

BK 1228PG0337

**DECLARATION OF
COVENANTS AND CONDITIONS
FOR FARMINGTON OAKS
FRANKLIN COUNTY, NORTH CAROLINA**

BK 1228PG0338

Article I.	DEFINITIONS	Page 5
Article II.	PROPERTY RIGHTS.....	6
Section 1	Owner's Easements of Enjoyment	
Section 2	Delegation of Use	
Section 3	Utility Easements	
Section 4	Public Easements	
Section 5	Declarant's Easement Over Lots	
Section 6	Association's Right of Entry	
Section 7	Access	
Section 8	Survival	
Article III.	MEMBERSHIP AND VOTING RIGHTS.....	7
Article IV	PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONS TO THE PROPERTY.. ..	8
Section 1	Property Subject to Declaration	
Section 2	Additions to the Property	
Section 3	Annexation of Property	
Section 4	Platting	
Section 5	Amendment	
Section 6	Recordation	
Section 7	Merger	
ARTICLE V	FUNCTIONS OF THE ASSOCIATION.....	9
Section 1	Through Board Action	
Section 2	Required Services	
Section 3	Authorized Services	
Section 4	Surface Water Management and Drainage	
Section 5	Actions by Association	
ARTICLE VI	PRIVACY WALLS.....	11
Section 1	Privacy Wall	
Section 2	Maintenance of Privacy Walls	
ARTICLE VII	COVENANT FOR MAINTENANCE ASSESSMENTS.....	11
Section 1	Creation of the Lien and Personal Obligation of Assessments	
Section 2	Purpose of Assessments	
Section 3	Maximum Annual Assessment	
Section 4	Special Assessments for Capital Improvements	
Section 5	Uniform Rate of Assessment	
Section 6	Date of Commencement of Annual Assessments, Due Dates	
Section 7	Effect of Nonpayment of Assessments Remedies of the Association	
Section 8	Assumption of Delinquent Assessments by Successors	
Section 9	Subordination of the Lien to Mortgages	
ARTICLE VIII	ARCHITECTURAL CONTROL	14
Section 10	Architectural Control	

BK 1228PG0339

ARTICLE IX	USE RESTRICTIONS.....	16
Section 1	<u>Single-Family Use</u>	
Section 2	<u>Violation</u>	
Section 3	<u>Dwellings</u>	
Section 4	<u>Mining or Drilling</u>	
Section 5	<u>Antennas, Aerials, Satellite Dishes and Flagpoles</u>	
Section 6	<u>Subdivision or Partition</u>	
Section 7	<u>Casualty Destruction to Improvements</u>	
Section 8	<u>Common Area</u>	
Section 9	<u>Insurance Rates</u>	
Section 10	<u>Pets, Livestock and Poultry</u>	
Section 11	<u>Signs</u>	
Section 12	<u>Garbage Containers, Oil and Gas Tanks, Outdoor Equipment,</u>	
Section 13	<u>Vehicles and Recreational Equipment</u>	
Section 14	<u>Repairs</u>	
Section 15	<u>Prohibited Structures</u>	
Section 16	<u>Above Ground Swimming Pools</u>	
Section 17	<u>Decorative Structures</u>	
Section 18	<u>Nuisances</u>	
Section 19	<u>Clotheslines</u>	
Section 20	<u>Window Air-Conditioners</u>	
Section 21	<u>Window Treatment</u>	
Section 22	<u>Compliance with Documents</u>	
Section 23	<u>Other Restrictions Established by the Association</u>	
Section 24	<u>Common Area</u>	
Section 25	<u>Property Maintenance</u>	
Section 26	<u>No Implied Waiver</u>	
Section 27	<u>Imposition of Fines for Violations</u>	
Section 28	<u>Association Waiver</u>	
Section 29	<u>Rights of Declarant</u>	
ARTICLE X	ENFORCEMENT OF NONMONETARY DEFAULTS.....	22
Section 1	<u>Nonmonetary Defaults</u>	
Section 2	<u>Expenses</u>	
Section 3	<u>Late Fees</u>	
Section 4	<u>No Waiver</u>	
Section 5	<u>Rights Cumulative</u>	
Section 6	<u>Enforcement By or Against the Persons</u>	
Section 7	<u>Certificate as to Default</u>	
ARTICLE XI	INDEMNIFICATION.....	23
Section 1	<u>Indemnification of Officers, Directors or Agents</u>	
ARTICLE XII	GENERAL PROVISIONS.....	24
Section 1	<u>Assignment of Rights and Duties to the Association</u>	
Section 2	<u>Covenants to Run with the Title to the Land</u>	
Section 3	<u>Enforcement</u>	
Section 4	<u>Severability</u>	
Section 5	<u>Amendment</u>	
Section 6	<u>Communication</u>	
Section 7	<u>Notice</u>	
Section 8	<u>Conflict</u>	
Section 9	<u>Usage</u>	
Section 10	<u>Governing Law</u>	
Section 11	<u>FHA/VA Approval</u>	

BK 1228 PG 0340

THIS DECLARATION is made and entered into this 15 day of August 2001 by Homesite Solutions Corporation, a Michigan corporation, hereinafter referred to as "Declarant"

RECITALS:

WHEREAS, the Declarant is the owner of certain property in Franklin County, North Carolina, which is described on Exhibit "A" attached hereto and made a part hereof (hereinafter referred to as the "Property")

WHEREAS, the Declarant intends to develop a single family residential subdivision on the Property to be known as Farmington Oaks

WHEREAS, the Declarant shall encumber the Property with these covenants and restrictions and be bound to these regulations and other Governing Documents (as hereinafter defined)

WHEREAS, in order to insure the enjoyment of such by the residents of the said Lots, and in order to protect and enhance the value of the said Lots, it is desirable to create an association to own, maintain and administer such open spaces, green belts and other facilities, and to administer and enforce the covenants and restrictions imposed by this Declaration on the individually owned properties, and to collect, hold and disburse the charges and assessments provided for in this Declaration, and

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

NOW, THEREFORE, Declarant hereby declares that all of the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof

BK 1228 PG 0341

ARTICLE I
DEFINITIONS

Section 1 "Association" shall mean and refer to Farmington Oaks Homeowners Association, Inc., its successors and assigns

Section 2 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot (as hereinafter defined) which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation

Section 3 "Member" shall mean and refer to every person or entity who is an Owner, as hereinabove described and in being such an Owner comprises the Membership of the Association

Section 4 "Property" shall mean and refer to that certain real property described in the Recitals and such additions thereto as may hereafter be brought within the jurisdiction of the Association

Section 5 "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The Common Area includes, but is not limited to, parking areas, sidewalks, paths, entryways, swale areas, and open areas in the Common Area

Section 6 "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map or plat of the Property with the exception of the Common Area

Section 7 "Declarant" shall mean and refer to Homesite Solutions Corporation, a Michigan corporation, and its successors and assigns. The Declarant may assign all or a portion of its rights hereunder. In the event of a partial assignment, the assignee shall be deemed the Declarant and may exercise such rights of the Declarant specifically assigned to it. Any such assignment may be made on a non-exclusive basis

Section 8 "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, and Restrictions of Farmington Oaks

Section 9 "Person" shall mean and include an individual, corporation, governmental agency, business trust, estate, trust, partnership, association, sole proprietorship, joint venture, two or more persons having a joint or common interest, or any other legal entity

Section 10 "Institutional Lender" shall mean a bank, savings and loan association, insurance company, real estate or mortgage investment trust, pension fund, agency of the United States Government, mortgage banker or company, Federal National Mortgage Association, the Declarant or any affiliate of the Declarant or other lender generally recognized as an institution type lender, which holds a mortgage on one or more of the Lots

BK 1228PG0342

Section 11 "Governing Documents" shall mean and collectively refer to the Declaration and the Articles of Incorporation and Bylaws of the Association

ARTICLE II PROPERTY RIGHTS

Section 1 Owners' Easements of Enjoyment Every Owner shall have a right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title of every Lot, subject to the following provisions

(a) the right of the Association to suspend the voting rights and right to use common area facilities, if any, by an Owner for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations,

(b) the right of the Association to mortgage the Common Area or dedicate transfer all or part of the Common Area to any homeowner association, public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such mortgage, dedication, or transfer shall be effective unless an instrument agreeing to such mortgage, dedication, or transfer approved by two thirds (2/3) of each class of Members has been recorded

Section 2 Delegation of Use Any Owner may delegate, in accordance with the Bylaws, his right or enjoyment to the Common Area and facilities to members of his family, his tenants or contract purchasers who reside on his Lot, but not otherwise

Section 3 Utility Easements Public utilities serving the Property and the Lots, have been, or will be, installed in the Common Area and within or upon the Property for the use, benefit, and service of the Property, the Lots, and all improvements on the Property. A permanent, perpetual, mutual and non-exclusive easement shall exist over, across and into the Property, Lots, and all improvements upon the Property for installation, maintenance, and repair of all utilities for lines, wires, pipes, equipment, and other items necessary for supplying light, heat, air conditioning, water, sewer, power, telephone, any CATV and other utilities or means of communication to the Property, Lots, and the improvements upon the Property. Any and all use of the said utility easements shall be in accordance with the applicable provisions of this Declaration

Section 4 Public Easements Fire, police, health and sanitation, and other public service personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Common Area

Section 5 Declarant's Easement Over Lots For so long as Declarant is the owner of any Lot, the Declarant hereby reserves unto itself the right to grant an easement

BK 1228 PG 0343

to itself or any other entity over each such Lot owned for purposes of ingress and egress, drainage, utility, gas, telephone, cable television, and electrical services

Section 6. Association's Right of Entry The Association's duly authorized representatives or agents shall, at all reasonable times, have and possess a reasonable right of entry and inspection upon the Common Area or any Lot for the purpose of fully and faithfully discharging the duties of the Association. Non-exclusive easements are hereby granted in favor of the Association throughout the Property as may reasonably be necessary for the Association to perform its services required and authorized hereunder, so long as none shall unreasonably interfere with the use of any Lot. Furthermore, an easement is hereby granted in favor of the Association, including its agents and designees, for purposes of carrying out all obligations and/or rights of the Association pursuant to the Declaration, including but not limited to, the functions of the Association contained in Article V hereof. Furthermore, a nonexclusive easement is hereby created over all utility easements and drainage easements located on any Lot, whether now existing or hereafter created, including but not limited to all utility easements and drainage easements contained on the Plat, which easement is in favor of the Association, including its agents and designees, in perpetuity, to utilize for all proper purposes of the Association.

Section 7. Access Declarant reserves unto itself, including its designees from time to time, and hereby grants to the Association and all Owners, including their respective tenants, guests and invitees, perpetual, non-exclusive easements of ingress and egress over and across (i) any sidewalks, access ways, and parking areas constructed on the Common Area from time to time, and (ii) over and across those portions of the Common Area lying adjacent to and between the boundary line(s) of the Lot(s) and the sidewalks, access ways and/or parking areas, as the case may be, which portions of the Common Area are either designated as or necessary for ingress and egress up to the Lot(s), it being the specific intent of the Declarant to hereby grant perpetual, uninterrupted and contiguous access for ingress and egress to and from Lot(s) to and from dedicated rights of way.

Section 8. Survival Any and all easements, licenses, or other rights granted reserved pursuant to this Article shall survive any termination of this Declaration.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1 Every Owner of a Lot, which is subject to assessment, shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2 The Association shall have two classes of voting Membership.

Class A Class A Members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one

BK 1228 PG 0344

person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised by a majority of all such members as they 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 owned. The Class B Membership shall cease and be converted to Class A Membership on the happening of any of the following events, whichever occurs earlier:

- (a) The total votes outstanding in the Class A Membership equals the total votes outstanding in the Class B Membership, or
- (b) The date exactly seven (7) years after the recording of this Declaration, or
- (c) At the election of the Declarant (whereupon the Class A Members shall be obligated to elect the Board and assume control of the Association)

Section 3 General Matters When reference is made herein, or in the Articles of Incorporation, Bylaws, Rules and Regulations, management contracts or otherwise, to a majority or specific percentage of Members, such reference shall be deemed to be reference to a majority or specific percentage of the votes of Members and not of the Members themselves.

ARTICLE IV PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONS TO THE PROPERTY

Section 1 Property Subject to Declaration The Property is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration.

Section 2 Additions to the Property The Declarant and the Association reserve the right to add or cause to be added other real property, not now included within the Property to the Property, and such additional real property shall be subject to the provisions of this Declaration.

Section 3 Annexation of Property Land, may be annexed to the Property with the consent of two-thirds (2/3) of each class of the Members of the Association and with the approval of the Federal Housing Administration and the Veterans Administration as long as there is a Class B membership. Such annexation shall become effective upon the recording of an amendment to this Declaration in the Public Records of Franklin County, North Carolina.

Section 4 Platting As long as there is a Class B membership, the Declarant shall be entitled at any time and from time to time, to plat and/or replat all or any part of the Property and to file subdivision restrictions and/or amendments thereto with respect to any undeveloped portion or portions of the Property without the consent or approval of an Owner.

BK 1228PG0345

Section 5 Amendment: As long as there is a Class B membership, the provisions of this Article cannot be amended without the written consent of the Declarant, and any amendment of this Article without the written consent of the Declarant shall be deemed null and void

Section 6 Recordation Upon each commitment of additional real property to this Declaration, a recordation of such additions shall be made as a supplement to this Declaration in the Official Records of Franklin County, North Carolina, such real property described therein shall be committed to the covenants contained in this Declaration and shall be considered "Property" as fully as though originally designated herein as Property

Section 7 Merger Nothing in these Articles is intended to limit or restrict in any way the Association's rights or ability to merge with any other association as the Board may feel is in the best interests of the Association and its Members. A merger or consolidation of the Association must be approved by two-thirds (2/3) of each class of members of the Association. Upon a merger or consolidation of the Association with another association, all Common Area, rights and obligations shall by operation of law, be transferred to the surviving or consolidated association or, alternatively, the properties, rights and obligations of another association, by operation of law, may be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants established by this Declaration within the Property together with the covenants and restrictions established by any supplement upon any other properties as one scheme. No such merger or consolidation, however, shall cause a revocation, change or addition to the covenants in the Declaration as it pertains to the Property, except as hereinafter provided

ARTICLE V FUNCTIONS OF THE ASSOCIATION

Section 1 Through Board Action The affairs and decisions of the Association shall be conducted and made by the Board of Directors (hereinafter the "Board"), the Members shall only have such power or rights of approval or consent as is expressly specified herein, or in the Association Articles or Bylaws. In the absence of a specific requirement of approval by Members, the Board may act on its own through its proper officers

Section 2 Required Services In addition to those other responsibilities specified in the Association Articles or Bylaws, the Association, or its management company if applicable, shall be required to provide the services as and when deemed necessary and appropriate by the Board and shall have easement rights necessary to perform same

A All maintenance of the Common Area, and all improvements thereon, as and when deemed necessary by the Board

BK 1228 PG 0346

B Maintenance of any and all parking areas, paths and entry features located throughout the Common Area or within any portions of the Property which may now or hereafter be dedicated to the public or to any governmental body (if required by governmental authority)

C Payment of ad valorem and commercial personal property taxes, if applicable, with respect to the Common Area, both prior to and after conveyance of same by Declarant to the Association. This provision for payment of taxes prior to conveyance of legal title is fair in light of the Members' use and benefit of such property by virtue of easements created herein

D Operation of the Common Area in accordance with the Rules and other standards adopted by the Board from time to time, both prior to and after conveyance of same by Declarant to the Association

E Taking any and all actions necessary to enforce all covenants, restrictions and easements affecting the Property and performing any of the functions or services delegated to the Association in any covenants, conditions or restrictions applicable to the Property, or in the Association Articles or Bylaws

F Conducting business of the Association, including arranging for ancillary administrative services such as legal, accounting, and financial, and communication services such as informing Owners of activities, notice of meetings, and other important events

Section 3 Authorized Services The Association shall be authorized, but not required, to provide the following functions and services and shall have easement rights necessary to perform same

A Such other services as are authorized in the Association Articles or Bylaws

B Cleanup, landscaping, maintenance, dredging, water treatment or other care of waterways or riparian obligations, or other property (public or private) adjacent to or near the Property to the extent such care would, in the reasonable determination of the Board, be beneficial to the Property and to the extent that the Association has been granted the right to so care for the affected property by the owner thereof or other person authorized to grant such right, including, but not limited to, any appropriate governmental authority

Section 4 Surface Water Management and Drainage The surface water management and drainage system for the Property is part of one integrated system throughout the community. An easement is hereby created over the Common Area in favor of the Association, including its agents or other designees, for surface water drainage and for the installation and maintenance of the surface water management and drainage system for the Property, provided, however, that such easement shall be subject to improvements constructed within the Property as permitted by controlling governmental authority from time to time. The Association shall maintain the entire surface water

BK 1228 PG 0347

management and drainage system within the Property including, but not limited to, all lakes, waterways or riparian obligations, swale areas, retention areas, culverts, pipes, and related appurtenances regardless of location or whether owned by the Association

Section 5 Actions by Association Anything herein to the contrary notwithstanding, no general funds of the Association shall be utilized for bringing, supporting, investigating or otherwise abetting any legal action, claim or extra-judicial action except for (i) imposition, enforcement and collection of Assessments, including lien rights, pursuant to Article VII hereof, (ii) collecting of debts owed to the Association, (iii) bringing any contest or appeal of tax assessments relating to any property owned by the Association, (iv) actions brought by the Association to enforce the provisions of this Declaration, and (v) counterclaims brought by the Association in proceedings instituted against it, unless such legal action, claim or extra-judicial action shall be specifically approved for such purposes by 75% of the total votes of all Members of the Association in existence at any time (vi) and indemnification of the Board of Directors or officers pursuant to Article 8 of the Bylaws of the Farmington Oaks HOA

ARTICLE VI PRIVACY WALLS

Section 1 Privacy Wall The Declarant may construct privacy walls or fences within the Property ("Privacy Wall(s)") A Privacy Wall shall hereinafter be defined as any wall or fence built by the Declarant, or later built by the Association, in any Common Area, easement, or elsewhere on the Property as a visual barrier, decorative or architectural feature, safety feature, or for any other reason at the sole discretion of the Declarant, or as a requirement of any municipality or governing authority

Section 2 Maintenance of Privacy Walls The Association shall be responsible for the maintenance of Privacy Walls

ARTICLE VII COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1 Creation of the Lien and Personal Obligation of Assessments The Declarant, for each Lot owned within the Property, hereby covenants and each Owner of any Lot by acceptance of a deed thereof, 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, (2) special assessments for capital improvements, and (3) assessments for the costs of maintenance and operation of the Surface Water or Stormwater Management System All assessments, together with late fees, interest, costs, and reasonable attorneys' fees for collection thereof, 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, costs, and reasonable attorneys' fees for collection thereof, shall also be the personal obligation of the person who was the Owner of such Property at the time when the assessment fell due and all subsequent Owners until paid

BK 1228PG0348

Section 2 Purpose of Assessments The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Property and for the improvement and maintenance of the Common Area, easement areas benefiting the Property, or right-of-way areas adjacent to the Property the Association chooses to maintain, or for any other purpose set forth in the Declaration that the Association deems necessary

Section 3 Maximum Annual Assessment Until January 1 of the year immediately following the conveyance of the first Lot to any Owner, the maximum annual assessment shall be One Hundred and twenty 00/100 Dollars (\$120 00) per Lot

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum assessment may be increased each year by five percent (5%) above the maximum assessment for the previous year unilaterally by the Board of Directors without approval by a vote of the Membership

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, to increase the maximum assessment more than five percent (5%) of the prior years maximum annual assessment, a 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 that purpose, must occur

(e) The Board of Directors may fix the assessment at an amount not in excess of the maximum

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 cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, or to repair any Privacy Walls, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of at least a 2/3 vote of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose

Section 5 Uniform Rate of Assessment All assessments must be fixed at a uniform rate for all Lots

Section 6 Date of Commencement of Annual Assessments Due Dates The annual assessments provided for in this Article shall commence as to all Lots on the date (which shall be the first day of the month) fixed by the Board of Directors of the Association to be the date of commencement. No assessments shall be imposed on unplatted portions of the Property. Each subsequent annual assessment shall be imposed for the year beginning January 1 and ending December 31. The annual assessments shall be payable in advance in monthly installments, or in annual, semi-

BK 1228PG0349

annual or quarter-annual installments if so determined by the Board of Directors of the Association. 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 assessments shall be sent to every Owner subject thereto. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Notwithstanding anything herein to the contrary, as long as Class B Membership exists, as to unoccupied Lots owned by Declarant, Declarant may elect to pay twenty-five percent (25%) of the annual assessment on each such unoccupied Lot. A Lot shall be deemed unoccupied until a certificate of occupancy is issued for the house on said Lot. Should Declarant so elect to pay this reduced assessment, Declarant shall pay all costs incurred by the Association in accomplishment of the purposes set forth in Article VII, Section 2 hereof, in excess of the total amount collected by the Association through all assessments. This obligation of the Declarant shall hereinafter be referred to as the Declarant's "Deficiency Obligation". Irrespective of any election on the part of the Declarant, any dwelling located on any lot owned by the Declarant which is occupied shall be subject to one hundred percent (100%) of any and all applicable assessments. Declarant may at any time revoke this election and place himself in the position of being obligated to pay the full impact of all assessments for each lot owned by the Declarant at the time said revocation is presented to the Association.

Section 7 Effect of Nonpayment of Assessments Remedies of the Association

Any assessment not paid within fifteen (15) days after the due date shall bear a late fee of Twenty-Five (\$25.00) Dollars and interest from the due date at the rate of six percent (6%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Owner's Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 8 Assumption of Delinquent Assessments by Successors

The lien for delinquent assessments shall continue to be a lien upon the Lot until such time as it is fully paid. The personal component of the obligation for delinquent assessments shall not pass to the Lot Owner's successors in title unless expressly assumed by them, Irrespective of the assumption of the personal component of the obligation by any successors in title.

Section 9 Subordination of the Lien to Mortgages

The lien of the assessments provided for in this Article shall be a lien superior to all other liens less and except real estate tax liens and the lien of any mortgage to any Institutional Lender which is now or hereafter placed upon any property subject to assessment as long as said mortgage lien is a first lien against the property encumbered thereby, provided, however, that any such mortgagee, when in possession, or any receiver, and in the event of a foreclosure, any

BK 1228PG0350

purchaser at a foreclosure sale, and any such mortgagee acquiring a deed in lieu of foreclosure, and all persons claiming by, through or under such purchase or mortgagee, shall hold title subject to the liability and lien of any assessment coming due after such foreclosure (or conveyance in lieu of foreclosure). Any unpaid assessment which cannot be collected as a lien against any Lot by reason of the provisions of this Section shall be deemed to be an assessment divided equally among, payable by and a lien against all Lots subject to assessment by the Association, including the Lots as to which the foreclosure (or conveyance in lieu of foreclosure) took place. Notwithstanding any contrary provision hereof, no Institutional Lender acquiring title to a Lot through foreclosure or conveyance in lieu of foreclosure, and no purchaser at a foreclosure sale, and no persons claiming by, through or under such Institutional Lender or purchaser, shall be personally obligated to pay assessments that accrue prior to the Institutional Lender's or the foreclosure purchasers acquiring title.

ARTICLE VIII ARCHITECTURAL CONTROL

Section 10 Architectural Control

(a) No building, fence, wall, garage, patio, carport, playhouse, swimming pool, mail-box or other structure shall be commenced, erected or maintained upon any Lot, nor shall any exterior addition to, change in (including, without limitation, any change in the type of roofing material or in the color of the paint, stain or varnish), or alteration of, any of such structures be made until complete and final plans and specifications, setting forth the information hereinafter described, shall have been submitted to, and approved in writing by, the Board of Directors as to the harmony of the exterior design and general quality with the existing standards of the improvements located on the other Lots, and as to location in relation to surrounding structures and topography or Architectural committees appointed by the Board of Directors. In the event the Board of Directors fails to approve or disapprove such design and location within thirty (30) days after said plan and specifications have been submitted to it, approval will not be required, and this Section 10 of Article VIII will be deemed to have been fully complied with.

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

(c) A site plan showing the shape and size of the proposed structure and its location on the Lot on which the same is proposed to be constructed, and

(d) Building plans of the proposed structure which shall include an exterior elevation drawing of the proposed structure, and

(e) In the case of any fence proposed to be erected on any Lot, a site plan showing the location of the proposed fence.

BK 1228PG0351

(f) The Association shall upon demand at any time, furnish to any member of the Association a certificate in writing signed by an officer of the Association, stating that any building, fence, wall, garage, patio, carport, playhouse, swimming pool, mail-box or other structure erected upon such owner's Lot, or any exterior addition to, change in, or alteration of any structure owned by such member on a Lot, is in compliance with the provisions of this Section 10 of Article VIII, and such certificate shall be conclusive as to whether the same is in such compliance

(g) In the event that any construction or alteration work is undertaken or performed upon any Lot without application having been first made and approval obtained as provided in paragraph (a) of this Section 3, said construction or alteration work shall be deemed to be in violation of this covenant, and the person upon whose Lot said construction or alteration work was undertaken or performed may be required to restore to its original condition, at his sole expense, the property upon which said construction or alteration was undertaken or performed. Upon the failure or refusal of any person to perform the restoration required herein, the Board of Directors, or their authorized agents or employees, may, after fourteen (14) days' notice to such person, enter upon the property upon which such unauthorized construction or alteration work has been performed, and make such restoration as the Board of Directors, in the exercise of its discretion, may deem necessary or advisable. The person upon whose Lot such restoration work shall have been so performed shall be personally liable to the Association for all direct and indirect costs which the Association shall incur in the performance of such restoration work, and the liability for such cost shall be secured by all the liens, and shall be subject to the same means of collection, as the assessments provided for in Article V of this Declaration. Such costs shall be paid to the Association by the person liable for the same at the same time as the next due Annual Assessment payment, as provided in Section 4 of Article V of this Declaration, or at such earlier time, and in such installments, as the Board of Directors shall determine.

(h) Notwithstanding anything stated to the contrary herein, nothing contained in this Article VIII shall be construed as prohibiting any construction by the Declarant upon any Lot while such Lot is owned by the Declarant, provided, however, that such construction is in compliance with the requirements specified in Article VIII, Section 1 of this Declaration. Any new construction performed by the Declarant upon any Lot while such Lot is owned by the Declarant shall be exempt from the provisions of Section 10 of this Article VIII.

Architectural Advisory Committee The Board of Directors shall be authorized to appoint an architectural advisory committee to advise it and assist it in connection with its performance of its responsibilities under Section 10 of this Article VIII. The functions which may be performed by any such architectural advisory committee shall include reviewing plans and specifications which are submitted to the Board of Directors in connection with proposals to construct or alter improvements upon the Lots and to make recommendations to the Board of Directors with respect to such plans and specifications.

BK 1228 PG 0352

ARTICLE IX
USE RESTRICTIONS

The Property, which shall include all Lots that result from the subdividing and platting of the parcel owned by the Declarant and all common areas or tracts, shall be subject to the following restrictions, reservations and conditions, which shall be binding upon the Declarant and upon each and every Owner who shall acquire hereafter a Lot or any portion of the Property, and shall be binding upon their respective heirs, personal representatives, successors and assigns

Section 1. Single-Family Use All of the Lots shall be restricted exclusively to single-family residential use. The term "single-family" shall include one or more related or unrelated adults, as well as the children of any such adults. No Lot shall at any time be used for any commercial, business or professional purpose. Notwithstanding the foregoing, however, nothing set forth in this Section 1 shall prohibit (a) the Declarant from conducting such sales, leasing and promotional activities on any Lot as said Declarant shall determine, or (b) the owner of any Lot from using a portion of a building located on such Lot as an office, provided that such use does not create regular customer or client traffic to and from such Lot and no sign, logo, symbol or nameplate identifying such business is displayed anywhere on such Lot.

Section 2. Violation If any person claiming by, through or under Declarant, or its successors or assigns, or any other person, shall violate or attempt to violate any of the covenants herein, it shall be lawful for the Declarant or any person or persons owning real estate subject to these covenants to bring any proceeding at law or in equity against the person or persons violating or attempting to violate any such covenants, including action to enjoin or prevent him or them from so doing, or to cause the violation to be remedied and to recover damages or other dues for such violation. If the party or parties bringing any such action prevail, they shall be entitled to recover from the person or persons violating these restrictions the costs incurred by such prevailing party, including reasonable attorneys' fees and disbursements incurred through all appellate levels. Invalidation of any of these covenants by judgment of court order shall in no way affect any of the other covenants and provisions, contained herein, which shall remain in full force and effect.

Section 3. Dwellings No dwelling shall be erected or placed on any lot having a heated living area (exclusive of porches, stoops, terraces, attached garages, or carports) of less than 900 square feet in the case of a one-story dwelling or 1,000 square feet in the case of a two-story dwelling.

Section 4. Driveway drainage pipe Driveway drainage piping shall be Reinforced Concrete Pipe.

Section 5. Mining or Drilling There shall be no mining, quarrying or drilling for minerals, oil, gas or otherwise undertaken within any portion of the Property. Excepted from the foregoing shall be activities of the Declarant or the Association, or any assignee of the Declarant or the Association, in dredging the water areas, creating land areas from

BK 1228PG0353

water areas, or creating, excavating or maintaining drainage or other facilities or easements, and/or the installation of wells or pumps in compliance with applicable governmental requirements, or for sprinkler systems for any portions of the Property

Section 6 Antennas Aerials Satellite Dishes and Flagpoles No outside antennas, antenna poles, antenna masts, satellite television reception devices larger than 3' in diameter, electronic devices, antenna towers or citizen band (CB) or amateur band (ham) antennas shall be permitted except as approved in writing by the Association. Satellite television reception devices no larger than 3' in diameter are permitted without Association approval if the devices are affixed to the rear portion of a house or are located in the rear yard of a Lot. A flagpole for display of the American flag or any other flag shall be permitted only if first approved in writing by the Association, as to its design, height, location and type of flag

Section 7 Subdivision or Partition No portion of the Property shall be subdivided except with the Association's prior written consent

Section 8 Casualty Destruction to Improvements In the event an improvement is damaged or destroyed by casualty, hazard or other loss, then, within a reasonable period of time after such incident, the Owner thereof shall either commence to rebuild or repair the damaged improvement and diligently continue such rebuilding or repairing activities to completion or, upon a determination by the Owner that the improvement will not be repaired or replaced promptly, shall clear the damaged improvement and grass over and landscape such Lot in a sightly manner consistent with the Declarant's plan for beautification of the Property. A destroyed improvement shall only be replaced with an improvement of an identical size, type, construction, and elevation as that destroyed unless the prior written consent of the Association is obtained

Section 9 Common Area Nothing shall be stored, constructed within or removed from any Common Area other than by the Declarant, except with the prior written approval of the Board of Directors

Section 10 Insurance Rates Nothing shall be done or kept on any Common Area which shall increase the insurance rates of the Association without the prior written consent of the Board of Directors

Section 11 Pets, Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept within the Property, other than household pets provided they are not kept, bred or maintained for any commercial purpose and provided that they do not become a nuisance or annoyance to any other Owner. No pet shall be allowed outside a Lot except on a leash. No pets shall be permitted to place or have excretions on any portion of the Property unless the owner of the pet physically removes any such excretions from that portion of the Property. Pets shall also be subject to applicable Rules and Regulations of the Association and their owners shall be held accountable for their actions. Commercial activities involving pets shall not be allowed

BK 1228 PG 0354

The Association or the Declarant may establish limits on the number and kind of pets that may be kept or permitted to be kept on any Lot

Section 12 Signs No signs, except a "for sale" sign not exceeding four square feet in surface area and one sign of not more than one (1) square foot used to indicate the name of the resident, shall be erected or displayed to the public view on any Lot. Notwithstanding the foregoing, the Declarant specifically reserves the right for itself, its successors, nominees and assigns and the Association to place and maintain any and all signs they may deem necessary, regardless of whether or not the sign complies with the mandates of the Association and its Members, in connection with construction, marketing, sales and rental of Lots and identifying or informational signs anywhere on the Property

Section 13 Garbage Containers, Oil and Gas Tanks, Outdoor Equipment All garbage cans and trash containers must be kept in an enclosed structure or screened by adequate planting or fencing so as to conceal same from the view of neighboring Owners and streets. Garbage containers are excepted only on trash collection days. No Lot shall be used or maintained as a dumping ground for rubbish, trash or other waste. There shall be no burning of trash or other waste material. Trash, garbage or other waste shall be kept only in closed containers and all equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. Incinerators for garbage, trash or other refuse shall not be used nor permitted to be erected on any lot.

Section 14 Vehicles and Recreational Equipment Trucks or commercial vehicles, (except police or other governmental automobiles), motor homes, utility trailers, campers, boats, boat trailers and other recreational vehicles or equipment, horse trailers, buses, and passenger vehicles without current registration, shall be permitted to be parked or to be stored on the Property only if they are parked within a garage, or are located on a Lot so they cannot be seen from any street and are shielded from view from any adjoining Lot.

Section 15 Repairs. No maintenance or repairs shall be performed on any vehicles upon any portion of the Property except in an emergency situation. Notwithstanding the foregoing, all repairs to disabled vehicles within the Property must be completed within twenty-four (24) hours from its immobilization or the vehicle must be removed.

Section 16 Prohibited Structures. No structure of a temporary character including, but not limited to, trailers, tents, shacks, sheds, barns, tree houses or out buildings shall be parked or erected on the Property at any time without the express written permission of the Association.

Section 17. Above Ground Swimming Pools No above ground swimming pools, except for small wading pools, are permitted on any lot.

BK 1228 PG 0355

Section 18. Decorative Structures. No decorative statues, birdbaths, fountains, ornaments, figurines, or any other decorative structures or items are permitted in the front or side yards of any Lot, (except as might be approved by the Architectural Committee)

Section 19. Nuisances. No obnoxious, unpleasant, unsightly or offensive activity shall be carried on, nor may anything be done, which can be reasonably construed to constitute a nuisance, public or private in nature. Any questions with regard to the interpretation of this section shall be decided by the Board of Directors, whose decision shall be final. No nuisance shall be permitted to exist upon any Lot. Without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells, or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any Lot, or any portion thereof.

Section 20. Clotheslines. No clothesline shall be erected on any portion of any Lot.

Section 21. Window Air-Conditioners. No air-conditioner shall be installed in any window of any building located on any Lot, nor shall any air-conditioner be installed on any building located on any Lot so that the same protrudes through any exterior wall of such building.

Section 22. Window Treatment. No reflective foil, sheets, newspapers, or other similar material shall be permitted on any window or glass door.

Section 23. Compliance with Documents. Each Owner and his family members, guests, invitees, lessees and their family members, guests, and invitees, and his or its tenants, licensees, guests, invitees and sub-tenants shall be bound and abide by this Declaration. The conduct of the foregoing parties shall be considered to be the conduct of the Owner responsible for, or connected in any manner with, such individual's presence within the Property. Such Owner shall be liable to the Association for the cost of any maintenance, repair or replacement of any real or personal property rendered necessary by his act, neglect or carelessness, or by that of any other of the foregoing parties which shall be paid for by the Owner as a Special Assessment as provided in Article VII. Failure of an Owner to notify any Person of the existence of the covenants, conditions, restrictions, and other provisions of this Declaration shall not in any way act to limit or divest the right to enforcement of these provisions against the Owner or such other person.

Section 24. Other Restrictions Established by the Association. The Association shall have the authority, as hereinabove expressed, from time to time to include within its promulgated residential planning criteria other restrictions, as it shall deem appropriate. Said restrictions shall be governed in accordance with the criteria hereinabove set forth for residential planning criteria promulgated by the Association. However, once the Association promulgates certain restrictions, same shall become as binding and shall be given the same force and effect as the restrictions set forth herein until the Association

BK 1228 PG 0356

modifies, changes or promulgates new restrictions or the Association modifies or changes restrictions set forth by the Association

Section 25 Common Area Other than those improvements constructed by Declarant, no improvements shall be constructed upon any portion of the Common Area without the approval of the Association. The following shall apply to the Common Area

- (a) No activities constituting a nuisance shall be conducted upon any Common Area
- (b) No rubbish, trash, garbage or other discarded items shall be placed or allowed to remain upon any Common Area
- (c) The Association may from time to time adopt reasonable rules and regulations concerning use of the Common Area, which shall be binding upon all Members of the Association
- (d) The Association shall at all times pay the real property ad valorem taxes, if any, assessed against property owned by the Association and any other governmental liens which may be assessed against the real property owned by the Association. The Association at all times shall procure, maintain and pay for adequate policies of public liability and fire and extended casualty insurance upon the Common Area. All insurance policies shall be in the name of the Association and for the benefit of the Members and Owners and such other parties as the Association deems necessary. The insurance policies shall be in such amounts and subject to such conditions and with such provisions as the officers or Board of Directors of the Association may determine, not inconsistent with any provisions of this Declaration. The Board of Directors may obtain such other type of insurance as they deem advisable
- (e) Except for those capital improvements made to the Common Area by the Declarant at its expense, at all times hereafter, all capital improvements to the Common Area except for replacement or repair of those items installed by the Declarant and except for personal property related to the maintenance of the Common Area shall require the approval of two-thirds (2/3) of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose unless such capital improvement is required by any Federal, State or local law or ordinance

Section 26 Property Maintenance In the event an Owner of any Lot shall fail to maintain the premises and improvements situated thereon in a manner satisfactory to the Association, the Owner shall be notified and given thirty days within which to correct or abate the situation. If the Owner fails to do so, the Association shall have the right (although it shall not be required to do so) to enter upon the Lot for the purpose of repairing, maintaining and restoring the Lot and the exterior of the building and other improvements located thereupon at the sole cost of the Owner of the Lot. The cost of

BK 1228 PG 0357

such repair, maintenance and restoration, together with reasonable attorneys' fees and costs for collection thereof incurred through all appellate levels, shall thereupon constitute a lien upon the Lot which lien shall become effective only upon the filing of a written claim of lien. The form, substance and enforcement of the lien shall be in accordance with the construction lien law of the State of North Carolina, and the Owner of the Lot shall, by virtue of having acquired the Lot subject to these restrictions, be deemed to have authorized and contracted for such repair, maintenance and restoration. The lien herein provided will be subordinate to a first mortgage lien.

Section 27. No Implied Waiver. The failure of the Association or the Declarant to object to an Owner's or other party's failure to comply with this Declaration or any other Governing Documents (including any Rules and Regulations promulgated) shall in no event be deemed a waiver by the Declarant or the Association, or any other person having an interest therein, of that Owners or other party's requirement and obligation to abide by this Declaration.

Section 28. Imposition of Fines for Violations. It is acknowledged and agreed among all Owners that a violation of any of the provisions of this Article by an Owner or resident may impose irreparable harm to the other Owners or residents. All Owners agree that a fine may be imposed by the Declarant or Association for each day a violation continues after notification by the Declarant or the Association. All fines collected shall be used for the benefit of the Association. Any fine levied shall be paid within fifteen (15) days after mailing of notice of that fine. If not paid within the fifteen (15) days the amount of such fine shall accrue interest at a rate of six percent (6%) per annum, and shall be treated as a Special Assessment as provided in Article VII.

Section 29. Association Waiver. In the event that a violation of any of these restrictions shall inadvertently occur, which violation shall not be of such nature to defeat the intent and purpose of these covenants, the Association shall have the right and authority to waive such violation.

Section 30. Rights of Declarant. Notwithstanding anything in this Article to the contrary, Declarant shall have the right to use Property for ingress and egress thereover including the use of construction machinery and trucks thereon and no person shall in any way impede or interfere with the Declarant, its employees or agents, in the exercise of this right herein reserved, or interfere with the completion of the contemplated improvements or sale of Lots and improvements thereon. Furthermore, the Declarant may make such use of Property free from the interference of Owners or contract purchasers as may be reasonably necessary to facilitate the completion and sale of Lots and improvements thereon, including but not limited to, the maintenance of sales office and model area, the showing of Property, the display of signs, and the right to construct or place sales and construction offices of a temporary nature on the Property.

BK 1:228PG0358

ARTICLE X
ENFORCEMENT OF NONMONETARY DEFAULTS

Section 1 Nonmonetary Defaults In the event of a violation by any Member or Owner (other than the nonpayment of any Assessments or other monies) of any of the provisions of the Governing Documents or restrictions set forth by the Association, the Association shall notify the Member or Owner of the violation by written notice. If the violation is not cured as soon as practicable, and in any event, no later than fourteen (14) days after the receipt of the written notice, or if the violation is not capable of being cured within the fourteen (14) day period, or if the Member or Owner fails to commence and diligently proceed to completely cure as soon as practical, the Association may, at its option

(a) **Specific Performance** Commence an action to enforce the performance on the part of the Member or Owner, or for such equitable relief as may be necessary under the circumstances, including injunctive relief, and/or

(b) **Damages** Commence an action to recover damages, and/or

(c) **Corrective Action** Take any and all action reasonably necessary to correct such violation, which action may include, but is not limited to, removing any building or improvement for which architectural approval has not been obtained, or perform any maintenance required to be performed by this Declaration, including the right to enter upon a Lot to make such corrections or modifications as are necessary, or remove anything in violation of the provisions of the Governing Documents or any restrictions set forth by the Association

Section 2 Expenses All expenses incurred by the Association in connection with the correction of any violation, or the commencement of any action against any Owner, including administrative fees and costs and reasonable attorneys' fees and disbursements through the appellate level, shall be a Special Assessment assessed against the applicable Owner, and shall be due upon written demand by the Association and collectible as any other Special Assessment under this Article or Article VII

Section 3 Late Fees Any remedy sought by the Declarant or Association shall be subject to a late fee as set by the Board of Directors which shall bear an interest rate of six percent (6%) per annum

Section 4 No Waiver The failure of the Association to enforce any right, provision, covenant or condition which may be granted by the Governing Documents shall not constitute a waiver of the right of the Association to enforce such right, provisions, covenant, or condition in the future

Section 5 Rights Cumulative All rights, remedies and privileges granted to the Association pursuant to any terms, provisions, covenants or conditions of the Governing Declaration of Covenants & Restrictions of Farmington Oaks Homeowners Association, Inc.

Page 22

BK 1228PG0359

Documents shall be deemed to be cumulative, and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the Association from executing such additional remedies, rights or privileges as may be granted or as it might have by law.

Section 6 Enforcement By or Against the Persons. In addition to the foregoing, the Declaration may be enforced by the Declarant, the Association, or any Owner by any procedure at law or in equity against any Person violating or attempting to violate any provision herein, to restrain any violation, to require compliance with the provisions contained herein, to recover damages, or to enforce any lien created herein. The expense of any litigation to enforce this Declaration shall be borne by the Person against whom enforcement is sought, provided such proceeding results in a finding that such Person was in violation of this Declaration. The prevailing party in any such action shall be entitled to recover its reasonable attorney fees and disbursements through the appellate level.

Section 7 Certificate as to Default. Upon request by any Member, or Owner, or mortgagee holding a mortgage encumbering any Lot, the Association shall execute and deliver a written certificate as to whether such Member or Owner is in default with respect to compliance with the terms and provisions of this Declaration.

ARTICLE XI INDEMNIFICATION

Section 1 Indemnification of Officers, Directors or Agents. The Association shall indemnify any Person who was or is a party or is threatened to be made a party, to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a Director, employee, Officer or agent of the Association, against expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interest of the Association, and, with respect to any criminal action or proceeding, if he had no reasonable cause to believe his conduct was unlawful. In any matter as to which such Person shall have been adjudged to be liable for gross negligence or willful misfeasance or malfeasance in the performance of his duty to the Association, and only to the extent that the court in which such action or suit was brought shall determine, upon application, that despite the adjudication of liability, but in view of all the circumstances of the case, such Person is fairly and reasonable entitled to indemnity for such expenses which such court shall deem proper. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, in and of itself, create a presumption that the Person did not act in good faith and in a manner which he reasonably believed to be in, or not opposed to, the best interest of the Association, and with respect to any criminal action or proceeding, that he had no reasonable cause to believe that his conduct was unlawful.

BK 1228 PG 0360

(a) To the extent that a Director, Officer, employee or agent of the Association is entitled to indemnification by the Association in accordance with this Article, he shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by him in connection therewith

(b) The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the laws of the State of North Carolina, any Bylaw, agreement, vote of Members or otherwise. As to action taken in an official capacity while holding office, the indemnification provided by this Article shall continue as to a Person who has ceased to be a member of the Board of Directors, Officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a Person

(c) The Association shall have the power to purchase and maintain insurance on behalf of any Person who is or was a Director, Officer, employee or agent of the Association, or is or was serving at the request of the Association as a Director, Officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article

ARTICLE XII

GENERAL PROVISIONS

Section 1 Assignment of Rights and Duties to the Association The Declarant may at any time assign and delegate to the Association all or any portion of the Declarant's rights, title, interests, duties or obligations created by this Declaration. It is understood that the Association has been formed as a property owners' association in order to effectuate the intent of the Declarant for the proper development, operation and management of the Property. Wherever herein the Declarant or the Association or both are given the right, duty or obligation to approve, enforce, waive, collect, sue, demand, give notice, or take any other action or grant any relief or perform any task, such action may be taken by the Declarant or the Association until such time as the Declarant is divested of all of its interest in any of the Property, or has terminated its interest in the Property. Thereafter, all rights, duties and obligations of the Declarant shall be administered solely by the Association in accordance with the procedures set forth herein and the Governing Documents

Section 2 Covenants to Run with the Title to the Land This Declaration, as amended and supplemented from time to time as herein provided, shall be deemed to run with the title to the Property and shall remain in full force and effect until terminated in accordance with provisions set out herein

BK 1228PG0361

Section 3 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 the Declaration. Failure by the Association or by any Owner to enforce any covenants or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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 Amendment The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. In addition to any other manner herein provided for the amendment of this Declaration, the covenants, restrictions, easements, charges and liens of this Declaration may be amended, changed or added to at any time and from time to time upon the execution and recordation of an instrument executed by Owners holding not less than two-thirds (2/3) vote of each class of members in the Association. No provision of this Declaration may be amended if such provision is required to be included herein by any law. Without limiting the generality of the foregoing paragraph, the Declarant specifically reserves the right to amend this Declaration in order to comply with the requirements of the Federal Housing Administration, Veteran's Administration, or Federal National Mortgage Association. As long as there is Class B membership, as that term is defined in Article III Section 2 hereof, the Federal Housing Administration or Veterans Administration must approve any amendment to this Declaration other than those to correct scrivener's errors or clarify any ambiguities herein.

The Declarant shall have the right at any time within six (6) years from the date hereof to amend this Declaration to correct scrivener's errors and to clarify any ambiguities determined to exist herein. No amendment shall impair or prejudice rights or priorities of any Institutional Lender without their written consent.

This Declaration may not be amended within six (6) years from the date of recordation with Franklin County unless approved by Homesite Solutions, Inc., its successors or assigns, which approval shall not be unreasonably withheld, conditioned, or delayed.

Section 6 Communication All communication from individual Owners to the Declarant, its successors or assigns, the Board of Directors of the Association, or any Officer of the Association shall be in writing.

Section 7 Notice Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

BK 1228 PG 0362

Section 8 Conflict This Declaration shall take precedence over conflicting provisions in the Articles of Incorporation and Bylaws of the Association and the Articles of Incorporation shall take precedence over the Bylaws

Section 9 Usage Whenever used herein the singular number shall include the plural and plural the singular, and the use of any gender shall include all genders

Section 10 Governing Law The construction, validity and enforcement of this Declaration shall be determined according to the laws of the State of North Carolina Any action or suit brought in connection with this Declaration shall be in Franklin County, North Carolina

Section 11 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 "FHA") or the Veterans Administration (the "VA"), annexation of additional properties, mergers and consolidations, dedication of Common Area, mortgaging of Common Area, and amendment of this Declaration FHA or VA approval is also required for any amendments of the Association's Bylaws, the Articles of Incorporation or in the event of the Association's dissolution

BK 1228PG0363

IN WITNESS WHEREOF, the undersigned, being the Declarant has hereunto set its hand and seal the day and year first above written

WITNESSES

Witness

Print Name mark Stiglitz

Witness

Print Name Renee S. Kossier

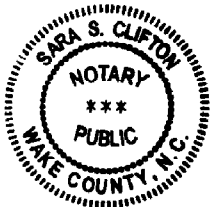
NORTH CAROLINA, WAKE COUNTY

Sara S. Clifton, a Notary Public for said County and State, do hereby certify that Thomas J. Collins, attorney-in-fact for Homesite Solutions Corporation, personally appeared before me this day, and being by me duly sworn, says that he executed the foregoing and annexed instrument for and in behalf of the said Homesite Solutions Corporation, and that his authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged, and recorded in the office of the Register of Deeds in the County of Franklin, State of North Carolina, on the 27th day of May, 1999, in Book 1143, Page 234, and that this instrument was executed under and by virtue of the authority given by said instrument granting him power of attorney

I do further certify that the said Thomas J. Collins acknowledged the due execution of the foregoing and annexed instrument for the purposes therein expressed for and in behalf of the said Homesite Solutions Corporation.

Witness my hand and official seal, this the 15 day of Aug, 2001

Also recorded in Franklin County in Book _____, page _____, on _____, 2001



Sara S. Clifton
Signature of Notary Public

Sara S. Clifton
Print name of Notary Public
Notary Public State of North Carolina
My Commission Expires 1-10-2005

STATE OF NORTH CAROLINA, FRANKLIN COUNTY

The foregoing certificate(s) of Sara S. Clifton

Notary(y) (ies) Public

is/are certified to be correct

This instrument was presented for registration this day and hour and duly recorded in the office of the Register of Deeds of Franklin County, N.C. in Book 1228 Page(s) 337-364

This 15th day of August A.D. 2001 at 1:55 o'clock P.M.

LINDA H. STONE, REGISTER OF DEEDS

By Linda H. Stone
Asst. Deputy Register of Deeds

BK 1228PG0364

EXHIBIT A

THAT PORTION OF A 68.40 ACRE TRACT AS SHOWN ON A PLAT ENTITLED "DIVISION OF E. L. WHITE PROPERTY, BY C. EUGENE BOBBIT, II, RLS AS RECORDED IN PLAT RECORD FILE NO. 3, SLIDE 21-C IN THE REGISTER OF DEEDS OFFICE OF FRANKLIN COUNTY, LYING ON THE SOUTH SIDE OF NCSR 1113, CONSISTING OF 64.32 ACRES AND BEING TRACT 1 ON A SURVEY ENTITLED "HOMESITE SOLUTIONS CORPORATION" BY SOUTHWIND SURVEYING AND ENGINEERING, INC. RECORDED IN PLAT RECORD FILE # 2000, SLIDE 50, IN THE REGISTER OF DEEDS OFFICE OF FRANKLIN COUNTY WHICH PLAT IS INCORPORATED HEREBY REFERENCE