PREPARED BY & MAIL TO:
Greg L. Hinshaw, Burns, Day & Presnell, P.A.
Raleigh, N.C.

NORTH CAROLINA

WAKE COUNTY

AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THISTLEDOWN (formerly THISTLEDOWN TOWNEHOMES)

THIS DECLARATION, made on the date hereinafter set forth by WALLACE-HUNT ASSOCIATES, a North Carolina General Partnership, hereinafter referred to as "Declarant" and the undersigned owners;

W I T N E S S E T H:

WHEREAS, Declarant is the Owner of that certain property in the City of Raleigh, County of Wake, State of North Carolina, which is more particularly described in Exhibit A attached hereto and incorporated herein ("Property").

WHEREAS, the Declaration of Covenants, Conditions and Restrictions for Thistledown Townehomes was previously recorded in Book 4132, Page 798, Wake County Registry and Declarant and the undersigned owners desire to amend and restate said Declaration as hereinafter follows;

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

AND WHEREAS, pursuant to Article X, Section 6, Declarant and the undersigned owners in the Consent of Owners addendum affixed hereto and incorporated herein by reference own at least 90% of the applicable Lots;

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

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Thistledown Homeowners Association, Inc., its successors and

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assigns.

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

Section 3. "Property" shall mean and refer to that certain real property hereinbefore described and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association and the easements granted thereto for the common use and enjoyment of the Owners. The Common Area to be owned by the Association shall be described in deeds to the Association and designated as such or as private drives on each recorded map of the Property.

Section 5. "Lot" shall mean and refer to any plot of land described by a metes and bounds description shown upon any recorded subdivision map of the Property with the exception of the Common Area, to include attached Townehome Lots and Single Family Lots. Townehome Lots are those upon which are designated for construction thereon of attached Townehomes. All other Lots are "Single Family Lots".

Section 6. "Lot in Use" shall mean and refer to any Lot on which a dwelling unit has been fully constructed and for which a certificate of occupancy has been issued by the appropriate governmental agency. It shall also mean any Lot which has been conveyed by the Declarant to a subsequent purchaser for a period of one year, but which does not have a dwelling unit constructed thereon and certificate of occupancy issued. In no event shall it mean a Lot owned by the Declarant on which no dwelling unit has been constructed.

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Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association. There shall be two classes of voting membership in the Association.

A. "Class A Members" shall be all those Owners as defined in Article III herein, with the exception of the Declarant. Declarant may, however, be a Class A member upon termination of Class B membership.

B. "Class B Member" shall be the Declarant as defined herein.

Section 8. "Declarant" shall mean and refer to Wallace-Hunt Associates, a North Carolina General Partnership, its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development or if such successors or assigns should acquire more than one Lot, whether developed or undeveloped, pursuant to foreclosure or a deed in lieu of foreclosure.

Section 9. "Additional Properties' shall mean and refer to any real property annexed or otherwise acquired by the Association; but shall be restricted to only that real property included in the Thistledown cluster unit development approved by the Raleigh City Council and/or lands contiguous to the Property or Additional Properties, provided such lands are not less than five (5) acres in size.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easement of Enjoyment: Every Owner shall have a right and easement of enjoyment in and to the Common Area including specifically an easement for access, ingress and egress from and to public streets, private drives and walkways and an easement for parking which shall be appurtenant to and shall pass with the title to every Lot subject to the following provisions:

A. Admission and Other Fees: The right of the Association to charge reasonable admission and other fees for the use of any recreational facilities situated upon the Common Area.

B. Suspension of Use of Common Area: The right of the Association to suspend the voting rights and the right to use any recreational facilities owned by the Association by any Owner, his family, guests, etc., for any period during which any assessment against his Lot remains unpaid. The right to use the recreational facilities may also be suspended for a period, not to exceed one hundred twenty (120) days, for the infraction of its published rules and regulations; provided; however, that if said infraction is continuing in nature, said suspension may be enforced until such infraction is cured.

C. Dedication and Transfer of Common Area: The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency,

authority, utility, or non-profit corporation for recreational purposes, and subject to such conditions as may be agreed to by the Members, and provided that said dedication or transfer shall be approved by the appropriate municipal authority and shall also be approved as provided in Article X, Section 10. No such dedication or transfer shall be effective unless any instrument signed by two-thirds (2/3) of each Class of Members agreeing to such dedication or transfer has been recorded in the Wake County Registry. Any such dedication or transfer shall be made subject to every Owner's easement for access, ingress and egress to public streets and walkways.

D. Guests: The right of the Association to limit the number of guests of Members.

E. Borrowing for Improvements: The right of the Association, in accordance with its articles and by-laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said properties and the right of such mortgage of said properties shall be subordinate to the rights of the Owners established hereunder.

F. Parking: The right of individual Owners to the exclusive use of parking spaces as provided in this declaration with an easement of ingress and egress to and from said parking area.

G. Use of Recreational Facilities: The right of the Association, through its Board of Directors, to determine the time and manner of use of recreational facilities, if any, by the Members.

Section 2. Delegation of Use: Any Owner may delegate, in accordance with the by-laws, his right of enjoyment to the Common Area and facilities and to the rights granted pursuant to Article II, Section 1 to the members of his family, his tenants, contract purchasers, or guests, who reside on the property, subject to the provisions of Article II.

Section 3. Encroachment Easements: Whenever building lines, patio lines, private walkways or plantings encroach upon the Common Area, the Owner of the affected Lot hereby grants a perpetual easement for the use of that portion of the Lot which creates an encroachment to the Association.

Section 4. Parking Rights: Ownership of each attached townehome Lot shall entitle the Owner or Owners thereof to the

use of not less than two (2) automobile parking spaces for 2 bedroom units and three bedroom units, which shall be as near and convenient to said Lot as reasonably possible, together with the right of ingress and egress in and upon said parking lot. The Association shall permanently assign one of said parking spaces for each townehome Lot as near the dwelling to which it is assigned as is reasonably possible. Declarant hereby reserves the right to establish, during a period of five (5) years from the filing of the Declaration, additional areas of parking as Declarant, in its discretion, may determine to be needed. This Section shall not apply to the Single Family Lots covered by this Declaration.

Section 5. Title the Common Area: The Declarant hereby covenants for itself, its heirs, successors and assigns, that it will convey fee simple title in the Common Area to the Association, free and clear of all encumbrances and liens, except utility, greenway and drainage easements and easement of enjoyment to which the Owners of each Lot are entitled to share, prior to the conveyance of the first Lot of any phase or addition. Title to Common Areas annexed pursuant to Article IV shall be conveyed subject to these Declarations.

Section 6. Television Antennas and Piped-In Music: The Association may provide one or more central television antennas for the convenience of the Members and may supply piped-in music. The costs of these may be included in annual or special assessments applicable to townehome Lots and not to Single Family Lots. The Association may regulate or prohibit the erection of television antennas, satellite dishes and related equipment on any Lots.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every person or entity who is a record Owner of a fee or undivided fee in any Lot which is subject by covenants of record to assessments, or which is specifically exempted from assessment either by the terms of this declaration or by the terms of appropriate governmental laws, ordinances, or regulation, or will become subject to assessment by the Association, including contract sellers, shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to, or will become subject to assessment by the Association. Ownership of said Lot shall be the sole qualification for membership. The Board of Directors may make reasonable rules relating to the proof

of ownership of a Lot in this subdivision.

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

Class A: Class A members shall be all Owners with the exception of the Declarant, and shall be entitled to one (1) vote for each Lot owned. Declarant may, however, be a Class A member upon the termination of Class B membership. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote of such Lots shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any Lot. Class A Membership shall be divided into two groups: Class A-1 Members who shall be owners of detached Single Family Lots, and Class A-2 Members who shall be Owners of attached Townehome Lots. *

Class B: The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership upon either of the following events, whichever occurs first: *

A. When the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership, but provided that the Class B membership shall be reinstated if thereafter and before the time stated in subparagraph (b) below, additional lands are annexed to the Property without the assent of Class A Members for the development of such additional lands by the Declarant, all as provided in Article IV, Section I, herein; or

B. On June 30, 1990.

C. Upon the surrender of all Class B memberships by the holder thereof or cancellation by the Association.

Class B Membership shall be divided into two classifications: Class B-1 shall entitle the Declarant to three (3) votes for each detached Single Family Lot owned, and Class B-2 shall entitle the Declarant to three (3) votes for each attached Townehome Lot owned.

ARTICLE IV

ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Notwithstanding anything to the contrary

herein, prior to June 30, 1990, Declarant, its successors or assigns, may, without the consent of the Class A membership, annex Additional Properties by subjecting the same to the provisions of this Declaration. After June 30, 1990, annexation of Additional Properties shall require the assent of two-thirds (2/3) of the Class A membership, if any, and two-thirds (2/3) of the Class B membership, if any, as provided in Article X, Section 6. Upon annexation said area shall be used only for residential purposes and shall be subject to this Declaration and all Owners shall automatically become Members of the Association.

The submission of such Additional Properties to the provisions of this Declaration may be accomplished by an amendment to this Declaration executed by Declarant with the same formalities as this instrument. Such amendment must refer to the volume and page in which this instrument is recorded and must describe the Additional Properties being submitted to this Declaration. Such amendment shall become effective upon the recordation of same. No annexation of Additional Properties shall become effective until approved by the Planning Department of the City of Raleigh. Common areas in any new annexation shall be conveyed to the Association in accordance with Article II, Section 5.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments: The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association.

(1) Annual assessment or charges; and

(2) Special assessments for extraordinary maintenance and capital improvements.

There shall be two classes of assessments, one for Townehome Lots and one for Single Family Lots. Such assessments are to be established and collected as hereinafter provided. All assessments relating to the Common Area in any phases containing detached Single Family Lots shall be shared equally by all the Owners of detached Single Family Lots in Use. All assessments relating to all common areas and exterior maintenance in any phases containing attached Townehome Lots shall be shared equally by all Owners of attached Townehome Lots in Use. The annual and special

assessments, together with such interest thereon and the cost of collection thereof, including reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon such until paid in full. Each such assessment, together with such interest, and costs of collection, including reasonable attorney fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments: The assessments levied by the Association shall be used exclusively for the purpose of promoting the beautification of the Property, the recreation, health, safety and welfare of the residents in the Property, and for the improvement and maintenance of the Common Area. Such shall include, but not be limited to, the payment of taxes, liability insurance and all assessments for the public improvements of the Common Area and easements appurtenant thereto, the enforcement of these covenants and the rules of the Association and, in particular, for the improvement and maintenance of the Property, private drives, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Area and of those townehomes situated upon the Property on which the Association is obligated to perform maintenance. The Association shall be required to maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Area out of the assessments levied.

Section 3. Maximum Annual Assessments:

A. Until January 1 of the year immediately following the conveyance of the first Lot to the Owner, the maximum annual assessment shall be $85.00 per month per Townehome Lot in Use and $30.00 per month for Single Family Lot in Use.

B. Thereafter, annual assessments shall be established by the Association through its Broad of Directors pursuant to Section 6 of this Article.

C. As long as Declarant or its successors or assigns, has a majority of the total vote of the Class A and Class B votes, Declarant, its successors or assigns, will advance all expenses for the maintenance and operation of the Common Area to the extent that annual assessments paid by the Owners are inadequate for this purpose. Such advance shall be to the Association and on terms generally available to Declarant from its lending institution. At such time as the majority of the total votes of Class A and Class B votes are no longer possessed by Declarant, its successors or assigns, it shall

have no further obligation for maintenance and operation of the Common Area pursuant to the terms of this section. Declarant, its successors and assigns, shall be responsible for the payment of homeowner dues and charges pursuant to other sections of this Article.

Section 4. Special Assessments for Capital Improvements: In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year only for the purpose of defraying in whole or in part the cost of any construction, reconstruction, unexpected repair, or replacement of a described capital improvement upon the Common Area; including, the necessary fixtures and personal property related to such capital improvements, the private drives located on the Property (which the Association shall maintain), and the costs of any purchase of an individual Owner's property and the costs of repairing and/or rebuilding any such property purchased by the Association to the same condition as formerly. Any such assessment shall have the assent of two-thirds (2/3) of the votes of each Class of Members who are voting in person or by proxy at a meeting duly called for this purpose. Special assessments relating only to exterior maintenance of Townehome Phases shall require a two-thirds (2/3) vote of A-2 and B-2 Members, and the assessments shall be levied only against owners of Townehome Lots in Use.

Section 5. Uniform Rate of Assessment: Both annual and special assessments related to the Common Area must be fixed at a uniform rate for all detached Single Family Lots and/or Lots in Use (as appropriate), and a separate uniform rate for all attached Townehome Lots and/or Lots in Use (as appropriate), and may be collected on a monthly basis. Provided, however, that the Association shall also have the authority, through the Board of Directors, to establish, fix and levy a special assessment on any Lot to secure the liability of the Owner thereof to the Association arising from Owner's breach of any of the provisions of this Declaration or as provided for by Article VII.

Section 6. Date of Commencement of Annual Assessment Due Dates: The annual assessments provided for herein shall commence as to all Lots in Use on the first day of the month following the conveyance of the Common Area to the Association. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot in Use at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner

subject thereto at least fifteen (15) days in advance of each annual assessment period. The due date shall be established by the Board of Directors. The Association shall, upon demand at any time, furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid as to third parties acting in reliance on said statement.

Section 7. Effect of Non-Payment of Assessment Remedies of the Association: Any assessments which are not paid when due shall be delinquent. The Association shall have the option to declare the outstanding balance of any assessment due and payable if any installment thereof shall become delinquent as defined herein. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of ten percent (10%) per annum and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. Interest, costs, and reasonable attorney fees of any such action shall be added to the amount of such assessment. Each such Owner, by this acceptance of a deed to a Lot hereby expressly vests in the Association, its agents or assigns, the right and power to bring all actions against such Owner personally liable for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or a deed of trust lien on real property and such Owner hereby expressly grants to the Association a power of sale in connection with foreclosure of said lien. The lien provided for in this action shall be in favor of the Association acting on behalf of the Owners, which shall have the power to bid in an interest foreclosed at foreclosure and to acquire and hold, lease, mortgage and convey the same. No Owner may waive or otherwise escape liability for assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 8. Subordination of the Lien to Mortgage: The lien of the assessments provided for herein shall be subordinated to the lien of the first mortgage on the Lots. Sale or transfer of any Lot shall not affect the assessment lien; however, the sale or transfer of any Lot pursuant to the foreclosure of any mortgage or of deed of trust or any proceeding in lieu thereof shall extinguish the lien of such assessment as to payments which become due prior to such sale or transfer; provided that the Association and Declarant have

been notified of said foreclosure prior to the date thereof. Such unpaid assessments extinguished by the foreclosure sale shall be deemed to be common assessments collected from all Owners, including the purchaser at foreclosure, his successors and assigns. No sale or transfer shall relieve any such Lot from liability for any assessment thereafter becoming due or from the lien thereof.

Section 9. Exempt Property: The following property, subject to this Declaration, shall be exempt from the assessment created herein:

A. All properties dedicated to and accepted by a local public authority.

B. The Common Area.

C. All property owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina. However, no land or improvements devoted to dwelling use shall be exempt from said assessments except as otherwise provided herein.

Section 10. Insurance Assessments. The Board of Directors or its duly authorized agent may have the authority to and shall obtain insurance for all the buildings owned by the Association against loss or damage by fire or other hazards in an amount sufficient to cover the fully replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard and shall also obtain a broad-form public liability policy covering all Common Area and all damage or injury caused by the negligence of the Association or any of its agents. Said insurance may include coverage against vandalism. Premiums for all such insurance shall be a common expense. All such insurance coverage shall be written in the name of the Association as Trustee for each of the Owners in equal proportions. It shall be the responsibility of each Owner at his own expense to obtain hazard insurance in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction to his dwelling from any hazard, and such hazard insurance shall be with a company and in an amount and in a form which is acceptable to the Board of Directors of the Association. The hazard insurance policy to be taken out by each Owner shall include a loss payable clause listing the Association as an additional insured. Each Owner shall have to satisfy the Board of Directors of the Association that at all times his property is covered by the required hazard insurance. In the event of damage or destruction by fire or other casualty to the property of an

Owner, the Owner, shall, with the concurrence of the Mortgagee, if any, upon receipt of the insurance proceeds, contract to rebuild or repair such damage or destroyed portions of the property in as good condition as formerly. In the event the insurance proceeds are insufficient to pay all of the costs of repairing any/or rebuilding to the same condition as formerly, the Board of Directors shall have the power to purchase the property and to repair and rebuild the same and to levy a special assessment against all Members to pay the purchase price and to pay for the costs of repairing and/or rebuilding to the same condition as formerly; provided, however, that the Board of Directors' power to levy a special assessment for these purposes is subject to the prior approval of the Association given pursuant to the voting requirements of Article V, Section 4. In the event of damage or destruction by fire or other casualty to any property covered by insurance written in the name of the Association, the Board of Directors shall, with concurrence of the Mortgagee, if any, upon receipt of the insurance proceeds, contract to rebuild or repair such damage or destroyed portions of the property to as good condition as formerly. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by the Federal Deposit Insurance Corporation or other Federal Government Agency, with a provision agreed to by said bank or institution that such funds may be withdrawn only by signature of at least one-third (1/3) of the Board of Directors, or by an agent duly authorized by the Board of Directors. The Board of Directors shall advertise for sealed bids with any licensed contractor, or they may negotiate with any contractor who may be required to provide a full performance and payment bond or letter of credit for the repair and reconstruction or rebuilding of such destroyed building or buildings. In the event the insurance proceeds are insufficient to pay all of the costs of repairing and/or rebuilding to the same condition as formerly, the Board of Directors shall levy a special assessment against all Members as established by Article V, Section 4, above to make up any deficiency for repairs or rebuilding of the Common Area.

ARTICLE VI

Pparty WALL

Section 1. General Rules of Law to Apply: Each wall which is built as a part of the original construction of the townehome upon the Property and placed on the dividing line between the Townehome Lots and all reconstruction or extensions of such walls shall constitute party walls. To the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls, lateral

support, in-below ground construction and of liability for property damage due to negligence or willful acts or omissions shall apply thereto.

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

Section 3. Destruction by Fire or other Casualty: If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereof make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use; subject, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligence or willful acts or omissions.

Section 4. The Owner may construct or reconstruct a party wall subject to and within the limitations of architectural control and other limitations of these covenants with the right to go upon the adjoining Lot to the extent reasonably necessary to perform such construction. Such construction shall be done expeditiously. Upon completion of such construction, such Owner shall restore the adjoining Lot to as near the same condition which prevailed on or before the commencement of such construction as is reasonably practicable.

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

Section 6. The Right to Contribution Runs with the 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 Owners' successors in title.

Section 7. Certification by Adjoining Property Owner that No Contribution is Due: If any Owner desires to sell his property, he may, in order to assure a prospective purchaser that no adjoining owner has a right of contribution as provided in this Article, request that the adjoining owner or owners or any one of them, provide 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; provided, however, that where the adjoining owner claims a right of contribution, the

certification shall contain a recital of the amount claimed. In the event an adjoining owner refuses or neglects to provide such certification, it shall be deemed a waiver to proceed against such Owner or his successors for such contribution.

ARTICLE VII

EXTERIOR MAINTENANCE

In addition to maintenance of the Common Area, the Association shall provide exterior maintenance for each Townehome Lot which is subject to assessment hereunder as follows: Paint, repair and replace exterior building surfaces, care of roofs, gutters, downspouts, trees, shrubs, grass, walks, driveways within the Common Area only, and all other exterior improvements initially installed by Declarant. Such exterior maintenance shall not include glass surfaces or exterior lighting attached to or wired to the townehome. In order to enable the Association to accomplish the foregoing, it is hereby reserved to the Association the right to unobstructed access over and upon each Lot and each townehome at all reasonable times to perform maintenance as provided in this Article. The Townehome Owner may, at his election, plant flowers and grass in his rear yard and may also maintain portions or all of his rear yard, provided that such maintenance by the Owner does not hinder the Association in performing its maintenance of the exterior of the house and the remaining yard spaces. In such event, such Owner shall maintain such plantings or other maintenance. No such maintenance by a Townehome Owner shall reduce the assessment payable by him to the Association. Notwithstanding the above, any plantings or maintenance outside the patio or deck area must receive the prior written approval of the Association. If, in the opinion of the Association, any such Owner fails to maintain his rear yard in a neat and orderly manner, the Association may perform such maintenance and assess Townehome Owner for the costs of such. The Owner shall not place any furniture, construct or place any structure, or plant any vegetation in the front yard except with the prior written approval of the Association.

(As a matter of information for future Members of this Association, the developer wishes to make it known that it is a part of the original plan of the development to construct a variety of townehomes with a variety of exteriors for the good of the entire subdivision. Some townehomes will require far more maintenance than others because of the type of exterior exposures. Nevertheless, in order to avoid monotony and in order to achieve a harmony of design and textures, all of those persons connected with the conception, design, construction, and financing of this subdivision as originally

planned are in accord in their belief that all Members of the Association will be benefited by the variety of exteriors and therefore the Association should provide exterior maintenance and make a uniform rate of charge without regard to actual cost of maintenance of each townehome under construction thereon.)

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family guests, tenants, employees, invitees, contract purchasers and contractors or is caused by fire, lightning, thunderstorm, hail, explosion, riot, attending a strike, civil commotion, aircrafts, vehicles and smoke as the foregoing are defined and explained in North Carolina Standard Fire and Extended Coverage Insurance policy, the cost of such maintenance or repair shall be added to and become a part of the assessment to which such Lot is subject.

The Association shall establish regulations governing the procedure for exterior maintenance. In the event any Owner desires to expend a sum greater than that sum authorized by the Association, he shall advance, prior to the commencement of work, an amount necessary to cover the additional expenses and a lien shall be established against his Lot for any deficiency.

ARTICLE VIII

EASEMENTS

Section 1. Each Lot and the property included in the Common Area shall be subject to an easement for encroachments, created by construction, settling, and overhangings as designed or constructed by the Declarant. A valid easement for such encroachments and for the maintenance of same so long as it stands, shall and does exist. In the event the multi-family structure containing two or more townehomes is partially or totally destroyed and then rebuilt, the Owners of the townehomes so affected agree that minor encroachments of part of the adjacent townehome units or Common Areas due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

Section 2. There is hereby created a blanket easement upon, across, over, and under all of the Common Area for ingress and egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to water, sewer, gas, telephones, electricity, and a master antenna system. By virtue of this easement, it shall be expressly permissible for the providing electrical, telephone, gas or cablevision company to erect and maintain the necessary

underground equipment and other necessary equipment on said Common Area and to affix and maintain electrical and/or telephone wires, circuits, and conduits on, above, across and under the roofs and exterior walls of said townehomes, and detached single family dwellings. An easement is further granted to all police, fire protection, garbage, mail delivery, ambulance, and all similar persons to enter upon the streets and Common Area in the performance of their duties. Further, an easement is hereby granted to the Association. its officers, agents, employees, and to any management company elected by the Association to enter in or to cross over the Common Area provided for herein. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated in the Common Area except as initially planned and approved by the Declarant or thereafter approved by the Declarant or the Association's Board of Directors. Should any utility furnishing a service covered by the general easement herein provide request a specific easement by separate recordable documents, Declarant (the Association after the termination of Class B membership or in the event the easement crosses property owned by the Association) will have the right and authority to grant such easement on said property without conflicting with the terms hereof. The easement provided for in this Article shall in no way affect other recorded easements on said premises.

Section 3. Easement and Right of Entry for Repair, Maintenance and Reconstruction: If any dwelling is located closer than five (5) feet from its lot line, the Owner thereof shall have a perpetual access easement over the adjoining Lot to the extent reasonably necessary to perform repair, maintenance or reconstruction of his townehouse. Such repair, maintenance or reconstruction shall be done expeditiously and, upon completion of the work, the Owner shall restore the adjoining Lot to as near the same condition as that which prevailed prior to the commencement of the work as is reasonably practicable.

Section 4. Underground Electrical Services:

A. Underground, single-phase electrical service shall be available to all Townehome Lots and Single Family Lots on the aforesaid Lots and to the recreational buildings, if any, to be constructed on the Common Area. The metering equipment shall be located on the exterior surface of the wall at a point to be designated by the utility company. The utilit, company furnishing the service shall have a two foot priority easement along and centering on the underground electrical power service conductors installed from the utility's company easement to the designated point of service on the townehome

structures.

B. For so long as such underground service is maintained, the electric service to each townehome and the recreational building, if any, shall be uniform exclusively of the type known as single phase 120-140 volt three wire 60 cycle alternating current.

C. Easements for the underground service may be crossed by the driveways and walkways, provided the Declarant or builder makes prior arrangements with the utility company furnishing such service. Such easements for the underground service shall be kept clear of all other improvements including buildings, patios and/or pavings, other than crossing walkways or driveways, and neither Declarant nor any such utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees, or servants to shrubbery, trees, flowers, and other improvements of the Owner located on land covered by said easements.

D. The developer reserves the right to subject the real property in this subdivision to a contract with Carolina Power & Light Company for the installation of underground electric cables which may require an initial contribution and/or the installation of street lighting, which will require a continuing monthly payment to Carolina Power & Light Company by the Owner of each building.

Section 5. An easement is hereby established for the benefit of the City of Raleigh over all Common Area and over an area five feet behind the curb line of any street or roadway in the Property hereby or hereafter established for the setting, removal, and reading of water meters, the maintenance and replacement of water, sewage, and drainage facilities and the collection of garbage.

ARTICLE IX

ARCHITECTURAL CONTROL AND USE RESTRICTIONS

Section 1. The Property is hereby made subject to the protective covenants and restrictions hereby declared for the purpose of insuring the best use and most appropriate development and improvement of each building site in this subdivision; to protect the Owners against such improper use of surrounding building sites as will depreciate the value of the Property; to preserve, so far as practicable, the natural beauty of said Property; to guard against the erection thereof of poorly designed or proportioned structures, and structures built of improper and unsuitable materials; to

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obtain harmonious color schemes; to insure the highest and best development of said Property; to encourage and secure the erection of attractive homes hereon, with appropriate locations thereof on building sites; to secure and maintain proper set backs from streets and adequate free spaces between structures; and in general to provide adequately for a high type and quality of improvements in said Property and thereby to enhance the values of investments made by the purchasers of building sites therein.

Section 2. Each Lot, as approved by the appropriate municipal authority, shall constitute a residential building site (hereinafter called "Building Site") and shall be used for residential purposes only. The lay of the Lots as shown on the recorded plat shall be substantially adhered to; provided, however, that with the prior written approval of the Declarant, its successors and assigns, or the Association's Board of Directors (or the Architectural Committee appointed by it) and the appropriate municipal authority the size and shape of any Building Site may be altered; provided that no Building Site or group of Building Sites may be resubdivided so as to produce a greater number of Building Sites than that allowed by the applicable zoning or subdivision laws in force at the time of said change. More than one Lot may be used as one Building Site provided the location of any structure permitted thereon is approved in writing by the Architectural Committee or the Declarant, its successors or assigns, and said Lot is recombined as provided in N.C. General Statute 160A-376(1). Except as provided in this paragraph, no structure shall be erected, altered, placed, or permitted to remain on any Building Site other than one attached single family dwelling or detached single family dwelling, not to exceed three stories in height. All structures shall comply with the applicable zoning restrictions of the City of Raleigh.

Section 3. No residential structure, which has a minimum area of less than 1,000 square feet of heated area, exclusive of porches, basement and garage, shall be erected or placed on any Building Site.

Section 4. No building, wall, fence, or other structure shall be commenced, erected, or maintained upon the Property, nor shall any repair be made thereto, nor shall any building, wall, fence or other structure be rebuilt after destruction by any hazard until the plans and specifications, showing the nature, kind, space, height, materials, and location of the same 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 the Declarant or the Board of Directors of the Association or its

Architectural Committee. In the event said Board or its designated committee or Declarant fails to approve or disapprove such design and location within seventy-five (75) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

Section 5. Said Property is hereby restricted solely to residential dwellings for residential use. All buildings and structures erected upon said Lots shall be of new construction and no building or structures, other than townehome buildings, being single-family townehomes, joined by a common exterior roof and foundation, shall be constructed on Townehome Lots and single family homes on single family Lots. Provided, that the recreation amenities, if any, put in by the Declarant or by the Association shall be considered a permitted use. No structures of a temporary character, manufactured home, trailer, basement, tent, shack, garage, barn or other out-building shall be used on any portion of said Property at any time as a residence, either temporarily or permanently.

Section 6. Each Lot shall be conveyed as a separately designated and legally described freehold estate, subject to the terms, conditions and provisions hereof.

Section 7. Notwithstanding any provision herein contained to the contrary, it shall be expressly permissible for Declarant or the builder of said townehomes or single family homes to maintain during the period of construction and sale of said townehomes and single family homes, upon such portion of the premises as Declarant deems necessary, such facilities as in the sole opinion of Declarant may be reasonably required, convenient, or incidental to the construction and sale of said townehomes and single family homes, including but without limitation, a business office, storage area, construction yards, signs, model units and sales office.

Section 8. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on said Lots, except that dogs, cats, or other household pets may be kept provided they are not kept, bred or maintained for any commercial purpose.

Section 9. No "For Sale" signs, (except as otherwise specifically authorized by the Association) advertising signs or rent signs, bill boards, unsightly objects or nuisances shall be erected, placed or permitted to remain on the Property, and in no event in the Common Area, nor shall said Property be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any

townehome or detached single-family dwelling or the resident thereof. No business activities of any kind whatsoever shall be conducted in any building or in any portion of said property, however, the foregoing covenants shall not apply to the business activities, signs, and billboards or the construction and maintenance of buildings, if any, of Declarant, its agent and assigns, during the construction and sales period, and Thistledown Homeowners Association, Inc., a non-profit corporation, incorporated or to be incorporated under the laws of the State of North Carolina, its successors and assigns, in furtherance of its powers and purposes as hereinafter set forth.

Section 10. All clothes line, equipment, garbage cans, service yards, wood piles, or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring townehomes or detached single-family dwelling. All garbage, trash, or rubbish shall be regularly removed from the premises and shall not be allowed to accumulate therein. All clothes lines shall be confined to deck or patio areas.

Section 11. No fences, hedges, or walls shall be erected or maintained upon said Property except such as are installed in accordance with initial construction of the buildings located thereon by Declarant or thereafter by the Association,or as approved as required herein. Except for the right of ingress and egress, the Owners of said Lots are hereby prohibited and restricted from using any of said Property outside of the exterior building lines, deck and patio areas, except as may be allowed by the Association's Board of Directors. (This sentence does not apply to Single Family Lots) It is expressly acknowledged and agreed by all parties concerned that this paragraph is for the mutual benefit of all the Owners and the Association, and is necessary for the protection of the Owners.

Section 12. Maintenance, upkeep, and repairs of any patio, deck, porch decking, screens and screen doors, exterior doors, and windows and window fixtures and other hardware shall be the sole responsibility of the individual Owner of the Lot appurtenant thereto and not in any manner the responsibility of the Board of Directors. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of the Common Areas and all exterior and roofs of the townehomes, including, but not limited to, recreation and parking areas and walks, shall be taken by the Board of Directors or by its duly delegated representatives.

Section 13. All fixtures and equipment installed within a townehome commencing at a point where the utility

lines, pipes, wires, conduits, or systems are within the exterior walls of townehomes, including the courtyards, shall be maintained and kept in repair by the Owner thereof. An Owner shall do no act, nor any work that will impair the structural soundness or integrity of another townehome, nor impair any easement or hereditament, nor do any act or allow any condition to exist which will adversely affect the other townehomes or their Owners. All water and sewer lines located within the Common Area shall be maintained by the Association.

Section 14. Without the prior written approval and the authorization of the Board of Directors, no exterior television or radio antennas, or solar panels or other utility devices, of any sort shall be placed, allowed or permitted upon any portion of the exterior of the improvements to be located upon the Property; other than a master antenna system provided by the Association, should any such master antenna system or systems be utilized and require any such exterior antenna.

Section 15. No action shall at any time be taken by the Association or its Board of Directors, which in any manner would discriminate against any Owner in favor of any of the other Owners.

Section 16. No boats, recreation vehicles, or trailers of any Owner or member of his family, his tenants, guest or contract purchasers shall be parked on any Lot within public view or within the Common Area, or within the right-of-way of any street in or adjacent to the Property. All boats, recreation vehicles, or trailers shall be stored either within the Owner's garage or other facilities not located on the Property.

Section 17. Quiet and Enjoyment: No obnoxious or offensive activity shall be carried on upon the Property or improvements thereon, nor shall anything be done which may be or may become a nuisance or annoyance to the neighborhood.

Section 18. In addition to those restrictions contained in Article IX, the Board of Directors of the Association shall have the power to formulate, amend, publish and enforce other reasonable rules and regulations concerning the use and enjoyment of the front yard space of each Lot and of the Common Area.

ARTICLE X

GENERAL PROVISIONS

Section 1. Enforcement: The Association or any

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

Section 2. Severability: Invalidation of any one or more 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: These Declarations cannot be amended or revoked without the written consent of City of Raleigh City Attorney's Office. The covenants, conditions and restrictions of the Declarations shall run with the land, and shall inure to the benefit of and be enforceable by the Association or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns for a term of twenty (20) years from the date this Declaration is recorded, after which time, said covenants shall automatically be extended for successive periods of ten (10) years. Except as specifically otherwise provided herein, the covenants, conditions and restrictions of this Declaration may be amended as provided in Article X during the first twenty (20) years by an instrument signed by not less than the Owners of ninety percent (90%) of the Lots and thereafter by an instrument signed by not less than the Owners of seventy-five percent (75%) of the Lots.

Section 4. Disputes: In the event of any dispute arising concerning a party wall or other provisions of this Declaration, such dispute shall be settled by legal proceedings or the parties may, by mutual agreement, submit the dispute to a committee appointed by the Association for this purpose, and once submitted, the parties agree to be bound by the decision of said committee.

Section 5. Voting: voting by Members of the Association shall be in accordance with the applicable provisions set forth in the Association's By-Laws.

Section 6. If any amendment to these covenants, conditions, and restrictions is executed, each such amendment shall be delivered to the Board of Directors of this Association. Thereupon, the Board of Directors shall, within thirty (30) days, do the following:

A. Reasonably assure itself that the amendment has been executed by the Owners of the required number of

Lots (for this purpose, the Board may rely on its roster of Members, and shall not be required to cause the title to any Lot to be examined).

B. Attach to the amendment a certification as to its validity, which certification shall be executed by the Association in the same manner that these were executed. The following form of certification is suggested:

"CERTIFICATION OF VALIDITY OF AMENDMENT TO COVENANTS, CONDITIONS AND RESTRICTIONS OF THISTLEDOWN HOMEOWNERS ASSOCIATION, INC.

By authority of its Board of Directors, Thistledown Homeowners Association, Inc. hereby certifies that the foregoing instrument has been duly executed by the Owners of _____ percent of the Lots of Thistledown and is therefore a valid amendment to existing covenants, conditions and restrictions of Thistledown.

THISTLEDOWN HOMEOWNERS ASSOCIATION, INC.

BY: _____
President

ATTEST:

_____
Secretary"

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

All amendments shall be effective from the date of recordation in the Wake County Registry; provided, however, that no such instrument shall be valid until it has been indexed in the name of the Association. When any instrument purporting to amend the covenants, conditions, and restrictions has been certified by the Board of Directors, recorded and indexed as provided in this section, it shall be conclusively presumed that such instrument constitutes a valid amendment as to all persons thereafter purchasing any Lot in Thistledown. All amendments shall be approved as set forth in Article X, Section 10, as required.

Section 7. All amendments to this Declaration and/or revocation of this Declaration must be approved by the City of Raleigh, City Attorney's Office, if so required. In the event said amendment has not been approved or disapproved within

thirty (30) days after being submitted to the City of Raleigh, approval will not be required and it shall be deemed that this provision has been fully complied with.

Section 8. In no case shall the City of Raleigh be responsible for failing to provide any emergency or regular fire, policy or other public service to the Property or their occupants when such failure is due to the lack of access to such areas due to inadequate design or construction, blocking of access routes, or any other factor within the control of the Declarant, Association, Owners or townehome occupants.

Section 9. Each Member agrees to keep Association informed of his address at any time and any notice sent or delivered to said address shall be sufficient. Each new Member agrees to provide the Association with evidence of his Ownership for preparation of a membership roster and the roster as so completed shall be sufficient evidence as to the Ownership of each Lot.

Section 10. VA/HUD Approval: As long as there is a Class B membership, the following actions will require prior approval of the Veterans Administration referred to herein as VA and/or the Department of Housing and Urban Affairs referred to herein as HUD: Annexation of Additional Properties, dedication or withdrawal of land from dedication of Common Area, or an Amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 11. Gender and Grammer: The singular, wherever used herein shall be construed to mean the plural when applicable and the necessary grammatical changes required to make provisions hereby apply to either corporations or individuals, man or wife, shall in all cases be assumed as though in each case fully expressed.

ARTICLE XI

UNDERGROUND UTILITIES AND STREET LIGHTING

Declarant reserves the right to subject the Property to a contract with Public Service Company of North Carolina, Inc. and/or Carolina Power & Light Company for the installation of underground utility service and the installation of street lighting, either or both of which may require a continuous monthly charge to the Owner of each Lot. Declarant reserves the right to contract on behalf of each Lot with Carolina Power & Light Company, or its successors and assigns, for street lighting service. Upon acceptance of a deed to a Lot, each Owner agrees to pay the continuing monthly payment therefor as approved by the North Carolina Utilities

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Commission, or other appropriate governmental authorities.

Declarant further reserves the right to connect to each unit necessary water and sewer service which may require a continuous monthly charge to the Owner of the Lot. Upon acceptance of a deed to the Lot each Owner agrees to pay said continuing monthly charge, if any.

ARTICLE XII

OWNER RESPONSIBILITY

Anything contained herein to the contrary notwithstanding, an Owner shall be responsible and liable for any and all violations of these Declarations by his Employees, tenants, guests, invitees, and contract purchasers.

IN WITNESS WHEREOF, the undersigned, being the general partners of Declarant herein, have executed this instrument this 5th day of February, 1988.

WALLACE-HUNT ASSOCIATES, a North Carolina General Partnership
BY: Hunt Properties, Inc., a General Partner

ATTEST:

Secretary

By: _____
K. Neal Hunt, President

(CORPORATE SEAL)

BY: R.P. Wallace Construction Company, a General Partner

ATTEST:

Asst Secretary

By: _____
R.P. Wallace, President

(CORPORATE SEAL)

NORTH CAROLINA
WAKE COUNTY

I, Kathy V. Farrell, a Notary Public of the County of Wake, State of North Carolina, do hereby certify that K. Neal Hunt, personally appeared before me this day and acknowledged that he is President of Hunt Properties, Inc., General Partner of Wallace-Hunt Associates, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name as General Partner by its President, sealed with its corporate seal and attested by its Secretary.

Witness my hand and official seal this the 5th day of February, 1988.

Kathy V. Hall
Notary Public

My Commission expires: 8/15/91

NORTH CAROLINA
WAKE COUNTY

I, Kathy V. Hall, a Notary Public of the County of Wake, State of North Carolina, do hereby certify that Richard P. Wallace, personally appeared before me this day and acknowledged that he is President of R.P. Wallace Construction Company, General Partner of Wallace-Hunt Associates, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name as General Partner by its President, sealed with its corporate seal and attested by its Secretary.

Witness my hand and official seal this the 5th day of February, 1988.

Kathy V. Hall
Notary Public

My Commission expires: 8/15/91

CERTIFICATION OF VALIDITY OF AMENDMENT TO COVENANTS, CONDITIONS AND RESTRICTIONS OF THISTLEDOWN HOMEOWNERS ASSOCIATION, INC.

By authority of its Board of Directors, Thistledown Homeowners Association, Inc. hereby certifies that the foregoing instrument has been duly executed by the Owners of 100 percent of the Lots of Thistledown and is therfore a valid amendment to existing covenants, conditions and restrictions of Thistledown.

THISTLEDOWN HOMEOWNERS ASSOCIATION, INC.

BY: _____
President

ATTEST: _____
Secretary