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by Carolyn Coley, Asst.

**NEIGHBORHOOD DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
PROVINCE GRANDE AT OLDE LIBERTY GOLF CLUB**

**PROVINCE GRANDE AT OLDE LIBERTY GOLF CLUB IS
A COMMUNITY INTENDED AND OPERATED FOR
PERSONS 55 YEARS OF AGE AND OLDER
PURSUANT TO THE HOUSING FOR OLDER PERSONS ACT OF 1995
(PUBLIC LAW 104-76)**

**THIS DOCUMENT REGULATES OR PROHIBITS
THE DISPLAY OF POLITICAL SIGNS.**

Drawn by & HOLD FOR: Howard A. Jacobson, Olde Liberty Club, LLC (jml)

**NEIGHBORHOOD DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
PROVINCE GRANDE AT OLDE LIBERTY GOLF CLUB**

THIS NEIGHBORHOOD DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Neighborhood Declaration" or "Province Grande Neighborhood Declaration") is made on the date hereinafter set forth by **OLDE LIBERTY CLUB, LLC**, a North Carolina limited liability company ("Declarant"), **PROVINCE HOMES, LLC**, a North Carolina limited liability company ("Builder"), and **OLDE LIBERTY GOLF CLUB HOMEOWNERS' ASSOCIATION, INC.**, a North Carolina non-profit corporation ("Master Association"), each of whom joins in the execution of this Neighborhood Declaration for the purposes set forth herein.

WITNESSETH:

WHEREAS, Declarant entered into the Master Declaration of Covenants, Conditions and Restrictions for Olde Liberty Golf Club ("Community") recorded in Book 1562, Page 436 in the Franklin County Public Registry and the First Amendment recorded in Book 1670, Page 829 in the Franklin County Public Registry (as amended and supplemented, the "**Master Declaration**");

WHEREAS, Declarant is the owner of Lot Numbers 368 through 405, 503 through 577, 586 through 590 and 653 through 658 located in the Community, as more fully described on **Exhibit A**, which comprise a portion of the Community to be known and marketed as Province Grande at Olde Liberty Club (the "Subdivision"), for the construction and sale of single-family residences intended to provide housing for persons 55 years of age and older as permitted by the Housing for Older Persons Act of 1995 (Public Law 76-124).

WHEREAS, Builder has entered into one or more contracts to purchase all of the Lots within the Subdivision and to sell and construct thereon single-family housing intended for persons 55 years of age or older.

WHEREAS, the Properties (hereinafter defined) are part of the larger planned community known as Olde Liberty Golf Club, all of which is subject to the terms and provisions contained in the Master Declaration. Declarant herein is also the Master Declarant under the Master Declaration.

WHEREAS, Declarant and Builder have agreed that all portions of the Properties including within the Subdivision will be made subject to the terms, conditions, provisions, restrictions, and covenants of this Neighborhood Declaration.

WHEREAS, Declarant desires to provide for the maintenance and upkeep of the Neighborhood Common Property within the Subdivision and to provide for enforcement of covenants and restrictions applicable to the Subdivision, and, to that end, desires to subject all of the property within the Subdivision to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each Owner thereof.

WHEREAS, Declarant has deemed it advisable to create an organization to own, maintain and administer the Neighborhood Common Property (as hereinafter defined), to administer and enforce covenants and restrictions applicable to the Subdivision, and to collect and disburse the assessments and charges hereinafter created, and Declarant has incorporated or will cause to be incorporated under North Carolina law as a non-profit corporation, the PROVINCE GRANDE AT OLDE LIBERTY HOMEOWNERS ASSOCIATION, INC. ("Association"), for the purpose of exercising the aforesaid functions. The jurisdiction, authority, and responsibilities of the Association shall be separate, independent and distinct from those of the Master Association which shall have concurrent authority over the Subdivision as more specifically provided in **ARTICLE XV** hereof.

NOW, THEREFORE, Declarant declares that the real property described in Section 1 of Article II of this Neighborhood Declaration and such additions thereto as may hereafter be made pursuant to Article II hereof, is and shall be owned, held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Neighborhood Declaration, all of which shall run with the real property and be binding on all parties owning any right, title or interest in said real property or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I DEFINITIONS

Section 1. "Additional Property" shall mean and refer to additional real estate which is not currently part of the Existing Property and which may be made subject to the terms of this Neighborhood Declaration in accordance with the provisions of **Article II** of this Neighborhood Declaration.

Section 2. "Architectural Control Committee" and "ACC" shall mean and refer to the committee appointed to oversee the development and enforcement of architectural control standards and restrictions with respect to the Subdivision and to perform certain other functions as described in **Article X** of this Neighborhood Declaration.

Section 3. "Association" shall mean and refer to the **PROVINCE GRANDE AT OLDE LIBERTY HOMEOWNERS ASSOCIATION, INC.**, a North Carolina non-profit corporation, organized pursuant to N.C.G.S. §47F-3-101 and §55A-2-02, and its successors and assigns. The Association is a Neighborhood Association as defined in Article Three of the Master Declaration.

Section 4. "Board of Directors" and "Board" shall mean and refer to the Board of Directors of the Association elected or appointed to manage the affairs of the Association, and is the "executive board" as defined in Section 47F-1-03(13) of the Act.

Section 5. "Bylaws" shall mean the bylaws adopted by the Association pursuant to the North Carolina Non-Profit Corporation Act, as amended from time to time.

Section 6. "Builder" shall mean and refer to any Person to whom or which Declarant conveys one or more Lots within the Properties for the purpose of constructing a Dwelling thereon. At the time of recording of this Neighborhood Declaration, PROVINCE HOMES, LLC, is the only Builder.

Section 7. “Certificate of Occupancy” shall mean and refer to any required certificate or approval issued by the appropriate governmental authorities as a prerequisite to occupancy of a Dwelling.

Section 8. “Common Expense” shall mean and refer to: (i) all expenses of maintenance of Neighborhood Common Property (hereinafter defined), including repair, restoration and replacement thereof, and including monies allocated to reserve funds; (ii) *ad valorem* taxes and public assessments levied against the Neighborhood Common Property owned in fee by the Association (but specifically excluding *ad valorem* taxes on real property as to which the Association has only an easement or other similar right of use, except to the extent, if any, that any improvements in any such easement that are owned or maintained by the Association result in additional taxes on such real property that would not be assessed in the absence of such improvements, in which event such additional taxes shall be paid by the Association as a Common Expense); (iii) premiums for hazard, liability and other insurance insuring the Neighborhood Common Property or the Association, its officers, directors and employees; (iv) rents, insurance premiums, *ad valorem* taxes, and other payments due under any lease entered into by the Association; (v) fees and expenses of attorneys, accountants, and other Persons employed by the Association for Association business; (vi) expenses declared to be or described as Common Expenses by the Act or this Neighborhood Declaration; (vii) expenses determined by the Board of Directors or by the Members to be Common Expenses; and (viii) all other expenses incurred by the Association in performing its functions, including operating, management and administrative expenses.

Section 9. “Declarant” shall mean and refer to **OLDE LIBERTY CLUB, LLC**, a North Carolina limited liability company. Olde Liberty Club, LLC shall cease to be the Declarant when Builder has taken title to 95% or more of the Lots within the Property, at which point Builder shall be the Declarant for purposes of exercising the rights, privileges, and authority reserved to the Declarant hereunder. The term “Declarant” shall also include any Person who is designated to be a successor Declarant by an assignment of all or a portion of Declarant’s rights executed by the Declarant and Builder(s) and recorded in the Registry.

Section 10. “Declarant Control Period” shall mean and refer to the period of time during which the Declarant may appoint or remove the members of the Board of Directors of the Association. The Declarant Control Period shall terminate upon the earlier of the following to occur:

- (a) December 31, 2025;
- (b) the date on which Declarant no longer owns any property within the Subdivision or any of the Property included on **Exhibit B** attached hereto; or
- (c) Relinquishment or transfer by Declarant of all Special Declarant Rights as provided in §47F-3-104 of the Act.

Section 11. “Dwelling” and “Unit” shall mean and refer to any building or portion thereof which is used or occupied, or intended for use or occupancy, as a residence by an individual or by one family. A Dwelling shall be deemed to constitute a Dwelling upon issuance of a Certificate of Occupancy therefor.

Section 12. “Limited Common Expense” shall mean and refer to all expenses of the type included within the term “Common Expense” but which are related solely and specifically to Limited Neighborhood Common Property. Limited Common Expenses shall be paid out of assessments levied only against the portions of the Properties benefited by Limited Neighborhood Common Property.

Section 13. “Limited Neighborhood Common Property” shall mean and refer to all Neighborhood Common Property owned, leased, used or maintained by the Association for the benefit of fewer than all of the Members or less than all of the Properties, and which has been designated as such by the Declarant or the Association.

Section 14. “Lot” shall mean and refer to any plot of land, with delineated boundary lines, shown on any recorded subdivision map of the Properties, with the exception of any Neighborhood Common Area (hereinafter defined) owned in fee by the Association and any public street rights-of-way shown on such recorded map. In the event that any Lot is increased or decreased in size by recombination or resubdivision through recordation of new subdivision Plats, any newly-platted Lot shall thereafter constitute a Lot.

Section 15. “Master Association” shall mean and refer to the Olde Liberty Golf Club Homeowners’ Association, Inc., a North Carolina non-profit corporation and its successors and assigns, and which is the “Association” as defined in the Master Declaration.

Section 16. “Master Declaration” shall have the meaning set forth in the recitals to this Neighborhood Declaration.

Section 17. “Master Declarant” shall mean and refer to the “Declarant” under the Master Declaration.

Section 18. “Member” shall mean and refer to every Person who or which holds membership in the Association.

Section 19. “Neighborhood Common Area” shall mean and refer to the real property, together with any improvements thereon and personal property affixed thereto, owned and/or used by the Association, whether in fee, by easement, lease, or otherwise, for the common use and enjoyment by the Owners of Lots within the Subdivision, including, without limitation, open space, recreational facilities, pedestrian access easements, private streets and alleys, sign and landscape easements and buffers, and water, sewer and storm water drainage easements, and the facilities constructed therein, which easements and facilities serve more than one Lot and are not located within a public easement or public street right-of-way and any improvements thereon. Neighborhood Common Area shall not include the Golf Course (hereinafter defined) or property conveyed to the Master Association as “Common Area” under the Master Declaration. Except as otherwise provided in this Neighborhood Declaration, the Neighborhood Common Area shall be maintained by the Association or its successors in interest unless dedicated to public use as set forth herein.

Section 20. “Neighborhood Common Property” shall mean and refer to Neighborhood Common Area *and* all personal property owned, leased or used by the Association, or with respect to which the Association has a financial obligation, for the common use, enjoyment or benefit of the Members or the Properties, and any substitutions or replacements thereof. The Neighborhood Common Property shall be maintained by the Association or its successors in interest unless dedicated to public use as set forth herein. Neighborhood Common Property includes, but is broader than, “common elements” as defined in §47F-1-103(4) of the Act.

Section 21. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Properties, including contract sellers and

owners of an equity of redemption, but excluding those having an interest in a Lot solely as security for the performance of an obligation.

Section 22. “Person” shall mean and refer to any natural person, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, Governmental Entity (including the City), or other entity. If not capitalized, “person” shall mean and refer to an individual.

Section 23. “Plat” shall mean and refer to any plat of the Property or any part of it which is recorded from time to time in the Registry.

Section 24. “Properties” shall mean and refer to the “Existing Property” described in **Exhibit A** to this Neighborhood Declaration and any Additional Property annexed pursuant to Article II of this Neighborhood Declaration.

Section 25. “Registry” shall mean and refer to the office of the Register of Deeds for Franklin County, North Carolina, or any successor office in which deeds, Plats, easements, mortgages and deeds of trust are recorded. Any reference herein to a Plat or document being recorded refers to such Plat or document being recorded in the Registry.

Section 26. “Special Declarant Rights” shall mean and refer to all rights granted to, or reserved by, or established for the benefit of, Declarant in this Neighborhood Declaration, the Articles of Incorporation and Bylaws of the Association (whether or not such rights are referred to as Special Declarant Rights in such documents) including, without limitation, those set forth in § 47F-1-103(28) of the Act. Declarant may assign Special Declarant Rights, in whole or in part, temporarily or permanently, at any time and from time to time, subject to such terms and conditions as Declarant specifies in the assignment document. Except as specifically provided herein, any assignment of Special Declarant Rights must be in writing and recorded in the Registry, and the assignment becomes effective upon the recording of the document in the Registry or on any later date specified therein.

ARTICLE II PROPERTY SUBJECT TO THIS DECLARATION AND WITHIN THE JURISDICTION OF THE PROVINCE GRANDE AT OLDE LIBERTY HOMEOWNERS ASSOCIATION, INC.

Section 1. Master Plan. A Master Plan for the development of the Subdivision has been prepared by Declarant and approved by the Towns of Franklinton and/or Youngsville and is available for review at the offices of the Towns of Franklinton and/or Youngsville or, upon written request, from the Declarant. The Master Plan may be modified by the Declarant, in whole or in part, at any time, or discontinued, in the Declarant’s sole discretion, subject only to the approval of the Towns of Franklinton and/or Youngsville, if such approval is required.

Section 2. Existing Property. The real property which is and shall be held, transferred, sold, conveyed, used and occupied subject to this Neighborhood Declaration as of the date of recording hereof, and which is within the jurisdiction of the Association, is described on **Exhibit A** attached hereto.

Section 3. Annexation of Additional Property. At any time prior to the end of the Declarant Control Period, additional land within the property described in **Exhibit B** attached hereto

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and made a part hereof (the "Exhibit B Property") may be annexed by the Declarant without the consent of the Members and therefore become subject to this Neighborhood Declaration by the recording by Declarant of a Plat showing such property to be annexed and of a supplementary declaration extending the operation and effect of this Neighborhood Declaration to the property to be annexed. Furthermore, at any time Declarant owns any Lot within the Properties, additional land not within the Exhibit B Property may be annexed by the Declarant without the consent of the Members and therefore become subject to this Neighborhood Declaration by the recording by Declarant in the Registry of a Plat showing such property to be annexed and of a supplementary declaration extending the operation and effect of this Neighborhood Declaration to the property to be annexed. Any property annexed pursuant to this subsection may be annexed and subjected to this Neighborhood Declaration as one parcel or as several parcels at different times. The addition of such property pursuant to this Section may increase the cumulative number of Lots within the Properties and, therefore, may alter the relative voting strength of the various types of Members.

A supplementary declaration may contain such complementary additions to and modifications of the covenants and restrictions contained in this Neighborhood Declaration, including, without limitation, different voting rights and different annual and special assessments for the Lots so annexed, as Declarant, in its sole discretion, may deem necessary or appropriate to reflect the different character or use of the Additional Property being annexed. In no event, however, shall any supplementary declaration revoke, modify or add to the covenants and restrictions established by this Neighborhood Declaration so as to materially and adversely affect any portion of the Properties already subject to this Neighborhood Declaration. A supplementary declaration annexing Additional Property need only be executed by the Declarant and, if applicable, by the owner of the property being annexed, and shall not require the joinder or consent of the Association or any of its Members. Nothing contained in this Article shall be construed to obligate or require Declarant to make any additions to the Properties.

Section 4. Conveyance of Neighborhood Common Area in Additional Property. Promptly upon request of Declarant, the owner of the Additional Property shall convey any or all Neighborhood Common Area located within the Additional Property to the Association or, if requested by the Declarant, to the Declarant. Title to such Neighborhood Common Area shall be conveyed in the same manner as set forth in Section 3 of Article IV of this Neighborhood Declaration.

Section 5. Merger. Additional Property may also be made subject to this Neighborhood Declaration by merger or consolidation of the Association with another non-profit corporation formed for the same or similar purposes. The surviving or consolidated association may administer the covenants and restrictions established by this Neighborhood Declaration within the Properties and the covenants and restrictions established upon property owned by the other association as one scheme.

Section 6. Effect of Addition of Property. Except by amendment of this Neighborhood Declaration as provided in Section 3 of Article XIV hereof, no addition of property, whether by annexation, merger or consolidation, shall revoke or modify any provision of this Neighborhood Declaration as to the Properties already subject hereto or diminish the rights of the Owners of Lots within the Properties, except for the dilution of voting strength that occurs as a result of inclusion of additional Members of the Association.

**ARTICLE III
MEMBERSHIP AND VOTING RIGHTS**

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

Section 2. Voting Rights. The voting rights of the membership shall be appurtenant to the ownership of the Lots and may not be separated from ownership of any Lot.

There shall be two classes of Lots with respect to voting rights:

(a) Class A Lots. Class A Lots shall be all Lots except Class B Lots as the same are hereinafter defined. Ownership of a Class A Lot shall entitle the Owner of such Lot to one (1) vote. When more than one Person owns an interest (other than a leasehold or security interest) in any Lot, all such Persons shall be Members and the voting rights appurtenant to their Lot shall be exercised as they, among themselves, determine; but fractional voting shall not be allowed, and in no event shall more than one vote be cast with respect to any Class A Lot.

(b) Class B Lots. Class B Lots shall be all Lots owned by Declarant or a Builder and which have not been converted to Class A Lots as set forth below. Declarant and each Builder shall each be entitled to nineteen (19) votes for each Class B Lot it owns.

The Class B Lots shall cease to exist and shall be converted to Class A Lots upon the expiration of the Declarant Control Period. When the Class B Lots cease to exist and are converted to Class A Lots, Declarant and Builder shall have the same voting rights as other Owners of Class A Lots.

(c) Declarant's Voting Rights. Notwithstanding the foregoing, until the end of the Declarant Control Period, Declarant shall be vested with the sole voting rights of the Association on all matters (including election of directors of the Association), except such matters as to which the Neighborhood Declaration, the Articles of Incorporation, or the Bylaws of the Association specifically require a vote of the Class A Members.

Section 3. Declarant's Right to Appoint Officers and Directors of the Association; Builder's Representation on Board; Builder's Veto and Rescission Rights. Notwithstanding any other provision of this Neighborhood Declaration or the Bylaws, until expiration of the Declarant Control Period, Declarant shall have the right to appoint and remove all of the Directors and officers of the Association. See §47F-3-103(d) of the Act. The persons so appointed may be employees of Declarant or a Builder, and need not be Members of the Association. Declarant shall have the right to remove any director that it appoints at any time, with or without cause.

Notwithstanding the foregoing, Declarant shall appoint as a director at least one person selected by Builder, it being the intent of Builder and Declarant that, until such time as all of the directors are elected by the Members, Builder shall have at least one representative serving on the Board. Furthermore, until the end of the Declarant Control Period, Builder shall have the right to veto any action proposed or taken by the Board and to rescind any prior action of the Board by providing written notice to the Board of its exercise of these rights; provided however, Builder's right to veto

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and/or rescind any specific Board action shall terminate if Builder is delivered written notice of the action proposed or taken and fails to object to that action within thirty (30) days after Builder's receipt of that notice. Failure by the Builder to veto or object to any Board action after notice as provided herein shall not prevent the Builder from doing so with respect to an identical or similar action taken or proposed subsequently.

Section 4. Leased Units. Notwithstanding any other provision of this Neighborhood Declaration or the Bylaws of the Association, the vote as expressed by the Owners of Lots which are leased or rented to or otherwise occupied by person(s) other than the Owner shall not be entitled to any weight greater than forty-nine (49) percent on any matter pending before the Association.

ARTICLE IV PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment and Access. Except as limited by the provisions of this Section 1 and by the rules and regulations adopted by the Board of Directors of the Association, every Owner shall have a right and easement of enjoyment in, use of and access to, from, and over the Neighborhood Common Area which right and easement shall be appurtenant to and shall pass with title to every Lot, subject to:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facilities situated on the Neighborhood Common Area and to limit the use of such facilities to Owners who occupy a residence within the Properties and to their families, tenants and guests, as provided in Section 2 of this Article IV.

(b) the right of the Association, after notice and an opportunity to be heard (as set forth in the Bylaws), to suspend the voting rights of an Owner for any period during which any assessment against his Lot remains unpaid, or for a period not to exceed sixty (60) days for any infraction of the published rules and regulations of the Association.

(c) the right of the Association, after notice and an opportunity to be heard (as set forth in the Bylaws), to suspend the services provided to an Owner (e.g., lawn maintenance) or the right of an Owner to use the Neighborhood Common Property, for any period during which any assessment against his Lot remains unpaid, or for a period not to exceed sixty (60) days for any infraction of the published rules and regulations of the Association, provided, however, that the Association may not suspend an Owner's right to use portions of the Neighborhood Common Area providing access or utilities to his Lot.

(d) the right of the Association to dedicate, sell or transfer all or any part of the Neighborhood Common Area to any public or quasi-public agency, authority or utility for such purposes and subject to such conditions as may be agreed upon by the Members. No such dedication or transfer shall be effective unless the Members entitled to at least 80% of the votes of the entire membership of the Association agree to such dedication, sale or transfer. Nothing herein shall be deemed to prohibit the Board of Directors of the Association, without consent of the Members, from granting easements over the Neighborhood Common Area to any agency, authority or utility for the installation and maintenance of sewerage, utility (including cable television), or drainage facilities when, in the opinion of the Board, such easements are necessary for the convenient use and enjoyment of the Properties. Notwithstanding anything herein to the contrary, the Neighborhood Common Area shall be preserved to the perpetual benefit of the Owners of Lots within the Subdivision and shall not be conveyed except to Franklin County, the Towns of Franklinton and/or Youngsville, and/or another non-profit corporation organized for similar purposes.

(e) the right of the Association, to borrow money and, after Class B Lots cease to exist, with the assent of Members entitled to at least 80% of the votes of the entire membership of the Association, to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, provided that the rights of any such lender or mortgagee shall be subordinate to the property rights of the Members and the Association as set forth herein.

(f) the right of the Association to exchange all or part of the Neighborhood Common Area for other property and consideration of like value and utility, provided, however, that, after Class B Lots cease to exist, any such dedication shall require the assent of the Members as set forth in subparagraph (c) above, and further provided that, if the Board of Directors determines, in its sole discretion, that such exchange is necessary to cure an encroachment or setback violation on any Lot, the Board may effect such exchange without the consent of or approval by the Members.

(g) the right of the Association to open the Neighborhood Common Area and, in particular, the recreational facilities constructed thereon, for use by non-members of the Association.

(h) the right of the Association to expand or add to the Neighborhood Common Property and to improve, maintain and operate the Neighborhood Common Property.

(i) the right of the Association to adopt, promulgate and enforce rules and regulations concerning the use of the Neighborhood Common Property.

(j) the right of the Association to otherwise deal with the Neighborhood Common Property as provided in the Articles of Incorporation and Bylaws of the Association.

Section 2. Delegation of Use.

(a) Family. The right and easement of enjoyment and access granted to every Owner by Section 1 of this Article may be exercised by members of the Owner's family who occupy the residence of the Owner within the Properties as their principal residence in Franklin County, North Carolina.

(b) Tenants; Contract Purchasers. The right and easement of enjoyment and access granted to every Owner by Section 1 of this Article may be delegated by such Owner to his tenants or contract purchasers who occupy a residence within the Properties, or a portion of said residence, as their principal residence in Franklin County, North Carolina.

(c) Guests. The right and easement of enjoyment and access granted to every Owner by Section 1 of this Article may be delegated to guests of such Owners, tenants or contract purchasers, subject to such rules and regulations as may be established by the Board of Directors.

(d) Suspension of Rights. The rights of any delegate of an Owner shall be suspended by, upon and during suspension of such Owner's rights as provided in Section 1(c) of this Article IV.

Section 3. Development and Conveyance of Neighborhood Common Area To The Association. Declarant may convey, or cause the Owner to convey, fee simple title to the Neighborhood Common Area in each section or phase of the Properties to the Association. Declarant may convey (or cause to be conveyed) fee simple title to *all* Neighborhood Common Area (except easements) within the Properties, and as to any such Neighborhood Common Area, Declarant shall reserve for or grant to the Association *all* Neighborhood Common Area easements, all subject to such easements, reservations, conditions and restrictions as then may be of record, and the Association shall accept all such conveyances, grants and reservations, provided, however, that so long as Declarant owns any Lot within the Properties, Declarant reserves an easement over and across any Neighborhood Common Area deeded to the Association for the purpose of constructing and maintaining any improvements thereon as it deems necessary or advisable, provided that any such improvements must

comply with the requirements of the Towns of Franklinton and/or Youngsville. Any improvements placed on the Neighborhood Common Area by Declarant shall become the property of the Association upon completion of such improvements.

Notwithstanding the recordation of any Plat, or any other action by Declarant or the Association, all Neighborhood Common Area shall remain private property and shall not be considered as dedicated to the use and enjoyment of the public except as otherwise provided in this Article IV.

Section 4. Regulation and Maintenance of Neighborhood Common Area and Neighborhood Common Area Easements. It is the intent of the Declarant that the Neighborhood Common Area shall be preserved to the perpetual benefit of the Owners.

(a) Regulation of Neighborhood Common Area. The Association may adopt and promulgate rules and regulations governing the use of the Neighborhood Common Property by Owners and their family, guests and invitees. No Owner or other permitted user shall use the Neighborhood Common Property or any portion thereof in violation of the rules and regulations contained in this Neighborhood Declaration or subsequently adopted by the Association.

Without limiting the generality of the foregoing, no Owner or tenant, guest or invitee of an Owner shall, without the specific prior written consent of the Association: (i) damage Neighborhood Common Area or improvements thereon or remove any trees or vegetation therefrom; (ii) erect any gate, fence, structure, sign, or other object on the Neighborhood Area; (iii) place any garbage receptacle, trash or debris on Neighborhood Common Area; (iv) fill or excavate any part of the Neighborhood Common Area; (v) landscape or plant vegetation on Neighborhood Common Area; or (vi) use the Neighborhood Common Area or any part thereof in a manner inconsistent with or in any way interfering with the rights of other Owners.

(b) Rights and Responsibilities of the Lot Owners as to Neighborhood Common Area Easements. Each Owner of a Lot upon which a Neighborhood Common Area easement lies shall pay all property taxes and other assessments levied against his Lot, including that portion of such tax or assessment as is attributable to such Neighborhood Common Area easement.

(c) Rights and Responsibilities of the Association as to Neighborhood Common Area. The Association shall have the right and obligation to ensure that the Neighborhood Common Area is preserved to the perpetual benefit of the Owners, and, to that end, shall: (i) maintain the Neighborhood Common Area in its natural or improved state, as appropriate, and keep it free of impediments to its use by the Owners, subject to the provisions of this Neighborhood Declaration; (ii) procure and maintain adequate liability insurance covering the Association and its Members, directors and officers, against any loss or damage suffered by any Person, including the Owner of the Lot containing a Neighborhood Common Property easement, resulting from use of the Neighborhood Common Area, and adequate hazard insurance covering the real and personal property owned in fee by the Association; and (iii) pay all property taxes and other assessments levied against all Neighborhood Common Property owned in fee by the Association.

(d) Declarant's and Association's Right of Entry. The Declarant and the Association and the employees, agents, contractors and subcontractors of each, shall have a non-exclusive right and easement at all times to enter upon any portion of a Lot reserved or designated as a Neighborhood Common Area easement for the purposes of: (i) installing and maintaining subdivision

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entrance signs, features, fencing, and landscaping; and (ii) making improvements to the Neighborhood Common Area; and (iii) maintaining the Neighborhood Common Area easement in its natural or improved state. No such entry shall be deemed a trespass.

ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of a Lot, by acceptance of a deed, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association annual assessments, special assessments, limited special assessments, interest, fines, and other charges established and collected as hereinafter provided. All assessments which are unpaid when due, together with interest and late charges set forth in Section 10 of this Article V and all costs of collection, including reasonable attorneys' fees, shall be a charge against and, upon filing of a claim of lien as provided in § 47F-3-116 of the North Carolina Planned Community Act, shall be a continuing lien upon the Lot against which such assessment is made. Each such assessment or charge, together with interest and costs of collection, including reasonable attorneys' fees, shall also be the personal or corporate obligation of the Person(s) owning such Lot at the time when the assessment fell due, but such personal obligation shall not be imposed upon such Owner's successors in title unless expressly assumed by them. Although unpaid assessments and charges are not the personal obligation of such Owner's successors in title unless expressly assumed by them, the unpaid assessments and charges shall continue to be a lien upon the Lot against which the assessment or charge was made.

Section 2. Purposes of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Subdivision and, in particular, but without limitation, for: (i) acquisition, improvement and maintenance of properties, services and facilities related to the use and enjoyment of the Neighborhood Common Property; (ii) repair and reconstruction of improvements on the Neighborhood Common Area, including, without limitation, the cost of repair, replacement and additions thereto and the cost of labor, equipment, materials, management and supervision thereof; (iii) maintenance of Yard Improvements as provided in Article VI hereof; (iv) payment of taxes and public assessments levied against the Neighborhood Common Property owned by the Association in fee; (v) procurement and maintenance of insurance in accordance with the Section 4(c) of Article IV of this Neighborhood Declaration; (vi) employment of attorneys, accountants and other Persons to represent the Association when necessary; (vii) payment of principal and interest on funds borrowed for Association purposes; and (viii) such other needs as may arise. No Owner shall be exempt from liability for any assessment provided for herein for reason of non-use of the Neighborhood Common Property or of such Owner's Lot, or abandonment or leasing of such Owner's Lot, or unavailability of the use or enjoyment of the Neighborhood Common Property.

Section 3. Annual Assessments.

(a) Initial Annual Assessment. Until January 1, 2010, the annual assessment shall be \$2,400.00 for each Class A Lot; provided that such annual assessment shall be \$1,200 for each Class A Lot on which no Dwelling has been completed.

(b) Ratification of Budgets; Notice of Assessments. The Board of Directors shall adopt a proposed budget (including the proposed annual assessment for each Class of Lots) at least

annually. Within 30 days after adoption of the proposed budget (which shall include, if applicable, additional assessments applicable to certain Lots for Limited Common Expenses), the Board of Directors shall send a copy of the proposed budget and shall give written notice to the Members of a meeting of the Members to consider ratification of the budget, such meeting to be held not sooner than 10 days nor more than 60 days after the mailing of such notice. Such meeting may, but need not be, combined with the annual meeting of the Members. There shall be no requirement that a quorum be present in order to vote on ratification of the budget (although a quorum must be present to vote on other matters). The budget shall be deemed ratified unless, at that meeting, Members having a majority of the votes of the entire membership vote to reject the budget. Notwithstanding the foregoing, if the budget provides for annual assessments not greater than 10% larger than the annual assessment in effect for the immediately preceding year, such budget shall be deemed ratified unless Members having at least 80% of the votes of the entire membership vote to reject the budget. If the proposed budget is rejected, the budget last ratified by the Members shall be continued until such time as the Members ratify a subsequent budget proposed by the Board.

At least thirty (30) days before January 1 of each year, the Board of Directors shall fix the amount of the annual assessment against each Lot, which shall be consistent with the most recent ratified budget. At least fifteen (15) days before January 1 of each year, the Board of Directors shall send written notice of such assessment to every Owner subject thereto. The due dates for the payment of annual and special assessments shall be established by the Board of Directors.

Section 4. Special Assessments; Limited Special Assessments.

(a) Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, special assessments for the purpose of defraying, in whole or in part, the cost of any construction, repair or replacement of a capital improvement on the Neighborhood Common Area, including fixtures and personal property related thereto, for repayment of indebtedness and interest thereon, or for any other non-recurring purpose, provided that any such special assessment must be approved by not less than two-thirds (2/3) of the votes cast at a duly-called meeting of Members, the purpose, or one of the purposes, of which is to vote on such special assessment. Special assessments shall constitute a lien to the same extent as other assessments against the Lot.

(b) Limited Special Assessments. The Association may also levy limited special assessments against any Lot or group of Lots for the purpose of defraying, in whole or in part, the cost of any construction, repair or replacement of a capital improvement on Limited Neighborhood Common Area, including fixtures and personal property related thereto, for repayment of indebtedness and interest thereon, or for any other non-recurring purpose, provided that any such special assessment must be approved by not less than two-thirds (2/3) of the votes cast by the Owners of Lots which will be subject to such limited special assessment at a duly-called meeting of Members, the purpose, or one of the purposes, of which is to vote on such limited special assessment.

The Board of Directors, without vote of the Members, may also levy a limited special assessment against any Lot, applicable only to that Lot, for expenses incurred by the Association with regard to such Lot including, without limitation, expenses incurred under Article VI hereof. Furthermore, any fine imposed against an Owner shall also constitute a limited special assessment against such Owner's Lot.

Limited special assessments shall constitute a lien to the same extent as other assessments against the Lot.

Section 5. Assessment Rate; Collection Period. Except as provided in Sections 6 and 7 of this Article V, annual and special assessments shall be fixed at a uniform rate for all Lots within each subclass of Lots and may be collected on a yearly, semi-annually, quarterly or monthly basis, as determined by the Board of Directors.

Section 6. Declarant's Assessments. Notwithstanding any other provision of this Neighborhood Declaration, the Articles of Incorporation or the Bylaws of the Association, the Declarant shall not be obligated for, nor subject to, any annual or special assessment for any Lot or other property that it owns within the Properties (other than Lots, if any, owned by Declarant and containing a Dwelling occupied by any Person as a residence, which shall be assessed at the Class A rate), provided, however, that if Builder is no longer purchasing Lots within the Properties, Declarant shall be required to fund Operating Deficits (hereinafter defined) as provided in Section 7 below.

Section 7. Builder's Assessments. Notwithstanding any other provision of this Neighborhood Declaration, the Articles of Incorporation or the Bylaws of the Association, a Builder shall not be obligated for, nor subject to, any annual or special assessment for any Lot or other property that it owns within the Properties (other than Lots, if any, owned by a Builder and containing a Dwelling occupied by any Person as a residence, which shall be assessed at the Class A rate). Declarant shall be responsible for paying the difference between: (i) the operating expenses of the Association, including, without limitation, budgeted reserves for replacement of capital improvements; and (ii) the total operating revenues of the Association from all sources including, without limitation, annual, special, and limited special assessments, revenues generated from fees charged by the Association for use of the Neighborhood Common Property, and investment income (said difference being hereinafter referred to as the "Operating Deficit"). For purposes of this Section, the term "operating expenses" shall not include capital expenditures or special assessments.

Upon sale of such Lot by a Builder to any other Person (other than the Declarant, another Builder, or a Person expressly exempted by Declarant), such Lot shall be assessed at Class A rate, commencing as of the date of closing of such sale.

Section 8. Notice and Quorum for any Action Authorized Under Section 4. Written notice of any meeting called for the purpose of voting upon a special assessment pursuant to Section 4 shall be sent to all Members not less than fifteen (15) days nor more than thirty (30) days prior to the meeting. At such meeting, the presence of Members, in person or by proxy, entitled to cast sixty (60%) percent of the votes of the entire membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and if called for a date not later than sixty (60) days after the date of the first meeting, the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided, however, that the required quorum for a vote by the Members on any limited special assessment shall be sixty percent (60%) of the votes attributed to the Lots affected by such limited special assessment, subject to the same reduction procedures set forth herein.

Section 9. Date of Commencement of Annual Assessments; Certificate of Payment. Unless a different commencement date is set by the Board of Directors, the annual assessments

provided for herein shall commence as to all Lots in any phase on the first day of the month after a Plat showing such Lots is recorded in the Registry.

The Association shall, upon demand, and for such reasonable charge as the Board of Directors may determine, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. If such certificate states that an assessment has been paid, such certificate shall be conclusive evidence of payment.

Section 10. Effect of Nonpayment of Assessments; Remedies. All assessments and other charges shall be established and collected as provided in this Neighborhood Declaration. An assessment not paid within ten (10) days after the due date shall incur such late charge (not to exceed the greater of \$20.00 per month or ten percent (10%) of the assessment installment past due) as the Board of Directors may from time to time establish, and, if not paid within thirty (30) days after the due date, shall also bear interest from the due date at the lesser of eighteen percent (18%) per annum or the highest rate allowed by law. All assessments and other charges remaining unpaid for thirty days (30) days or longer, together with late charges, interest, and the costs of collection thereof, including attorneys' fees, shall be a charge on the Owner's Lot and, upon filing of a claim of lien in the office of the Clerk of Superior Court of Franklin County in the manner provided in § 47F-3-116 of the Act, shall be a continuing lien upon the Lot against which such assessment is made until paid in full. The lien may be foreclosed by the Association in any manner permitted under the Act or by law. When the holder of a first mortgage or first deed of trust of record or other purchaser of a Lot who obtains title to the Lot as a result of a foreclosure of a first mortgage or first deed of trust, such purchaser shall not be liable for the assessments and other charges against such Lot which became due prior to the acquisition of title to such Lot by such purchaser.

Furthermore, each assessment and other charges due hereunder, together with late charges, interest, the costs of collection thereof, including attorneys' fees, shall be and remain the personal obligation or corporate obligation of each Person who was Owner of the Lot at the time when the assessment or other charge first became due and payable and may be collected by appropriate action at law. If more than one Person held an ownership interest in the Lot at the time the assessment or other charge first became due, each Person shall be both jointly and severally liable. An Owner's personal obligation for payment of such assessments and other charges shall not become the personal obligation of a subsequent Owner unless expressly assumed by the subsequent Owner, although the lien shall continue against the Lot until the amounts due are paid.

Section 11. Subordination of the Lien to Mortgages. The liens provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust on a Lot. Sale or transfer of a Lot shall not affect any assessment lien; however, the sale or transfer of a Lot pursuant to foreclosure of a first mortgage or deed of trust, or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of any assessment which became due prior to the date of such conveyance. No such sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first mortgage or deed of trust.

Section 12. Exempt Property. All property dedicated to and accepted by a public authority and all property owned by a charitable or non-profit organization (including the Association) exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created

herein. Notwithstanding the foregoing, no land or improvements containing a Dwelling occupied by any person as a residence shall be exempt from assessments.

Section 13. Initial Capital Contribution. At the time of the initial closing of each sale of a Lot containing a completed Dwelling, a sum equal to one-half (½) of the annual assessment for Class A Lots in effect as of the date of such closing shall be collected from the purchaser of such Dwelling and transferred to the Association as part of its working capital. The purpose of such working capital contributions is to ensure that the Association will have adequate cash available to meet unforeseen expenditures or to acquire additional equipment or services deemed by the Board of Directors to be necessary or desirable. Amounts paid pursuant to this Section shall not be considered as an advance payment of any regular or special assessment.

Section 14. Reserve Account. The Association shall establish one or more separate reserve accounts to fund major repairs to and replacements of Neighborhood Common Property including, without limitation, repaving of private streets and parking areas. Each annual budget shall show the amount to be placed in reserve for each category for which reserves are to be held.

Section 15. Fines. Subject to the provisions of this Neighborhood Declaration, the Bylaws of the Association, and §47F-3-107.1 of the Act, the Board of Directors shall have the right and authority, after notice and an opportunity to be heard as set forth in the Bylaws, to levy fines for violation of the provisions of this Neighborhood Declaration and rules and regulations hereafter promulgated by the Board of Directors pursuant thereto. Any monetary fine imposed shall be deemed a limited special assessment against the Lot of the Owner against whom such fine is assessed.

ARTICLE VI MAINTENANCE OF LOTS AND UNITS

Section 1. Association's Responsibility. In addition to maintenance of the Neighborhood Common Area and the improvements and facilities located thereon, the Association shall be responsible for maintaining the grass, plants, shrubs, trees, landscaping, walks and parking areas (hereinafter the "Yard Improvements") installed or constructed on a Lot by the Declarant, a Builder, or the Association, and any Yard Improvements installed or constructed by an Owner with the prior written consent of the Association (but only to the extent that such consent specifically provides that the Association will maintain such added Yard Improvements).

Notwithstanding the foregoing: (i) the Association shall not be responsible for maintaining any fence installed on any Lot or any Yard Improvements inside of such fence; (ii) the Association's obligation to maintain shall not include the obligation to replace any plant, shrub or tree for any reason; (iii) the Association shall not be responsible for repair or replacement of any Yard Improvements when such repair or replacement is necessitated by work done by or at the request of an Owner or any utility company or governmental entity; and (iv) the Association shall not be responsible for repairing any damage caused by the negligent or willful act or omission of the Owner of such Lot or such Owner's family members or tenants, or the guests, invitees or contractors of any of them.

Section 2. Owner's Responsibility; Remedy for Owner's Failure to Maintain. Any maintenance on a Lot that is *not* the responsibility of the Association, whether by the terms of this Neighborhood Declaration or by written acceptance of same, shall be the responsibility of the Owner of such Lot. Each Owner shall keep his Lot and Dwelling in an orderly condition and shall keep all the

improvements thereon in a suitable state of repair, except for those improvements that the Association is responsible for maintaining as provided in this Neighborhood Declaration.

If an Owner fails to make any repair or perform any maintenance required of such Owner, the Association shall have the right (but not the obligation), through its agents and employees, by the affirmative vote of a majority of the Board of Directors, to enter upon such Owner's Lot and to repair, maintain and restore the Lot and/or exterior of the Dwelling, and the cost of such work, plus a surcharge of 15% for administration, shall be assessed in accordance with Section 3 of this Article. Prior to such entry, the Association shall give written notice to the Owner stating: (i) the specific item(s) needing maintenance; (ii) the corrective action to be taken; (iii) a time, not less than 15 calendar days from the date of the notice, in which the Owner is to perform the necessary maintenance or repair; and (iv) a statement that, if the Owner fails to perform the maintenance within such time period, the Association will exercise its right to perform the maintenance and that the Owner will be assessed with the costs thereof as provided in this Article VI.

Section 3. Assessment of Cost. In the event that the Association performs maintenance, repair, replacement, or restoration on any Lot as provided in Section 2 of this Article VI, the cost of such work (including the administration fee) shall be a limited special assessment against the Lot upon which such maintenance is done and shall be added to and become part of the assessments to which such Lot is subject under Article V hereof, enforceable under the terms thereof.

ARTICLE VII RIGHTS OF LENDERS

Section 1. Books and Records. Any owner or holder of a first deed of trust on any Lot, or its agent, shall have the right, during normal business hours, to examine copies of this Neighborhood Declaration, the Articles of Incorporation, Bylaws, and the books and records of the Association and, upon written request to the Association, to receive a copy of the Association's financial statement for the immediately preceding fiscal year.

Section 2. Notice to Lenders. Upon written request to the Association, the owner or holder of a first deed of trust on any Lot shall be entitled to timely written notice of:

- (a) Any 60-day delinquency in the payment of assessments or charges owed by the Owner of the Lot securing its loan.
- (b) A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.
- (c) Any proposed action that requires the consent of a specified percentage of owners or holders of first mortgages on the Lots.

Section 3. Approval of Owners and Holders of First Deeds of Trust. Unless at least two-thirds (66.67%) of the holders of the first deeds of trust on Lots located within the Properties have given their prior written approval, the Association shall not:

- (a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any real estate or improvements thereon which are owned by the Association. The granting of easements for utilities or other purposes shall not be deemed a transfer within the meaning of this subsection. The refinancing of any debt encumbering any such real estate or improvements for an amount not greater than the original amount of the debt to be refinanced shall not be deemed a transfer within the meaning of this subsection. Nothing herein shall be deemed to prohibit the Association

from exchanging Neighborhood Common Area for other real property of like utility and value as provided in Article IV of this Neighborhood Declaration, or to require the approval of such exchange by the holders of first deeds of trust on the Lots;

(b) Change the method of determining the obligations, assessments, dues or other charges which may be levied against a Lot;

(c) Fail to maintain hazard insurance on insurable improvements on the Neighborhood Common Area on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value; or

(d) Use the proceeds of any hazard insurance policy covering losses to any part of the Neighborhood Common Area for other than the repair, replacement or reconstruction of the damaged improvements.

Section 4. Payment of Taxes and Insurance Premiums. The holders of first deeds of trust on Lots, jointly or singly, may pay taxes or other charges which are in default and which have or may become a charge or lien against any of the Neighborhood Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage upon the lapse of a policy covering property owned by the Association. The Person(s) making such payments shall be owed immediate reimbursement therefore by the Association.

ARTICLE VIII EASEMENTS

Section 1. Easements for Development. For so long as Declarant owns any land within the Properties, Declarant reserves an easement over the Properties for the purpose of allowing Declarant, its successors and assigns, to develop the Properties and construct improvements thereon.

Section 2. Access and Utility Easements. Easements for the installation and maintenance of driveways, walkways, water, gas, telephone, cable television and electric power transmission lines, sanitary sewer and storm water drainage facilities, and other utility installations are reserved as shown on the recorded Plats of the Properties. The Association may reserve or grant easements over the Neighborhood Common Area as provided in Article IV of this Neighborhood Declaration. Within any such easement, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation or maintenance of the utilities installed thereon or which may change the direction of flow or drainage of water through drainage pipes or channels constructed in such easements.

For a period of twenty-five (25) years from the date hereof, Declarant reserves, for itself and its employees, agents, successors and assigns, an easement upon and a right of ingress, egress and regress on, over and under the Properties for the purposes of constructing and maintaining water, sewer, gas, storm water drainage and retention, telephone, cable television, and electric, and other utility facilities to the extent required by any applicable governmental entity or deemed by the Declarant to be necessary or convenient for the development, use and enjoyment of the Properties and the Neighborhood Common Area. Such right expressly includes the right to cut any trees, bushes or shrubbery, grade the land, or take any other similar action that it deems reasonably necessary or appropriate. After such action has been completed, Declarant shall grade and seed the affected property and otherwise restore the affected property to its original condition to the extent practicable, but shall not be required to replace any trees, bushes or shrubbery necessarily removed. Declarant shall give reasonable notice of its intent to take such action to each Owner whose Lot is affected.

Section 3. Association's Easement and Right of Entry. The Association, for itself and its employees, agents, contractors, subcontractors and invitees, shall have a perpetual access easement over each Lot to the extent reasonably necessary to perform the maintenance to be performed by the Association and to fulfill other obligations of the Association as provided in this Neighborhood Declaration and the rules and regulations adopted by the Association pursuant thereto.

Section 4. Easement Over Neighborhood Common Area. A perpetual, non-exclusive easement over the Neighborhood Common Area is hereby granted to each Lot and its Owners, family members and tenants of such Owners, the occupants of such Lot, and guests and invitees of such Owners, tenants or occupants, for the purpose of providing access, ingress and egress to and from streets, parking areas and walkways serving the Properties.

Section 5. Easements for Governmental Access. An easement is hereby established over the Neighborhood Common Area and every Lot for the benefit of applicable governmental agencies for installing, removing, and reading water meters, maintaining and replacing water and sewer facilities, and acting for other purposes consistent with public safety and welfare, including, without limitation, law enforcement, fire protection, garbage collection and the delivery of mail.

Section 6. Owner's Easement and Right of Entry for Repair, Maintenance and Reconstruction. If any Dwelling is located closer than five (5) feet from its Lot line, the Owner thereof shall have a perpetual access easement over the adjoining Lot or Neighborhood Common Area to the extent reasonably necessary to perform repair, maintenance or reconstruction of such Dwelling. Such work shall be done expeditiously and, upon completion of the work, the Owner shall restore the adjoining property to as nearly the same condition as that which existed prior to the commencement of the work as is reasonably practicable. No fence shall be erected within such 5-foot area.

Section 7. Easement For Encroachments. In the event that any structure erected on a Lot encroaches upon any other Lot or the Neighborhood Common Area, and such encroachment was not caused by the purposeful act or omission of the Owner of such Lot, then the Board in its sole and absolute discretion may grant an easement appurtenant to such Lot for the continuance of such encroachment upon such other Lot or Neighborhood Common Area for so long as such encroachment shall naturally exist. In the event that any structure erected principally on the Neighborhood Common Area encroaches upon any Lot, then an easement shall exist for the continuance of such encroachment of such structure onto such Lot for so long as such encroachment shall naturally exist. The foregoing shall not be construed so as to allow any extension or enlargement of any existing encroachment or to permit the rebuilding of the encroaching structure, if destroyed, in a manner so as to continue such encroachment, except such encroachment as was in existence as of the date of conveyance of the Lot to an Owner other than the Declarant or a Builder.

ARTICLE IX UTILITIES

Section 1. Utilities. All utilities and utility connections shall be located underground, including electrical, telephone and cable television lines. Electric, gas or other meters of any type, or other apparatus serving each Lot or improvements thereon, shall be located at the rear of the Dwelling constructed on Lots or, if approved by the Architectural Control Committee in writing, located elsewhere on the Lot provided they are adequately screened as required by the Architectural Control

Committee in accordance with the provisions of this Neighborhood Declaration. This Section shall not apply to utilities or utility components placed or installed by or for Declarant or a Builder.

Section 2. County Water System; No Private Individual Wells. Declarant shall cause to be constructed a water distribution system to connect with Franklin County's water system to provide water necessary to serve the Subdivision ("Water System"). All water mains, pipes and other equipment necessary for the operation and maintenance of the Water System shall be located within the utility easements described herein, or shown on the Plat or within the Neighborhood Common Area, and/or public streets. Upon completion, the Water System and all mains, pipes and equipment and other personal property which are part thereof shall be dedicated to and shall become the property and responsibility of Franklin County. Easements may be granted by the Declarant or the Association to Franklin County as may be necessary for the continued operation and maintenance of the Water System.

The Water System shall be the sole source of water to the Subdivision, and no well may be dug or constructed on any Lot, provided, however, that a well may be permitted on a Lot for irrigation purposes if, but only if, approved in advance and in writing by the Declarant or the Architectural Control Committee. Nothing herein shall obligate the Declarant or the Architectural Control Committee to approve any irrigation system or well requested.

Section 3. Municipal Sewer Service; No Private Septic Easements. Sewage disposal services shall be provided with respect to every Lot by Franklin County. Private septic tanks or systems or other private sewage disposal systems are expressly prohibited.

Section 4. Lighting. Declarant or a Builder may install or contract with any utility provider, including Progress Energy Carolinas, Inc., or any of its affiliates, subsidiaries, or divisions ("Provider") to install street and area lighting within the Subdivision and may enter into an agreement with Provider for the ongoing operation and maintenance of some or all of that lighting. Provider shall remain the owner of all such lighting. Agreements executed by and between the Provider and Declarant may be assigned by the Declarant to the Association at any time, at which point the Association shall be responsible for all rights, duties and obligations therein provided.

ARTICLE X ARCHITECTURAL CONTROL

The Declarant shall have the sole and absolute right to determine the permissibility of, size, style and appearance of the initial Dwelling, storage sheds, accessory buildings, garages, fences, walls, mailboxes, lawn decorations, structures of any type, grading, landscaping and any other improvements to be built or constructed on any Lot (hereinafter individually and collectively referred to as "Lot Improvements").

Notwithstanding the foregoing, after occupancy of a Dwelling as a residence pursuant to a Certificate of Occupancy, no Lot Improvements (including, without limitation, replacement of any previously existing Lot Improvements) shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration thereof be made (including, without limitation, changing materials or color of any exterior portion of any such Lot Improvements), nor shall a building permit for such Improvements or change be applied for or obtained, nor shall any landscaping or re-landscaping of any Lot be commenced or made until plans and specifications

showing the nature, kind, shape, heights, materials, color and location of same shall have been submitted to and approved in writing by the Board of Directors of the Association or by an Architectural Control Committee ("ACC") composed of three or more persons (who may but need not be Members of the Association) appointed by the Board. If the Association or its designee fails to approve or disapprove such proposed Lot Improvements within thirty (30) days after complete plans and specifications have been received by it, approval will not be required, and this Article shall be deemed to have been complied with. The Association shall have the right to charge a reasonable fee for receiving and processing each application.

The Declarant and, after the Declarant no longer owns any Lot within the Properties, the Association, shall have the right to promulgate and from time to time amend written architectural standards and construction specifications (hereinafter the "Architectural Guidelines") which may establish, define and expressly limit the standards and specifications which will be approved, including, but not limited to, architectural style, exterior color or finish, roofing material, siding material, driveway material, landscape design, fencing height and materials, and construction technique. Neither the Association nor the ACC shall approve any Lot Improvements which it determines, in its sole discretion, not to be in harmony of external design, construction and/or location in relation to the surrounding structures, topography or the general plan of development of the Subdivision or to be in violation of applicable Architectural Guidelines.

Neither the Declarant, the Association, the Board of Directors, the ACC, nor any member or employee of any of them, shall have any liability to any Person by reason of any acts taken or omitted by them, or any of them, in good faith pursuant to this Article. The Association shall indemnify and hold harmless any Person who acts on behalf of or at the direction or request of the Declarant, Association, Board of Directors or ACC under this Article against any costs or expenses incurred in the defense or resolution of any claim brought by any other Person for any acts or omissions taken by such Person under this Article, except intentional misconduct.

ARTICLE XI RIGHTS AND RESPONSIBILITIES OF THE ASSOCIATION

Section 1. Responsibilities. The Association shall be responsible for the exclusive management and control of the Neighborhood Common Property and shall keep the Neighborhood Common Property in good, clean and proper condition, order and repair. The Association shall be responsible for the payment of all costs, charges and expenses incurred in connection with the operation, administration and management of the Neighborhood Common Property and the performance of the Association's other duties and obligations hereunder. The Association shall operate and maintain areas designated by the Declarant as Neighborhood Common Area, regardless of whether or not title to such areas has been formally conveyed to the Association. The Association shall also be responsible for enforcement of the covenants and restrictions contained in this Neighborhood Declaration.

Section 2. Manager. The Association may employ and pay for the services of a Person, including the Declarant (the "Manager"), to assist the Association in managing its affairs and carrying out its responsibilities hereunder and such other Persons, including attorneys and accountants, as the Association deems necessary or advisable, whether such Persons are engaged, furnished or employed by the Manager or directly by the Association. The Association may enter into a Management Agreement for such management services upon such terms as the Board of Directors may deem

appropriate, provided, however, that any agreement entered into with the Declarant must be on commercially reasonable terms. The payment of management fees due to the Declarant may, at Declarant's option, be deferred until such later date as Declarant, in its sole discretion, deems appropriate. Furthermore, at Declarant's option, any management fees due to Declarant may be credited against any assessments due or to be coming due from the Declarant. Each management or other agreement for the ongoing provision of goods or services entered into by the Association shall provide that it may be cancelled, with or without cause, upon no more than ninety (90) days notice and without penalty at any time.

Section 3. Personal Property for Common Use. The Association may acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise, subject to such restrictions, if any, as may from time to time be provided in the Articles of Incorporation or Bylaws of the Association.

Section 4. Insurance; Bonds. The Association shall procure and maintain adequate liability insurance covering the Association. The Association shall also procure and maintain full replacement value hazard insurance on real and personal property owned by the Association, and shall procure and maintain officers', directors' and employees' liability insurance, and such other insurance as it deems necessary or advisable. The premiums for such insurance shall be a Common Expense. The Association may cause any or all Persons responsible for collecting and disbursing monies of the Association to be bonded.

Section 5. Implied Rights. The Association may exercise any other right or privilege and take any action authorized by this Neighborhood Declaration, the Association's Articles or Bylaws, or the Act, and every other right or privilege reasonably necessary to effectuate the exercise of any right or privilege or the taking of any action authorized herein or therein.

Section 6. Declarant's Reserved Rights; Association's Obligation of Cooperation. The Association shall accept conveyance of any Neighborhood Common Area conveyed to it, in fee or by easement, by Declarant or, at the request of Declarant, by an owner of any property within or to be annexed into the Properties and, upon request of Declarant and without further consideration, shall execute any document necessary to evidence such acceptance.

Until such time as Declarant and the Builders have completed all of the contemplated improvements and have sold all of the Lots within the Subdivision:

(a) Declarant shall have the right to alter the boundaries of the Neighborhood Common Area, whether or not it has been previously deeded to the Association, provided that such alteration does not substantially, materially and adversely affect the function and use of the Neighborhood Common Area. The Association and each Owner hereby irrevocably appoint the Declarant as its/his attorney-in-fact to execute and/or deliver any documents, Plats, deeds, or other written matters necessary or convenient to accomplish the addition of Neighborhood Common Area or other property, or both, to create easements as deemed necessary by Declarant, and to adjust the boundary or boundaries of the Neighborhood Common Area.

(b) Neither the Association nor its Members, nor the use of the Neighborhood Common Area by the Association and its Members, shall interfere with or impede the completion of the improvements or the marketing and sale by the Declarant and the Builder(s) of Lots and homes.

(c) Declarant and each Builder shall have the right to make such use of Lots and the Neighborhood Common Area as may facilitate completion of development and sale of Lots and Dwellings by the Declarant and the Builder. Without limiting the foregoing, Declarant shall have the right to maintain or permit any Builder or other Persons to maintain sales offices, model homes, administrative offices, and construction offices (which may be trailers or temporary or permanent buildings), or any or all of same, on Lots or the Neighborhood Common Area. Declarant and the Builder shall also have the right to erect and maintain signs on Lots and/or the Neighborhood Common Area, to bring prospective purchasers upon the Neighborhood Common Area, to use the Neighborhood Common Area for sales and marketing activities for the Subdivision, to grant the right to use the Neighborhood Common Area to prospective purchasers or any other individual or group, in Declarant's sole discretion, and to conduct any and all other marketing activities deemed appropriate by the Declarant, and to permit the Builders and others to exercise such rights in conjunction with or separate from the Declarant.

(d) Subject to the provisions of Article IV of this Neighborhood Declaration, Declarant shall have the right, but not the obligation, to loan money to the Association in such amounts and upon such terms and conditions as to which the Declarant may agree, provided, however, that any loan entered by the Association with the Declarant must be on terms not less favorable to the Association than are available to the Association from other lenders. Payments due to the Declarant under any such loans may, at Declarant's option, be credited against any assessments coming due at any time from the Declarant.

(e) In addition to all other rights of the Declarant, no amendment shall be made to this Neighborhood Declaration, and no rule or regulation shall be adopted, interpreted or enforced by the Association, so as to modify the assessments or other charges applicable to the Declarant or a Builder or assessed against the Lots owned by either, or which shall restrict, impair, or, in Declarant's sole judgment, materially adversely affect the activities of the Declarant or the Builders with regard to construction, use of Neighborhood Common Area and delegation of the right to use the Neighborhood Common Area, or the marketing and sale of Lots by the Declarant and Builder, whether or not such activities are enumerated in the preceding paragraphs, without the express prior written consent of Declarant.

In exercising any of the rights provided or granted under this Article XI, neither Declarant nor the Association shall revoke, modify or amend this Neighborhood Declaration in a manner that reduces the size of the Neighborhood Common Area to less than the area required by the Towns of Franklinton and/or Youngsville as of the date of this Neighborhood Declaration.

ARTICLE XII USE RESTRICTIONS

The following provisions are in addition to the Restrictions On Use set forth in Article Six of the Master Declaration:

Section 1. Business Use Prohibited. Each Owner shall use his Lot for residential purposes only, and shall not permit his Lot to be used in any unlawful manner. To the extent permitted by law, any Owner may use his Lot as a home office, provided that such home office use (a) is ancillary to the residential use, (b) does not generate any additional pedestrian or vehicular traffic to or from his Lot or

the Neighborhood Common Area, and (c) does not unreasonably disturb other Owners or occupants of the Properties. No trade, business, profession or other type of commercial activity shall be carried on upon any Lot, except that the Declarant, the Builder, real estate brokers, Owners and their agents may show Lots for sale or lease. Notwithstanding the foregoing, the Declarant and each Builder and the agents and employees of each, shall have the right to: (i) use Lots and improvements erected thereon for sales offices, field construction offices, storage facilities, and its own general business offices; (ii) maintain fluorescent-lighted or spot-lighted model homes which may be open to the public for inspection 7 days per week for such hours as the Declarant or Builder deems appropriate or necessary; (iii) conduct any other activities on Lots to benefit sales efforts; and (iv) use the parking facilities on the Neighborhood Common Area for parking for its employees and invitees.

Section 2. Heating and Air Conditioning Equipment. No air conditioning or heating equipment or apparatus shall be installed in any window or exterior wall of any Dwelling or other structure on a Lot.

Section 3. Storage; Clothes Hanging. No Lot or Neighborhood Common Area shall be used for the storage of rubbish. Outside clothes hanging devices shall not be permitted.

Section 4. Restricted Activities in Neighborhood Common Area. No cutting of vegetation, dumping, digging, filling, destruction or waste shall be done or committed on Neighborhood Common Area. There shall be no obstruction of the Neighborhood Common Area, nor shall anything be kept or stored on the Neighborhood Common Area, nor shall anything be altered, or constructed or planted in, or removed from the Neighborhood Common Area, without the prior written consent of the Board of Directors. Each Owner shall be liable to the Association and/or Declarant for any damage to any Neighborhood Common Property caused by the negligence or willful misconduct of the Owner or his family, tenants, guests, agents, employees, or invitees. The provisions in this paragraph shall not apply to Declarant in connection with Declarant's development or construction activities on the Properties, to the Builder in connection with its construction activities, or to the Association in connection with Association's activities in discharging its duties and responsibilities.

Section 5. Leased Units. Subject to the approval requirements of Section 3 of Article XIII hereof, an Owner may lease or sublet his Unit; provided, however, that any lease or sublease must be for at least six (6) months, in writing and contain the following provision:

"Tenant shall obey, adhere to and be bound by all provisions of the Neighborhood Declaration Of Covenants, Conditions And Restrictions For Province Grande at Olde Liberty Golf Club, recorded in the Franklin County Registry. Tenant acknowledges that he has received of a copy such Declaration and the rules and regulations of the Association and is familiar with the provisions of same."

If an Owner fails to include said provision in any lease or sublease, it shall be conclusively deemed to be included and part of said lease or sublease. Owner shall furnish the Association a copy of any lease or sublease of his Dwelling.

ARTICLE XIII AGE RESTRICTIONS

The Properties are intended to be developed and used pursuant the Housing For Older Persons Act of 1995 (Public Law 104-76) and regulations adopted thereunder (24 CFR Part 100, Subpart E) (collectively the "Housing for Older Persons Rules"), which provide that the provisions of the Fair Housing Act (42 U.S.S. §§ 3601-3619) related to discrimination on the basis of familial status are not applicable to housing intended and operated for persons 55 years of age and older. To ensure that the Properties qualify and continue to qualify for the exemption, the Properties are and shall be subject to the following restrictions.

Section 1. Age Restriction. At least eighty percent (80%) of the occupied Dwellings shall be occupied by at least one person who is 55 years of age or older, and all permanent occupants must be at least 18 years of age or older. A "permanent occupant" shall be defined as a person who occupies a Dwelling for more than three (3) months in the aggregate in any calendar year.

Section 2. Surviving Spouse. A surviving or divorced spouse who is a permanent occupant under the age of 55 years and who was the spouse of an occupant 55 years of age or older may remain as an occupant.

Section 3. Restrictions on Sale, Conveyance, or Leasing of Dwellings. Except with the prior written consent of the Board of Directors of the Association, no Owner who is a Class A Member may rent, sell or convey a Lot and Dwelling unless at least one person who will occupy the Dwelling is 55 years of age or older. Any Owner who intends to sell, rent or otherwise convey his Unit shall provide to the Board of Directors reliable evidence (hereinafter defined) of each prospective occupant's name and age, and the Board shall provide the Owner written approval or disapproval within three (3) business days after receipt of such evidence. Unless at least one of the prospective occupants is at least 55 years of age as of such 3rd business day, the Board's failure to respond within said time period shall be deemed to be disapproval. The Board shall give consent to such rental, sale or conveyance unless the giving of such consent would result in the loss of the exemption. Any sale, conveyance or lease of any Lot without the required approval shall be void.

Notwithstanding the foregoing, the Developer and Builder shall have the right, but not the obligation, to sell Units in which there will be no occupant who is 55 years of age or older, provided that such sales will not result in loss of the exemption.

Section 4. Reliable Evidence of Age. Each of the following shall be deemed reliable evidence of an occupant's age, so long as such document contains the birth date of the occupant: (i) current driver's license, (ii) birth certificate, (iii) current passport, (iv) current immigration card, (v) current military identification, (vi) any other state, local, national, or international official documents containing a birth date of comparable reliability, and (vii) a certification in a lease, application, affidavit or other document signed by any prospective occupant certifying that at least one prospective occupant is 55 years of age or older and stating such occupant's birth date.

Section 5. Procedures for Ensuring Compliance.

(a) **By Builder.** Builder shall obtain reliable evidence from Persons purchasing each Lot of the name and birth date of each person who will be occupying the Dwelling and provide such evidence to the Association.

(b) **By Owners.** Each Owner shall comply with the requirements set forth in Section 3 of this Article. The Owner of each Dwelling within the Properties shall also notify the Board of Directors of the Association of any change in the occupancy of such Owner's Dwelling and, in such event, shall ensure that the Board, at all times, has the name and age of each occupant.

Section 6. Rules and Regulations. The Board of Directors of the Association shall have the right to promulgate, from time to time, reasonable rules and regulations governing the visitation and temporary residence of, or use of common facilities by, persons under 18 years of age.

**ARTICLE XIV
GENERAL PROVISIONS**

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

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect.

Section 3. Amendment. For so long as Declarant owns any Lot within the Properties, this Neighborhood Declaration may be amended by the Declarant and the Builder, without the consent or joinder of any other Owner or the Association. Subject to the provisions of Section 8(e) hereof, this Neighborhood Declaration may also be amended by the affirmative vote of, or written agreement signed by, the Owners of Lots to which at least sixty-seven percent (67%) of the votes of the Association are allocated, provided, however, that no amendment which would adversely affect Declarant or Builder shall be approved without the prior written consent of Declarant and Builder.

Any amendment shall be by written instrument signed by the appropriate Persons and recorded in the Registry and, upon recordation, shall be binding on all Lots within the Properties and the Owners thereof, without regard to whether the Owner of such Lot voted for or against or signed or did not sign the document approving the amendment, provided, however, that no Owner shall be deemed in violation of any such amendment until fifteen (15) days after a copy of such amendment has been mailed to such Owner at the address of such Owner as shown in the records of the Association or, as to any Owner whose mailing address has not been provided to the Association, the address of the Lot.

The covenants and restrictions of this Neighborhood Declaration, and any amendments thereto, are appurtenant to and shall run with and be binding upon the Properties and the Owners thereof for a term of twenty-five (25) years from the date this Neighborhood Declaration is recorded, after which

time they shall be automatically extended for successive periods of ten (10) years unless terminated or amended by a vote of the Owners as set forth below.

Section 4. Interpretation. Captions used herein are for indexing purposes only and shall not be used as a means of interpreting or construing any provision hereof. Unless the context otherwise requires, the use herein of the singular shall include the plural and vice versa; the use of one gender shall include the other gender and neuter, and the use of the neuter shall include the masculine and feminine; and the use of the word "including" shall mean "including, without limitation". This Declaration and the provisions thereof shall be construed and enforced in accordance with the laws of the State of North Carolina.

Section 5. Subdivision of Lots. No Lot within the Subdivision may be subdivided by sale or otherwise so as to reduce the total Lot area shown on the recorded Plat, except by or with the consent of the Declarant and, if required, by the Towns of Franklinton and/or Youngsville.

Section 6. Declarant's Right To Change Development. Subject only to such terms and conditions as the Towns of Franklinton and/or Youngsville may impose, Declarant shall have the right, without consent or approval of the Owners, to create Lots and Units, add Neighborhood Common Area, and reallocate Lots or Units within the Properties.

Section 7. Rules and Regulations; Enforcement. The Board of Directors shall have the authority to adopt additional rules and regulations governing the use of the Neighborhood Common Property and the Lots within the Subdivision and shall furnish a written copy of said rules and regulations to the Owner(s) of each Lot at least fifteen (15) days before such rules and regulations become effective.

In addition to any other rights and remedies that the Association may have under the Bylaws and this Neighborhood Declaration, the Association may impose sanctions for a violation of this Neighborhood Declaration, the Bylaws of the Association, the rules and regulations adopted by the Association, and any restrictive covenants applicable to the Properties, in accordance with procedures set forth in the Bylaws, which sanctions may include, without limitation, reasonable monetary fines, not exceeding the maximum amount permitted by Section 47F-3-107.1 of the Act (\$100.00 per day as of the date of this Neighborhood Declaration), which shall constitute a lien upon the Lot of the violator, and suspension of the right to vote and the right to use the Neighborhood Common Property and any facilities thereon.

In addition, as provided in the Bylaws, the Association may exercise self-help to cure violations (specifically including, but not limited to, the towing of Owner and tenant vehicles that are in violation of parking rules) and may suspend the right of an Owner to use any Neighborhood Common Property and/or recreational facility within the Properties if the Owner is more than 30 days delinquent in paying any assessment or other charge due to the Association.

The Association shall at all times have the right and easement to go upon any Lot for the purposes of exercising its rights hereunder, including, but not limited to, enforcement of the Architectural Guidelines applicable to the Properties. Any entry onto any Lot for purposes of exercising this power of self-help shall not be deemed as trespass. All remedies set forth in this Neighborhood Declaration and the Bylaws shall be cumulative of any remedies available at law or in equity. In any action to enforce its rights and remedies, if the Association prevails, it shall be entitled

to recover all costs, including, without limitation, attorneys' fees and court costs, incurred in such action.

The Association shall not be obligated to take action to enforce any covenant, restriction or rule which the Board reasonably determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement actions. Any such determination shall not be construed as a waiver of the right to enforce such provisions under other circumstances or to estop the Association from enforcing any other covenant, restriction or rule.

Section 8. Dispute Resolution.

(a) Consensus for Association Action.

(i) Except as provided in this Section, the Association may not commence a legal proceeding or an action under this Article without the affirmative vote of at least two-thirds (2/3) of votes cast at a meeting of the Members, the purpose, or one of the purposes, of which is to vote on such action. The foregoing shall not apply to: (i) actions brought by the Association to enforce the provisions of this Neighborhood Declaration, the Bylaws, or rules and regulations adopted by the Association (hereinafter collectively referred to as the "Governing Documents"); (ii) the imposition and collection of assessments; (iii) proceedings involving challenges to *ad valorem* taxation; or (iv) counterclaims brought by the Association in proceedings against it.

(ii) Prior to the Association or any Member commencing any proceeding to which Declarant is a party, including, without limitation, a proceeding based on an alleged defect in any Improvement, Declarant shall have the right to be heard by the Members, or the particular Member, and to have access to inspect and correct the condition of or redesign any portion of any improvement as to which a defect is alleged or to otherwise correct or resolve the dispute.

(b) Alternative Method for Resolving Disputes. Declarant, its officers, directors, employees and agents, the Association, its officers, directors and committee members, all Owners, Members, any Builder, its officers, directors, employees and agents, and any other Person not otherwise subject to this Neighborhood Declaration who agrees to submit to this Section 8 (each such Person being herein referred to as a "Bound Party" or, in groups, as the "Bound Parties") each agrees to encourage the amicable resolution of disputes, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to submit those claims, grievances and disputes described in Subsection (c) hereof (herein referred to as the "Claims") to the procedures set forth in subsection (d) hereof.

(c) Claims. Unless specifically exempted below, all Claims between any of the Bound Parties, regardless of how such Claims might have arisen or on what they might be based, including, but not limited to, Claims: (i) arising out of or relating to the interpretation, application or enforcement of the Governing Documents or the rights, obligations and duties of any Bound Party under the Governing Documents; (ii) relating to the design and construction of improvements; or (iii) based on any statements, representation, promises, warranties, or other communications alleged to have been made by or on behalf of any Bound Party, shall be subject to the provisions of subsection (d) hereof.

Notwithstanding the foregoing, unless all parties to any such dispute otherwise agree in writing, the following shall *not* be deemed to be Claims covered by this subsection (c) and shall *not* be subject to the provisions of Subsection (d):

- (i) any proceeding by the Association against any Bound Party to enforce the provisions of Article V of this Neighborhood Declaration;
- (ii) any proceeding by the Association or the Declarant to obtain a temporary restraining order or injunction (or equivalent equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the *status quo* and preserve the Association's or the Declarant's ability to act under and enforce the provisions of this Neighborhood Declaration;
- (iii) any proceeding between or among Owners, which does not include the Declarant, a Builder, or the Association as a party, if such proceeding asserts a Claim which would constitute a cause of action independent of the Governing Documents; or
- (iv) any proceeding in which no Bound Party is an indispensable party.

With the consent of all parties thereto, any dispute involving any of the foregoing excepted actions may be submitted to the alternative dispute resolution procedures set forth in subsection (d).

(d) Mandatory Procedures.

(i) Notice. Any Bound Party having a Claim (the "Claimant") against any other Bound Party (the "Respondent") (the Claimant and the Respondent being herein individually referred to as a "Party" and collectively as the "Parties") shall notify each Respondent in writing (the "Notice"), stating plainly and concisely:

- (1) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim;
- (2) the legal basis of the Claim (i.e., the specific provisions of the Governing Documents or other authority out of which the Claim arises);
- (3) the proposed remedy; and
- (4) the fact that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

(ii) Negotiation and Mediation.

- (1) The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board of Directors of the Association may appoint a representative to assist the Parties in their negotiations.
- (2) If the Parties do not resolve the Claim within 30 days after the date of the Notice (or within such other time period as may be agreed upon by the Parties), Claimant shall have an additional 30 days in which to submit the Claim to mediation ("Supplemental Mediation") under the auspices of the American Arbitration Association ("AAA") in accordance with the AAA's Commercial or Construction Industry Mediation Rules, the Judicial Arbitration and Mediation Service, or any other mediation program established by statute or the rules of the courts of the State of North Carolina, if available, as appropriate.

- (3) If Claimant does not submit the Claim to Supplemental Mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge the Respondent from any liability to any Person other than the Claimant.
 - (4) Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the Parties. If the Parties do not settle the Claim within 30 days after submission of the matter to Supplemental Mediation, or within such other time as may be determined by the mediator or agreed to by the Parties, the mediator shall issue a written notice of termination of the mediation process, which notice shall state that the Parties are at an impasse and set forth the date that mediation was terminated (hereinafter "Termination of Mediation").
 - (5) Each Party shall bear its own costs of the mediation, including attorneys' fees, and each Party shall share equally all fees and expenses of the mediator and the administrative fees of mediation. If the Parties agree to a resolution of a Claim through negotiation or mediation as set forth in this subsection (d), and any Party thereafter fails to abide by the terms of the settlement agreement, any other Party may file suit or initiate arbitration proceedings to enforce the agreement without the need to again comply with the procedures set forth in this subsection (d). In such event, the Party prevailing in any action or proceeding to enforce the agreement shall be entitled to recover from the non-prevailing Party(ies) all costs incurred by the prevailing Party in enforcing the agreement or defending the enforcement action, as appropriate, including, without limitation, attorneys' fees and court costs.
- (3) Binding Arbitration.
- (i) After Termination of Mediation, Claimant shall be entitled to submit the Claim to final, binding arbitration under the auspices of the AAA in accordance with the AAA's Commercial or Construction Industry Arbitration Rules, or any other arbitration service to which the parties may agree, as appropriate. No Claim subject to this subsection (d), whether by the provisions thereof or by agreement of the Parties, shall be submitted to or decided by or in a court of law. Any judgment upon the award entered by the arbitrator may be entered in and enforced by a court of competent jurisdiction. If the amount claimed by the Complainant or, by the Respondent in a counterclaim, exceeds \$250,000, the Claim shall be heard and determined by three arbitrators. Otherwise, unless the Parties otherwise agree, the Claim shall be heard and determined by one arbitrator. An

- arbitrator shall have expertise in the area(s) of the Claim, which may include legal expertise if legal issues are involved.
- (ii) Each Party shall bear its own costs of the arbitration, including attorneys' fees, and each Party shall share equally all fees and expenses of the arbitrator and the administrative fees of arbitration. Notwithstanding the foregoing, if a Party unsuccessfully contests the validity or scope of arbitration in a court of law, the non-contesting Party shall be awarded reasonable attorneys' fees and expenses incurred in defending such contest. All decisions regarding the arbitrability of any Claim shall be decided by the arbitrator(s).
 - (iii) The award of the arbitrator(s) shall be accompanied by detailed written findings of fact and conclusions of law. Except as required by law or for confirmation of an award, neither a Party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of all Parties involved in the arbitration.

(e) Amendment of Subsection. Notwithstanding any other provision of this Neighborhood Declaration, this Section 8 may not be amended other than by the Declarant as otherwise authorized by this Neighborhood Declaration prior to the expiration of 20 years from the date of recording of this Neighborhood Declaration without the prior written consent of the Declarant, or, if the Declarant has ceased to exist, by both of the entities identified below as Managing Members of the Declarant.

Section 9. Association's Obligation to Maintain Traffic Control and Street Signs. As required by the Towns of Franklinton and/or Youngsville, the Association shall be responsible for all costs associated with the purchase, manufacture, installation and perpetual maintenance of all specialty traffic control and street name signs within the Subdivision, each and all of which shall be approved by the Towns prior to installation. If the Association fails to fulfill its obligations as set forth herein, the Towns, at their option, may install Town-standard signs, in which event, the Association shall be required to remove the specialty signs and posts at no cost to the Town and to reimburse the Town for the cost of materials and installation of Town-standard signs and posts.

ARTICLE XV PROVISIONS RELATING TO THE MASTER DECLARATION AND THE MASTER ASSOCIATION

This Declaration is a "Neighborhood Declaration" as defined in Article Two of the Master Declaration and the Association is a "Neighborhood Association" as defined in the Master Declaration. Pursuant to Article Two of the Master Declaration, the Master Declarant and the Master Association consent and agree to all of the terms and provisions of this Neighborhood Declaration, including the provisions of this Article which modify, relax and waive certain standards, covenants, rules and restrictions set forth in the Master Declaration and the delegation and relinquishment of specific duties to the Association is provided herein and as is specifically contemplated under Article Two of the Master Declaration.

Section 1. Architectural Control Authority Delegated. Lots within the Properties shall not be subject to Article Five of the Master Declaration or to any guidelines or standards adopted or applied pursuant to Article Five or the Committee approval requirements of Article Six of the Master Declaration and shall only be subject to the provisions of Article X of this Neighborhood Declaration. Notwithstanding the foregoing, Lots within the Properties which share a common boundary with the Golf Club, as defined in Article Three of the Master Declaration, shall be subject to both the provisions of Article X hereof and Articles Five and Six of the Master Declaration.

Section 2. Completion, Conveyance and Control of Neighborhood Common Area. If any portion of the Neighborhood Common Property has been previously conveyed by the Master Declarant to the Master Association, the Master Declarant will obtain proper authorization and the deed conveying that property from the Master Association to the Association. Neighborhood Common Area conveyed shall not be treated as Common Properties or common area of the Master Association, nor shall it be subject to assessment or other charges of any type under the Master Declaration.

Section 3. Master Association Membership. Owners of Lots, including the Declarant, shall be Class I members of the Master Association.

Section 4. Association Bylaws. The Association may adopt Bylaws as by law allowed and shall not be governed by the provisions of Section 8.5(b) of the Master Declaration.

Section 5. Master Association Assessment Obligations. With respect to the Association, Owners shall be responsible for only the following charges:

- (a) With respect to Annual Assessments chargeable under ARTICLE TEN, Section 10.1(a), the payment of annual assessments levied by the Master Association from time to time at a rate equal to sixty percent (60%) of the rate levied against and payable by Owners of Lots located outside Subdivision.
- (b) With respect to Special Assessments chargeable under ARTICLE TEN, Section 10.1(b) and Section 10.4, the payment of their proportionate share of special assessments levied by the Master Association only if and to the extent the Special Assessment relates to Capital Improvements on the Common Properties.

Except as expressly provided herein, neither the Builder nor any Owner shall be responsible for payment to or charges assessed or levied by the Master Association.

Section 6. Miscellaneous Warranties and Waivers. The provisions of ARTICLE ELEVEN of the Master Declaration shall not be applicable to the Properties, nor shall the Properties or any portion thereof be subject to any rules or regulations adopted by the Master Association. The Master Declarant waives all of its rights to and under Section 7.1 and Section 7.2 of the Master Declaration as to the Properties. The Master Declarant and the Master Association agree that the Master Declaration shall not be amended so as to alter or restrict the provisions of this Article XV unless the amendment is approved by the Association and, prior to the end of the Declarant Control Period, by the Declarant and by the Builder. The Master Declarant and the Master Association warrant and represent that all approvals required to be obtained with respect to this Neighborhood Declaration and the recording thereof, including, without limitation, any referenced in ARTICLE SIXTEEN of the Master Declaration, have been obtained.

Section 7. Concurrent Enforcement Authority. The provisions of the Master Declaration which remain applicable to the Properties may be enforced by either the Master Association or the Association, the enforcement authority of the two organizations being joint and concurrent with respect thereto, provided, however, that enforcement actions may not be taken by both Associations for the same alleged violation. In the event of any conflict between provisions of this Neighborhood Declaration and the Master Declaration which are applicable to the Subdivision, the more stringent and restrictive provision shall control.

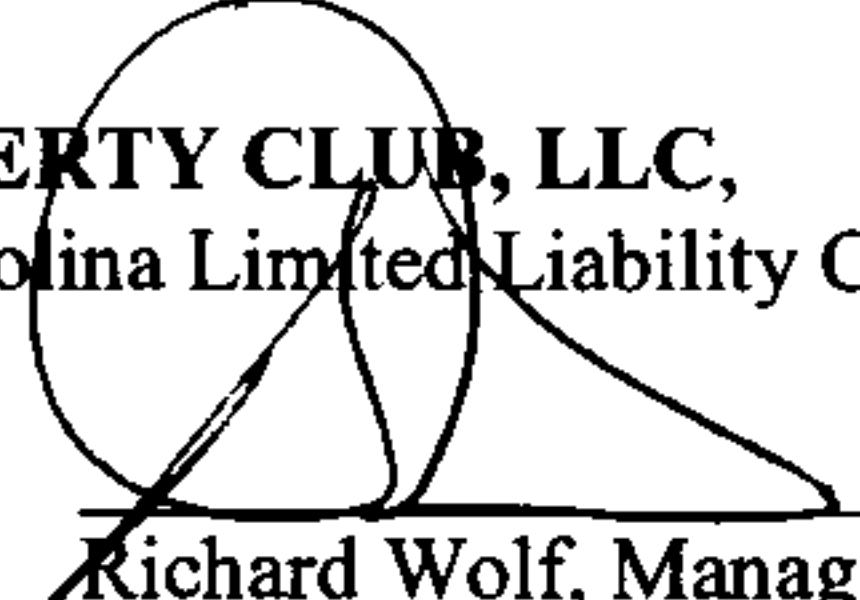
**ARTICLE XVI
PROVISIONS RELATING TO THE GOLF COURSE**

The Properties surround portions of the Olde Liberty Golf Club ("Golf Course"). The Golf Course is not part of the Properties and neither the Builder nor the Association has any authority over the Golf Course or responsibility for its maintenance or operation. The Master Declaration contains several provisions relating to the Golf Course and its operation (*see, e.g.*, Articles Fourteen and Fifteen of the Master Declaration), all of which provisions are applicable to the Properties and Owners of Lots therein.

IN WITNESS WHEREOF, Declarant And Master Declarant has caused this instrument to be executed under seal as of the date shown in the notary acknowledgments set forth below.

DECLARANT and MASTER DECLARANT:

OLDE LIBERTY CLUB, LLC, (Seal)
a North Carolina Limited Liability Company

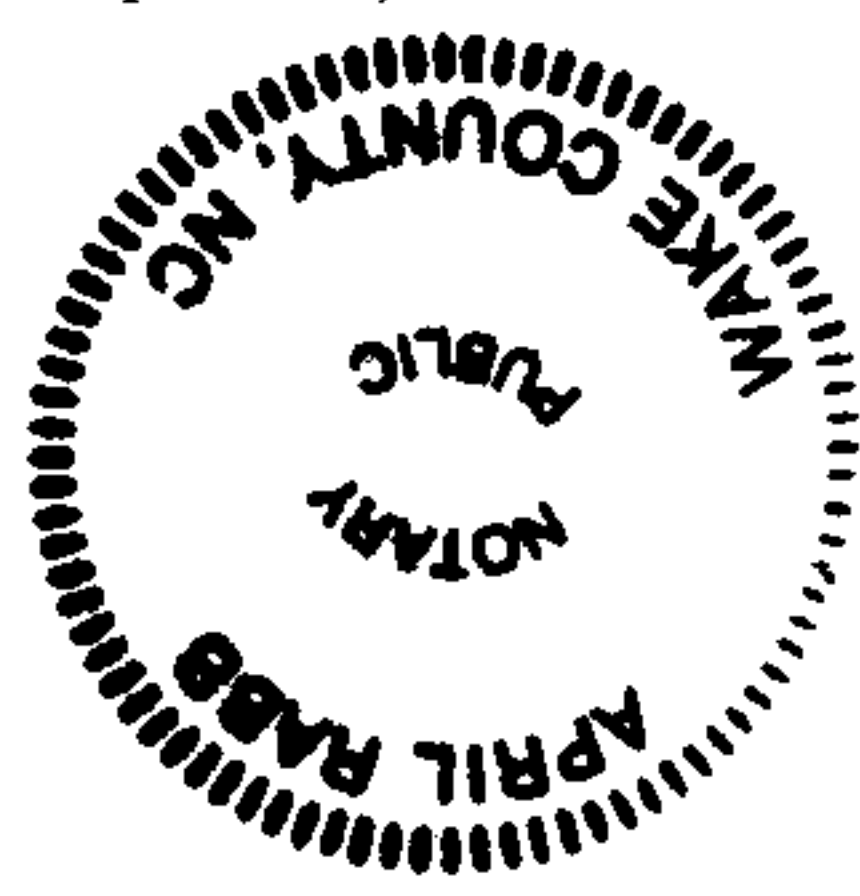
By: 
Richard Wolf, Manager

STATE OF NORTH CAROLINA - Wake COUNTY:

I, April Rabb, a Notary Public for the County and State aforesaid, certify that Richard Wolf personally came before me this day and acknowledged that he is a Manager of **OLDE LIBERTY CLUB, LLC**, a North Carolina limited liability company, and that, he, as Manager, signed the within and foregoing document for and on behalf of the limited liability company, by its authority duly given.

Witness my hand and official stamp or seal, this the 19 day of April, 2008.

(Stamp or Seal)



April Rabb
Notary Public
Printed Name: APRIL RABB
My commission expires: _____

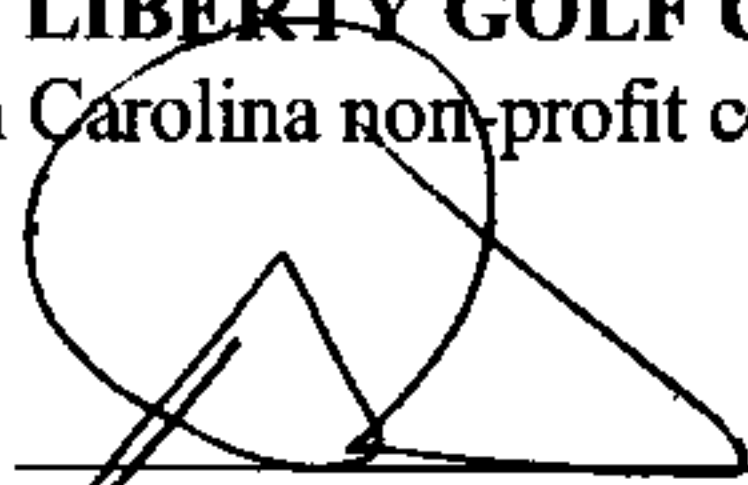
**MY COMMISSION EXPIRES
AUGUST 10, 2013**

MASTER ASSOCIATION'S SIGNATURE PAGE

IN WITNESS WHEREOF, the Master Association Builder has executed this Neighborhood Declaration as of the day and year first above written.

OLDE LIBERTY GOLF CLUB HOMEOWNERS' ASSOCIATION, INC.
a North Carolina non-profit corporation

By:


Richard Wolf, President

STATE OF NORTH CAROLINA -- COUNTY OF Wake:

I, the undersigned, a Notary Public of Wake County, North Carolina certify that Richard Wolf personally appeared before me this day and acknowledged that he/she is President of **OLDE LIBERTY GOLF CLUB HOMEOWNERS' ASSOCIATION, INC.**, a North Carolina non-profit corporation, and that he/she, as President, signed the within and foregoing document for and on behalf of the corporation, by its authority duly given.

Witness my hand and official stamp or seal, this the 19 day of April, 2008.

(Stamp or Seal)



April Rabb
Notary Public
Printed Name: APRIL RABB

My commission expires: _____

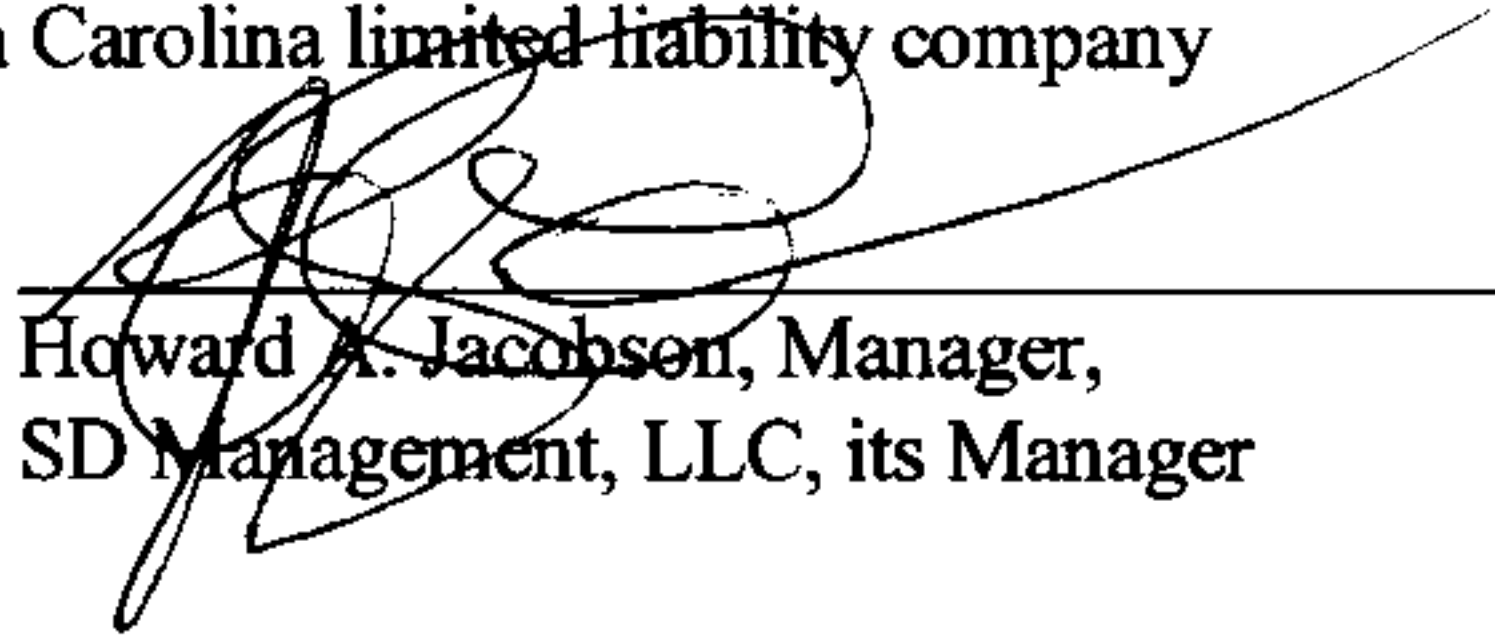
**MY COMMISSION EXPIRES
AUGUST 10, 2013**

BUILDER'S SIGNATURE PAGE

IN WITNESS WHEREOF, the Builder has executed this Neighborhood Declaration as of the day and year first above written.

BUILDER:

PROVINCE HOMES, LLC
a North Carolina limited liability company

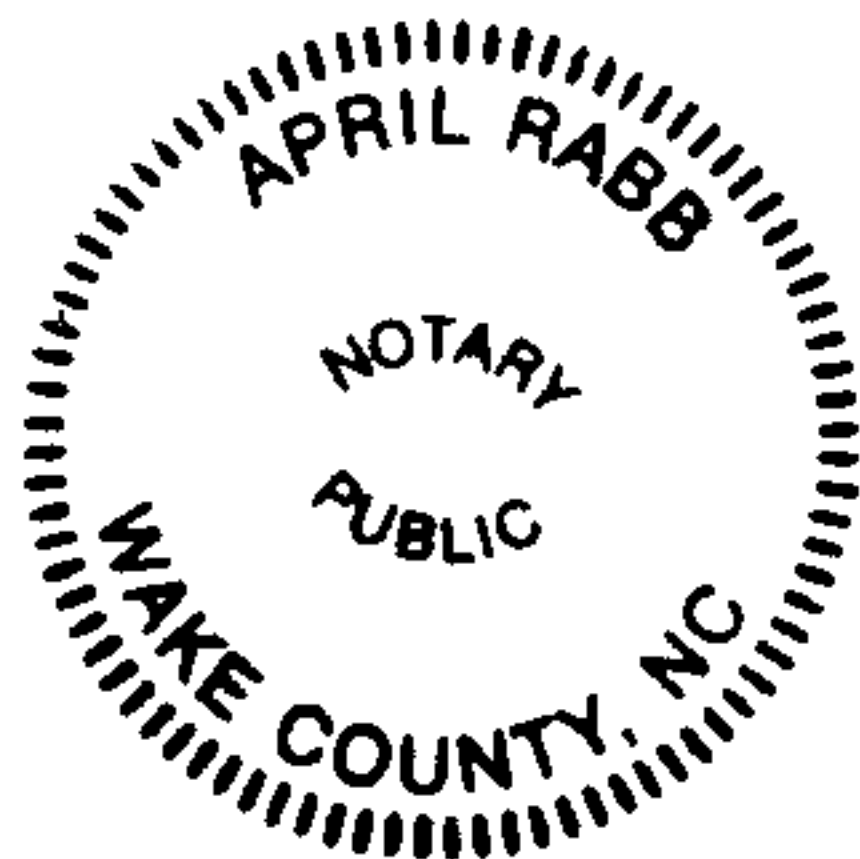
By: 
Howard A. Jacobson, Manager,
SD Management, LLC, its Manager

STATE OF NORTH CAROLINA -- COUNTY OF WAKE:

I, the undersigned, a Notary Public of Wake County, North Carolina certify that **Howard A. Jacobson** personally appeared before me this day and acknowledged that he is a manager of SD Management, LLC, a North Carolina limited liability company, which is manager of **PROVINCE HOMES, LLC**, a North Carolina limited liability company, and that he, as manager, signed the within and foregoing document for and on behalf of the company, by its authority duly given.

2009 Witness my hand and official stamp or seal, this the 19 day of May

(Stamp or Seal)



April Rabb
Notary Public
Printed Name: APRIL RABB

My commission expires: _____

MY COMMISSION EXPIRES
AUGUST 10, 2013

EXHIBIT A

Lot Numbers 368 through 405, 503 through 577, 586 through 590 and 653 through 658, all as shown on that certain Survey of Olde Liberty Golf Club Phase VII, dated December 12, 2007, prepared by Piedmont Surveys, Inc. and recorded on January 7, 2008 in Map Book 2008, Page 15 in the records of the Office of the Register of Deeds for Franklin County, North Carolina.

EXHIBIT B

All those certain parcels of land located in Franklinton & Youngsville Townships, Franklin County, North Carolina containing area, Lots, roads and open spaces around golf holes 10 and 11 of Olde Liberty Golf Club and being more particularly described as follows:

TRACT 1: Beginning at a tie described as being South 50 degrees 25 minutes 25 seconds West 8,607.57 feet from a spindle in the intersection of SR 1227 & SR 1134, said TIE being shown on a survey recorded in Book 1999, Page 454, Franklin County Registry, THENCE South 04 degrees 37 minutes 59 seconds West 285 feet to an existing iron pin in the northern right of way of NC Highway 96; THENCE North 81 degrees 17 minutes 52 seconds West 126.55 feet to the point and place of BEGINNING; THENCE North 81 degrees 17 minutes 52 seconds West for a distance of 73.96 feet to a point; THENCE North 15 degrees 03 minutes 49 seconds West for a distance of 263.32 feet to a point; THENCE North 89 degrees 56 minutes 20 seconds West for a distance of 46.03 feet to a point; THENCE North 04 degrees 41 minutes 50 seconds East for a distance of 258.02 feet to a point; THENCE South 89 degrees 44 minutes 53 seconds West for a distance of 1956.52 feet to a point; THENCE North 00 degrees 41 minutes 59 seconds East for a distance of 1438.16 feet to a point; THENCE South 87 degrees 57 minutes 53 seconds East for a distance of 422.69 feet to a point; THENCE North 89 degrees 49 minutes 47 seconds East for a distance of 701.74 feet to a point; THENCE South 89 degrees 14 minutes 40 seconds East for a distance of 451.30 feet to a point; THENCE South 07 degrees 57 minutes 40 seconds West for a distance of 176.55 feet to a point; THENCE South 11 degrees 48 minutes 52 seconds East for a distance of 179.42 feet to a point; THENCE North 89 degrees 34 minutes 46 seconds West for a distance of 641.11 feet to a point; THENCE South 84 degrees 06 minutes 16 seconds West for a distance of 226.25 feet to a point; THENCE North 88 degrees 44 minutes 25 seconds West for a distance of 75.01 feet to a point; THENCE North 84 degrees 14 minutes 14 seconds West for a distance of 226.10 feet to a point; THENCE North 89 degrees 52 minutes 43 seconds West for a distance of 76.02 feet to a point; THENCE South 00 degrees 41 minutes 59 seconds West for a distance of 311.61 feet to a point; THENCE South 00 degrees 41 minutes 59 seconds West for a distance of 241.30 feet to a point; THENCE South 02 degrees 16 minutes 01 seconds East for a distance of 72.66 feet to a point; THENCE South 29 degrees 53 minutes 54 seconds East for a distance of 46.65 feet to a point; THENCE South 51 degrees 30 minutes 59 seconds East for a distance of 90.55 feet to a point; THENCE North 85 degrees 40 minutes 12 seconds East for a distance of 371.97 feet to a point; THENCE North 89 degrees 09 minutes 44 seconds East for a distance of 75.00 feet to a point; THENCE South 86 degrees 25 minutes 12 seconds East for a distance of 413.60 feet to a point; THENCE North 89 degrees 44 minutes 53 seconds East for a distance of 631.63 feet to a point; THENCE North 79 degrees 36 minutes 06 seconds East for a distance of 66.83 feet to a point; THENCE South 14 degrees 38 minutes 18 seconds East for a distance of 127.95 feet to a point; THENCE along a curve to the left having a radius of 150.00 feet and an arc length of 68.21 feet, being subtended by a chord of North 36 degrees 01 minutes 37 seconds East for a distance of 67.63 feet to a point; THENCE along a curve to the right having a radius of 150.00 feet and an arc length of 30.59 feet, being subtended by a chord of North 28 degrees 50 minutes 27 seconds East for a distance of 30.54 feet to a point; THENCE along a curve to the left having a radius of 150.00 feet and an arc length of 142.20 feet, being subtended by a chord of North 07 degrees 31 minutes 32 seconds East for a distance of 136.93 feet to a point; THENCE North 19 degrees 37 minutes 54 seconds West for a distance of 190.56 feet to a point; THENCE along a curve to the right having a radius of 300.00 feet and an arc length of 194.03 feet, being subtended by a chord of North 01 degrees 06 minutes 10 seconds West for a distance of 190.67 feet to a point; THENCE North 56 degrees 24 minutes 31 seconds West for a distance of 156.83 feet to a point; THENCE North 29 degrees 48 minutes 48 seconds East for a distance of 130.72 feet to a point; THENCE North 84 degrees 16 minutes 56 seconds West for a distance of 333.96 feet to a point; THENCE North 03 degrees 16 minutes 02 seconds East for a distance of 85.46 feet to a point; THENCE North 18 degrees 05 minutes 52 seconds East for a distance of 164.12 feet to a point; THENCE North 14 degrees 41

minutes 57 seconds East for a distance of 105.61 feet to a point; THENCE South 84 degrees 16 minutes 56 seconds East for a distance of 459.66' feet to a point; THENCE South 87 degrees 05 minutes 44 seconds East for a distance of 168.36 feet to a point; THENCE South 05 degrees 23 minutes 12 seconds West for a distance of 23.74 feet to a point; THENCE along a curve to the right having a radius of 275.00 feet and an arc length of 135.37 feet, being subtended by a chord of South 19 degrees 29 minutes 20 seconds West for a distance of 134.01 feet to a point; THENCE South 33 degrees 35 minutes 29 seconds West for a distance of 372.55 feet to a point; THENCE along a curve to the left having a radius of 275.00 feet and an arc length of 255.45 feet, being subtended by a chord of South 06 degrees 58 minutes 47 seconds West for a distance of 246.37 feet to a point; THENCE South 19 degrees 37 minutes 54 seconds East for a distance of 309.23 feet to a point; THENCE along a curve to the right having a radius of 125.00 feet and an arc length of 451.27 feet, being subtended by a chord of South 06 degrees 12 minutes 30 seconds East for a distance of 243.17 feet to a point; THENCE along a curve to the right having a radius of 230.00 feet and an arc length of 136.79 feet, being subtended by a chord of South 28 degrees 21 minutes 21 seconds West for a distance of 134.78 feet to a point; THENCE South 45 degrees 23 minutes 39 seconds West for a distance of 42.57 feet to a point; THENCE along a curve to the left having a radius of 230.00 feet and an arc length of 307.24 feet, being subtended by a chord of South 07 degrees 07 minutes 33 seconds West for a distance of 284.90 feet to a point; THENCE South 31 degrees 08 minutes 33 seconds East for a distance of 39.35 feet to a point; THENCE along a curve to the right having a radius of 230.00 feet and an arc length of 159.65 feet, being subtended by a chord of South 11 degrees 15 minutes 23 seconds East for a distance of 156.47 feet to a point; THENCE South 08 degrees 37 minutes 46 seconds West for a distance of 14.78 feet to a point; the point and place of BEGINNING: together with and subject to covenants, easements, and restrictions of record Said properly contains 44.348 acres more or less

SAVING AND EXCEPTING THEREFROM THE PROPERTY DESCRIBED ON EXHIBIT A TO THIS DECLARATION.