WAKE COUNTY, NC 828
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
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MEADOWCREEK SUBDIVISION

DECLARATION
OF
COVENANTS, CONDITIONS
AND RESTRICTIONS

Prepared by ~~and return to:~~
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Return to:
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113 S. Wilmington St.
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WAKE COUNTY

NORTH CAROLINA

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (the "Declaration") made as of this 31st day of July, 2003, by **DHIC, Inc.**, a North Carolina non-profit corporation, *together with the consent and joinder of Central Carolina Bank and Trust Company and Southland Associates, Inc., beneficiary and trustee respectively under deed of trust recorded in Book 9502, Page 2238 and re-recorded in Book 9507, Page 583, Wake County Registry and (ii) County of Wake, North Carolina and E. Richard Jones, Jr., Trustee, beneficiary and trustee respectively under deed of trust recorded in Book 8962, Page 00983, Wake County Registry.*

WHEREAS, Declarant is the owner of certain property in or near the City of Raleigh, Wake County, North Carolina, to be commonly known to as "Meadowcreek Subdivision," which is more particularly described on Exhibit A attached hereto and hereby incorporated by reference (the "Property");

WHEREAS, it is the desire and intention of Declarant to impose on the Property certain covenants, conditions and restrictions under a general plan or scheme of improvement for the benefit of the Property as a cohesive single-family residential subdivision with Common Elements and Open Space (as hereinafter respectively defined in Sections 1.6 and 1.23).
and all future owners thereof;

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

ARTICLE I

DEFINITIONS

The following words, when used in this Declaration or in any amendment or Supplementary Declaration (as herein defined) thereto (unless the context otherwise shall prohibit), shall have the following meanings:

1.1 Act. The North Carolina Planned Community Act codified in Chapter 47F of the North Carolina General Statutes, as amended, and succession statutes in substitution and replacement thereof; specific statutory citations referenced herein are for convenience only and as such exist in the North Carolina General Statutes on the date hereof.

1.2 **Articles of Incorporation**. The articles of incorporation of the Association as on file with the North Carolina Secretary of State and all amendments hereinafter filed.

1.3 **Association**. Meadowcreek Raleigh Homeowners Association, Inc., a North Carolina nonprofit corporation, its successors and assigns; subject to the Special Declarant Rights, the Association shall have all powers set forth in section 47F-3-102 of the Act.

1.4 **Bylaws**. The bylaws of the Association as they now or hereafter exist.

1.5 **Builder.** A building contractor approved by the Declarant who either (i) holds title to a Lot for the purpose of constructing a Residence thereon for sale to the general public in the ordinary course of business or (ii) hired by an Owner to construct such a residence.

1.6 **Common Elements**. Any real property, fixture or improvement within the Community owned or leased by the Association other than a Lot and any other real property including easements labeled on the Plat (as defined below) as "Private and Common Area Easement" or other less than fee simple interest or fee simple interest in real property acquired by the Association for the benefit of the Members, together with all improvements and facilities located thereon and dedicated to the common use, benefit and/or enjoyment of the Members including without limitation and (i) the Community entrance and sign (as situated upon any Community right of way, Lot, easement to the Association or otherwise); (ii) the aforesaid "Private Landscape and Common Area Easements" referenced above but exclusive of the Open Space (as defined below).

1.7 **Common Expenses**. Expenditures made by or financial liabilities of the Association, together with any allocation to reserves.

1.8 **Common Expense Liability**. The liability for Common Expenses allocated to each Lot as permitted by the Declaration, the Act or otherwise by law.

1.9 **Community**. The real property hereby or hereinafter subject to this Declaration and the jurisdiction of the Association, which property will be collectively known and advertised as "Meadowcreek"

1.10 **Community Property**. Collectively, the Common Elements and any personal property, now or hereafter owned by the Association for the common use and enjoyment of the Members.

1.11 **County Registry**. The records of the Office of the Wake County Register of Deeds.

1.12 **Declarant**. DHIC, Inc., a North Carolina non-profit corporation or its successors and assigns pursuant to a written assignment of Special Declarant Rights duly recorded in the County Registry, and any agent or agents appointed by such declarant to act on its behalf for the purpose of administering or enforcing, in whole or in part, the rights reserved to the Declarant in this Declaration.

1.13 **Declarant Control Period.** The period commencing on the date hereof and continuing until the earlier of: (i) six (6) months following the conveyance of the last Lot in the Community from

Declarant or Builder to a Consumer Purchaser, or (ii) the date the Declarant surrenders the authority to appoint and remove directors and officers of the Association by an express amendment to this Declaration executed and filed by Declarant in the County Registry.

1.14 **Executive Board or Board.** The body designated herein to act on behalf of the Association in accordance with the terms of the Declaration and the Bylaws and the definition of "Executive Board" set forth in Section 47F-1-103(13) of the Act.

1.15 **Improvement**. For the purposes of Article VIII Improvements shall mean and refer to all (i) buildings, (ii) outbuildings, (iii) storage sheds or areas, (iv) roofed structures, (v) parking areas, (vi) loading areas, (vii) fences, (viii) walls and screens, (ix) hedges, (x) mass plantings of trees and shrubs, (xi) all non-natural yard ornamentation including but not limited to sculptures, figurines, birdbaths; or planting containers;; (xii) recreational and playground equipment; (xiii) poles, (xiv) driveways, (xv) changes in grade or slope, (xvi) lot preparation, and (xvii) exterior construction or exterior improvements exceeding $500.00 in cost not included in any of the foregoing, but expressly excluding garden shrub or tree replacements or any other replacement or repair of any magnitude which ordinarily would be expended in accounting practice and which does not change exterior colors or exterior appearances, but does include both original Improvements and all later changes to such Improvements. When the word "improvement" appears in this document without capitalization it shall have that meaning attributed to such word under state property law.

1.16 **Lot**. Any separately numbered lot or parcel of Community land (*regardless of size*)shown on the Plat.

1.17 **Maintain or Maintenance** (or any substantially similar term used in this Declaration, when applied to a power or duty of the Declarant or Association without limitation); the rights to improve, repair, and replace the improvement, property or other item, which is the subject thereof.

1.18 **Eligible Mortgagee.** An institutional lender holding a first mortgage or deed of trust encumbering a Lot (an "Eligible Mortgage"). When any right is to be given to an Eligible Mortgagee, such right shall also be given to the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Veterans Administration, the Federal Housing Administration, the Farmers Home Administration, the Government National Mortgage Association and any other public or private secondary mortgage market entity participation in purchasing or guaranteeing such mortgages.

1.19 **Member**. All those Owners who are members of the Association as defined in Section 3.1 hereof.

1.20 **Mortgagee**. The holder of a Mortgage.

1.21 **Occupant.** Any Person or Persons in possession for any period of time of any portion of a Lot including Owners and their tenants and such persons respective family members, lessees, guests, invitee and licensees.

1.22 **Owner**. The record owner, whether one or more Persons of the fee simple title to any Lot including contract sellers, but excluding (i) any Person holding such interest merely as security for the performance or satisfaction of any obligation, and (ii) any Lessee or tenant of an Owner.

1.23 **Open Space**. That Lot designated as "Lot 69" on the Plat, which Declarant may in its discretion convey to a non-profit or governmental authority for open space preservation purposes.

1.24 **Person**. A natural person, a corporation, partnership (general or limited), limited liability company, registered limited liability partnership, association trust, or other legal entity, or any combination thereof.

1.25 **Plat.** Subdivision Plat of Meadowcreek Subdivision, Sheets 1-4, as recorded in Book of Maps 2003, Pages 1027 through 1030 inclusive, Wake County Registry or any governmentally approved amended and recorded version thereof.

1.26 **Private Temporary Landscape Easement.** Any easement located on any Lot shown and labeled as such on the Plat, which easement shall be for access by and use of the Declarant over the Lot so during the Declarant Control Period for the purposes of installing, replacing and maintaining landscaping material thereon (the "Easement Landscaping Material"). At the end of the Declarant Control Period such easement shall cease , and the Owner of the encumbered Lot shall thereafter maintain such former easement area by replacing and maintaining the Easement Landscaping Material.

1.27 **Reasonable Attorney Fees**. Attorneys' fees reasonably incurred without regard to any limitations on attorneys' fees pursuant to subsection 47F-1-103(26) of the Act.

1.28 **Residence**. A single-family dwelling constructed on a Lot in accordance with the terms and conditions of the Declaration.

1.29 **Rules and Regulations**. Those written actions of the Board, duly adopted, and any amendments thereto consistent with this Declaration, and any Supplementary Declaration, the purpose of which is to interpret and apply the provisions of the Declaration and the Bylaws and to establish and prescribe the administration and management of the Community and the use, operation, and management of the Common Elements and the improvements and facilities located thereon.

1.30 **Supplementary Declaration**. An amendment or supplement to this Declaration duly recorded in the County Registry, which subjects additional real property to this Declaration or imposes, expressly or by reference, additional restrictions and obligations on the land described therein, or both.

1.31 **Special Declarant Rights**. During the Declarant Control Period pursuant to subsection 47F-1-103(28) of the Act, rights reserved for the benefit of the Declarant including, without limitation, any right (i) to complete improvements indicated on plats and plans on file with the Declarant; (ii) to exercise any development rights; (iii) to maintain sales offices and construction models, management offices, and signage advertising the Community; (iv) to use easements through the Common Elements for the purpose of making Improvements within the Community; (v) to make the Community part of a larger planned community or group of planned communities; or (vi) to appoint or remove any officer or Association Board member.

1.32 **Total Association Vote**. All of the votes attributable to Members (including votes of Declarant) and the consent of Declarant during the Development Period.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

2.1 **Property Hereby Subjected To This Declaration**. The real property described in Exhibit "A" attached hereto and hereby incorporated by reference shall be held, transferred, sold, conveyed, used, occupied, and mortgaged or otherwise encumbered, subject to the covenants, restrictions, and benefits and conditions of this Declaration.

2.2 **Declarant Conveyance of Community Property.** The Declarant may transfer or convey to the Association any personal property and any improved or unimproved real property, leasehold, easement, or other property interest. The Association shall accept such conveyances, and the property shall thereafter be Community Property to be maintained by the Association for the benefit of all or a part of the Members. No later than at the end of the Declarant Control Period, Declarant shall convey the Common Elements within the Community to the Association. Thereafter, Declarant shall not be required to maintain, improve, repair or restore the property conveyed to the Association pursuant to this section 2.2, and the Association will be responsible for all such work and expenses.

ARTICLE III

ASSOCIATION MEMBERSHIP, VOTING RIGHTS ASSOCIATION MANAGEMENT AND DECLARANT CONTROL

3.1 **Membership.** Every Person who is a record fee simple owner of a Lot subject hereby to assessments of the Association shall be deemed to have a membership in the Association. Ownership of a Lot shall be the sole qualification for membership.

3.2 **Voting**. The Association shall have two (2) classes of voting membership. Members are thus divided into classes for the sole purpose of computing voting rights and, except as otherwise specifically set forth in this Declaration, shall not vote as a class.

3.2.1 **Class "A" Membership**. Class "A" Membership shall be composed of all Owners, with the exception of the Declarant; each such owner shall be entitled to one (1) vote for each Lot owned.

3.2.2 **Class "B" Membership.** Class "B" Membership shall be composed solely of the Declarant whose voting rights shall be equal to the total of four (4) votes for each vote held by all Class "A" Owners. The Class "B" membership shall cease upon the end of the Declarant Control Period.

3.2.3 **Voting for Multiple Owners.** Pursuant to section 47F-3-110 of the Act, if only one of the multiple Owners of any Lot is present at an Association meeting, the Owner present is entitled to cast all the votes allocated to his Lot. If more than one of the multiple owners is present, the votes allocated to such Lot may be cast only in accordance with the agreement of the majority of such multiple owners; such majority agreement shall be conclusively presumed if any one of the multiple owners casts the allocated votes without protest being made promptly to the person presiding over the meeting by any of the other multiple owners.

3.2.4 **Majority Vote.** Except as otherwise provided in the Declaration, the Articles of Incorporation, the Bylaws, or the Act and provided all applicable quorum requirements are complied with, any Association action requiring the approval of the Members shall require the vote or written assent of a majority of the Total Association Vote.

3.2.5 **Proxies.** Proxy votes shall be permitted at any regular or special meeting of the Association in accordance with the provision of section 47F-3-110 of the Act.

3.2.6 **Quorum Reductions.** Pursuant to subsection 47F-3-109 (c) of the Act in the event any business cannot be conducted at any Association meeting because a quorum is not present, that meeting may be adjourned to a later date by the affirmative vote of a majority of those present in person or by proxy. Notwithstanding any provision to the contrary in the Declaration or the Bylaws, the quorum requirement at the next meeting shall be fifty percent (50%) of the quorum requirement applicable to the meeting adjourned for lack of a quorum. This provision shall continue to reduce the quorum by fifty percent (50%) from that required at the previous meeting, as previously reduced, until such time as a quorum is present and business can be conducted.

3.2.7 **Suspension of Voting Rights.** The right of any Member to vote may be suspended by the Executive Board pursuant to section 4.2.4 hereof.

3.3 **Declarant Control.** Pursuant to its Special Declarant Rights as defined in the Act, the Declarant hereby retains the right to appoint and remove any member or members of the Executive Board and any officer or officers of the Association until the end of the Declarant Control Period.

3.4 **Professional Management of the Association.** The Executive Board may delegate the management and obligations of the Association to a professional management organization in the discretion of the Declarant during the Declarant Control Period, and thereafter by majority vote. Any professional management contract shall be reasonable as to term, compensation and termination. During the Declarant Control Period all contracts with any professional management organization shall include a right of termination without cause or penalty upon ninety (90) days advance notice and without penalty at any time after the end of the Declarant Control Period pursuant to section 47F-3-105 of the Act.

ARTICLE IV

PROPERTY RIGHTS IN THE COMMON PROPERTIES

4.1 **Members' Easements of Enjoyment in Common Element.** Every Member shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Elements and facilities located thereon which shall be appurtenant to and shall pass with title to the Lot. Subject to the terms of the Bylaws, this Declaration, and the Rules and Regulations, any Member may delegate such right of use and enjoyment (in and to the Common Elements and facilities thereof) to his Occupants or to the members of his family, his tenants, guests and invitee and shall be deemed to have made a delegation of all such rights to all the Occupants of such Owner's Lot if leased.

4.2 **Extent of Members' Easements.** The rights and easements of enjoyment created hereby shall be subject to the following rights and restrictions.

4.2.1 **Security Interest.** The right of the Association, in accordance with the Bylaws and section 47F-13-112 of the Act to subject all or any portion of the Common Elements to a security interest; provided, however in the case of any Common Elements no such interest shall be effective unless such encumbrance has been approved by at least eighty percent (80%) the of Total Association Vote. Any security interest given by the Association shall be subject and subordinate to any rights, interests, options, easements and privileges herein reserved or established for the benefit of (i) Declarant, (ii) any Member, or (iii) any Eligible Mortgagee. Any provision in any Mortgage given by the Association to the contrary notwithstanding, the exercise of any rights therein by the Mortgagee thereof shall not cancel or terminate any rights, easements or privileges herein reserved or established for the benefit of (i) Declarant, (ii) any Member, or (iii) any Eligible Mortgagee. Proceeds of the financing secured in accordance with this section 4.3.1 shall be an asset of the Association.

4.2.2 Protection from Foreclosure. The right of the Association to take such steps as is reasonably necessary to protect the properties encumbered pursuant to section 4.2.1 against foreclosure.

4.2.3 Limitations on Use. The right of the Association to limit the number of guests of Owners and Occupants who may use the facilities and improvements located on the Common Elements, and to provide for the exclusive use and enjoyment of specific portions thereof by an Owner, his Occupants, and invitee at certain designated times or to promulgate other Rules and Regulations in connection with Common Element use.

4.2.4 Suspension of Member Rights. The right of the Executive Board (or an adjudicatory panel appointed thereby) pursuant to the mandatory provisions and procedures of section 47F-3-107.1 of the Act to fine any Member or to suspend any Member's voting rights and/or a Member's right to use Community facilities, if any, (i) for any period during which any assessment levied against such Member's Lot remains unpaid, and (ii) for a reasonable period of time in the case of an infraction of the Declaration, Bylaws, or the Rules and Regulations. Such suspension, however, shall not constitute a waiver or discharge of the Member's continuing obligation to pay any assessments; provided, however, that the Association shall not suspend a Member's right to use any Community roads or rights of way for ingress, egress and regress to publicly dedicated rights of way subject to the rules, regulations and fees, if any, established by the Association for such use.

4.2.5 Transfer to Utility. The right of Declarant or the Association to dedicate or transfer to any public or private utility, any drainage or utility, or access easements, on any part of the Common Elements.

4.2.6 Rights of Conveyance and Transfer. The right of the Association, subject to such conditions as may be agreed to by the Members and the provisions of section 47F-3-112 of the Act, to dedicate, give, or sell all or any portion of the Common Elements, including leasehold interests therein; no such dedication or conveyance of any Common Element (and the conditions appurtenant thereto) shall be effective unless in the case of any Common Element unless such conveyance has been approved by at least eighty percent (80%) of the Total Association Vote, and in the case of any. The proceeds of sale of a Common Element shall be an asset of the Association. The sale of any personal property owned by the Association shall be determined by the Executive Board in its sole and uncontrolled discretion, provided, however, that the sales proceeds therefrom shall be an asset of the Association.

4.2.7 Discharges to Governmental Wastewater Systems. Notwithstanding anything to the contrary, it is further provided that in the event a wastewater treatment facility and systems shall be provided by any governmental authority having jurisdiction thereof, the Association shall take such action as is necessary to have the existing and future systems of the Community discharges into and treated through such governmentally maintained facility. Such action shall include as appropriate conveyance of such easements and such portion of the Community disposal systems, if any, as such may require.

ARTICLE V
ASSESSMENTS

5.1 Creation of the Lien and Personal Obligation for Assessments.

5.1.1 Covenant of Payment. Declarant covenants and each Owner of a Lot subject to this Declaration (whether or not it shall be so expressed in such Owner's deed or other instrument of conveyance), is deemed to covenant and agrees to pay to the Association (i) Common Expense assessments or charges, and (ii) special assessments, such assessments to be fixed, established, and collected from time to time as hereinafter provided.

5.1.2 Creation of Lien. Pursuant and subject to section 47F-3-115 of the Act, any annual or special assessments levied against a Lot (or undivided interest therein) and remaining unpaid for thirty (30) days or longer from the time such sum is due and payable, shall be a lien on that Lot and shall be deemed a continuing lien thereon when a claim of lien is filed of record in the Office of the Wake County Clerk of Superior Court. Each such assessment, together with interest, late charges, and costs, and Reasonable Attorneys' Fees incurred by the Association in collecting delinquent assessments shall also be the personal obligation of the person or person who was the Lot Owner at the time such assessments became due; provided, however, that the personal obligation of an Owner for delinquent assessments shall not pass to his successors in title unless the lien continues to encumber such transferred property interest.

5.2 **Purpose of Common Expense Assessments.** The Common Expense assessments levied by the Association in accordance with the terms of this Article shall be used exclusively for (i) the improvement, maintenance, enhancement, enlargement and operation of the Common Elements and Community Property; (ii) the provision of services which the Association is authorized to provide; and (iii) for payment of the permissible or required expenses of the Association, including without limitation, the procurement and maintenance of liability and hazard insurance in accordance with Article VII of this Declaration and section 47F-3-113 of the Act. Following the end of the Declarant Control Period, the Association shall pay all Common Expenses.

5.3 Adoption and Ratification of Annual Budget.

5.3.1 **The Proposed Budget.** By majority vote, the Executive Board shall adopt an annual budget for the subsequent operational year which shall provide for the allocation of expenses and assessment rates in such manner that the obligations imposed by this Declaration and any and all Supplementary Declarations will be met (the "Annual Budget"); provided, however, that until the end of the Declarant Control Period no assessment per Lot shall exceed $100 per year.

5.3.2 **Ratification of Proposed Budget.** Pursuant to subsection 47-3-103(c) of the Act within thirty (30) days after adoption of the Annual Budget, the Executive Board shall provide all Members with a summary of such budget, and a notice of a meeting to consider its ratification, including a statement that the Annual Budget may be ratified without the presence of a quorum. The Board shall set a date for such meeting to be held not less than ten (10) days but not more than sixty (60) days after mailing of such summary and notice. There shall be no requirement that a quorum be present at the meeting. The Annual Budget shall be ratified unless a majority of the votes cast at such meeting rejects the Annual Budget. If the proposed Annual Budget is rejected, the Annual Budget last ratified by the Members shall be continued until such time as the Members ratify a subsequent Annual Budget proposed by the Board.

5.4 **Special Meeting to Increase Current Common Expense Assessment**. If the Executive Board, by majority vote, determines that the important and essential functions of the Association will not be properly funded in any year pursuant to the duly ratified current Annual Budget annual, the Board may call a special meeting of the Members in accordance with the Bylaws requesting approval of a specified increase in Common Expense assessments. The proposed increased assessment shall be levied upon the affirmative vote of sixty-seven percent (67%) of the Total Association Vote. An increase in Common Expense assessments in any year pursuant to this section 5.5 shall in no way affect Common Expense assessments for subsequent years.

5.5 **Initial Common Expense Assessments**. The initial assessments for the calendar year in which this Declaration is filed in the County Registry, if any, represent that sum covering the projected cost to the Association of Common Expenses as set forth in the initial budget prepared by the Declarant ("Initial Assessments"); provided, however, that the Executive Board in its discretion may charge a lesser amount until such time as the Common Elements have been substantially completed.

5.6 **Billing of Common Expense Assessments**. The Common Expense assessments may, in the sole discretion of the Executive Board, be billed monthly, quarterly, semiannually or annually, and each such installment billed shall be due and payable thirty (30) days from the date bills are mailed.

5.7 **Date of Commencement of Common Expense Assessments; Assessment Obligation of Declarant**. Common Expense assessments shall commence as to any Lot on the first day of the month following the issuance by the governmental authority having jurisdiction thereof of a Certificate of Occupancy for a Lot with a Residence situated thereon.

5.8 **Common Elements**. All Common Elements shall be exempt from all assessments created pursuant to this Article.

5.9 **Special Assessments**.

5.9.1 **Purpose and Payment of Special Assessments**. In addition to the Common Expense assessments authorized hereby, the Association may levy special assessment for such purposes as the Association deems necessary and proper pursuant to the approval process of Section 5.9.2 including without limitation (i) construction or reconstruction, repair or replacement of capital improvements upon the Common Elements including the necessary fixtures and personal property related thereto and sanitary sewer and water lines; (ii) repayment of any loan made to the Association to enable it to perform the duties and functions authorized herein; (iii) defense of any and all legal claims brought against the Association; and (iv) to provide adequate insurance coverage for the Association.

5.9.2 **Approval of and Payment of Special Assessments**. A special assessment shall be approved by sixty-seven percent (67%) of the Total Association Vote. The notice of the meeting to consider such assessment shall include one statement (not to exceed five (5) pages in length) from the members of the Board favoring the special assessment, and one statement from those members of the Board opposing the special assessment, if any. Approved special assessments shall be paid in installments as determined by the Board, and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

5.10 **Subordination of the Lien to Eligible Mortgages and Ad Valorem Taxes.** The lien of the assessments provided for herein on any Lot shall be subordinate to the lien of any Eligible Mortgage and the lien of ad valorem taxes assessed by any governmental authority having jurisdiction thereof. Sale or transfer of any Lot shall not affect the assessment lien; provided, however, that the sale or transfer of any Lot pursuant to a decree of foreclosure of an Eligible Mortgage (or any proceeding in lieu of foreclosure thereof), shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. Pursuant to section 47F-3-116 of the Act, such unpaid assessment, however, shall be deemed Common Expenses collectible pro rata from all the Owners including such purchaser, his heirs, successors and assigns. No sale or transfer pursuant to this section 5.10 shall relieve such Lot from liability or liens arising from assessments thereafter becoming due.

5.11 **Remedies for Non-Payment of Assessments.** Any assessments (as billed on a per installment basis or otherwise) not paid when due shall be delinquent. Such delinquent assessment not paid within thirty (30) days after the date due shall bear interest from the date of delinquency at a rate equal to eighteen percent (18%) per annum, and the Association may levy a late charge not to exceed five percent (5%) of the delinquent assessment. The Association may bring an action at law against the delinquent Owner or proceed to foreclose the lien created herein pursuant to provisions and procedures set forth in section 47F-3-116 of the Act; provided, however, that this section does not prohibit other actions to recover the sums created by such lien or to prevent the Association from taking a deed in lieu of foreclosure pursuant to section 47F-3-116(d) of the Act. Costs, late charges, fines, interest and fees (including Reasonable Attorney's Fees) of any such action shall be added to the amount of the delinquent assessment and shall be part of the lien assessed against such Lot.

5.12 **General Reserve Account.** The Association shall establish a general reserve fund from its Common Expense assessments to be held in an interest bearing account as a reserve for (a) major rehabilitation or major repairs; (b) emergency and other repairs required as result of storm, fire, natural disaster or other casualty loss for which insurance proceeds are inadequate, and (c) the initial costs of any new service to be performed by the Association (the "General Reserve Account"). Any surplus funds remaining with the Association as referenced in section 47F-3-114 of the Act shall be allocated to such reserve account.

5.13 **Working Capital Fund.** At the time of closing of the initial sale of each Lot, a sum equal to one-sixth of the Common Expense assessment in effect at the time of such sale shall be collected from the purchaser of such lot and transferred to the Association to be deposited in the General Reserve Account. Payments of such working capital shall not be considered as an advance payment of any regular or special assessment.

5.14 **Omission of Assessments.** The omission by the Executive Board, before the expiration of any fiscal year, to fix the assessments hereunder for that or the next fiscal 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.

5.15 **Abandonment and Non-Use.** No Owner may waive or otherwise escape liability for any assessments created by this Article V by the non-use of the Common Elements or abandonment of his Lot.

5.16 Requests for Statement. Pursuant to section 47F-3-118 of the Act, upon written request, the Association shall furnish any Owner or any Owner's authorized agents a statement setting forth the amount of any unpaid assessment and other charges against such Owner's Lot. The statement shall be furnished within ten (10) business days after receipt of such request and shall be binding on the Association, the Executive Board, and any other Owner. In connection therewith the Association shall charge the requesting party a reasonable fee of not less than $75.00 per statement issued.

ARTICLE VI

INSURANCE AND PROPERTY CASUALTY LOSSES AND DAMAGES

6.1 Mandatory Insurance. In accordance with the provisions of section 47F-3-113 of the Act and commencing not later than the time of the first conveyance of a Lot to any Person other than the Declarant, the Association shall maintain the following insurance coverage to the extent reasonably available:

6.1.1 Property Insurance on the Community Property. Community Property insurance policies shall insure against all risk of direct physical loss commonly insured against including fire and extended coverage perils. The total amount of insurance (after application of any deductibles) shall be not less than eighty per (80%) of the replacement cost of the insured property at the time such insurance is purchased and at each renewal date thereafter, exclusive of land, excavations, foundations, and other items customarily excluded from such coverage.

6.1.2 Liability Insurance on Association-Owned Property. Association liability insurance shall cover all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements. Such public liability policy shall have a combined single limit of at least One Million Dollars ($1,000,000.00).

6.2 Form and Content of Insurance Policies. Insurance policies carried pursuant to section 6.1 above shall be written by companies authorized to do business in North Carolina and shall include the provisions listed below:

6.2.1 Mandatory Provisions.

(i) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association's Executive Board; provided, however, no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto;

(ii) Each Owner and any mortgagee holding a security interest in such Owner's Lot or shall be an insured under the policy to the extent of such Owner's and mortgagee's interest therein;

(iii) The insurer shall waive its right to subrogation under the policy against any Owner or Owner's household;

(iv) No act or omission by any Owner, unless acting within the scope of the Owner's authority on behalf of the Association, shall preclude recovery under the policy;

(v) If, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by such policy, the Association's policy shall be deemed the primary insurance; and

(vi) All casualty insurance policies shall have an "inflation guard endorsement" and an "agreed amount endorsement," if reasonably available.

6.3 Optional Insurance. If available at reasonable cost, as determined in the sole discretion of the Board, the Board may obtain:

6.3.1 Public liability insurance policy applicable to all Community Property insuring the Association and its Members for all damage or injury caused by the negligence of the Association or any of its employees, managers, Members or agents.

6.3.2 Directors' and officers' liability insurance.

6.3.3 Workers' compensation insurance, if and to the extent necessary to satisfy the requirements of applicable law.

6.3.4 A fidelity bond or employees' dishonesty coverage covering directors, officers, employees, and other persons handling or responsible for Association funds. The amount of fidelity or employees' dishonesty coverage, if obtained, shall be determined in the Board's reasonable business judgment. Such coverage if obtained, shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall not be subject to cancellation, non-renewal or substantial modification without at least ten (10) days' prior written notice to the Association.

6.4 Certificates of Insurance. An insurer issuing an insurance policy under this Article shall issue certificates or memoranda of insurance to the Association and upon written request, to any Owner or mortgagee. Pursuant to subsection 47F-3-113(f) of the Act, such insurer may not cancel or refuse to renew the referenced policy until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association and to each Owner and Mortgagee to whom certificates or memoranda of insurance have been issued at their respective last known addresses.

6.5 Individual Owner Coverage. An insurance policy issued to the Association does not prevent an Owner from obtaining insurance for such owner's own benefit.

6.6 Annual Review. All insurance policies shall be reviewed annually by one or more qualified persons, at least one of who must be in the real estate industry and familiar with construction in Wake County, North Carolina.

6.7 Damage and Destruction-Common Elements.

6.7.1 In General. Immediately after damage or destruction by fire or other casualty to all or any portion of any Common Element, the Executive Board or its duly authorized agent, shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this article means repairing or restoring the damaged property to substantially the same condition and location that existed prior to the fire or other casualty together with any changes or improvements necessary to comply with the then current applicable building codes.

6.7.2 **Repair and Reconstruction.** Any damage or destruction to the Common Elements required to be covered by insurance written in the name of the Association, shall be repaired or reconstructed promptly unless (i) repair or replacement would be illegal under any state or local statute or ordinance; or (ii) within sixty (60) days after the casualty, at least eighty percent of (80%) of the Total Association Vote otherwise agree that such elements shall not to be rebuilt, or (iii) the Community is terminated in accordance with the terms and provisions of the Act and Article XIV. No Mortgagee shall have the right to participate in the determination of whether damage or destruction to such Common Elements shall be repaired or reconstructed. The cost of repair or replacement in excess of insurance proceeds and the Reserve Account shall be a Common Expense.

6.7.3 **Restoration to Natural State.** In the event that the Association shall determine in the manner described above that the damage or destruction to the Common Element shall not be repaired or reconstructed and no alternative improvements are authorized, such property shall be restored to its natural state and maintained as an undeveloped portion of the Community Property by the Association in a neat and attractive condition.

6.7.4 **Distribution of Excess Proceeds and Insufficient Proceeds.** Pursuant to subsection 47F-3-113(g) of the Act, if any improvement on the Common Elements is not repaired or replaced, the insurance proceeds attributable to the damaged improvements shall be used to restore the damaged area to a condition compatible with the remainder of the Community and the remainder of the proceeds shall be distributed to all Owners or mortgagees as their interest may appear in proportion to the Common Expense Liability of all the Lots.

6.8. **Inadequate Insurance Proceeds.** If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are insufficient to defray the cost thereof, the Executive Board shall, without the necessity of a vote of the Association's Members, levy a special assessment against all Owners in proportion to the number of Lots owned by such Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

6.9 **Damage and Destruction to Specified Lots.** The damage or destruction by fire or other casualty to all or any portion of any Residence or other improvement on any Lot, shall be repaired by the Owner thereof within seventy-five (75) days after such damage or destruction or, where repairs cannot be so completed with the exercise of reasonable diligence and good faith efforts, repairs shall be commenced within such seventy-five (75) day period, and shall be completed within a reasonable time thereafter. Alternatively, the Owner may elect to demolish all improvements on such Lot and remove all debris therefrom within seventy-five (75) days following such casualty. In the event of noncompliance with this provision, the Executive Board shall have all enforcement powers specified in section 15.3

6.10 Liability for Negligent or Willful Damage.

6.10.1 Owner-Inflicted Damage to Common Elements. Pursuant to subsection 47F-3-107(b) of the Act, a Lot Owner is legally responsible for damage inflicted on any Common Element, and the Association may direct such owner to repair such damage at his expense or, the Association may itself accomplish the repairs and recover damages from the responsible Owner; pursuant to the Act, liability of such owner established pursuant to section 6.10.3 below shall be an assessment secured by a lien upon such owner's Lot or Lots.

6.10.2 Association Inflicted Damage to Lots. Pursuant to subsection 47F-3-107(c) of the Act, if an agent of the Association acting within the scope of Association work or activities, inflicts damage on any Lot, the Association shall be responsible for repairing such damage, or in the alternative may reimburse the subject Lot Owner for the cost of repairing such damages and any other losses arising in connection therewith. In the event the liability of the Association is established pursuant to section 6.10.3 below the affected Lot Owner may offset such liability against sums owing to the Association thereby reducing the amount of any Association lien against the subject Lot.

6.10.3 Determination of Liability and Hearing. When any claim arising under this section 6.10 is less than or equal to the jurisdictional amount established for "small claims" as defined in NCGS 7A-7-120, the aggrieved party may request a hearing before an adjudicatory panel appointed by the Executive Board (or in the absence of appointment of such a panel before the Board itself) to determine responsibility for the alleged damage. Such hearing shall accord to the party charged with causing damages notice of such charge, the opportunity to be heard and to present evidence, and notice of the decision; provided, however, that such panel (or the Board as appropriate) may not assess liability for each damage incident against the party charged, be it a Lot Owner or the Association, in excess of the foregoing jurisdictional amount. When such claim exceeds the aforesaid jurisdictional amount, liability of any Lot owner or the Association shall be determined as otherwise provided by law.

ARTICLE VII

BUILDING RESTRICTIONS

7.1 Square Footage. Any Residence erected on a Lot shall contain a minimum enclosed dwelling area of 1000 square feet. The term "enclosed dwelling area" as used in this Article shall mean the total enclosed area within a Residence subject to heating and cooling, and at the Declarant's discretion may include basement space; provided, however, that the term specifically does not include garages, terraces, open porches, decks, stoops and like area regardless of the installation of heating and cooling. Declarant or the Board pursuant to Article VIII may grant variance of these square footage requirements in the amount of 10% but in no case will the setback be less than that required by any governmental agency having jurisdiction over the Property.

7.2 Building Setbacks. No Residence erected on a Lot in violation of the zoning and building regulations of the City of Raleigh.

7.3 Heights and Accessory Building. No structure, except as hereinafter provided, shall be erected, altered, placed or permitted to remain on any Lot other than a detached Residence not to exceed three (3) stories in height, a garage and small accessory building (which may include a pool house, servants' quarters or guest facilities), provided, the use of such accessory building does not in the opinion of Declarant (during the Declarant Control Period) or the Board overcrowd the site. All garages must be attached to the main Residence unless Declarant (during the Declarant Control Period) or the Board approves in writing a variance permitting a detached garage.

ARTICLE VIII

ARCHITECTURAL CONTROL

8.1 **Purpose.** Of paramount important in the promulgation of this Declaration is the creation of a community that is aesthetically pleasing and functionally convenient.

8.2 Architectural Review.

8.2.1 **Architectural Review Committee.** The Board of Directors of the Association or a committee appointed by the Board pursuant to the terms of the Bylaws shall constitute the architectural review board (the "Review Committee"). The Review Committee is authorized to retain the services of additional consulting architects, landscape architects, urban designers, engineers, inspectors, and/or attorneys in order to advise and assist the Review Committee in performing its functions set forth herein with reasonable compensation paid thereto.

8.2.2 **Meetings and Action.** The Review Committee shall meet at such places and times as may be designated by the Bylaws, the President or the Review Committee chairperson. A majority of the Review Committee shall constitute a quorum for the transaction of business, and an affirmative majority vote of those present in person or by proxy at such meeting shall constitute the action of the Review Committee on any matter before it.

8.4 Review of Proposed Improvements.

8.4.1 **Review Requirement.** No Improvement (as defined in section 1.15) shall be erected, placed or altered, nor shall any building permit be applied for, until the proposed plans and specifications showing the nature, kind, shape, height, materials, exterior color, location and siting of such improvements have been submitted to the Review Committee (the "Plans") and expressly approved in writing. In addition, no subsequent alteration or modification of any Improvements or the construction, erection or installation of additional Improvements may be undertaken or allowed to remain on any Lot without the review and express written approval of the Review Committee. The Review Committee shall establish minimum requirements for Plans submitted for approval, but shall have the authority to request such additional information as it may determine is necessary to render its decision.

8.4.2 **Discretion of the Review Committee.** The Review Committee acting pursuant to section 8.4.1 above shall be the sole arbiter of submitted Plans and may withhold approval based upon any reasonable grounds, including purely aesthetic consideration; provided, however, the Review Committee shall at all times endeavor to be fair, reasonable, and uniform in its application of the decision making process and the Review Committee's procedures and shall use its best efforts to balance the equities between matters of taste, Community design standards and the use of private property.

8.4.3 **Effect of Failure to Approve or Disapprove.** In the event that the Review Committee fails to approve or disapprove the design of any proposed Improvements within forty-five (45) days after the Owner has submitted Plans, approval will not be required and the Owner shall be deemed to have fully complied with the provisions of this section 8.4; provided, however, that such submission shall not be deemed to have been received by the Review Committee if submitted Plans are incomplete, fail to meet the minimum requirements established by the Review Committee, contain erroneous data or fail to present adequate information upon which the Review Committee can base its decision. In connection therewith the Association shall promulgate a schedule of reasonable review fees consistent with the complexity of the type of plans reviewed.

8.5 **Right to Inspect.** Any Review Committee member (or the authorized representatives thereof) shall have the right, during reasonable hours, to enter upon any portion of the Community to inspect such property and any Improvements thereon for the purpose of ascertaining whether or not such property and improvements complies with the terms of this Declaration; such inspector shall not be deemed guilty of trespass by reason of such entry.

8.6 **Enforcement.**

8.6.1 All construction commenced and completed pursuant to Review Committee approved Plans shall be constructed substantially and materially in accordance with such approved Plans. In the discretion of the Review Committee, an Owner may be required to verify any conditions of Plan approval by a written instrument acknowledged by such Owner on his and his successors-in-interest's behalf and recorded in the County Records.

8.6.2 The Review Committee of Directors and the Declarant during the Declarant Control Period shall have the specific right (but not obligation) acting through and directing the Review Committee to enforce the provisions of this Article and/or prevent any violation thereof by a proceeding at law or equity.

8.7 **Liability.** NO PERSON SHALL RELY ON PLAN APPROVAL PURSUANT TO THIS ARTICLE IX AS EVIDENCE THAT SUCH PLANS AND THE IMPROVEMENTS CONSTRUCTED IN ACCORDANCE THEREWITH (I) ARE OR WILL BE IN COMPLIANCE WITH ANY BUILDING CODES, ZONING ORDINANCES OR ANY OTHER STATUTE, LAWS, ORDINANCES OR REGULATIONS OF ANY GOVERNMENTAL OR QUASI-GOVERNMENTAL UNIT OR AUTHORITY HAVING JURISDICTION THEREOF; OR (II) ARE CONSISTENT WITH GOOD ENGINEERING ARCHITECTURAL OR CONSTRUCTION STANDARDS, PRACTICE, AND PROCEDURES. NEITHER DECLARANT, THE ASSOCIATION, THE REVIEW COMMITTEE, NOR THE OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES, AND AGENTS OF ANY OF THEM ASSUMES LIABILITY OR RESPONSIBILITY FOR ANY DEFECT IN ANY IMPROVEMENTS CONSTRUCTED FROM THE APPROVED PLANS AND SHALL NOT BE LIABLE IN DAMAGES TO ANYONE SUBMITTING PLANS, OR TO ANY OWNER OF PROPERTY AFFECTED BY REASON OF MISTAKE IN JUDGMENT, NEGLIGENCE, OR NONFEASANCE ARISING OUT OF OR IN CONNECTION WITH THE APPROVAL OR DISAPPROVAL OR FAILURE TO APPROVE OR DISAPPROVE ANY SUCH PLANS. EVERY PERSON AND EVERY OWNER SUBMITTING PLANS FOR REVIEW AGREES NOT TO BRING ANY ACTION OR SUIT AGAINST THE

DECLARANT, THE ASSOCIATION, THE REVIEW COMMITTEE, OR THE OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES, AND AGENTS OF ANY OF THEM TO RECOVER ANY DAMAGES AND HEREBY RELEASES, REMISES, QUITCLAIMS, AND COVENANTS NOT TO SUE FOR ANY CLAIMS, DEMANDS, AND CAUSES OF ACTION ARISING OUT OF OR IN CONNECTION WITH ANY JUDGMENT, NEGLIGENCE, OR NONFEASANCE AND HEREBY WAIVES THE PROVISIONS OF ANY LAW WHICH PROVIDES THAT A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS, DEMANDS, AND CAUSES OF ACTION NOT KNOWN AT THE TIME THE RELEASE IS GIVEN.

ARTICLE IX

COVENANTS, RESTRICTIONS AND AFFIRMATIVE OBLIGATIONS

9.1 **General.** This Article, beginning at section 9.2 sets out certain restrictions, conditions and obligations with which all Occupants of the Community must comply. These restrictions may be amended or modified only pursuant to amendment of this Declaration under Article XII.

9.2 **Signs.** No sign of any kind shall be erected within the Community without the written consent of the Review Committee except (i) such signs as may be required by legal proceedings, (ii) signs of a political in association with any official federal, state or municipal election, and (iii) one "For Sale" sign per Lot, six (6) square feet; such sales sign shall not remain on the advertised premises for longer than six (6) months albeit this deadline may be extended for an additional similar period by written approval of the Review Committee; provided, however, the Association shall have the right to erect any reasonable and appropriate signs upon the Common Elements, and the Declarant is allowed to erect reasonable promotional signs and banners at the entry of the Community. All Community signs are subject to any regulations and ordinances of any governmental authority having jurisdiction thereof.

9.3 **Vehicles.**

9.3.1 **Parking.** Permitted motorized vehicles shall not be parked on any sidewalk, **or Lot yard** but only in garages or driveways; provided, however, that such restriction shall not apply to the Declarant and Builders in the course of construction and development activities. Under no condition except during emergencies shall a motorized vehicle be parked on a Community street overnight, and all garage doors shall remain closed during the hours from dusk until dawn.

9.3.2 **Oversized Vehicles.** Except in areas specifically designated by the Association and adequately screened for such purposes, if any, or otherwise permitted in the sole and unrestricted discretion of the Review Committee, no mobile home, trailer (either with or without wheels), motor home, tractor, truck (other than standard family pick-up trucks), commercial vehicles of any type, campers, motorized campers or trailers, boats or other watercraft or associated trailers, may be parked within any portion of the Community except in an enclosed permissible garage or areas specifically designated by the Board for such parking; provided, however, that such restriction shall not apply to the Declarant and Builders in the course of construction and development activities nor preclude entry into the Community of commercial trucks and vehicles providing legitimate goods and services to residences within the Community during normal business hours.

9.3.3 **Inoperable Vehicles.** No abandoned, unlicensed, inoperable or unsightly vehicles shall be stored or kept on any portion of the Community so as to be seen from any Lot or Community Street rights of way. No Occupant shall repair or restore any vehicle of any kind within the Community except within enclosed garages or workshops or as occasioned by the need for emergency repairs, and then only to the extent necessary to enable the transport of such vehicle to a proper repair facility.

9.4 **Street Trees and Other Plant Material.** Street trees and other plant material located in or on Community street rights of way, Common Elements and planting strips shall not be damaged or removed by any Community Occupant. Such trees damaged by an Owner or Occupant shall be replaced with a similar type at such responsible Person's expense payable to the Association.

9.5 **Garbage Cans and Trash Removal.** Garbage cans or other approved trash or recycling containers shall be located or screened so as to be concealed from view of neighboring Lots, Common Elements and Community street rights of way. All rubbish, trash, and garbage shall be regularly removed from any Lot and shall not be allowed to accumulate thereon. Trash spillage shall be the responsibility of the subject Owner or Occupant for removal. Yard waste must be disposed of properly and not deposited on any other Lot or on the Common Elements, easements, drainage ways or street rights of way within the Community. Notwithstanding the foregoing, the Declarant hereby expressly reserves for itself and any Builder the right to dump and bury rocks, trees and stumps on property within the Community as needed for efficient construction development of the Community provided that such fill is done according to good building practice and in accordance with all applicable governmental regulations. Nor shall any other restrictions of this section 9.5 apply to the Declarant or any Builder provided trash generated by such parties shall be periodically placed in trash bins customarily used in development and building construction activities.

9.6 **Porches, Stoops, Decks and Front Yards.** Porches, stoops, decks and yards exposed to frontage and side streets shall be maintained in a neat and orderly fashion. Outdoor furnishings visible from the street shall be limited to traditional porch furnishings. No appliances, interior furniture, artificial vegetation, permanent outdoor ornamentation and figurines (including without limitation but by way of example, plastic animals or birds, or motor vehicle tires), or other unusual items may be placed in the yard, on the porch, patio or deck. Toys, bicycles, carriages, strollers and similar items exposed to the street shall not be stored on porches, decks or in locations visible from the street. Backyard exterior sculpture, fountains, flags (other than that of the United States of America or the State of North Carolina), bird baths, bird houses, and other yard non-natural ornamentation shall be allowable upon the review and approval of the Architectural Committee but in no event shall such elements be visible from the front of any Lot or any adjoining Community right-of-way.

9.7 **Antennas, Satellite Dishes or Discs.** Except as otherwise set forth herein and subject to any regulations of the Federal Communication Commission (as from time to time amended), no exterior antennas of any kind or satellite dishes or discs larger than one meter in diameter shall be placed, allowed or maintained, upon any portion of the Community without the prior written consent of the Association. In accordance with regulations of the Federal Communication Commission on the date hereof any satellite dish or disc one meter in diameter or smaller may be erected without such approval provided it is not attached to the street facing elevation(s) of a building unit or otherwise visible from the front elevation of such Residence. Nothing in this section 9.7, however, shall prohibit (albeit not obligate) the Declarant or the Association from erecting a central master antenna, satellite dish or other similar master telecommunication system for the benefit of the entire Community and charging fees for usage thereof.

9.8 **Fences and Walls**. No fence, wall, screening or fencing type barrier of any kind (hereinafter collectively referred to within this subsection as, "Fences") shall be placed, erected, allowed or maintained upon any Lot without the prior written consent of the Architectural Review Committee. The Architectural Review Committee may issue delineating acceptable Fence specifications but in no event may any non-coated chain line or barbed wire fences be approved nor may any Fence be erected across the front elevation of any Residence or within the front yard of any Lot. Allowable Fences shall be maintained and kept in good repair in accordance with the original intent when installed, including privacy and height. Household Pet kennels, pens, lots, cages, houses or enclosures of any type are prohibited in any yard, patio, porch, or deck areas.

9.9 **Community Entrance and Entry Features**. Occupants shall not alter, remove or add improvements to any Community features (including, but not limited to walls, piers, fences, monuments, light fixtures, signage and planting) constructed or installed by the Declarant on any Community property or Common Elements, or any part of any easement area associated therewith without the prior written consent of the Association

9.10 **Nuisance.** Each Owner and Occupant shall be responsible for preventing the development of any unclean, unhealthy, unsightly, or unkempt condition on his Lot. No Lot shall be used, in whole or in part, for the storage of anything that will cause such property to appear unclean or untidy or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon or within any Lot that will emit foul or obnoxious odors (including pet waste) or that will cause any excessive noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of Community Occupants including any speaker, horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes. No noxious or offensive activity shall be carried on upon any Lot or within any Residence, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any Community Occupant.

9.11 **Drainage**. Catch basins and drainage areas are solely for the purpose of natural flow of water only and no Owner or Occupant may obstruct (with debris or otherwise) or re-channel the drainage flows after the location and installation of drainage swales, storm sewers, or storm drains. Declarant and the Association reserve the right to prepare sloping banks, cut or fill on all Community streets and roads. There is hereby reserve a perpetual easement across all portions of the Community for the purpose of altering drainage and water flow; provided, however, that the rights exercised pursuant to such reservations shall be exercised with a minimum of interference to the quiet enjoyment of the affected property with reasonable steps be taken to protect such property and any resulting damage repaired. No Owner or Occupant shall intentionally divert water runoff from his or her property onto neighboring property.

9.12 **Diligent Construction.** All construction, landscaping or other work commenced on any Lot (other than the Open Space situated on Lot 69) must be continued with reasonable diligence to completion. No partially completed improvements shall be allowed to exist on any Lot except during such reasonable period (taking into account the scale of the construction project, the then current weather conditions and availability of building materials) necessary for completion.

9.13 **Subdivision of Lot.** No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Declarant or its designee or assigns and in accordance with applicable municipal or state law. Declarant, however, hereby expressly reserves the right to subdivide, re-subdivision or recombine any Lot or other property in the Community owned by the Declarant or Builder so long as any such subdivision or recombination shall be pursuant the requirements of applicable law.

9.14 **Use of Lot.** Lots and the improvements constructed thereon shall be used for residential purposes. The use of a Residence, however, as a home office by an Owner or Occupant shall not constitute a violation of this covenant if such use does not (i) create regular customer, client, or employee traffic to the extent that it compromises the Community's residential character and enjoyment and safety of its Occupants or (ii) create objectionable lights, noise or odors. The Executive Board shall arbitrate any conflict resulting from such business use. No Residence or Lot may be utilized for an in-home daycare facility if the number of attended non-resident children exceeds three (3) or more. To the extent permissible by law, all Residences must be owner-occupied and not rented to non-related third parties and no Residence may be occupied by any more occupants than are equal to two per bedroom within such Residence

9.15 **Occupancy and Rental Units.** To the extent permissible by law, all Residences must be owner-occupied and not rented to non-related third parties and no Residence may be occupied by any more occupants than are equal to two occupants per bedroom existing within any one Residence.

9.16 **Household Pets.**

9.16.1 No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Lot with the exception of dogs, cats, or other usual and common domestic pets ("Household Pets). The maximum allowable number of Household Pets is three (3) (with the exception of exotic fish and birds), which number may be exceeded only if the pets are the newborn to three month old offspring of those same three household pets, which offspring shall not have been bred for commercial purposes.

9.16.2 Household pets are prohibited outdoors unless the pet owner or his agent is in attendance or in immediate proximity to the animal, with the ability to take immediate control, as appropriate. No pets shall be permitted to roam free, be boarded, housed or kept outdoors or bred or maintained for any commercial purposes. Household Pets, when outside the Residence, must be confined on a leash or within a fenced area (inclusive of allowable invisible electrified or other mechanically deterrent fencing). There shall be no exterior doors installed that allow the pet to pass in and outside of its own free will.

9.16.3 Vicious or excessively barking dogs are considered a nuisance and shall not be left outside at any time. Dog breeds identified as vicious or dangerous breeds by the AKC, AKA, Humane Society or the United States Center for Disease Control are strongly discouraged in the Community. Furthermore, Dobermans or dog breeds that have the five highest incidence of fatal human attack, as defined in a 1997 Report by the United States Centers for Disease Control, including: "Pit Bulls" (meaning any bull terrier of the Staffordshire Bull Terrier, American Staffordshire Terrier, or American Pit Bull Terrier breed of dog), Rottweilers, German shepherds, "Husky", Alaskan malamutes, or any mixed breed of dog which contains as an element of its breeding the above listed breeds, are prohibited and not allowed in the Community (excluding specific dogs serving as "assistance animals" as defined by the American Disabilities Act). Based on its behavior, any dog can be determined to be vicious, obnoxious, dangerous and therefore a nuisance to the Community which determination shall result in removal from the Community by local animal control officers having jurisdiction thereof.

9.16.4 It shall be a pet owner's responsibility to immediately remove pet waste from the Lot yard and all other portions of the Community.

9.17 **Firearms**. There shall be no discharging of firearms, guns or pistols of any kind, caliber, type or method of propulsion, and no hunting of any type shall be carried on or conducted on the Property or within the Community.

9.18 **Above Ground Swimming Pools**. No above ground swimming pools shall be constructed or located within the Community.

9.19 **Owner Maintenance Obligations.**

9.19.1 Except as otherwise maintained by the Association pursuant to the terms of this Declaration, all Owners shall have the sole responsibility for maintaining all structures, parking areas, landscaping, and other improvement thereon in a manner consistent with Community-wide standards and the terms of this Declaration. Such Owner maintenance shall include without limitation (i) the repairing and painting (or other appropriate exterior maintenance his Residence and all other structures located on the Lot including allowable walls and fences; (ii) the seeding, fertilizing and watering (as allowable by City ordinance) of all lawns and the mowing, weeding, edging, clipping, sweeping, pruning, raking and otherwise caring for all Lot lawn areas; (iii) appropriate pruning and trimming of all trees, shrubbery and allowable hedges in order that such landscaping is not obstructive of the view or vehicular or pedestrian traffic, does not cause unsightly or unkempt condition and that such landscaping does not trespass upon any other on any Lot.

9.19.2 Each Owner shall keep his Lot clean and free of garbage, junk, trash, debris, non-operable vehicles and apparatus, and any substance or condition that might contribute to an unsightly condition, health hazard or encourage the breeding and habitation of snakes, rates, vermin or hazardous insect infestation. Moreover, each Owner shall be responsible for the proper drainage of his Lot so as to prevent soil erosion and the flow, channeling and discharge of water onto other Community Lots, the Common Elements or Community rights-of-way.

9.19.3 In the Board determines that any Owner has failed to discharge his obligations pursuant to this subsection 9.17, the Association shall, except in an emergency situation, give the Owner written notice (the "Work Notice") of the Association's intent to undertake and discharge such Owner obligations at the Owner's sole cost and expense. The Work Notice shall set forth with reasonable particularity the maintenance, repairs or clean-up deemed necessary (the "Work"). Such Owner shall have ten (10) days after receipt of such notice within which to complete the Work, of if the Work is not capable of completion within such ten (10) day period, the Owner shall commence the Work within such period and complete it within a reasonable time. In the event Owner fails to comply with the terms of the Work Notice, the Association may undertake the Work at Owner's sole cost and expense, and all such costs shall be added to and become a part of the Owner's Common Expense Liability and shall become a lien against the Lot; provided, however, that the remedies provide in this subsection shall be in addition to, and not in lieu of, other remedies provided in this Declaration for a violation of this Declaration.

9.20 **Insurance**. Nothing shall be kept, and no activity shall be conducted on the Property or within the Community, which will increase the rate of insurance applicable to residential use for the Property or any Lots. No Owner shall do or keep anything, nor cause or allow anything to be done or kept, on his Lot or within the Community, which will result in the cancellation of insurance for any portion of the Property, or Lots therein, or which will be in violation of any law, ordinance, or regulation.

9.21 **Independent Covenants.** Each and every covenant and restriction contained herein shall be considered to be an independent and separate covenant and agreement, and in the event any one or more of said covenants or restrictions shall, for whatever reason, be held to be invalid, or unenforceable, all remaining covenants and restrictions shall nevertheless remain in full force and effect.

9.22 **Additional Restrictions.** Declarant may include in any contract or deed hereafter made any additional covenants and restorations that are not inconsistent with and which do not diminish the covenants and restorations set forth herein.

ARTICLE X

ADDITIONAL EASEMENTS

10.1 **Easements for Utilities.** There is hereby reserved to the Declarant and the Association easements upon, across, above and under all property within the Community for access, ingress, egress, installation, repairing, replacing, and maintaining telecommunications, electrical, sanitary sewer, water, gas, storm drainage systems, including but not limited to, a master television antenna system, cable television system, fiber optic telecommunications system or security system which the Declarant or Association may install (but is not required to install) to serve the Community. It shall be expressly permissible for the Declarant, the Association (or the designee of either including any private or public utility or governmental authority, as appropriate) to install, repair, replace, and maintain or to authorize the installation, repair, replacement and maintenance of such wires, conduits, cables and other equipment related to the provision of any such utility or service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the Board shall have the right to grant such easement or license. It is further provided, however, that any Person exercising rights pursuant to such easement shall be liable for any damage to the property so entered and be responsible for reasonably restoring such damaged property to substantially the same condition as existed prior to such damage.

10.2 **Association Easement for Maintenance.** The Association, for itself and its employees, agents, contractors, and subcontractors and invitee's, shall have a perpetual easement over each Lot and any Community right to way the extent reasonably necessary to perform maintenance including without limitation maintenance of the Community entrance structures and association plantings.

10.3 **Easement for Entry**. The Executive Board shall have the right (but not the obligation) to enter upon any property within the Community for emergency, security, and safety reasons. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Board to enter to cure any condition, which may increase the possibility of a fire, slope erosion, or other hazard in the event an Owner or Occupant fails or refuses to cure such condition after written notice of the Board.

10.4 **Easement to Governmental and Public Authorities.** An easement is hereby established for municipal, state or other public utilities serving the community, and for their agents and employees over all portions of the Community for setting, removing and reading utility meters, maintaining or replacing utility or drainage connections, and acting with other purposes consistent with public safety and welfare, including without limitation, police and fire protection.

10.5 **Drainage and Correction Easement(s).** In addition to the foregoing reserved specific easements, Declarant (during the Declarant Control Period) and the Association may cut and create drains and drainways both above ground and underground on any portion of the Community for the purpose of facilitating the removal of surface water whenever such action may appear to be necessary in order to maintain reasonable standards of health, safety and appearance along, over or across any Lot. Every Lot also is subject to an easement for entry and encroachment for the purpose of allowing the Declarant or the Association to correct any problems that may arise regarding utilities, grading or drainage.

10.6 **Private Temporary Landscaping Easement.** During the Declarant Control Period Declarant shall retain all rights in any Private Temporary Landscaping Easement(s) as defined in Subsection 1.26 hereof.

ARTICLE XI

CONDEMNATION

If any portion of the Community is subject to and acquired by eminent domain the provisions of section 47F-1-107 of the Act shall be complied with.

ARTICLE XII

SALES AND CONSTRUCTION ACTIVITIES OF DECLARANT AND BUILDERS

12.1 **Rights Reserved.** Notwithstanding any provisions or restrictions contained in the Rules and Regulations, this Declaration, or Supplementary Declaration or any amendments to the foregoing it shall be expressly permissible for Declarant, and its respective agents, employees, and approved Builders during the Development Period to maintain such facilities and carry out such activities as may be reasonably required, convenient, or incidental to the development, improvement, completion and sale of the any portion of the Community, including, without limitation, the installation and operation of sales and construction trailers and offices, sales models and appropriate signs; provided, however, that in the event a sales office has been maintained in any portion of a Residence such sales office must be removed and the original intended and approved use of such structure must be restored prior to conveyance from the Declarant or Builders to any third party purchaser.

12.2 **Easement to Perform Reserved Rights.** During the Declarant Control Period, the Declarant hereby expressly reserves unto itself and approved Builders, a non-revocable (during such defined period) right, privilege, and easement with respect to all property within the Community for the benefit of the Declarant and such Builders over, under, in, and/or on such property, without obligation and without charge for the purposes of taking all actions related to or connected with the activities specified in section 12.1 above.

ARTICLE XIII

AMENDMENT OF DECLARATION

13.1 Amendment by Owners. The covenants, conditions and restrictions of the Declaration may be amended during the first thirty (30) year period or thereafter by an instrument signed by the Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated; provided, however, that the Executive Board may amend this Declaration to correct any obvious error or inconsistency in drafting, typing or reproduction or to make an amendment requested by the Federal National Mortgage Association, without action or consent of the Owners, and such amendment shall be certified as an official act of the Executive Board and recorded in the County Registry.

13.2 Certification and Recordation of Amendment. Any instrument amending this Declaration (other than an amendment by the Executive Board to correct an error or inconsistency in drafting, typing, or reproduction or an amendment by Declarant or the Executive Board pursuant to section 14.4 hereof) shall be delivered, following approval by the Owners, to the Executive Board. Thereupon, the Executive Board shall, within thirty (30) days after delivery:

13.2.1 Approval. Reasonably assure itself that the amendment has been duly approved by the Owners as provided in section 13.1, and for this purpose, the Executive Board may rely on its roster of Members and shall not be required to cause any title to be examined;

13.2.2 Certificate of Validity. Attach to the amendment a certification as to its validity, which certification shall be executed by the Association, and shall be in the following form:

CERTIFICATE OF VALIDITY

By authority of its Executive Board Meadowcreek Raleigh Homeowners Association, Inc. hereby certifies that the foregoing instrument has been approved by affirmative vote or by written statement signed by Lot Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association have been allocated and is therefore, a valid amendment to the existing Declaration of Meadowcreek Subdivision.

IN WITNESS WHEREOF, the Meadowcreek Raleigh Homeowners Association, Inc. has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed, the day and year first above written.

MEADOWCREEK RALEGH HOMEOWNERS
ASSOCIATION, INC. (SEAL)

By: ____________________
______President

[ADD ACKNOWLEDGEMENT]

13.2.3 **Recordation.** Within the thirty (30) day period aforesaid, cause the amendment to be recorded in the Wake County Registry; provided that any delay in recording such amendment within the aforesaid thirty (30) day period shall not invalidate the amendment.

13.3 **Effect and Validity of Amendment.** All amendments shall be effective from the date of proper recordation in the Wake County Registry. When any instrument purporting to amend this Declaration has been certified by the Executive Board and recorded as provided in this section, it shall be conclusively presumed that such instrument constitutes a valid amendment as to the Owners.

13.4 **Amendment by Declarant.** Notwithstanding anything to the contrary set forth in this Article and in accordance with its rights as Declarant pursuant to section 47F-2-117 of the Act, the Declarant may unilaterally amend the Declaration at any time and from time to time (i) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, regulation or judicial determination which shall be in conflict therewith; (ii) if such amendment is necessary to qualify the Association for tax-exempt status; (iii) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Property subject to this Declaration; or (iv) if such amendment is required by an institutional or governmental lender or purchaser of Mortgage loans, including for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase Mortgage loans on the Lots subject to this Declaration, or (v) if such amendment is necessary to enable any governmental agency or reputable private insurance company to guarantee or insure Mortgage loans on the Lot or subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any unless any of the affected Owner shall consent thereto in writing.

ARTICLE XIV

DISSOLUTION OR INSOLVENCY OF THE ASSOCIATION

The Association may be dissolved and the Community terminated pursuant to the provisions and procedures of Section 47F-2-118 of the Act.

ARTICLE XV

GENERAL PROVISIONS

15.1 **Duration.** The covenants, restrictions and conditions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors, and assigns, for a period of twenty (20) years from the filing thereof, after which time, any such provision shall be (i) automatically extended for successive periods of twenty (20) years from the date hereof, unless such extension is disapproved by at least sixty-seven percent (67%) of the Total Association Vote as evidenced by instrument reflecting such disapproval recorded in the County Records within the year immediately preceding the beginning of any twenty (20) year renewal period; (ii) or the Association is dissolved or otherwise terminated pursuant Article XV or (ii) as otherwise provided by law.

15.2 **Enforcement.** The Declarant (during the Declarant Control Period), the Association, any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by such parties to enforce any such provision herein shall in no event be deemed a waiver of the right to do so thereafter. Pursuant to the provisions and procedures of section 47F-3-107.1 of the Act the Association may also levy reasonable fines not to exceed $150.00 per violation any violations for any infraction of this Declaration of any supplementary declaration or amendment thereto, the Bylaws and/or the Rules and Regulations; any fines so paid and collected by the Association shall be deposited in the Association's general fund or Reserve Account in the Board's discretion.

15.3 **Notices.** Any notice required to be sent to any Member pursuant hereto shall be deemed to have been properly sent and notice thereby given when delivered personally or sent by mail with the proper postage affixed to the address appearing on the Association membership list. It shall be the obligation of every Member to immediately notify the Association Secretary in writing of any change of address. Any notice by the Association to one or more co-Owners shall constitute notice to all co-Owners. Any Person who becomes a Member following the first day in the calendar month in which said notice is delivered or mailed shall be deemed to have been given notice if notice was given to his predecessor in title.

15.4 **Books and Records.**

15.4.1 **Inspection by Members and Mortgagees.** This Declaration (and any amendments of supplementary declarations thereto), copies of the Rules and Regulations, membership register, books of account, and minutes of Member meetings of the Association, the Executive Board, Architectural Board and any Association committee shall be made available for inspection and copying by any Member of the Association or Eligible Mortgagee (or their respective duly appointed representatives) for any lawful and reasonable purpose at the office of the Association or at such other reasonable place as the Board shall prescribe; provided, however, the Executive Board shall establish reasonable rules with respect to (i) notice to be given to the custodian of the records; (ii) hours and days of the week such inspection may be made, and (iii) payment of the cost of document reproduction.

15.4.2 **Inspection by Executive Board Directors.** Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association. Such right of inspection by a director includes the right to make extra copies of documents at reasonable expense to the Association.

15.5 **Financial Statements.** Financial statements for the Association shall be compiled annually for distribution to the Members in the manner as the Executive Board may decide or is otherwise provided by law; provided, however, after having received the Board's financial statements at the Association annual meeting, the Members, by an affirmative majority vote, may require that the financial statements of the Association be audited as a Common Expense by a certified public accountant. Upon written request of any Eligible Mortgagee and upon payment of all costs associated therewith, such Mortgagee shall be entitled to receive a copy of the audited financial statements of the Association within ninety (90) days of the date of the request.

15.6 **Litigation.** No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by at least seventy-five percent (75%) of the Total Association Vote. This section shall not apply, however, to (i) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (ii) the imposition and collection of assessments as provided in Article V hereof, (iii) proceedings involving challenges to ad valorem taxation, or (iv) counterclaims brought by the Association in proceedings instituted against it.

15.7 **Agreements.** Subject to the prior approval of Declarant during the Declarant Control Period, all agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Executive Board shall be binding upon all Owners, their heirs, legal representatives, successors, assigns, and others having an interest in the Community or the privilege of possession and enjoyment of any part of the Community.

15.8 **Indemnification.** In accordance with the North Carolina Nonprofit Corporation Act and to the full extent allowed, the Association shall indemnify every Person who was or is a party or who is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Association), by reason of the fact that such Person is or was serving as a director or officer of the Association against any and all expenses, including attorneys' fees, imposed upon or reasonably incurred in connection with any such action, suit, or proceeding, if such Person acted in a manner reasonably believed to be in or not opposed to the best interest of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The Association hereunder shall make any indemnification only as authorized in a specific case upon determination that indemnification of the Person is proper under the circumstances.

15.9 **Other Governing Instruments.** Notwithstanding anything contained herein to the contrary, all the provisions of these covenants shall be subject to and, interpreted and applied in accordance with, the Act, the laws, codes and regulations of the State of North Carolina, the County of Wake and any other governmental authority having jurisdiction thereof.

15.10 **Notice of Sale or Lease.** In the event an Owner sells or leases his or her Lot, Residence or any portion thereof, the Owner shall give to the Association, in writing, the name of the purchaser or lessee of the Lot and such other information as the Board may reasonably require.

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

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

15.13 **Captions.** The Captions of each Article and section hereof, as to the contents of each article and section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular article or section to which they refer.

15.14 Conflicts. In the event of any irreconcilable conflict between the Declaration and the Bylaws, the provisions of this Declaration shall control. In the event of an irreconcilable conflict between this Declaration and the Articles of Incorporation, the provision of the Declaration shall control. Unless otherwise allowable under the Act as being discretionary, in the event of a conflict between or among any provision in this Declaration, the Articles of Incorporation or the Bylaws and the Act, the Act shall control.

IN WITNESS WHEREOF, the undersigned Declarant has executed this instrument under seal by authority duly given all as of the day and year first above written.

[SIGNATURE PAGE ACKNOWLEDGEMENT TO FOLLOW]

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Signature and Acknowledgement Page
Declaration of Covenants, Conditions and
Restrictions for Meadowcreek Subdivision
DHIC, Inc., Declarant

DHIC, Inc. (SEAL)

By: ______________________________(SEAL)
Name: Gregory F. Warren
Its: President

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, Sheila A. Porter, a Notary Public for said County and State, do hereby certify that Gregory F. Warren personally appeared before me this day and acknowledged that he is President of **DHIC, Inc.** (the "Corporation"), a North Carolina non-profit corporation (the "Corporation"), and that by authority duly given and as the act of the Corporation, the foregoing instrument was signed in its name by him on behalf of the Corporation.

Witness my hand and official seal this 14TH day of July, 2003.

SHEILA D. PORTER NOTARY PUBLIC WAKE COUNTY, N.C.
(SEAL)

My Commission Expires: Aug 31, 2006

____
Notary Public

Covenants.DOC

Signature Page
Joinder and Consent of Mortgagee and Trustee
Central Carolina Bank, Beneficiary
Southland Associates, Inc., Trustee
Declaration of Covenants Conditions and
Restrictions for Meadowcreek

Bank
CENTRAL CAROLINA, a division of National Bank of commerce, Memphis Tennessee (SEAL)

By: Dave Byerly
Vice President

~~ATTEST:~~

Assistant Secretary

~~[AFFIX CORPORATE SEAL]~~

STATE/COMMONWEALTH OF N. Carolina

COUNTY OF Wake

I, Jean Telep, a Notary Public for the State and County aforesaid, certify that Dave Byerly personally appeared before me this day and acknowledged that ~~s/~~he is ~~Assistant Secretary~~ Vice President of CENTRAL CAROLINA BANK, a division of National Bank of Commerce, Memphis Tennessee ~~AND TRUST COMPANY~~ and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President, ~~sealed with its corporate seal and attested by him~~/hersel~~f as its Assistant Secret~~ary.

Witness my hand and official seal this 18th day of July, ~~20023.~~ 2003

JEAN TELEP
NOTARY
PUBLIC
WAKE COUNTY, N.C.

Jean Telep
Notary Public

My commission expires: 12-21-2007

Covenants.DOC

BK010338PG02630

Signature Page
Joinder and Consent of Mortgagee and Trustee
Central Carolina Bank, Beneficiary
Southland Associates, Inc., Trustee Declaration of Covenants Conditions and Restrictions for Meadowcreek

TRUSTEE:

SOUTHLAND ASSOCIATES, INC. a North Carolina corporation (SEAL)

By: ______________________
Vice President

~~ATTEST:~~ ______________________

____
Assistant Secretary

~~[AFFIX CORPORATE SEAL]~~

STATE/COMMONWEALTH OF N. Carolina

COUNTY OF Wake

I, Jean Telep, a Notary Public for the State and County aforesaid, certify that Scott Goodwin personally appeared before me this day and acknowledged that ~~s/~~he is ~~Assistant Secretary~~ Vice President of SOUTHLAND ASSOCIATES, INC., a North Carolina corporation and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President, ~~sealed with its corporate seal and attested by him/herself as its Assistant Secretary~~.

Witness my hand and official seal this 18th day of July, 2003.

JEAN TELEP NOTARY PUBLIC WAKE COUNTY, N.C.

____
Notary Public

My commission expires: 12-21-2007

Covenants.DOC

BK010338PG02631

Signature Page
Joinder and Consent of Mortgagee and Trustee
County of Wake, Beneficiary
E. Richard Jones, Jr., Trustee
Declaration of Covenants Conditions and
Restrictions for Meadowcreek

COUNTY OF WAKE, NORTH CAROLINA, a body politic and political subdivision of the State of North Carolina (SEAL)

By: ____________________
Chairman, Wake County Board of Commissioners

COUNTY OF WAKE NORTH CAROLINA

ATTEST:

____
Clerk or Deputy Clerk

[AFFIX COUNTY SEAL]

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, the undersigned Notary Public for the State and County aforesaid, certify that Gwen Reynolds personally appeared before me this day and acknowledged that s/he is ________ Clerk of WAKE COUNTY, a body politic and political subdivision of the State of North Carolina (the "County") and that by authority duly given and as the act of the County the foregoing instrument was signed in the County's name by the Chairman, Wake County Board of Commissioners, sealed with its corporate seal and attested by him/herself as its _____ Clerk.

DENISE KIDD NOTARY PUBLIC WAKE COUNTY, N.C.

Witness my hand and official seal this 31 day of July, 2003.

Denise Kidd
Notary Public

My commission expires:

My Commission Expires 12-11-2006

Covenants.DOC

Signature Page
Joinder and Consent of Mortgagee and Trustee
County of Wake, Beneficiary
E. Richard Jones, Jr., Trustee
Declaration of Covenants Conditions and
Restrictions for Meadowcreek

TRUSTEE:

E. Richard Jones, Jr. _____________________ (SEAL)
E. Richard Jones, Jr., Trustee

I, the undersigned Notary Public for the State and County aforesaid, certify that E. RICHARD JONES, JR., Trustee personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official seal this 28 day of July, 2003.

Cynthia Lukens
Notary Public

My commission expires: 6-18-2003

CYNTHIA LUKENS NOTARY *** PUBLIC WAYNE COUNTY, N.C.

EXHIBIT A

Legal Description

Being all of MEADOWCREEK SUBDIVISION containing 49.927 acres including Lots 1 through 69 inclusive as shown on plat entitled "Subdivision Map of MEADOWCREEK," prepared by Kenneth Close, Inc. and recorded in the Office of the Wake County Register of Deeds in Book of Maps 2003, Pages 1027 through 1030 inclusive (4 sheets)

JOINDER AND CONSENT OF MORTGAGEE AND TRUSTEE

Declarant is duly indebted to Central Carolina Bank, a division of National Bank of Commerce, Memphis Tennessee ("CCB"), as evidenced by that certain deed of trust to Southland Associates, Inc., Trustee ("Trustee"), recorded in the public records of Wake County, North Carolina in *Book 9502, Page 2238 and re-recorded in Book 9507, Page 583,* (the "CCB Deed of Trust"), and the undersigned Declarant and CCB and Trustee have joined in the execution of the Declaration solely to confirm:

1. That CCB and Trustee consent to the execution and recording of this Declaration and subordination of the lien of the CCB Deed of Trust thereto and declares that any Property made subject to this Declaration by the filing hereof or any Supplementary Declaration and encumbered by the CCB Deed of Trust shall be subject to all the covenants, conditions, restrictions, easements and conditions set forth in this Declaration; and

2. In the event of any foreclosure of Property subject to the CCB Deed of Trust, title thereto shall include all development rights and special Declarant rights that Declarant has or may come to have as Declarant under this Declaration with respect to such foreclosed Property; and

3. Upon receipt of such development rights and special declaration rights of Declarant as aforesaid, then until recording of an instrument permitting the exercise of any such fights, CCB, on behalf of itself and such successors and assigns to whom it assigns its such rights, shall hold same solely for transfer to another person, and CCB shall not be subject to any liability or obligation as a Declarant for the period it owns such Declarant rights unless and until such instrument permitting exercise of any such rights is filed of record by CCB, or by its successor or assign.

IN WITNESS WHEREOF, this instrument has been executed under seal by authority duly given effective as of the 18th day of July, 2003.

[SIGNATURE PAGES AND ACKNOWLEDGEMENTS TO FOLLOW]

Covenants.DOC

JOINDER AND CONSENT OF MORTGAGEE AND TRUSTEE

Declarant is duly indebted to the County of Wake North Carolina, a body politic and political subdivision of the State of North Carolina (the "County"), as evidenced by that certain deed of trust to E. Richard Jones, Jr., Trustee ("Trustee"), recorded in the public records of Wake County, North Carolina in *Book 9502, Page 2238 and re-recorded in Book 9507, Page 583,* (the "County Deed of Trust"), and the undersigned Declarant and THE COUNTY and Trustee have joined in the execution of the Declaration solely to confirm:

1. That the County and Trustee consent to the execution and recording of this Declaration and subordination of the lien of the County Deed of Trust thereto and declares that any Property made subject to this Declaration by the filing hereof or any Supplementary Declaration and encumbered by the County Deed of Trust shall be subject to all the covenants, conditions, restrictions, easements and conditions set forth in this Declaration; and

2. In the event of any foreclosure of Property subject to the County Deed of Trust, title thereto shall include all development rights and special Declarant rights that Declarant has or may come to have as Declarant under this Declaration with respect to such foreclosed Property; and

3. Upon receipt of such development rights and special declaration rights of Declarant as aforesaid, then until recording of an instrument permitting the exercise of any such fights, the County, on behalf of itself and such successors and assigns to whom it assigns its such rights, shall hold same solely for transfer to another person, and the County shall not be subject to any liability or obligation as a Declarant for the period it owns such Declarant rights unless and until such instrument permitting exercise of any such rights is filed of record by the County, or by its successor or assign.

IN WITNESS WHEREOF, this instrument has been executed under seal by authority duly given effective as of the 31st day of July, 2003.

[SIGNATURE PAGES AND ACKNOWLEDGEMENTS TO FOLLOW]

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BOOK:010338 PAGE:02599 - 02636

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

WAKE COUNTY
NORTH CAROLINA

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

North Carolina - Wake County

The foregoing certificate___ of Sheila D Porter, Jean Telep, Denise Kidd, & Cynthia Lukens _________ 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: George W Parvin Deputy
Assistant/Deputy Register of Deeds

This Customer Group
____________ # of Time Stamps Needed

This Document
38 New Time Stamp
38 # of Pages