

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein on any lot shall be subordinate to the lien of any mortgage or mortgages and any lien for assessments of Kildaire Farms Homeowners Association on such lot. Sale or transfer of any lot shall not affect the assessment lien; however, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 11. Exempt Property. Any portion of the Property dedicated to, and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein, except no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VIII

EXTERIOR MAINTENANCE

In addition to maintenance of the limited common area, the Association shall provide exterior maintenance upon each lot which is subject to assessment hereunder, as follows: Stain and/or paint the exterior of townhomes, repair, replace and care for roofs, trees, shrubs, grass, walks, and other such exterior improvements. Such exterior maintenance shall not include glass surfaces, or repair of exterior structures of any townhouse other than the roof.

Any owner who fences or encloses any portion of his lot (which fence or enclosure shall require the prior approval of the Association) may plant trees, shrubs, flowers, and grass in the fenced or enclosed portion as he elects and shall maintain the fenced or enclosed portion at his own expense, provided that such maintenance does not hinder the Association in performing its maintenance duties as to the townhome, the remaining yard spaces, or the limited common area. No such maintenance by an owner shall reduce the assessment payable by him to the Association. If, in the opinion of the

Association, any such owner fails to maintain his yard in a neat and orderly manner, the Association may revoke the owner's maintenance rights for a period not to exceed one year and the Association shall perform maintenance during the revocation period. The owner shall not plant any vegetation in front of his townhome except with the prior written approval of the Association.

In the event that the need for maintenance or repair of a lot or the improvements thereon is caused through the wilful or negligent acts of its owner or his family, tenants, contract purchasers, guests, or invitees, or is caused by fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles, or smoke, as the foregoing are defined and explained in North Carolina standard fire and extended coverage insurance policies, the cost of such maintenance, replacement, or repairs shall be added to and become a part of the assessment to which such lot is subject.

ARTICLE IX

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the townhomes upon the property and placed on the dividing line between the lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or wilful acts or omissions shall apply thereto.

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

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, however, to the right of any such owner to call for a larger contri-

bution from the others under any rule of law regarding liability for negligent or wilful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an owner who by his negligent or wilful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs With Land. The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such owner's successors in title.

Section 6. Easement and Right of Entry for Repair, Maintenance, and Reconstruction. Every owner shall have an easement and right of entry upon the lot of any other owner to the extent reasonably necessary to perform repair, maintenance, or reconstruction of a party wall. Such repair, maintenance, or reconstruction shall be done expeditiously, and, upon completion of the work, the owner shall restore the adjoining lot or lots to as near the same condition as that which prevailed prior to commencement of the work as is reasonably practicable.

Section 7. Certification With Respect to Contribution. If any owner desires to sell his lot, he may, in order to assure a prospective purchaser that no adjoining owner has a right of contribution as provided in this Article request of the adjoining owner or owners a certification that no right of contribution exists, whereupon it shall be the duty of each adjoining owner to make such certification immediately upon request and without charge. If the adjoining owner claims the right of contribution, the certification shall contain a recital of the amount claimed and the basis therefor.

Section 8. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, such dispute shall be settled by arbitration as provided under the

laws of the State of North Carolina as they now are or are hereafter amended.

ARTICLE X

ARCHITECTURAL CONTROL

No building, fence, wall, antenna, clothesline, or other structure shall be commenced, erected, or maintained upon the Property, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the said improvements or alterations shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by both the Board of Directors of the Association and the Kildaire Farms Homeowners Association or by their Architectural Committees. In the event that the said Boards or their designated committees, fail to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to them, approval will not be required and this Article will be deemed to have been fully complied with; provided, that the plans and specifications required to be submitted shall not be deemed to have been received if they contain erroneous data or fail to present accurate information upon which the Boards or their committees can arrive at a decision.

The said Boards or their committees shall have the right, at their election, to enter upon any lot during construction, erection, or installation of improvements or alterations to inspect the work being undertaken in order to determine that such work is being performed in conformity with the approved plans and specifications and in a good and workmanlike manner, utilizing approved methods and good quality materials.

ARTICLE XI

USE RESTRICTIONS

Section 1. Rules and Regulations. The Board of Directors of the Association shall have the power to formulate, publish, and enforce reasonable rules and regulations concerning the use and enjoyment of the front yard space of each lot and the limited common

area not inconsistent with the rules and regulations of the Kildaire Farms Homeowners Association. Such rules and regulations, along with all policy resolutions and policy actions taken by the Board of Directors, shall be recorded in a Book of Resolutions, which shall be maintained in a place convenient to the owners and available to them for inspection during normal business hours.

Section 2. Use of Property. Each building, the townhomes therein, and the limited common area and facilities shall be for the following uses and subject to the following restrictions, and, in addition, to those set forth in the Bylaws:

(a) All buildings and the limited common area and facilities shall be used for residential and related common purposes. Each townhome may not be subdivided and shall be used as a single-family residence and for no other purpose except that the Declarant may use one or more townhomes for offices and/or model townhomes for sales purposes.

(b) Nothing shall be kept and no activity shall be carried on in any building or townhome or on the limited common area and facilities which will increase the rate of insurance, applicable to residential use, for the property or the contents thereof. No owner shall do or keep anything, nor cause or allow anything to be done or kept, in his townhome or on the common area and facilities which will result in the cancellation of insurance on any portion of the property, or the contents thereof, or which will be in violation of any law, ordinance, or regulation. No waste shall be committed on any portion of the common area and facilities.

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

or repair such portion of the property.

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

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

(f) No owner shall display, or cause or allow to be displayed, to public view any sign, placard, poster, billboard, or identifying name or number upon any townhome, building or any portion of the limited common area and facilities, except as may be allowed by the Kildaire Farms Homeowners Association pursuant to its bylaws; provided, however, that the Declarant and any mortgagee who may become the owner of any unit, or their respective agents, may place "For Sale" or "For Rent" signs on any unsold or unoccupied townhomes and in suitable places on the common area.

(g) No person shall undertake, cause, or allow any alteration or construction in or upon any portion of the limited common area and facilities except at the direction of with the express written consent of the Kildaire Farms Homeowners Association.

(h) The limited common area and facilities shall be used only for the purposes for which they are intended and reasonably suited and which are incident to the use and occupancy of the townhomes, subject to any rules or regulations that may be adopted by the Association or the Kildaire Farms Homeowners Association pursuant to their respective bylaws.

Section 3. Quiet Enjoyment. No obnoxious or offensive activity shall be carried on upon the property, nor shall anything be done

which may be or may become a nuisance or annoyance to residence within the property.

ARTICLE XIII

EASEMENTS

Section 1. Walks, Drives, Parking Areas, and Utilities. All of the property, including lots and limited common area, shall be subject to a perpetual non-exclusive easement or easements in favor of all Owners of lots for their use and the use of their immediate families, guests, invitees, tenants or lessees for all proper and normal purposes and for ingress and egress and regress and to such easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines, television antenna lines, and other public utilities as shall be established prior to subjecting the property to this Declaration by the Declarant or its predecessors in title and for the use of the Owner, their families, guests and tenants; and the Kildaire Farms Homeowners Association shall have the power and authority to grant and to establish in, over, upon, and across the common area conveyed to it such further easements as are requisite or the convenient use and enjoyment of the Property and Kildaire Farms Subdivision.

Section 2. Encroachments. All lots and the limited common area shall be subject to easements for the encroachment of initial improvements constructed on adjacent lots by the Declarant to the extent that such initial improvements actually encroach, including, without limitation, such items as overhanging eaves, gutters, downspouts, exterior storage rooms, and walls. If any encroachment shall occur subsequent to subjecting the Property to this Declaration as a result of settling or shifting of any building or as a result of any permissible repair, construction, reconstruction, or alteration, there is hereby created and shall be a valid easement or such encroachment and for the maintenance of the same. Every lot shall be subject to an easement for entry and encroachment by the Declarant for a period not to exceed eighteen (18) months

following conveyance of a lot to an owner for the purpose of correcting any problems that may arise regarding grading and drainage. The Declarant, upon making entry for such purpose, shall restore the affected lot or lots to as near the original condition as practicable.

Section 3. Structural Support. Every portion of a townhome which contributes to the structural support of the building shall be burdened with an easement of structural support for the benefit of all other townhomes within the building.

Section 4. Emergencies. Every lot and townhome shall be subject to an easement for entry by the Association for the purpose of correcting, repairing, or alleviating any emergency condition which arises upon any lot or within any townhome and that endangers any building or portion of the limited common area.

ARTICLE XIII

RIGHTS OF INSTITUTIONAL LENDERS

Section 1. The prior written approval of each institutional holder of a first deed of trust on units in the property will be required for the following:

- (a) The abandonment or termination of the townhome property except for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain;
- (b) Any material amendment to the Declaration or to the By Laws of the Association, including, but not limited to, any amendment which would change the percentage interest of the Owners in the property;
- (c) The effectuation of any decision by the Association to terminate professional management and assume self management of the property.

Section 2. No unit may be partitioned or subdivided without the prior written approval of the first lien holder of the unit.

Section 3. Upon written request, any institutional holder of a first lien on a unit will be entitled to:

- (a) inspect the books and records of the Association during normal business hours;
 - (b) receive an annual audited financial statement of the Association within 90 days following the end of any fiscal year; and
 - (c) written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings.
- Section 4.

- (a) In the event of substantial damage to or destruction of any unit or any part of the common area, the institutional holder of any first mortgage on a unit will be entitled to timely written notice of any such damage or destruction.
- (b) If any unit or portion thereof or the common area or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the institution holder of any first mortgage on a unit will be entitled to timely written notice of any such proceeding or proposed acquisition.
- (c) The holder of a first mortgage on any unit shall be given prompt notice of any default by the unit mortgagor's obligations hereunder not cured within thirty (30) days of said default.

ARTICLE XIII

GENERAL PROVISIONS

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

Section 2. Insurance. Every owner shall maintain in full force and effect at all times fire and hazard insurance in an amount equal to the full insurable value of his townhome except that the amount shall not be required to exceed the replacement cost of the townhome. An owner shall exhibit to the Board, upon demand, evidence

that such insurance is in effect. If any owner shall fail to maintain such insurance, the Board is authorized to obtain such insurance in the name of the owner from an insurer selected by the Board, and the cost of such insurance shall be included in the annual assessment of the owner and shall constitute a lien against his lot until paid.

Section 3. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions, which shall remain in full force and effect.

Section 4. Amendment. The covenants, conditions, and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by the owners of not less than ninety percent (90%) of the lots, and thereafter by an instrument signed by the owners of not less than seventy five percent (75%) of the lots; provided, however, that the Board of Directors may amend this Declaration, without the consent of owners, to correct any obvious error or inconsistency in drafting, typing, or reproduction. All amendments shall be certified as an official act of the Association and shall forthwith be recorded in the Wake County Registry. All amendments shall become effective upon recordation.

Section 5. Failure to Maintain. It shall be the duty and responsibility of the Association to maintain the lots, yards, townhomes and limited common area to at least the same standard of maintenance as that of the common areas and facilities of Kildaire Farms Subdivision by Kildaire Farms Homeowners Association and in conformity with the general plan of development and maintenance for Kildaire Farms Subdivision. In the event that the Association fails to properly maintain the lots, yards, townhomes, or limited common area in conformity with these requirements, the Board of Directors of the Kildaire Farms Homeowners Association shall give written

notice of any deficiencies to the Board of the Association; and if the Association fails to remedy such deficiencies within thirty (30) days following receipt of notice, the Kildaire Farms Homeowners Association may perform the necessary maintenance for such period of time as it may in its discretion elect to do so, and the cost of such maintenance may be added to and included in the annual assessment by Kildaire Farms Homeowners Association of owners within the Association on a per lot basis.

There is hereby created an easement for entry, which shall run with the land, in favor of the Kildaire Farms Homeowners Association and its successors upon any lot, yard, townhome, and limited common area within Twin Oak Villas, Phase I, or other areas annexed hereto to perform the maintenance provided for herein.

Section 6. Amendment of Declaration Without Approval of Owners.

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

provided that the changes made substantially conform to such request or suggestion.

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

Section 7. Amendment to Achieve Tax-Exempt Status. The Declarant, for so long as it shall retain control of the Association, and, thereafter, the Board of Directors, may amend this Declaration as shall be necessary, in its opinion, and without the consent of any owner, to qualify the Association or the Property, or any portion thereof, for tax-exempt status. Such amendment shall become effective upon the date of its recordation in the Wake County Registry.

Section 8. Lease of Townhouse. No townhome shall be leased for transient or hotel purposes, nor may any owner lease less than the entire unit. Any lease must be in writing and provide that the terms of the lease and the occupancy of the unit shall be subject in all respects to the provisions of the Declaration of Covenants, Conditions and Restrictions and By Laws of Twin Oak Villas Townhomes and Kildaire Farms Subdivision and any failure by any lessee to comply with the terms of such documents shall be a default under the lease.

Section 9. Conflicts. In the event there shall be any irreconcilable conflicts between either this Declaration of the Association or the Bylaws of the Association and the Declaration of Covenants, Conditions and Restrictions for Kildaire Farms Subdivision (hereinafter referred to) or the Bylaws of Kildaire Farms Homeowners Association, the provisions of the said Declaration for Kildaire Farms Subdivision and the Bylaws of said Kildaire Farms Homeowners Association shall control. In the event of any irreconcilable conflict between this Declaration and the Bylaws of the Association, the provisions of this Declaration shall control. In the event of any irreconcilable conflict between this Declaration or the Bylaws of the Association and the Articles of Incorporation of the Association, the provisions of the Articles of Incorporation shall control.

IN WITNESS WHEREOF, the Declarant has caused this instrument to

be executed in their respective names by authority duly given.

WILLIAMS ELDRIDGE COMPANIES, INC.

By: James R. Williams
President

James R. Williams
Secretary

IN WITNESS WHEREOF, Kildaire Farms Development Corporation does hereby join in the execution of the foregoing solely for the purpose of annexing, as provided in Article II hereof, the property to Kildaire Farms Subdivision in accordance with the Declaration of Covenants, Conditions and Restrictions for Kildaire Farms Subdivision recorded in Book 2491, Page 388, Wake County Registry.

This the 26th day of June, 1980.

KILDAIRE FARMS DEVELOPMENT CORPORATION

By: Charles L. Hinton, III
President

Charles L. Hinton, III
Secretary

NORTH CAROLINA
WAKE COUNTY

I, Charles L. Hinton, III, a Notary Public in and for said State and County, do hereby certify that James R. Williams personally appeared before me this day and acknowledged that he is Secretary of Williams Eldridge Companies, Inc., a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by him/her self as its

Witness my hand and notarial seal, this the 26th day of June, 1980.

Charles L. Hinton, III
Notary Public

My commission expires:
7-24-80

NORTH CAROLINA
WAKE COUNTY

I, Charles L. Hinton, III, a Notary Public in and for said State and County, do hereby certify that Charles L. Hinton, III personally appeared before me this day and acknowledged that he is Secretary of Kildaire Farms Development Corporation, a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by him as its Secretary.

Witness my hand and notarial seal, this the 26th day of June, 1980.

Elizabeth H. Macken
Notary Public

My commission expires:

7/2/80



CAROLINA — WAKE COUNTY

foregoing certificate 5 of Elizabeth H. Macken

Notar(y)(ies) Public is
fied to be correct. This instrument and this certificate are duly registered at the date and
n the book and page shown on the first page hereof.

R. B. MCKENZIE, JR., Register of Deeds

By [Signature]
Deputy Register of Deeds

PRESENTED
FOR
REGISTRATION

BOOK 2837 PAGE 807

Prepared By and for Charles L. Hinton, III
ADAMS, HINTON AND BRUCKEL
REGISTERED DEEDS
WAKE COUNTY, N.C.

NORTH CAROLINA

WAKE COUNTY

DECLARATION SUBJECTING ADDITIONAL LAND
IN TWIN OAK VILLAS TOWNHOMES TO DECLARA-
TION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR TWIN OAK VILLAS TOWN-
HOMES, RECORDED IN BOOK 2837, PAGE
777, WAKE COUNTY REGISTRY, AND DECLARA-
TION OF COVENANTS, CONDITIONS AND RESTRIC-
TIONS FOR KILDAIRE FARMS SUBDIVISION
RECORDED IN BOOK 2491, PAGE 388, WAKE
COUNTY REGISTRY

THIS DECLARATION made this 26th day of June, 1980, by WILLIAMS
ELDRIDGE COMPANIES, INC., a corporation organized and existing under
the laws of the State of North Carolina, (hereinafter "Williams") and
KILDAIRE FARMS DEVELOPMENT CORPORATION, a corporation organized and
existing under the laws of the State of North Carolina, (hereinafter
"Kildaire Farms");

WITNESSETH:

Williams and Kildaire Farms hereby declare that the following
described real property located in Cary Township, Wake County, North
Carolina, and being a portion of Twin Oak Villas Townhomes, is and
shall be annexed to and held, transferred, sold and conveyed subject
to the Declaration of Covenants, Conditions and Restrictions for
Twin Oak Villas Townhomes, Block A of Phase I, recorded in Book 2837,
Page 777, Wake County Registry; and Declaration of Covenants, Conditions
and Restrictions for Kildaire Farms Subdivision recorded in Book 2491,
Page 388, Wake County Registry:

Being all of that property as shown on map entitled "Twin Oak
Villas Townhomes, Block B of Phase I, Kildaire Farms Subdivi-
sion", recorded in Book of Maps 1930, Page 190, Wake
County Registry.

The hereinabove described additional land shall be subject to all
the terms, requirements and conditions on said Declaration of Covenants,
Conditions and Restrictions for Twin Oak Villas Townhomes, Block A of
Phase I, and Declaration of Covenants, Conditions and Restrictions for
Kildaire Farms Subdivision, the provisions of which are herein
specifically incorporated by reference as if fully herein set out.

IN WITNESS WHEREOF, Williams and Kildaire Farms have caused this Declaration to be executed in their corporate names by their proper officers thereunto duly authorized, all as of the day and year first above written.

WILLIAMS ELDRIDGE COMPANIES, INC.

By: David R Williams
President

KILDAIRE FARMS DEVELOPMENT CORPORATION

By: D. Craig Cooper
President

Secretary

Attest:

Secretary

NORTH CAROLINA
WAKE COUNTY

I, Elizabeth H. Machen, a Notary Public, certify that Burt S. Eldridge III personally came before me this day and acknowledged that he is Secretary of Williams Eldridge Companies, Inc., a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by himself as its Secretary.

Witness my hand and notarial seal, this the 26th day of June, 1980.

My commission expires: 7/24/80

NORTH CAROLINA
WAKE COUNTY

Elizabeth H Machen
Notary Public

I, Elizabeth H. Machen, a Notary Public, certify that Charles L. Hinton, III personally came before me this day and acknowledged that he is Secretary of Kildaire Farms Development Corporation, a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by himself as its Secretary.

Witness my hand and notarial seal, this the 26th day of June, 1980.

My commission expires: 7/24/80

Elizabeth H Machen
Notary Public

NORTH CAROLINA — WAKE COUNTY

The foregoing certificate

of Elizabeth H. Machen

Notary Public is

certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof.

R B MCKENZIE, JR., Registrar of Deeds

By Mary S. Leeper
Deputy Registrar of Deeds