, guests, invitees, licensees, tenants, contract purchasers and others acting through Owner. If this disclaimer and standard of liability should be held inapplicable to or not binding upon any class or sub-class of persons referenced above by a court of competent jurisdiction, it shall nonetheless survive and remain in full force and effect as to all other classes or sub-classes. Nothing contained in this Section shall be deemed a waiver or modification of any common law or statutory defenses otherwise available to the Association or Declarant including, but not limited to, contributory negligence. Any Owner whose conduct was a concurring or a proximate cause of any injury or damage for which the Association or Declarant is sued shall indemnify and hold the Association and Declarant harmless in the event the claim on behalf of any such person injured or damaged is reduced to judgment or otherwise paid by the Association or Declarant, or both.

Section 3. The 100 foot landscape buffer located upon the property along Buffalo Road and along a portion of the eastern most property line, if annexed as Additional Property, is to remain a buffer according to requirements imposed by the City of Raleigh. The buffer area and the 10 foot landscape easement along Valley Stream Drive are to be maintained by the Association as a common expense but Lot Owners shall have no rights to disturb, alter or in any manner change the character or nature of the 100 foot buffer area or 10 foot easement area. The Association only shall maintain these areas including but not limited to additional plantings, removal of trees and plants and any other acts necessary to maintain these areas.

Section 4. Other Rules and Regulations. The Association shall have the right to impose additional regulations for the use and enjoyment of the lake located on the Property.

ARTICLE XI - EASEMENTS

Section 1. Walks, Drives, Parking Areas, and Utilities. All of the Property, including Lots and Common

Area, shall be subject to easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines, cable television lines, and other public utilities as shall be established prior to subjecting the Property to this Declaration by the Declarant, and the Association shall have the power and authority to grant and to establish in, over, upon, and across the Common Area conveyed to it such further easements as are requisite for the convenient use and enjoyment of the Property.

Section 2. Easement for Government Agencies. An easement is hereby established over the Common Area for the benefit of applicable governmental agencies, public utility companies and public service agencies as necessary for setting, removing and reading of meters, replacing and maintaining water, sewer and drainage facilities, electrical, telephone, gas, cable television lines, fire fighting, garbage collection, postal delivery, emergency and rescue activities and law enforcement activities.

Section 3. 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 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. Within such easements, no plantings of shrubs and trees or the erection of structures, including fences, shall be allowed.

Section 4. Greenway - City of Raleigh Approval. Notwithstanding any other provisions of these Declarations, the Association, Owners, Members, Tenants of members, member's guests or invitees, or families of members shall not, within any portion of the Common Area which is greenway area dedicated to the City of Raleigh, without the prior written consent of the City of Raleigh;

- (a) Grant easements of any nature whatsoever;
- (b) Remove any trees or vegetation;
- (c) Erect gates, fences or other structures;
- (d) Fill or excavate;
- (f) 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. The Association and Lot Owners may adopt such other regulations governing the use of the greenway, not inconsistent with those adopted by the City and may enter into such 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.

ARTICLE XII - RIGHTS OF INSTITUTIONAL LENDERS

Section 1. Rights Reserved to Institutional Lenders.

"Institutional Lender" or "Institutional Lenders" as the terms are used herein, shall mean and refer to banks, savings and loan associations, insurance companies, other reputable mortgage lenders and insurers of first mortgages. So long as any Institutional Lender or Institutional Lenders shall hold any first mortgage upon any Lot, or shall be the owner of any Lot, such Institutional Lender or Institutional Lenders shall have the following rights:

(a) To be furnished with at least one copy of the Annual Financial Statement and Report of the Association, prepared by an independent Certified Public Accountant designated by the Association, including a detailed statement of annual carrying charges or income collected and operating expenses.

(b) To be given notice by the Association of the call of any meeting of the membership to be held for the purpose of considering any proposed Amendment to the Declaration, or the Articles of Incorporation and Bylaws of the Association, which notice shall state the nature of the amendment being proposed, and to be given permission to designate a representative to attend all such meetings.

(c) To be given notice of default in the payment of assessments by any Owner of a Lot encumbered by a mortgage held by the Institutional Lender or Institutional Lenders, such notice to be given in writing and to be sent to the principal office of such Institutional Lender or Institutional Lenders, or to the place which it or they may designate in writing to the Association.

(d) To inspect the books and records of the Association during normal business hours.

(e) To be given notice by the Association of any substantial damage to any part of the Common Area.

(f) To be given notice by the Association if any portion of the Common Area is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority.

Whenever any Institutional Lender desires the benefits of the provisions of this section, such lender shall serve written notice of such fact upon the Association by registered mail or certified mail addressed to the Association and sent to its address stated herein identifying the Lot upon which any such Institutional Lender or Institutional Lenders hold any mortgage or mortgages or identifying any Lot owned by them, or any of them, together with sufficient pertinent facts to identify any mortgage or mortgages which may be held by it or them, and which notice shall designate the place to which notices are to be given by the Association to such Institutional Lender.

ARTICLE XIII - GENERAL PROVISIONS

Section 1. 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 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 municipality or other agency which provided 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 the lack of access to such areas due to inadequate design or construction, blocking of access routes, or any other factor within the control of the developer, Association, or occupants.

Section 2. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. 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 3. Insurance. The Board of Directors shall procure and maintain adequate liability and hazard insurance

on Property owned by the Association, and also Directors and Officers coverage. Liability insurance shall be procured and maintained in the minimum amount of \$1,000,000.00.

Section 4. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 5. Exchange of Common Area. The Association, acting through its Board, from time to time may exchange with the Declarant or any member a portion of the Common Area for a portion of the real property owned by such member within WINCHESTER SUBDIVISION provided that the real property acquired by the Association in exchange: (a) is free and clear of all encumbrances except the Declaration, and easements for drainage, utilities and sewers; (b) is contiguous to other portions of the Common Area; (c) has approximately the same area and utility as the portion of the Common Area exchanged; and (d) has been approved by the Town of Raleigh Planning Department to assure that the provisions of the Raleigh Code are not being violated. The real property so acquired by the Association shall be a part of the Common Area, and without further act of the Association or membership, shall be released from any provisions of the Declaration except those applicable to the Common Area. The portion of the Common Area so acquired by Declarant or a member, without further act of the Association or membership, shall cease to be Common Area and shall be subject to those provisions of the Declaration that were applicable to the real property conveyed to the Association by the member.

Section 6. FHA/VA Approval. Notwithstanding any provision in this instrument to the contrary, as long as there is a Class B membership, and if Declarant desires to qualify sections of this subdivision for Federal Housing Administration, Veterans Administration, Fannie Mae or other similar agencies (but not otherwise), the following actions will require the prior approval of Federal Housing Administration, Veterans Administration, Fannie Mae or other similar agencies: Annexation of additional properties, dedication of Common Areas, exchange of Common Area for other portions of the Properties, and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 7. Amendment. The covenants, conditions and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by the owners of not less than seventy-five percent (75%) of the

Lots, and thereafter by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots; provided, however, that the Board of Directors may amend this declaration, without the consent of the Owners, to correct any obvious error or inconsistency in drafting, typing or reproduction. All amendments shall be certified as an official act of the Association and shall forthwith be recorded in the Wake County Registry. All amendments shall become effective upon recordation.

Section 8. If any amendment to these covenants, conditions and restrictions is executed, each 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 by the Owners of the required number of Lots. (For this purpose, the Board may rely on its roster of members and shall not be required to cause any title to any Lot to be examined);

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

**CERTIFICATION OF VALIDITY OF AMENDMENT TO COVENANTS,
CONDITIONS AND RESTRICTIONS OF WINCHESTER SUBDIVISION**

By authority of its Board of Directors, Winchester Home Owners Association, Inc. hereby certifies that the foregoing instrument has been executed by the owners of _____ percent of the Lots of Winchester Subdivision and is, therefore, a valid amendment to the existing Covenants, Conditions and Restrictions of Winchester Subdivision.

**THE WINCHESTER HOMEOWNERS
ASSOCIATION, INC.**

ATTEST:

BY: _____
PRESIDENT

SECRETARY

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

All amendments shall be effective from the date of recordation in the Wake County Registry, provided, however, that no such amendment shall be valid until it has been

indexed in the name of this Association. When any instrument purporting to amend the covenants, conditions and restrictions has been certified by the Board of Directors, recorded and indexed as provided by this Section, it shall be conclusively presumed that such instrument constitutes a valid amendment as to all persons thereafter purchasing any Lots in Winchester Subdivision.

Notwithstanding the foregoing, no amendment shall be effective unless approved by the City Attorney of Raleigh so long as this is required by the Raleigh City Code); provided, however, that if any amendment is submitted to said City Attorney and is neither approved or disapproved within twenty (20) days from the date of submission, it shall be conclusively presumed that the City Attorney has approved it.

Section 9. Amendment of Declaration without approval of Owners. The Declarant, without the consent or approval of any other Owner, shall have the right to amend this Declaration to conform to the requirements of any law or governmental agency having legal jurisdiction over the Property or to qualify the Property or any Lots and improvements thereon for mortgage or improvement loans made, insured or guaranteed by a governmental of any corporation or agency belonging to, sponsored by, or under the substantial control of, the United States Government or the State of North Carolina, regarding purchase or sale of such lots and improvements, or mortgage interest therein, as well as any other law or regulation relating to the control of the Property, including, without limitation, ecological controls, construction standards, aesthetics, and matters affecting the public health, safety and general welfare. A letter from an official of any such corporation, or agency, including, without limitation, the Veterans Administration, U.S. Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, Government National Mortgage Corporation, or the Federal National Mortgage Association, requesting or suggesting an amendment necessary to comply with the requirements of such corporation or agency shall be sufficient evidence of the approval of such corporation or agency, provided that the changes made substantially conform to such request or suggestion.

No amendment made pursuant to this Section shall be effective until duly recorded in the Register of Deeds of Wake County.

Section 10. Amendment to Achieve Tax-Exempt Status. The Declarant, for so long as it shall retain control of the Association, and, thereafter, the Board of Directors, may amend this Declaration as shall be necessary, in its opinion, and without the consent of any owner, to qualify the Association or the Property, or any portion thereof, for

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this instrument this the 31st day of January, 1994 by authority of its General Partners.

OAKLAND/VALLEY STREAM LIMITED PARTNERSHIP
a NORTH CAROLINA LIMITED PARTNERSHIP

BY: William H. Thorne, Jr.
General Partner

BY: James H. Hendrickson
General Partner

NORTH CAROLINA

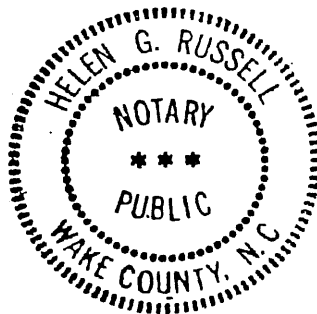
WAKE COUNTY

I, a Notary Public of the County and State aforesaid, certify that William H. Thorne, Jr. and James H. Hendrickson, personally came before me this day and acknowledged that they are the General ~~Partners~~ Partners of OAKLAND/ VALLEY STREAM LIMITED PARTNERSHIP, a North Carolina Partnership, and that by authority duly given and as the act of the Partnership, the foregoing instrument was signed in its name by its general partners.

WITNESS my hand and notarial stamp or seal, this 31 st. day of January, 1994.

Helen G. Russell
NOTARY PUBLIC

My Commission Expires: 6-22-97



NORTH CAROLINA — WAKE COUNTY

The foregoing certificate of Helen G. Russell

Notar(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.

By Charles A. Wilkins
Asst./Deputy Register of Deeds

EXHIBIT A

BEING all of Tract 1 and Tract 3 according to a survey prepared by Smith and Smith Surveyors dated September 30, 1986 which Tract 1 is also identified as Tax Map 439 Parcel 1, and Tract 2 is also identified as Tax Map 410 Parcel 1243 of Wake County; save and except that portion of these properties described as Phase One as the same is shown in Book of Maps 1994, Page 129, Wake County Registry.

PREPARED BY: Harold E. Russell, Jr.

HOLD FOR: Harold E. Russell, Jr. #167

STATE OF NORTH CAROLINA

**DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS
FOR RENAISSANCE AT WINCHESTER**

WAKE COUNTY

THIS DECLARATION, made on the date hereinafter set forth by **VALLEY STREAM PARTNERS, LLC**, a North Carolina Limited Liability Corporation hereinafter referred to as the "Declarant";

WITNESSETH:

WHEREAS, the Declarant is the owner of the real property described on Exhibit A; and

WHEREAS, although separate easements, covenants and restrictions (which may or may not be similar to those herein contained) may be imposed for Winchester Subdivision recorded in Book 5992, Page 609 and as thereafter amended and including all subsequent amendments thereto (herein defined as the Master Declaration), Declarant desires to impose pursuant hereto, additional easements, covenants and restrictions upon all of The Properties (hereinafter defined) covered by this Declaration, and to establish certain rights for, and impose certain obligations upon, the Owners of The Properties described in Exhibit A, and any additions thereto.

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

WHEREAS, Declarant desires to provide for the preservation and enhancement of the property values, amenities and conceptual intent of **RENAISSANCE AT WINCHESTER**, for the maintenance of Sub-Association Common Properties and improvements thereon as described herein, and accordingly desires to subject the Property, together with such additions and/or deletions as may hereafter be made, to the covenants, restrictions, easements, affirmative obligations, charges, and liens as hereinafter set forth, (the "Declaration" as herein defined) each and all of which is hereby declared to be for the benefit of said Property and each and every owner of any and all parts thereof; and

WHEREAS, Declarant has deemed it desirable for the efficient preservation of the values and amenities of Renaissance at Valley Stream to create an entity to which shall be delegated and assigned the power and authority of owning, maintaining and administering the Sub-Association Common Properties as defined herein, administering and enforcing the covenants and restrictions governing said Sub-Association Common Properties, collecting and disbursing all assessments and charges necessary for such activities, and promoting the recreation, health, safety, and welfare of the residents;

NOW, THEREFORE, Declarant hereby declares that all the Existing Property described on Exhibit A and any Additional Property (hereinafter defined) shall be held, occupied, used, transferred, sold, and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the real property. These easements, covenants, restrictions and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described properties or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

The following words and terms, when used in this Declaration or any amendment hereto, or any Supplemental Declaration, unless amended or unless the context clearly indicates otherwise, are defined as follows (terms and words used herein without definition shall have the meanings, if any, specified therefor in the "Definitions" section of the North Carolina Non-Profit Corporation Act "the Act") or in the "Definitions" section of the North Carolina Planned Community Act (the "PCA").

- (a) "Additional Property" is defined as all real property subjected to or annexed to this Declaration subsequent to the recording of this Declaration in the Registry, either by Supplemental Declaration or by merger or consolidation, as provided herein.
- (b) "Amenities" shall mean the facilities constructed, erected or installed on the Sub-Association Common Areas for the use, benefit and enjoyment of Members.
- (c) "Association" shall mean and refer to Renaissance Townhomes Association, Inc., its successors and assigns.
- (d) "Board" is defined as the Board of Directors of the Association. The Board is responsible for the management and administration of the Association. Unless otherwise specifically provided in this Declaration, other Governing Documents

or applicable Legal Requirements, all rights, powers, easements, functions, services, obligations and duties of the Association may be performed or directed by the Board on behalf of the Association.

- (e) "Builder" is defined as a Person, other than the Declarant, who is regularly in the business of constructing Dwellings on real property for resale to other Persons, and who purchases or becomes the Owner of one or more Lots or Development Parcels in The Properties for the purpose of constructing thereon a Dwelling for resale to other Persons.
- (f) "Common Area or Common Property" is defined as all real property owned or leased by Valley Stream Homeowners Association, Inc., the Master Association.
- (g) "Contiguous" is defined as including all of the following: adjacent to; across a public or private street right of way from; and separated from by an easement, Sub-Association Common Property, property owned by the City or Common Property.
- (h) "Declarant" is shall mean and refer to Valley Stream Partners, LLC, and its successors and assigns.
- (i) "Declarant Control Period" is defined as the period of time beginning at the time of recording of this Declaration in the Registry and ending on the first to occur of the following:
 - (1) December 31, 2010..
 - (2) the date on which the total number of votes entitled to be cast by the Class A Members of the Association equals the total number of votes entitled to be cast by the Declarant, as the Class B Member of the Association (the total number of votes of either of the three classes of Membership in the Association may be increased or decreased by the annexation of Additional Property or withdrawal of portions of the Property as provided herein), and in such instances Class B Membership may be reinstated.
 - (3) the date specified by the Declarant in a written notice to the Association.
- (j) "Dwelling " shall mean and refer to a place of residence constructed upon a Lot within the Property.
- (k) "Existing Property" is defined as the real property subjected to this Declaration as described in Article II and on **Exhibit A** attached hereto and incorporated by reference.

- (l) "Landscape Sub-Association Easement" is defined as a type of Sub-Association Common Property consisting of an area within or Contiguous to The Properties that is reserved or established as an easement of the Association for the use, enjoyment or benefit of the Members and for the maintenance ~~therein~~ of any one or more of the following: plants, trees, flowers, bushes, other landscaping materials, fencing, signs, fighting equipment, irrigation equipment and other.
- (m) "Lot" shall mean and refer to any "as built" plot of land shown upon any recorded subdivision map of the properties on which such plot appears (provided said map has been approved by Declarant and the City of Raleigh), with the exception of the Sub-Association Common Area and Limited Neighborhood Common areas, if any. It is understood that the Lots shown in Book of Maps 2001, Page 390 as not "or built" plat. The obligation of Builder to pay Association dues equal to 25% of regular dues begins upon the recording of "as built" maps in the Wake County Registry.
- (n) "Lot in Use" shall mean and refer to any Lot on which a dwelling unit has been substantially constructed and made substantially ready for occupancy as a dwelling unit. It is the intent that when a dwelling is ready for occupancy, excepting final punch list items and decorative items to be selected by a home buyer, that the dwelling be subject to payment of full Association dues. In the event of a dispute, the ruling of the Board shall be binding. In addition to the foregoing, a Lot may become a Lot in Use by contractual agreement between the Declarant and the Owner of such Lot. Any dwelling for which a certificate of occupancy has been issued will be regarded as a "Lot in Use".
- (o) "Limited Neighborhood Common Area" or "Limited Neighborhood Common Property" (the terms being used interchangeably herein) is defined as Sub-Association Common Property that is established by the Declarant or the Subdivision Association for the benefit of a particular phase or section within the subdivision or Lot located within The Properties and which has been designated by the Declarant or the Sub-Association, whichever has established same, as Limited Sub-Association Common Property. There may be Limited Neighborhood Common Area in one or more phases, sections, subdivisions, or Lot located within The Properties.
- (p) "Master Association" is defined as Renaissance Townhomes Association, Inc., a North Carolina nonprofit corporation incorporated or to be incorporated under the Act to serve as the Association under the Master Declaration, and its successors and assigns.
- (q) "Member" shall mean and refer to every person or entity who holds Membership in the Association.
- (r) "Owner" is defined as the owner of record as shown in the Registry, whether one or more Persons, of fee simple title to a Lot (and, with respect to the Declarant, Un-

subdivided Land), but excluding those having an interest in the foregoing as a result of a contract, option to purchase, or as security for an obligation.

- (s) "Sign Sub-Association Easement" is defined as a type of Sub-Association Common Property consisting of an area within or Contiguous to The Properties that is reserved or established as an easement of the Association for the use, enjoyment, or benefit of the Members and for the maintenance therein of any one or more of the following: signs and associated landscaping materials, lighting equipment, irrigation equipment and other associated equipment and devices. A Sign Sub-Association Easement may be established or reserved by a notation on a plat recorded in the Registry or by a written document recorded in the Registry.

- (t) "Sub-Association Common Expenses" shall mean and include:

- (1) All sums determined by the Board of Directors to be Sub-Association Common Expenses of the Association;
- (2) Expenses for maintenance of the Dwellings, as provided in this Declaration;
- (3) Expenses of administration, maintenance, repair, restoration or replacement of the Sub-Association Common areas including private streets;
- (4) Expenses declared to be Sub Association Common Expenses by the provisions of this Declaration or the Bylaws;
- (5) Premiums for hazard, liability, or such other insurance premiums as the Declaration or the Bylaws may require the Association to purchase;
- (6) Ad valorem taxes and public assessment charges, if any, lawfully levied against Sub-Association Common Areas or other assets of the Association;
- (7) Expenses agreed by the Members to be Sub-Association Common Expenses of the Association;
- (8) Unpaid assessments resulting from the purchase of a dwelling at a foreclosure sale (such assessment shall be collectible from all Members of the Sub-Association, including the purchaser at the foreclosure sale, his successors and assigns).
- (9) All other expenses incurred by the Association in performing its functions and providing services under this Declaration, including operating, Association management, administrative expenses and unexpected contingencies.

Provided, however, the term sub-Association common Expenses does not include the costs of the initial improvements constructed or placed in any Sub-Association Common Property by the Declarant.

- (u) "Sub-Association" is defined as Renaissance Townhomes Association, Inc., a North Carolina nonprofit corporation organized and existing under the North

Carolina Non-Profit Corporation Act (or other legal entity allowed for such purpose by applicable Legal Requirements) for the purpose of owning, managing and Maintaining the Sub-Association Common Property. Any and all assessments imposed upon the Members of the Sub-Association and in addition to any and all assessments imposed upon the same such Members of the Master Association by the Master Declaration.

- (v) "Sub-Association Common Property or Sub-Association Common Area" (the terms being used interchangeably herein) is defined as all real property and Improvements thereon owned by the Association for the use, enjoyment and benefit of the Members, and all rights in and to all easements in or on real property together with all associated Improvements in or on such easements granted to or reserved by or on behalf of the Association (or by or on behalf of the Declarant for later transfer or assignment to the Association) for the enjoyment or benefit of its Members. Sub-Association Common Property typically will be established by an instrument or plat recorded in the Registry, and identified in such instrument as "Sub-Association Common Area", "Sub-Association Common Property", "Sub-Association Private Street", "Sub-Association Private Open Space", "Sub-Association Common Open Space", "Sub-Association Greenway", "Sub-Association Open Space", "Sub-Association Buffer", "Sub-Association Trail", or some other similarly descriptive term. Sub-Association Common Property also includes all "Landscape Sub-Association easements" and "Sign Sub-Association Easements" as defined herein. Neighborhood Common Property also includes all Limited Sub-Association Common Property, which is a sub-classification of Neighborhood Common Property.

Sub-Association Common Property or Sub-Association Common Area also shall include all property from time to time included in the definition of "Common areas" contained in Section 10-3003 of the Raleigh City Code or in any replacement section of the Raleigh City Code. At the time of the execution of this Declaration, Section 10-3003 defines "Common areas" as "Property intended for the use and benefit of the residents of a particular development; common areas include (1) any private streets, (2) any storm water device including an impoundment area that serves more than one (1) individual Lot unless otherwise provided by covenants approved by the City Attorney or Deputy Attorney, (3) any utility line located outside public street rights-of-way and public utility easements, and not serving an individual Lot, (4) any site or facility designated on any recorded plat or in any declaration of covenant, and (5) any City Code required shared facility or open space."

- (w) "Subdivision Plan" is defined as the most current development plan approved by the City of Raleigh, including a subdivision plan or cluster development plan for the applicable portion of The Properties governed by this Sub-Association. When two or more subdivision plans are approved for the same portion of The Properties, the most current and most specific plan controls.

- (x) "The Properties" is defined as the Existing Property governed by this Sub-Association, together with all Additional Property that may be annexed.
- (y) "Winchester Subdivision" is defined as the real property in Wake County, North Carolina, which is now or in the future a part of the Declaration for Winchester Subdivision, recorded in Book 5992, Page 609 and all amendments thereto.

ARTICLE II

PROPERTIES, ANNEXATION AND WITHDRAWAL

Section 1. Property Made Subject to Declaration. The Property described on Exhibit A is hereby made subject to this Declaration and the Existing Property shall be owned, held, leased, transferred, sold, mortgaged and/or conveyed by Declarant, the Association and each Owner subject to this Declaration and the controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens set forth in this Declaration and the Master Declaration.

Section 2. Declarant Annexation/Removal of Property. If Declarant becomes the owner of any additional property during the Declarant Control Period, which it desires to add to the scheme of this Declaration ("Additional Property"), it may do so by filing of record a Supplemental Declaration (herein so called) which shall extend the scheme of this Declaration to such Additional Property; provided, however, that such Supplemental Declaration as applied to the Additional Property covered thereby, may include such ~~specific additional controls, covenants, conditions, restrictions, easements, development~~ guidelines, charges and liens as may be set forth in such Supplemental Declaration. Declarant reserves the right to annex other land Contiguous to the land subject to this Declaration. Pursuant to this section, Article II, 2, all annexations undertaken must be undertaken on or before December 31, 2010 and must be approved by the City of Raleigh.

Section 3. Annexation of Property by Others. If a person or entity other than Declarant desires to add property to the scheme of this Declaration, such property may only be added with the assent of two-thirds (2/3) of the votes of each class of Members.

Section 4. Contents of Supplemental Declaration. Each Supplemental Declaration shall set forth the controls, covenants, conditions, restrictions, ~~easements, development~~ guidelines, charges and liens to which the Additional Property covered thereby shall be subject. Such controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens may contain additions, deletions and modifications from those contained in this Declaration, as the parties subjecting such Additional Property to the scheme of this Declaration may determine, which provisions may be more, but not less, restrictive than the provisions of the Declaration; provided if such party is other than Declarant, as a condition to such party's right to so impose such additions, deletions or modifications, such party must obtain the prior written consent thereto of Declarant

during the Declarant Control Period and the Association, acting through its Board. In no event, shall such Supplemental Declaration revoke, modify or add to the controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens established by this Declaration or a previously filed Supplemental Declaration as it applies or they apply to the Property or to previously added Additional Property except as provided in Section 5 of this Article. All Sub-Association Common Properties contained in Additional Property will be conveyed to the Association in conformity with Article II, Section 6 and all Common Properties contained in Additional Property will be conveyed to the Master Association in conformity with the Master Declaration. All Supplemental Declarations shall be approved by the Raleigh City Attorney or his deputy, if required, prior to its recordation.

Section 5. Merger or Consolidation. Upon a merger or consolidation of the Association with another association which is a nonprofit corporation composed of homeowners, the properties, rights and obligations of the Association may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the property, rights and obligations of the Association as the surviving corporation pursuant to a merger. The surviving or consolidated association shall be considered the Association and shall administer the terms and provisions of this Declaration and any applicable Supplemental Declarations, if any, affecting the portions of the Property in the jurisdiction of such Association, together with the covenants and restrictions established upon any other properties, as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the terms and provisions of this Declaration or any Supplemental Declaration pertaining to the Property or any portion thereof except as specifically provided in this Declaration. No merger or consolidation shall become effective without the consent of the Raleigh City Attorney or his deputy.

Section 6. Title to Common Area. The Declarant hereby covenants, for itself, its successors and assigns that it shall convey fee simple title to the Sub-Association Common Area shown on the map recorded in Book of Maps 2001, Page 390, Wake County Registry, to the Association, free and clear of all encumbrances and liens, prior to the conveyance of the first Lot, except utility, greenway and drainage easements and easements to governmental authorities. Similarly, the Declarant and any other person or legal entity adding Additional Properties to the Declaration will convey to the Association Sub-Association Common Areas which are parts of the Property as those portions are annexed in the future until all Sub-Association Common Areas, as shown on plats approved by the City of Raleigh have been conveyed to the Association.

ARTICLE III - MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a Member of the Association. The foregoing is not

intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one Membership per Lot. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for Membership. The Board of Directors may make reasonable rules as to proof of ownership of a Lot.

ARTICLE IV - VOTING RIGHTS

Section 1. The Association shall have two classes of voting Membership and fractional voting shall not be permitted.

Class A. Class A Members shall be all those Owners of Lots with the exception of the Declarant during the Declarant Control Period as defined in Article I. Class A Members shall be entitled to one vote for each Lot in which they hold the interest required for Membership by Article III. When more than one person holds such interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot, but fractional voting shall be prohibited.

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

(a) when the total votes outstanding in Class A Membership equal the total votes outstanding in Class B Membership, but provided that the Class B Membership shall be reinstated if thereafter and before the time stated in Subparagraph (b) below, Additional Property are annexed to the Properties as provided for in Article II, Section 2 above, and shall continue as long as the total number of Class B Member votes exceeds the total number of Class A Member votes.

(b) on December 31, 2010.

(c) On the date specified by the Declarant in a written notice to the Association surrendering its Class B privileges.

Upon the termination of Class B Membership, the Declarant shall become a Class A Member.

Section 2. Voting Right Suspension. The right of any Member to vote may be suspended by the Board of Directors for just cause pursuant to its rules and regulations and for any period during which any assessment of a Member remains unpaid according to the provisions of Article IV, Section 8 of the By-Laws.

ARTICLE V - PROPERTY RIGHTS

Section 1. **Members' Easements of Enjoyment.** Every Member shall have a right of use and easement of enjoyment in and to the Sub-Association Common Area (including access, ingress, and egress to and from public streets and walkways) and such easement shall be appurtenant to and shall pass with the title to every assessed Lot, subject to the following provisions:

(a) The right of the Association, in accordance with its Articles and Bylaws and with the assent of two-thirds (2/3) or more of the votes cast by the Members of each Class Membership present at a duly called meeting of the Association to borrow money for the purpose of improving the Sub-Association Common Area and facilities and in aid thereof to mortgage said property unless prohibited by law, and the rights of such mortgagee in said properties shall be subordinate to the rights of the homeowners hereunder;

(b) The right of the Association to dedicate or transfer all or any part of the Sub-Association 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 at a duly called meeting; provided, however, that no conveyance of Sub-Association Neighborhood Common Area shall deprive any Member of the full use thereof. No such dedication or transfer shall be effective unless an instrument signed by Members entitled to cast two-thirds (2/3) or more of the votes of the Class A Membership and two-thirds (2/3) of the votes of the Class B or more Membership, if any, has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action to be taken at said duly called meeting is sent to every Member not less than 10 days nor more than 60 days in advance.

(c) The right of the Sub-Association to transfer portions of the Sub-Association Common Area to the Declarant or Builder under circumstances whereby the Declarant or Builder has inadvertently placed Lot or constructed a structure which encroaches into the Sub-Association Common Area. In such cases the Declarant or Builder shall deed back to the Association an equal amount of Sub-Association Common Area. The real property so acquired by the Association shall be a part of the Sub-Association or Membership, shall be released from any provisions of the Declaration except those applicable to the Sub-Association Common area. The portion of the Sub-association Common Area so acquired by Declarant or a Member, without further act of the Association or Membership, shall cease to be Sub-Association Common area and shall be subject to those provisions of the Declaration that were applicable to the real property conveyed to the Association by the Member, Declarant or Builder.

(d) Subject to the applicable Legal Requirements of any government, the right of the Association to exchange portions of the Sub-Association Common Property for other

land, provided that : (i) no such transfer shall reduce the portion of the Sub-Association Common Property that constitutes "open space" below the minimum amount of "open space" required by the City of Raleigh; (ii) the Planning Director of the City of Raleigh approves any boundary line adjustment; (iii) any boundary line adjustment is approved by the Owners of all portion of The Properties affected by the adjustment; (iv) each portion of the Properties previously Contiguous to Sub-Association Common Property (excluding easements) remains Contiguous to Sub-Association Common Property, unless otherwise approved by the Owner thereof; (v) written notice of the proposed is sent to every Member not less than twenty days and not more than sixty days in advance; (vi) the exchanged Properties and other consideration are of like value and utility; and (vii) any conveyance of real property to the Association must be free and clear of all encumbrances except for this Declaration, the Master Declaration, and any applicable Supplemental Declaration or Subdivision Declaration, greenway easements, and easements for utilities and storm water drainage. At the time of the recordation of this Declaration, the Raleigh city code requirements applicable to exchanges of Sub-Association Common Property are contained in Section 10-3073(a) (2). The real property so acquired by the Association shall be a part of the Sub-Association Common Area so acquired by Declarant or a Member, without further act of the Association or Membership, shall cease to be Sub-Association Common Area and shall be subject to those provisions of the Declaration that were applicable to the real property conveyed to the Association by the Member.

The Association, without the consent of the Members, except as required by the Raleigh City Code, may exchange portions of the Sub-Association Common Property for any one or more of the following purposes: (i) to eliminate unintentional encroachments of Improvements or easements; (ii) to correct any building or other setback violations; (iii) to adjust Lot or Un-subdivided Land boundary lines, and (iv) as otherwise determined by the Board to facilitate the orderly subdivision and development of The Properties, subject to the following: (I) no such transfer shall reduce the portion of the Sub-Association Common Property that constitutes "open space" below the minimum amount of "open space" required by the City of Raleigh; (ii) the Planning Director of the City of Raleigh approves any boundary line adjustment; (iii) any boundary line adjustment is approved by the Owners of all portions of The Properties affected by the adjustment; (iv) each portion of The Properties previously contiguous to Sub-Association Common Property (excluding easements) remains contiguous to Sub-Association Common Property, unless otherwise approved by the Owner thereof, and (v) any conveyance of real property to the Association must be free and clear of all encumbrances except for this declaration and any applicable Supplemental Declaration or Subdivision Declaration, street rights of way or access easements, greenway easements, and easements for utilities and storm water drainage. At the time of the recordation of this declaration, the Raleigh City Code requirements applicable to exchanges of Sub-Association Common Property are contained in Section 10-3073(a)(2).

(e) The right of the Association to prohibit boats, trailers, campers, motor homes, limousines, trucks, tractors or similar personal property owned by a Member, his guests, family Members or tenants to be parked within the right of way of any public or private

street in or adjacent to the Property; nor shall any of these objects be parked on the Properties except in an enclosed garage, or in areas if any designated by the Association or Master Association. Members shall keep their garage doors closed at all times excepting ingress and egress into and out of said garage. The Association shall have the right to adopt appropriate rules for the temporary parking of these items on the Properties.

(f) The right of the Association to take such steps as are reasonably necessary to protect the Sub-Association Common Properties against foreclosure.

(g) The right of the Association to prescribe and enforce regulations governing the use and maintenance of the Sub-Association Common Property.

(h) Subject to applicable legal requirements of any government, the right of the Association to change fees for use of recreational facilities located on Sub-Association Common Property.

Section 2. Delegation of Use. Any Member may delegate in accordance with the By-Laws of the Association, his right to enjoyment to the Sub-Association Common Properties and facilities to the member of his family, lessees, guest and contract purchasers who reside in such Members' Dwelling.

ARTICLE VI

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments.

The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

1. annual assessments or charges, and

2. special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs, and reasonable attorneys fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, cost and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for the delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purposes of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the

residents of the Property and in particular for the acquisition, improvement and maintenance of properties, including the maintenance, repair and reconstruction of any easements situated on the Sub-Association Common Area required by the City of Raleigh. Assessments are also to be used for services and facilities devoted to this purpose and related to the exterior maintenance of the dwellings situated upon the Properties or for the use and enjoyment of the Sub-Association Common Area, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes and public assessments assessed against the Sub-Association Common Area, if any, and the payment of any other Sub-Association Common Expenses.

Section 3. Exterior Maintenance and Exclusions. In addition to maintenance of the Sub-Association Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replace and care of roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, original fences, exterior post lights (excluding electricity therefor), and other exterior improvements. Such exterior maintenance shall not include glass surfaces, or the repair or reconstruction of any improvements on any Lot, the cost of which repair or reconstruction would be covered by casualty insurance, whether or not a policy of casualty insurance is in effect.

In addition to those items excluded from maintenance and repairs by the Association hereinabove described, the maintenance responsibility of the Association shall not include garage doors and all other doors of whatever nature and wherever located, windows, window screens, decks and stairs and driveways in their entirety.

(As a matter of information to future Members of this Association, the developers wish to make it known that it is a part of the original plan of development to construct a variety of dwellings with a variety of exteriors for the good of the entire subdivision. Some dwellings will require more maintenance than others because of the types of exterior exposures. Nevertheless, in order to avoid monotony and in order to achieve a harmony of design and textures, all of those connected with the conception, design, construction and financing of this subdivision as originally planned, are in accord in their belief that all Members of the Association will be benefited by the variety of exteriors and, therefore, the Association should provide exterior maintenance and make a uniform rate of charge without regard to the actual cost of maintenance of each dwelling.)

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, or guests, contractors or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such lot is subject.

Section 4. Maximum Annual Assessments. The maximum annual assessment for the calendar year beginning January 1, 2001, and for successive calendar years thereafter shall be established by the Board of Directors subject to this Article VI. Within thirty

(30) days after adoption of the yearly budget, the Board shall provide to all Owners a summary of the budget and a notice of the meeting to consider ratification of the budget. The Board shall set a date for a meeting of the Owners to consider ratification of the budget, such meeting to be held not less than ten (10) nor more than sixty (60) days after mailing of the summary and notice. A quorum need not be present at such meeting, and the budget is ratified unless at the meeting the Owners entitled to exercise fifty-one (51%) of the votes in the Association reject the budget. In no event may the Board or membership of the Association decrease the amount of the annual assessment for any calendar year from the amount of the annual assessment for the previous calendar year.

Section 5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the costs of construction or reconstruction, unexpected repair, or replacement of a described capital improvement upon the Sub-Association Common Area, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which, setting forth the purpose of the meeting, shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. The amount of the proposed assessment need not be stated.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and Lots in Use, on a per Lot and per Lot in Use basis, and may be collected on either a monthly, quarterly, semi-annual or annual basis.

Section 7. Quorum for any Action authorized under Sections 4 or 5. At the first meeting called, as provided in Section 4 or 5 of this Article, the presence at the meeting of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of Membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, subsequent meetings may be called, subject to the notice requirement set forth in Sections 4 or 5, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the next preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the next preceding meeting.

Section 8. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided herein for Lots in Use may be paid in installments and the payment of such shall commence as to each Lot in Use on the first day of the first month following the date on which the first lot has become a Lot in Use. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto at least fifteen (15) days in advance of each annual assessment period. The due dates shall

be established by the Board of Directors. The Association, upon demand at any time, shall furnish a certificate in writing signed by an officer of the Association or by its management company, setting forth whether the assessments on a specified lot have been paid. A reasonable charge may be made for providing this information. A properly executed certificate of the Association or its Management Company as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

The annual assessments for Lots not in use shall begin on the first day of the month following the date that said Lot has been recorded in Wake County Registry.

Section 9. Collection of Assessments; Due Dates; Penalties for Late Payment.

- (a) The Board has the authority at any time and from time to time to establish the due dates, interest rate on unpaid amounts, and penalties for late payment of annual and special assessments and other charges. In the event of default in the timely payment of any assessment or other charge, the defaulting Owner shall be obligated to pay interest on the unpaid balance thereof from and after the date at the lesser of (i) ten percent (10%) per annum, or (ii) the highest lawful rate under applicable legal requirements, together with all costs and expenses of collection, including reasonable attorney's fees. The Board shall commence the foreclosure of the lien against any property for which assessments are not paid within twenty-five days (25) after due date or to bring an action at law against the Owner personally obligated to pay the same.
- (b) The Board may at any time and from time to time authorize a management company or other billing agent, on behalf of the Association, to bill and collect all assessments and other charges payable under this Declaration.

Section 10. Special Assessments for Improvements, Additions, and Emergencies. In addition to the annual assessments authorized herein, and subject to the other requirements of this Declaration, at any time and from time to time the Association may levy a special assessment for the purpose of defraying, in whole or in part, the costs or expenses of any one or more of the following.

- (1) Construction, reconstruction, alteration, repair replacement or removal of a capital improvement in or on the Common or Limited Property, including private streets, fixtures and personal property related thereto;
- (2) Sub-Association Common Property or Limited Neighborhood Common Property;
- (3) To provide for the necessary facilities and equipment to enable the Association to perform the functions and offer the services required or authorized herein;

- (4) To repay any loan made to the Association to enable it to perform the functions and provide the services required or authorized herein.
- (5) In the event of an Emergency, a special assessment may be necessary when, in the sole determination of the Board of Directors, there is potential danger or damage to persons or property. Such emergency special assessments may be utilized to pay for preventative, protective, stabilizing or remedial construction, reconstruction, repairs or replacements. Events justifying emergency special Assessments include, but are not limited to hurricanes, floods tornadoes, fires or other naturally occurring phenomena. Emergency special Assessments shall be collectible from all Subdivision Association Members in such manner as the Board of Directors shall determine.
- (6) The acquisition of any properties pursuant to Section 12 of this Article.

Section 11. Fine Assessments. The Board may impose fines against any Lot and such fines shall be treated as an Assessment otherwise due to the Association, and as such will be a lien against the Owner's Residential Unit or Lot. Fines shall be paid not later than thirty (30) days after notice of the imposition or assessment of the fines. These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; however, any fine paid by the offending Owner(s) shall be deducted from or offset against any damages that the Association may otherwise be entitled to recover by law from such Owner. Fines shall be as follows:

- (a) First non-compliance or violation: a fine not in excess of Fifty Dollars (\$50.00).
- (b) Second non-compliance or violation: a fine not in excess of One Hundred Dollars (\$100.00).
- (c) Third and subsequent non-compliance, or violation or violations that are of a continuing nature: a fine not in excess of One Hundred Dollars (\$100.00) for each week of continued violation or non-compliance.

Section 12. Effect of Nonpayment of Assessment. If an assessment is not paid when due, the Association may bring an action at law against the Owner personally or foreclose the lien against the Lot, and there shall be added to the amount of such assessment the costs of collection, including reasonable attorneys' fees and expenses, and interest as established by the Board. No Owner may waive or escape liability for the assessments provided for herein by non-use of the Sub-Association Common Properties or abandonment of his Lot. Each Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Association, or its agents or assigns, the right and power to bring all actions against such Owner or Member personally liable for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or a deed of trust lien on real property and such Owner hereby expressly grants to the Association a power of sale in connection with foreclosure of said Lien. The Lien provided for in this action shall be in favor of the Association and shall be for the benefit of all other Owners. The remedies against a defaulting Owner and such Owner's Lot are cumulative and not mutually exclusive, and

the Association may seek none or any one or more of such remedies, separately or simultaneously as deemed appropriate by the Board.

Section 13. Subordination of the Lien To Mortgages. The lien of the assessments provided for herein on any Lot shall be subordinate to the lien of any first mortgage on such Lot. The transfer of any lot pursuant to such mortgage foreclosure or any proceeding in lieu thereof, 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 liability for any assessments thereafter becoming due or from the lien thereof.

Section 14. Exempt Property. Any portion of the Property dedicated to, and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein, except no land or improvements devoted to dwelling use shall be exempt from said assessment.

Section 15. Omission of Assessments. The omission of the Board, before the expiration of any year, to fix the assessments hereunder for that or the next year, shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay the assessments, or any installment thereof for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment is fixed.

ARTICLE VII - PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Property and placed on the dividing line between the Lots and all reconstruction or extensions of such walls shall constitute party walls, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls, lateral support in below ground construction and of liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions. The Association shall have the option to require all Members to utilize the same insurance company for fire and

other casualty insurance. In such event, every Member shall be responsible for payment of the deductible required under said policy of insurance.

Section 4. The owner of any Lot may construct, reconstruct, repair, or extend a party wall in any direction (subject to and within the limitations of architectural control and other limitations of these Covenants and the Master Association) with the right to go upon the adjoining Lot to the extent reasonably necessary to perform such construction. Such construction shall be done expeditiously. Upon completion of such construction, such owner shall restore the adjoining Lot to as near the same condition which prevailed on it before the commencement of such construction as is reasonably practicable.

Section 5. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 6. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 7. Certification by Adjoining Property Owner That No Contribution is Due. If any Owner desires to sell his property, he may, in order to assure a prospective purchaser that no adjoining property owner has a right of contribution as provided in this Article VII, request of the adjoining property owner or property owners a certificate that no contribution exists, whereupon it shall be the duty of each adjoining property owner to certify whether or not a claim of contribution exists.

Section 8. Arbitration. In the event of any dispute arising concerning party wall, or under the provisions of this Article, such dispute shall be settled by arbitration as provided by the laws of North Carolina, relating to arbitration as then existing.

ARTICLE VIII - USE RESTRICTIONS

Section 1. Rules and Regulations. The Board of Directors of the Association shall have the power to formulate, amend, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the front yard space of each Lot and the Sub-Association Common Area. Such rules and regulations, along with all policy resolutions and policy actions taken by the Board of Directors, shall be recorded in a Book of Resolutions which shall be maintained in a place convenient to the Owners and available to them for inspection during normal business hours.

Section 2. Use of Property. Each building, and the Sub-Association Common Area facilities shall be for the following uses and subject to the following restrictions and, in addition, to those set forth in the Bylaws:

(a) All buildings and the Sub-Association Common Area and facilities shall be used for residential and related common purposes, except that the Declarant may use one or more buildings for offices and/or models for sales purposes consistent with the Code of Ordinances of the City of Raleigh. Any units used as models shall be subject to payment of twenty five (25%) percent of the regular dues established by the Board.

(b) No waste shall be committed on any portion of the Sub-Association Common Area and facilities.

(c) 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, orders, 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 of the Association, whichever shall have the obligation to maintain or repair such portions of the Property.

(d) Nothing shall be done which will impair the structural integrity of any building, or portion of the Sub-Association Common Area and facilities or which would impair or alter the exterior of any building or portion thereof, except in the manner provided in this Declaration.

(e) No industry, business, trade, occupation or profession of any kind, whether commercial or otherwise, shall be conducted, maintained or permitted on any part of the Property, except that the Declarant or its agents may use any unsold buildings for sales or display purposes. The purpose of this prohibition is to maintain the residential nature of the neighborhood.

(f) No owner shall display, or cause or allow to be displayed, to public view any sign, placard, poster, billboard or identifying name or number upon any building or any portion of the Sub-Association Common Area and facilities, except as allowed by the Association pursuant to its Bylaws or as required by the ordinances of the City of Raleigh; provided, however, that the Declarant may authorize "For Sale" or "For Rent" signs the size and shape of which is commonly displayed by real estate firms in Raleigh on any unsold or unoccupied dwellings in suitable places on the Sub-Association Common Area; provided, however, that during the development of the Property and the marketing thereof, the Declarant or its agents may maintain a sales office and may erect or display such signs as the Declarant deems appropriate as aids to such development marketing, provided that such signs do not violate any applicable laws.

(g) No person shall undertake, cause or allow any alteration or construction in or upon any portions of the Sub-Association Common Area and facilities except at the direction or with the express written consent of the Association.

(h) The Sub-Association Common Area and facilities shall be used only for the purposes for which they are intended and reasonably suited and which are incident to the

use and occupancy of the dwelling, subject to any rules and regulations that may be adopted by the Association pursuant to its Bylaws.

Section 3. Quiet Enjoyment. No obnoxious or offensive activity shall be carried on upon the Property, nor shall anything be done which may be or may become a nuisance or annoyance to residents within the Property. Development and construction activities by the Declarant and construction activities by Builders are permitted exceptions.

ARTICLE IX - EASEMENTS

Section 1. Walks, Drives, Parking Areas, and Utilities. All of the Property, including Lots and Sub-Association Common Area, shall be subject to easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines, cable television lines, and other public utilities as shall be established prior to or subsequent to subjecting the Property to this Declaration by the Declarant, and the Association shall have the power and authority to grant and to establish in, over, upon, and across the Sub-Association Common Area conveyed to it such further easements as are requisite for the convenient use and enjoyment of the Property.

Section 2. Easement for Government Agencies. An easement is hereby established over the Sub-Association Common Area including private streets for the benefit of applicable governmental agencies, public utility companies and public service agencies as necessary for setting, removing and reading of meters, replacing and maintaining water and sewer facilities, electrical, telephone, gas, cable television lines, fire fighting, garbage collection, postal delivery, emergency and rescue activities and law enforcement activities.

Section 3. 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 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. Within such easements, no plantings of shrubs and trees or the erection of structures, including fences, shall be allowed except as approved by the Board.

ARTICLE X - RIGHTS OF INSTITUTIONAL LENDERS

Section 1. Rights Reserved to Institutional Lenders.

"Institutional Lender" or "Institutional Lenders" as the terms are used herein, shall mean and refer to banks, savings and loan associations, insurance companies, other

reputable mortgage lenders and insurers of first mortgages. So long as any Institutional Lender or Institutional Lenders shall hold any first mortgage upon any Lot, or shall be the owner of any Lot, such Institutional Lender or Institutional Lenders shall have the following rights:

(a) To be furnished with at least one copy of the Annual Financial Statement and Report of the Association, prepared by an independent Certified Public Accountant designated by the Association, including a detailed statement of annual carrying charges or income collected and operating expenses.

(b) To be given notice by the Association of the call of any meeting of the Membership to be held for the purpose of considering any proposed Amendment to the Declaration, or the Articles of Incorporation and Bylaws of the Association, which notice shall state the nature of the amendment being proposed, and to be given permission to designate a representative to attend all such meetings.

(c) To be given notice of default in the payment of assessments by any Owner of a Lot encumbered by a mortgage held by the Institutional Lender or Institutional Lenders, such notice to be given in writing and to be sent to the principal office of such Institutional Lender or Institutional Lenders, or to the place which it or they may designate in writing to the Association.

(d) To inspect the books and records of the Association during normal business hours.

(e) To be given notice by the Association of any substantial damage to any part of the Sub-Association Common Area.

(f) To be given notice by the Association if any portion of the Sub-Association Common Area is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority.

Whenever any Institutional Lender desires the benefits of the provisions of this section, such lender shall serve written notice of such fact upon the Association by registered mail or certified mail addressed to the Association and sent to its address stated herein identifying the Lot upon which any such Institutional Lender or Institutional Lenders hold any mortgage or mortgages or identifying any Lot owned by them, or any of them, together with sufficient pertinent facts to identify any mortgage or mortgages which may be held by it or them, and which notice shall designate the place to which notices are to be given by the Association to such Institutional Lender.

ARTICLE XI - GENERAL PROVISIONS

Section 1. 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 to be erected in order to accomplish this, this shall be done at the expense of the Association as a common expense.

Responsibility for Maintenance of Private Streets and Driveways. The maintenance responsibility of the private streets and driveways as shown on the aforesaid recorded map and any subsequent recorded maps made subject to prior Declarations shall rest with the Association and the occupants in that such private streets will not be constructed to the minimum standards sufficient to allow their inclusion for public maintenance.

In no case shall the municipality 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 the lack of access to such areas or any other factor within the control of the developer, Association, or occupants.

Section 2. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. 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 3. Insurance. The Board of Directors shall procure and maintain adequate liability and hazard insurance on Property owned by the Association, and also Directors and Officers fidelity coverage. Liability insurance shall be procured and maintained in the minimum amount of \$1,000,000.00.

Section 4. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 5. FHA/VA Approval. As long as there is a Class B Membership, the following actions will require the prior approval of the Federal Housing Administration, the Veterans Administration or the Federal National Mortgage Association; Annexation of Additional Properties, mergers or consolidations, mortgaging of Sub-Association Common Properties, dedication of Sub-Association Common Properties, and dissolution and amendment of this Declaration. Notwithstanding any provision in this instrument to the contrary, as long as there is a Class B Membership, and if Declarant desires to qualify sections of this subdivision for Federal Housing Administration, Veterans Administration, Fannie Mae or other similar agencies (but not otherwise), the following actions will require the prior approval of Federal Housing Administration, Veterans Administration, Fannie Mae or other similar agencies: Annexation of additional properties, dedication of Sub-Association Common Areas, exchange of Sub-Association Common Area for other portions of the Properties, and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 6. Amendment. The covenants, conditions and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by the owners of not less than seventy-five percent (75%) of the Lots, and thereafter by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots; provided, however, that the Board of Directors may amend this declaration, without the consent of the Owners, to correct any obvious error or inconsistency in drafting, typing or reproduction. All amendments shall be certified as an official act of the Association and shall forthwith be recorded in the Wake County Registry. All amendments shall become effective upon recordation.

Section 7. If any amendment to these covenants, conditions and restrictions is executed, each 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 by the Owners of the required number of Lots. (For this purpose, the Board may rely on its roster of Members and shall not be required to cause any title to any Lot to be examined);

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

**CERTIFICATION OF VALIDITY OF AMENDMENT TO COVENANTS,
CONDITIONS AND RESTRICTIONS OF RENAISSANCE AT WINCHESTER**

By authority of its Board of Directors the undersigned officers of Renaissance Townhomes Association, Inc. hereby certifies that the foregoing instrument has been executed by the owners of _____ percent of the Lots of Renaissance at Winchester and is, therefore, a valid amendment to the existing Covenants, Conditions and Restrictions of Renaissance at Winchester.

RENAISSANCE TOWNHOMES ASSOCIATION, INC.

BY: Thomas P. H. [Signature]
PRESIDENT

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

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

Notwithstanding the foregoing, no amendment shall be effective unless approved by the Raleigh City Attorney or his or her deputy; if required provided, however, that if any amendment is submitted to said City Attorney, if required and is neither approved or disapproved within thirty (30) days from the date of submission, it shall be conclusively presumed that the City Attorney has approved it.

Section 8. Amendment of Declaration without approval of Owners. The Declarant, without the consent or approval of any other Owner, shall have the right to amend this Declaration to conform to the requirements of any law or governmental agency having legal jurisdiction over the Property or to qualify the Property or any Lots and improvements thereon for mortgage or improvement loans made, insured or guaranteed by a governmental of any corporation or agency belonging to, sponsored by, or under the substantial control of, the United States Government or the State of North Carolina, regarding purchase or sale of such lots and improvements, or mortgage interest therein, as well as any other law or regulation relating to the control of the Property, including, without limitation, ecological controls, construction standards, aesthetics, and matters affecting the public health, safety and general welfare. A letter from an official of any such corporation, or agency, including, without limitation, the Veterans Administration, U.S. Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, Government National Mortgage Corporation, or the Federal National Mortgage Association, requesting or suggesting an amendment necessary to comply with the requirements of such corporation or agency shall be sufficient evidence of the approval of such corporation or agency, provided that the changes made substantially conform to such request or suggestion.

No amendment made pursuant to this Section shall be effective until approved by the Raleigh City Attorney or his or her deputy, if required duly recorded in the Register of Deeds of Wake County.

Section 9. Amendment to Achieve Tax-Exempt Status. The Declarant, for so long as it shall retain control of the Association, and, thereafter, the Board of Directors, may amend this Declaration as shall be necessary, in its opinion, and without the consent of any owner, to qualify the Association or the Property, or any portion thereof, for tax-

exempt status. Such amendment shall become effective upon the date of its recordation in the Wake County Registry.

IN WITNESS WHEREOF, each person who is executing this instrument in an individual capacity has adopted the word "SEAL" beside his or signature below as his or her seal for the execution hereof, each corporate party who is executing this instrument has caused this instrument to be signed in its corporate name by its duly authorized officers and its corporate seal to be affixed hereto, all by authority of its Board of Directors duly given, each limited liability company party who is executing this Declaration has adopted the word "SEAL" appearing beside its name below as its seal for the execution of this Declaration, and has caused this Declaration to be executed in its company name by its duly authorized manager or general manager, and each general or limited partnership party who is executing this instrument has adopted the word "SEAL" appearing beside its name below as its seal for the execution of this Declaration, and has caused this Declaration to be executed in its partnership name by its duly authorized general partner or managing general partner, on the dates indicated in the respective acknowledgements of such signatures, the last date of which shall be the date of execution of this Declaration.

VALLEY STREAM PARTNERS, LLC

BY: [Signature] (SEAL)
John P. Gwynn, Member/Manager

BY: [Signature] (SEAL)
Thomas P. Holden, Member/Manager

NORTH CAROLINA

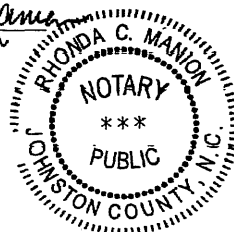
~~Johnston~~
WARE COUNTY

I, Rhonda C. Manion, a Notary Public of the County and State aforesaid, do hereby certify that John P. Gwynn, Member/Manager of Valley Stream Partners, LLC, a limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of

WITNESS my hand and notarial stamp or seal, this 9 day of August, 2001.

Rhonda C. Manion
NOTARY PUBLIC

My Commission Expires: 6-14-2005



NORTH CAROLINA

~~Johnston~~~~WAKE~~ COUNTY

I, Rhonda C. Manion, a Notary Public of the County and State
aforesaid, do hereby certify that, Thomas P. Holden, Member/Manager of Valley Stream
Partners, LLC., a limited liability company, personally appeared before me this day and
acknowledged the due execution of the foregoing instrument on behalf of

WITNESS my hand and notarial stamp or seal, this 9 day of
August, 2001.

Rhonda C. Manion
NOTARY PUBLIC

My Commission Expires: 6-19-2005

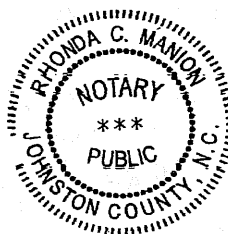


EXHIBIT A

Being all of Tract 2, containing 3.6157 acres according to plat of survey prepared by John A. Edwards and Company recorded in Book of Maps 1997, Page 1379, Wake County Registry.

Laura M Riddick
Register of Deeds
Wake County, NC



Book : 009036 Page : 00391 - 00418

Yellow probate sheet is a vital part of your recorded document.
Please retain with original document and submit for rerecording.



Wake County Register of Deeds
Laura M. Riddick
Register of Deeds

North Carolina - Wake County

The foregoing certificate 5 of Rhonda C. Manion

____ Notary(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.

Laura M. Riddick, Register of Deeds

By: Wendy Parrish

Assistant/Deputy Register of Deeds

This Customer Group

____ # of Time Stamps Needed

This Document

28 New Time Stamp
of Pages