

**DECLARATION  
OF  
PROTECTIVE COVENANTS  
FOR  
OAKHURST  
SUBDIVISION**

Upon recording please return to:  
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FOR REGISTRATION REGISTER OF DEEDS  
WILLIE L. COVINGTON  
DURHAM COUNTY, NC  
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# DECLARATION OF PROTECTIVE COVENANTS

FOR

OAKHURST

THIS DECLARATION is made on this the 13 day of May, 2002, by D.R. Horton, Inc.-Torrey, a Delaware corporation ("Declarant").

## WITNESSETH

WHEREAS, Declarant is the owner of the real property described on Exhibit "A;" and

WHEREAS, Declarant desires to subject the real property described on Exhibit "A" to the provisions of this Declaration to create a residential community of single-family housing; and

WHEREAS, the real property described on Exhibit "A" consists of the entire Community in as much as Declarant does not intend to annex additional property to the Community; and

NOW THEREFORE, Declarant hereby declares that the real property described on Exhibit "A" of this Declaration, including any improvements which may be (but are not required to be) constructed on that property, is subjected to the provisions of this Declaration. Such real property shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments, and liens, contained in this Declaration. The provisions of this Declaration shall run with the title to and shall be binding on all persons having any right, title, or interest in all or any portion of, the property now or hereafter made subject hereto, their respective heirs, legal representatives, successors, successors-in-title, and assigns and shall inure to the benefit of each and every owner of all or any portion thereof.

## ARTICLE I. DEFINITIONS

The following words, when used in this Declaration (unless the context shall prohibit), shall have the following meanings:

"Area of Common Responsibility" shall mean the Common Property, together with such other areas, if any, for which the Association has responsibility pursuant to this Declaration, any recorded plat, or other covenants, contracts, or agreements.

"Association" shall mean Oakhurst Community Association, Inc., a North Carolina nonprofit corporation, its successors and assigns.

"Board of Directors" or "Board" shall be the appointed or elected body, as applicable, responsible for the Association's administration, selected as provided in the By-Laws, and having its normal meaning under North Carolina law.

"Builders" shall mean those Persons who purchase one or more unimproved Lots or parcels of land within the Community for further subdivision or development and resale in the ordinary course of their business.

"By-Laws" shall refer to the Association's By-Laws, attached as Exhibit "B."

"Common Property" shall mean, if any, the real property, interests in real property, and personal property, easements, and other interests, together with improvements located on that property (if any) which the Association now or hereafter owns for the common use and enjoyment of some or all of the Owners.

"Community" shall mean the real property and interests described on Exhibit "A."

"Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing in the Community. Such standard may be more specifically determined by the Board of Directors. Such determination must be consistent with the Community-Wide Standard originally established by the Declarant.

"Declarant" shall mean that person or entity executing this Declaration as Declarant. The Declarant may appoint and designate a successor Declarant by designating such appointment or designation in a deed filed in the real property records of the Register of Deeds in the county where the Community is located.

"Declaration" shall include this Declaration of Protective Covenants for Oakhurst Subdivision.

"Lot" shall mean any plot of land within the Community, whether or not improvements are constructed on that land, which constitutes or will constitute, after the construction of improvements, a single-family dwelling site as shown on a plat recorded in the land records of the county where the Community is located. The ownership of each Lot shall include, and there shall pass with each Lot as an appurtenance thereto, whether or not separately described, all of the right, title, and interest of an Owner in the Common Property and membership in the Association.

"Mortgage" means any mortgage, security deed, deed of trust, or any similar instrument used for the purpose of encumbering real property in the Community as security for the payment or satisfaction of an obligation.

"Mortgagee" shall mean the holder of a Mortgage.

"Occupant" shall mean any Person occupying all or any portion of a Lot or other property located within the Community for any period of time, regardless of whether such Person is a tenant of the Owner of such property.

"Owner" shall mean the record owner, whether one or more Persons, of the fee simple title to any Lot located within the Community; excluding any Person holding such interest merely as security for the performance or satisfaction of any obligation.

"Person" means a natural person, corporation, joint venture, partnership (general or limited), association, trust, or other legal entity.

"Total Association Vote" means all of the votes attributable to members of the Association. If the Total Association Vote is taken during a time while Declarant has the right to appoint members of the Board of Directors, a Total Association Vote approving some item or proposition must contain the affirmative vote of Declarant or the item or proposition will be deemed not to have been approved.

## **ARTICLE II. PROPERTY SUBJECT TO THIS DECLARATION**

### **2.1. Property Subjected To This Declaration.**

The real property described in Exhibit "A" is subject to the covenants and restrictions contained in this Declaration.

### **2.2. Other Property.**

Only the real property described in Section 2.1 is made subject to this Declaration. Declarant does not intend to annex additional real property to this Declaration.

## **ARTICLE III. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS**

### **3.1. Membership.**

Every Owner, including Builders shall be deemed to have a membership in the Association. If a Lot is owned by more than one Person, there shall be only one (1) membership per Lot, and the votes and rights of use and enjoyment shall be as provided in this Declaration and in the By-Laws. Membership shall be appurtenant to and may not be separated from ownership of any Lot. The rights and privileges of membership, including the right to vote and to hold office, may be exercised by a member or the member's spouse.

Builders have the same privileges and responsibilities as Owners during the time that they own Lots for construction and resale, including the privilege of membership in the Association and the obligation to pay Assessments on each Lot owned in accordance with Article III. Builders are also subject to making a capital contribution to the Association pursuant to Article XV. Once the Lot is sold to a homeowner, the Builder is no longer a member of the Association.

Declarant may extend any rights it has reserved under the Declaration with respect to development, marketing, and sale of property in the Community to such Builders as it may designate.

3.2. Voting.

A member is entitled to one (1) vote for each Lot owned, but in no event shall more than one (1) vote be cast nor office held for each Lot owned.. When more than one (1) Person holds an ownership interest in any Lot, the vote for such Lot shall be exercised as those Owners themselves determine and advise the Secretary prior to any meeting. The Lot's vote shall be suspended in the event more than one (1) Person seeks to exercise it.

**ARTICLE IV. ASSESSMENTS**

4.1. Purpose of Assessment.

The assessments provided for in this Declaration shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of Lots, as may be authorized from time to time by the Board.

4.2. Creation of the Lien and Personal Obligation for Assessments.

Each Owner agrees to timely pay to the Association: (a) annual assessments or charges; (b) special assessments; and (c) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration. Each Owner also agrees to pay reasonable fines as may be imposed in accordance with the terms of this Declaration.

4.3. Late Charges.

All assessments, shall accrue late charges, interest (not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum on the principal amount due), costs, including without limitation, reasonable attorneys' fees actually incurred. The assessments and charges shall be a continuing lien upon the Lot against which each assessment is made, and shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment fell due.

4.4. Personal Liability.

Each Owner shall be personally liable for the portion of each assessment coming due while the owner of a Lot, and each grantee of an Owner shall be jointly and severally liable for the assessments which are due at the time of conveyance; however, the liability of a grantee for the unpaid assessments of its grantor shall not apply to any first Mortgagee taking title through foreclosure proceedings.



#### 4.5. Certificate of Payment.

The Association shall, within ten (10) business days after receiving a written request, furnish a certificate signed by an officer of the Association setting forth whether the assessments, other charges, and fines on a specified Lot have been paid. A properly executed certificate shall be binding upon the Association, the Board, and the Owner as of the date of issuance. The Board shall have the right to impose a reasonable charge for providing this certificate.

#### 4.6. Annual Assessments.

Annual assessments shall be levied equally on all similarly situated Lots and shall be paid in such manner and on such dates as may be fixed by the Board. The Board may allow annual assessments to be paid through periodic payments, and the Board shall have the right to accelerate any unpaid annual installments in the event an Owner is delinquent. Unless otherwise provided by the Board, the assessment shall be paid in annual installments.

#### 4.7. Computation of Annual Assessments.

The Board shall prepare a proposed budget covering the estimated costs of operating the Association during the coming year, which may include a capital contribution or reserve. The Board shall set a date for a meeting of the Owners to consider ratification of the budget, such meeting to be held not less than ten (10) nor more than thirty (30) days after the mailing of the notice. The Board shall cause the proposed budget, the assessments, and a notice of the meeting to consider ratification of the budget, including a statement that the budget may be ratified without a quorum, to be mailed or delivered to each member at least thirty (30) days prior to the end of the current fiscal year. Quorum need not be present at the meeting. The budget and the assessment shall become effective unless disapproved at such meeting by a majority of the Total Association Vote. In the event the membership disapproves the proposed budget, or the Board fails to establish a budget for the succeeding year, the budget in effect for the then current year shall continue for the succeeding year until changed by the Board. In the event the Board's budget is disallowed, the Board shall have the right to make a new budget retroactive to the start of the fiscal year.

#### 4.8. Special Assessments.

In addition to the other assessments authorized by this Declaration, the Association may levy special assessments from time to time. Special assessments must be approved at a meeting by two-thirds (2/3) of the Total Association Vote. Special assessments shall be paid as determined by the Board, and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

#### 4.9. Lien for Assessment.

All sums assessed against any Lot, Owner, or member pursuant to this Declaration shall be secured by a lien on such Lot in favor of the Association.

#### 4.10. Priority.

The lien of the Association shall be superior to all other liens and encumbrances on such Lot, except for (a) liens for ad valorem taxes; (b) liens for all sums unpaid on a first priority Mortgage or deed to secure debt, or (c) a lien arising by virtue of any Mortgage in favor of Declarant which is duly recorded in the land records of the county where the Community is located. All other Persons acquiring liens or encumbrances on any Lot after this Declaration shall have been recorded shall be deemed to acknowledge that their liens shall be inferior to the lien of the Association for assessments in existence at that time or which arise in the future.

#### 4.11. Effect of Nonpayment of Assessment.

Any assessments (or installments) which are not paid when due shall be delinquent. Any assessment (or installment) which is delinquent for a period of more than ten (10) days shall incur a late charge in an amount set by the Board. If the Assessment is not paid within thirty (30) days, a lien shall attach upon filing a claim of lien in the land records of the county in which the Lot is located. The lien shall set forth the name and address of the Association, the name of the Owner of the Lot, an identification or legal description of the Lot, and cover all assessments then due or which come due until the lien is canceled of record, and any other amounts provided in this Declaration or permitted by law. In the event that the assessment remains unpaid after thirty (30) days, the Association may institute suit to collect such amounts and foreclose its lien. The Association shall have the right to foreclose its lien by any method allowed by law. The Association shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage, or convey the same.

#### 4.12. No Setoff or Deduction.

No Owner may waive or otherwise exempt himself from liability for the assessments provided for in this Declaration. No setoff, diminution, or abatement of any assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action, for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority. The obligation to pay assessments is a separate and independent covenant on the part of each Owner and is not subject to setoff.

#### 4.13. Application of Payments.

All payments shall be applied first to costs, then to late charges, then to interest, and then to delinquent assessments.

#### 4.14. Date of Commencement of Assessments.

Assessments shall start on the first day of the month following the sale of the Lot to a Person. However, the sale of a Lot to a Person who purchases a Lot for the construction of a home and subsequent sale of that newly constructed home in the ordinary course of such Person's

business shall not cause assessments to commence. The first annual assessment shall be adjusted according to the number of days then remaining in that fiscal year.

#### 4.15. Specific Assessment.

The Board shall have the power to specifically assess pursuant to this Section as it shall deem appropriate, in its sole discretion. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future. The Board may also specifically assess Owners for the following Association expenses (except for expenses incurred for maintenance and repair of items which are the maintenance responsibility of the Association):

(a) to cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Lot or Occupants thereof upon request of the Owner pursuant to a menu of special services which the Board may from time to time authorize to be offered to Owners and Occupants (which might include, without limitation, landscape maintenance or pest control), which assessments may be levied in advance of the provision of the requested benefit, item, or service as a deposit against charges to be incurred by the Owner; and

(b) to cover costs incurred in bringing the Lot into compliance with the terms of this Declaration, the By-Laws, or rules or costs incurred as a consequence of the conduct of the Owner or Occupants of the Lot, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Lot Owner prior written notice and an opportunity for a hearing, in accordance with Section 3.21 of the By-Laws before levying any Specific Assessment under this subsection (b).

#### 4.16. User Fees

The Association may permit use of Common Property facilities by Persons other than Owners and occupants of Units and may charge use fees, in such amount as the Board may establish, for such use.

#### 4.17 Budget Deficits During Declarant Control.

For so long as the Declarant has the authority to appoint the directors and officers of the Association, Declarant may (but shall not be required to):

a. Advance funds to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association and the sum of the annual, special, and specific, assessments collected by the Association in any fiscal year. Such advances shall, upon request of Declarant, be evidenced by promissory notes from the Association in favor of the Declarant. The failure of Declarant to obtain a promissory note shall not invalidate the debt; or

b. Cause the Association to borrow such amount, or a general borrowing, from a third party at the then prevailing rates for such a loan in the local area of the Community.

Declarant, in its sole discretion, may guarantee repayment of such loan, if required by the lending institution, but no Mortgage secured by the Common Property or any of the improvements maintained by the Association shall be given in connection with such loan; or

c. Acquire property for, or provide services to, the Association or the Common Property. Declarant shall designate the value of the property or the services provided and such amounts, at the request of the Declarant, be evidenced by a promissory note. Failure to obtain a promissory note shall not invalidate the obligation referred to in this Section.

## **ARTICLE V. MAINTENANCE & CONVEYANCE OF COMMON PROPERTY TO ASSOCIATION**

### **5.1. Association's Responsibility.**

The Association shall maintain in good repair the Common Property, including (without limitation) maintenance, repair, and replacement of all landscaping and improvements situated on the Common Property. The Association shall also maintain all lakes and associated dams in or about the Subdivision or any lot thereon, to the extent maintenance of such lake is required and the lake is not otherwise maintained by a governmental entity or third party.

a. The Association shall also maintain all private streets located within the Community, including entry features and common areas; operate and maintain street lights (if not maintained and operated by a governmental entity) for the Community, including the expenses for water and electricity, if any, provided to all such entry features or common areas; all storm water detention facilities and easements serving the Community (to the extent such facilities and easements are not maintained by a governmental entity); all property outside of Lots located within the Community which was originally maintained by Declarant.

b. The Association shall have the right, but not the obligation, to maintain other property not owned by the Association, located within the Community, where the Board has determined that such maintenance would benefit the Owners.

c. In the event that the Association determines that the need for maintenance, repair, or replacement of property described in (a) or (b) above is caused through the willful or negligent act of an Owner, or the family, guests, lessees, or invitees of any Owner, and is not covered or paid for by insurance, in whole or in part, then the Association may perform such maintenance, repair, or replacement at such Owner's sole cost and expense, and all costs thereof shall be a specific assessment against such Owner subject to the Association's lien and collection rights provided for in this Declaration.

Such Owner may request a hearing by the Board of Directors, or an adjudicatory panel appointed by the Board, to determine responsibility for the damages if the monetary amounts involved are less than or equal to the jurisdictional amount established for small claims under North Carolina law. The hearing shall afford notice of the charge to the Owner, an opportunity for the Owner to be heard and to present evidence, and a notice of decision by the Board. The

Board of Directors or its appointees may not assess liability in an amount in excess of the jurisdictional amount established for small claims under North Carolina law.

- d. Maintenance shall be performed consistent with the Community-Wide Standard.

5.2. Owner's Responsibility.

Except as provided in Section 5.1 above, all maintenance of the Lot and all structures, parking areas, landscaping, and other improvements thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a manner consistent with the Community-Wide Standard and this Declaration. In the event that the Board determines that any Owner has failed or refused to discharge properly any of such Owner's obligations with regard to the maintenance, repair, or replacement of items for which such Owner is responsible, the Association may perform such maintenance, repair, or replacement for the Owner at the expense of the Owner. Except in an emergency situation, the Association shall give the Owner written notice of the Association's intent to provide such necessary maintenance, repair, or replacement. The notice shall set forth with reasonable particularity the maintenance, repairs, or replacement deemed necessary. The Owner shall have ten (10) days after receipt of such notice within which to complete such maintenance, repair, or replacement, or, in the event that such maintenance, repair, or replacement is not capable of completion within a ten (10) day period, to commence such work which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair, or replacement at such Owner's sole cost and expense, and all costs shall be an assessment against the Owner.

5.3. Conveyance of Common Property by Declarant to Association.

The Declarant may convey to the Association any personal property, any improved or unimproved real property, leasehold, easement, or other property interest located within the Community. Such conveyance shall be accepted by the Association, and the property shall thereafter be Common Property to be maintained by the Association for the benefit of all or a part of its members. Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section.

**ARTICLE VI. USE RESTRICTIONS AND RULES**

6.1. General.

This Section sets out certain use restrictions which must be complied with by all Owners and Occupants and any guests or invitees. These use restrictions may only be amended as provided in this Declaration. In addition, the Board may, from time to time, without consent of the members, promulgate, modify, or delete other use restrictions and rules and regulations applicable to the Community. Such use restrictions and rules shall be distributed to all Owners and Occupants prior to the date that they are to become effective and shall thereafter be binding upon all Owners and Occupants until and unless overruled, canceled, or modified in a regular or special meeting of the Association by a majority of the Total Association Vote.

Board of Directors or its appointees may not assess liability in an amount in excess of the jurisdictional amount established for small claims under North Carolina law.

- d. Maintenance shall be performed consistent with the Community-Wide Standard.

#### 5.2. Owner's Responsibility.

Except as provided in Section 5.1 above, all maintenance of the Lot and all structures, parking areas, landscaping, and other improvements thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a manner consistent with the Community-Wide Standard and this Declaration. In the event that the Board determines that any Owner has failed or refused to discharge properly any of such Owner's obligations with regard to the maintenance, repair, or replacement of items for which such Owner is responsible, the Association may perform such maintenance, repair, or replacement for the Owner at the expense of the Owner. Except in an emergency situation, the Association shall give the Owner written notice of the Association's intent to provide such necessary maintenance, repair, or replacement. The notice shall set forth with reasonable particularity the maintenance, repairs, or replacement deemed necessary. The Owner shall have ten (10) days after receipt of such notice within which to complete such maintenance, repair, or replacement, or, in the event that such maintenance, repair, or replacement is not capable of completion within a ten (10) day period, to commence such work which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair, or replacement at such Owner's sole cost and expense, and all costs shall be an assessment against the Owner.

#### 5.3. Conveyance of Common Property by Declarant to Association.

The Declarant may convey to the Association any personal property, any improved or unimproved real property, leasehold, easement, or other property interest located within the Community. Such conveyance shall be accepted by the Association, and the property shall thereafter be Common Property to be maintained by the Association for the benefit of all or a part of its members. Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section.

### **ARTICLE VI. USE RESTRICTIONS AND RULES**

#### 6.1. General.

This Section sets out certain use restrictions which must be complied with by all Owners and Occupants and any guests or invitees. These use restrictions may only be amended as provided in this Declaration. In addition, the Board may, from time to time, without consent of the members, promulgate, modify, or delete other use restrictions and rules and regulations applicable to the Community. Such use restrictions and rules shall be distributed to all Owners and Occupants prior to the date that they are to become effective and shall thereafter be binding upon all Owners and Occupants until and unless overruled, canceled, or modified in a regular or special meeting of the Association by a majority of the Total Association Vote.

## 6.2. Residential Use.

All Lots shall be used for residential purposes exclusively. No business or business activity shall be carried on in or upon any Lot at any time except with the written approval of the Board. Leasing of a Lot shall not be considered a business or business activity. However, the Board may permit a Lot to be used for business purposes so long as such business, in the sole discretion of the Board, does not otherwise violate the provisions of the Declaration or By-Laws, does not create a disturbance, and does not unduly increase traffic flow or parking congestion. The Board may issue rules regarding permitted business activities. The Declarant shall have the right to operate a sales office and a construction office from one or more Lots within the Community.

## 6.3. Architectural Standards.

No exterior construction, alteration, addition, or erection of any nature whatsoever shall be commenced or placed upon any part of the Community, except such as is installed by the Declarant, or as is approved in accordance with this Section, or as is otherwise expressly permitted herein. Except as provided above, no exterior construction, addition, erection, or alteration shall be made unless and until plans and specifications showing at least the nature, kind, shape, height, materials, and location shall have been submitted in writing to and approved by an Architectural Review Committee to be established by the Board.

a. The Architectural Review Committee may be established so that it is divided into two (2) subcommittees, with one (1) subcommittee having jurisdiction over modifications and the other having jurisdiction over new construction.

b. The Board may employ architects, engineers, or other Persons as it deems necessary to enable the Architectural Review Committee to perform its review.

c. The Architectural Review Committee may, from time to time, delegate any of its rights or responsibilities hereunder to one (1) or more duly licensed architects or other qualified Persons, which shall have full authority to act on behalf of the committee for all matters delegated.

d. Written design guidelines and procedures shall be promulgated by the Board for the exercise of this review, which guidelines may provide for a review fee.

e. So long as the Declarant owns any property for development or sale in the Community, the Declarant shall have the right to appoint all members of the Architectural Review Committee. Upon the expiration or earlier surrender in writing of such right, the Board shall appoint the members of the Architectural Review Committee.

f. If the Architectural Review Committee fails to approve or to disapprove submitted plans and specifications within thirty (30) days after the plans and specifications have been submitted to it, approval will not be required, and this Section will be deemed to have been fully complied with. As a condition of approval under this Section, each Owner, on behalf of

such Owner and such Owner's successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement, and insurance to and on any change, modification, addition, or alteration. In the discretion of the Architectural Review Committee, an Owner may be made to verify such condition of approval by a recordable written instrument acknowledged by such Owner on behalf of such Owner and such Owner's successors-in-interest. The Architectural Review Committee shall be the sole arbiter of such plans and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction commenced in violation of these restrictions. Any member of the Board or its representatives shall have the right, during reasonable hours and after reasonable notice, to enter upon any property to inspect for the purpose of ascertaining whether or not these Persons shall not be deemed guilty of trespass by reason of such entry. In addition to any other remedies available to the Association, in the event of noncompliance with this Section, the Board may, as provided in this Declaration, record in the appropriate land records a notice of violation naming the violating Owner.

g. Plans and specifications are not approved for engineering or structural design or quality of materials, and by approving such plans and specifications neither the Architectural Review Committee, the members thereof, nor the Association assumes liability or responsibility therefor, nor for any defect in any structure constructed from such plans and specifications. Declarant, the Association, the Architectural Review Committee, the Board, or the officers, directors, members, employees, and agents of any of them shall not be liable in damages to anyone submitting plans and specifications to any of them for approval, or to any property owner affected by these restrictions by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications and every owner agrees that such person or owner will not bring any action or suit against Declarant, the Association, the Architectural Review Committee, the Board, or the officers, directors, members, employees, and agents of any board, or the officers, directors, members, employees, and agents of any of them to recover any damages and hereby releases, remises, quitclaims, and covenants not to sue for all claims, demands, and causes of action arising out of or in connection with any judgment, negligence, or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands, and causes of action not known at the time the release is given.

h. Signs. No sign of any kind shall be erected by an Owner or Occupant within the Community without the prior written consent of the Architectural Review Committee. Notwithstanding the foregoing, the Board and the Declarant shall have the right to erect reasonable and appropriate signs. "For Sale" and "For Rent" signs and security signs consistent with the Community-Wide Standard and any signs required by legal proceedings may be erected upon any Lot. The provisions of this Section shall not apply to any Person holding a Mortgage who becomes the Owner of any Lot as purchaser at a judicial or foreclosure sale conducted with respect to a first Mortgage or as transferee pursuant to any proceeding in lieu thereof.

i. Vehicles. The term "vehicles," as used herein, shall include, without limitation, motorcycles, minibikes, scooters, go-carts, trucks, campers, buses, vans, and automobiles. Unless and except to the extent that the Occupants of a Lot shall have more vehicles than the



number of parking areas serving their Lot, all vehicles shall be parked within such parking areas. Parking on the street is prohibited. No tractor trailer or commercial vehicles (such as flat bed trailers or pull behind commercial trailers) are allowed to be parked or stored on any Lot or street. Where the Lot contains a garage, "parking areas" shall refer to the number of garage parking spaces. All single-family detached homes shall contain a garage; carports shall not be permitted. Garage doors shall be kept closed at all times, except during times of ingress and egress from the garage.

i. No vehicles, boats, motor homes, trailers, or recreational vehicles or trailers may be left upon any portion of the Community for a period longer than three (3) days, unless it is stored in a garage or stored in another area designated or approved by the Board. Vehicles, boats, motor homes, trailers, or recreational vehicles which are either unlicensed or inoperable for a period of three (3) days or more may not be stored upon any portion of the Community at any time unless fully enclosed in a garage.

ii. No recreational vehicles, including motor homes, boats, and trailers, shall be left upon any portion of the Community, except in a closed garage or other area designated by the Board.

iii. Such vehicles identified in (i) and (ii) above must be removed by the Owner. The Association shall have the right to remove any such vehicle if not removed by the Owner within ten (10) days of notice, and the costs of such removal shall be an assessment against such Owner.

iv. Trucks with mounted campers which are an Owner's or Occupant's primary means of transportation shall not be considered recreational vehicles, provided they are used on a regular basis for transportation and the camper is stored out of public view upon removal.

j. Off Road. No motorized vehicles shall be permitted on pathways or unpaved Common Property except for public safety vehicles and vehicles authorized by the Board.

k. Leasing. Lots may be leased for residential purposes. All leases shall have a minimum term of at least six (6) months. All leases shall require, without limitation, that the tenant acknowledge receipt of a copy of the Declaration, By-Laws, use restrictions, and rules and regulations of the Association. The lease shall also obligate the tenant to comply with the foregoing and shall provide that in the event of noncompliance, the Board, in addition to any other remedies available to it, may evict the tenant on behalf of the Owner and specifically assess all costs associated therewith against the Owner and the Owner's property. Owner shall notify Board of their current address in case of violation, non-payment of assessments, or in case of emergency.

l. Occupants Bound. All provisions of the Declaration, By-Laws, and of any rules and regulations, use restrictions, or design guidelines promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Occupants even if Occupants are not specifically mentioned. Fines may be levied against

Owners or Occupants. If a fine is first levied against an Occupant and is not timely paid, the fine may then be levied against the Owner.

m. Animals and Pets. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Lot, with the exception of dogs, cats, or other usual and common household pets in reasonable number, as determined by the Board. No pets shall be kept, bred, or maintained for any commercial purpose. Dogs which are household pets shall be kept on a leash when outside of an Owner's residence. No pet which has caused any damage or injury shall be walked in the community, whether on a leash or otherwise. All pets shall be registered, licensed, and vaccinated as required by law. Pets which endanger health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners or Occupants must be removed by their owner upon request of the Board.

n. Nuisance. It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her property. No property within the Community shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on within the Community, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within the Community. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in anyway is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier, or other sound device, except such devices as may be used exclusively for security purposes or as approved by the ARC, shall be located, installed, or maintained upon the exterior of any Lot unless required by law.

o. Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including, without limitation, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken in any part of the Community.

p. Antennas. No exterior antennas of any kind, including, without limitation, satellite dishes, shall be placed, allowed, or maintained upon any portion of the Community, including any Lot, without the prior written consent of the Architectural Review Committee. Satellite dishes which are dark grey or black in color and are one meter or less in diameter shall be allowed, provided they are not visible from the street, installed upon or adjacent to a residence, and are integrated with the surrounding landscape.

q. Tree Removal. No trees that are more than four (4) inches in diameter at a point two (2) feet above the ground shall be removed without the prior written consent of the Architectural Review Committee. However, no flowering trees, including, without limitation, dogwood trees, regardless of their diameter, shall be removed without the prior written consent

of the Architectural Review Committee. Notwithstanding all of the above, no consent or approval is required for the removal of any trees, regardless of their diameter, that are located within ten (10) feet of a drainage area, a septic field, a sidewalk, a residence, a driveway, or the line formed by the highest normal pool elevation of any lake.

r. Drainage. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or Occupant may alter, obstruct, or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains, the right to alter same being expressly reserved to Declarant.

s. Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

t. Garbage Cans, Woodpiles, Etc. All garbage cans, woodpiles, hot tubs, spas, and related equipment, and other similar items shall be located or screened so as to be concealed from view of neighboring streets and property. All rubbish, trash, and garbage shall be regularly removed and shall not be allowed to accumulate. Declarant reserves the right to dump and bury rocks on property within the Community as needed for efficient construction and to allow developers and builders within the Community to bury rocks removed from a building site. Trash, garbage, debris, or other waste matter of any kind may not be burned within the Community except that Declarant may maintain a "burn pit" during development and construction of the Community.

u. Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Architectural Review Committee. Declarant, however, hereby expressly reserves the right to replat any Lot or Lots owned by Declarant. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations. Declarant's right to replat any Lot shall include the right to change the configuration of streets and otherwise make changes on the final plat for the Community as to how the streets and common areas in the Community are laid out.

v. Guns. The use of firearms in the Community is prohibited. The term "firearms" includes rifles, pistols, "BB" guns, pellet guns, and small firearms of all types.

w. Fences. No fence or fencing type barrier of any kind shall be placed, erected, allowed, or maintained upon any Lot without the prior written consent of the Architectural Review Committee. Under no circumstances shall any fence be placed, erected, allowed, or maintained upon any Lot closer to the street than the rear one-third (1/3) of the residence located on the Lot. (Generally, only shadow-box style privacy fencing constructed of six (6) foot maximum height, dog-eared, unpainted, cedar or four (4) foot maximum height rough sawn open board or split rail, unpainted, cedar fencing shall be approved by the Architectural Review Committee.) Notwithstanding the foregoing, the Declarant shall have the right to erect fencing of any type, at any location, on any Lot during the period that such Lot is being used by Declarant as a model home. The Board of Directors shall have the right to erect fencing of any type considered appropriate or desirable by the Board at any location on the Common Property.

x. Utility Lines. No overhead utility lines, including lines for cable television, shall be permitted within the Community, except for temporary lines as required during construction, and lines installed by or at the request of Declarant.

y. Air Conditioning Units. No window air conditioning units may be installed.

z. Lighting. Except as may be permitted by the Architectural Review Committee, exterior lighting visible from the street shall not be permitted except for (a) approved lighting as originally installed on a Lot; (b) one (1) decorative post light, (c) street lights in conformity with an established street lighting program for the Community; (d) seasonal decorative lights; or (e) front house illumination of model homes.

aa. Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on the exterior of any property. Exterior sculpture, fountains, flags, and similar items must be approved by the Architectural Review Committee and exterior sculptures, fountains, or statues shall not be permitted in the front of a dwelling on a Lot.

bb. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless they are an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the Architectural Review Committee.

cc. Swimming Pools and Hot Tubs. No swimming pool shall be constructed, erected, or maintained upon any Lot. Hot tubs and portable spas shall not be permitted without the prior written consent of the Architectural Review Committee and then only if enclosed by an approved fence.

dd. Gardens and Play Equipment. No vegetable garden or play equipment (including, without limitation, basketball goals) shall be erected on any Lot without the prior written consent of the Architectural Review Committee, and any such items must be located between the rear dwelling line and the rear lot line. Without limiting the foregoing, basketball goals may be installed providing they are constructed of black poles, permanently mounted, not visible from the street, and the Architectural Review Committee approves the location, height, and type of goal and post.

ee. Mailboxes. All mailboxes located on Lots shall be of a similar style approved by the Architectural Review Committee. Replacement mailboxes may be installed after the type has been approved in writing by the Architectural Review Committee.

ff. Exteriors. Any change to the exterior color of any improvement located on a Lot, including, without limitation, the dwelling, must be approved by the Architectural Review Committee.

gg. Clothesline. No exterior clotheslines of any type shall be permitted upon any Lot.

hh. Exterior Security Devices. No exterior security devices, including, without limitation, window bars, shall be permitted on any residence or Lot. Signs less than 6" by 6" placed on the Lot or the exterior of the residence stating that such residence is protected by a security system shall not be deemed to constitute an exterior security device.

ii. Entry Features. Owners shall not alter, remove, or add improvements to any entry features constructed by the Declarant on any Lot, or any part of any easement area associated therewith without the prior written consent of the Architectural Review Committee.

jj. Storage Sheds and Garages. Construction, installation, or placement of a storage shed, tree house, play house, detached garage, or a building separate from the main house on the Lot is not permitted without the prior written consent of the Architectural Review Committee, in its sole discretion. All plans (which must include the length, width, height, materials, colors, and location) must be submitted to the Architectural Review Committee for written approval prior to obtaining building permits or starting construction. The structure must be constructed, installed, or placed in a location inconspicuous as much as possible from public view. No two story structures of this nature are permitted on any Lot within the Community. All materials used in the construction of such buildings must match the main dwelling located on the Lot.

kk. Fishing. Fishing is permitted in the Community's lake, but shall be done in accordance with North Carolina law. Any fish caught in the lake shall be released back into the lake.

Owners shall have no riparian rights with respect to the waters in any lake or stream within the Community and shall not be permitted to withdraw water from any lake or stream as may exist in the Community or as are made available for the use of all Owners and Occupants within the Community without the prior written consent of the Board or its designee. As long as the Declarant has the right unilaterally to subject property to this Declaration or owns any property in the Community for development and/or sale, Declarant may authorize and grant easements to withdraw water from such lakes or streams without the consent of the Association.

Notwithstanding anything contained in this Declaration to the contrary, no vegetable gardens, hammocks, statuary, swing sets or similar play equipment, basketball goals or similar athletic equipment, boats or boating equipment, pools, fences, clothes drying equipment, dog houses, dog runs or other pet enclosures, signs, retaining walls, or any other structure or thing which, in the sole discretion of the Board or its designee, tends to detract from the appearance of the Community, and especially any lake, shall be permitted on any Lot which abuts or is appurtenant to any lake within the Community or any lake made available for the use of all Owners and Occupants within the Community, without the prior written consent of the Architecture Review Committee or its designee.

## ARTICLE VII. INSURANCE AND CASUALTY LOSSES

### 7.1. Insurance on Common Property.

The Board of Directors or the duly authorized agent of the Association shall have the authority to and shall obtain insurance for all insurable improvements whether or not located on the Common Property which the Association is obligated to maintain. This insurance shall provide, at a minimum, fire and extended coverage, including vandalism and malicious mischief, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. Alternatively, the Board may purchase "all-risk" coverage in like amounts.

### 7.2. Liability Insurance.

The Board shall obtain a general commercial liability policy applicable to the Common Property covering the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents, and, if reasonably available, directors' and officers' liability insurance. The public liability policy shall have a combined single limit of at least one million dollars (\$1,000,000.00). If available, the Board is authorized to obtain directors' and officers' liability insurance coverage.

### 7.3. Declarant.

The Board is authorized to obtain the insurance coverage required hereunder through the Declarant and to reimburse Declarant for the cost thereof. The Board shall not be required to comply with the provisions of this Section if the Board has contracted for or otherwise arranged to obtain the required insurance coverage through the Declarant.

### 7.4. Premiums.

Premiums for all insurance shall be common expenses of the Association. The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost. The premiums for all insurance on the Area of Common Responsibility shall be a Common Expense.

### 7.5. Miscellaneous.

All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association, as trustee for the respective benefited parties, as further identified below. Such insurance shall comply with these provisions:

- a. All policies shall be written with a company authorized to do business in North Carolina.

b. Exclusive authority to settle losses under policies obtained by the Association shall be vested in the Association's Board of Directors; however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

c. In no event shall the insurance coverage obtained and maintained by the Association be brought into contribution with insurance purchased by individual Owners, Occupants, or their Mortgagees, and the insurance carried by the Association shall be primary.

d. All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement if these are reasonably available and all insurance policies shall be reviewed annually.

e. The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

i. A waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners and their respective tenants, servants, agents, and guests;

ii. A waiver by the insurer of its rights to repair and reconstruct instead of paying cash;

iii. That no policy may be canceled, invalidated, or suspended on account of any one or more individual Owners;

iv. That no policy may be canceled, subjected to nonrenewal, invalidated, or suspended on account of any defect or the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be effected by the Association, its manager, any Owner or Mortgagee;

v. That any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

vi. That no policy may be canceled, subjected to nonrenewal, or substantially modified without at least thirty (30) days prior written notice to the Association.

f. In addition to the other insurance required by this Section, the Board shall obtain worker's compensation insurance, if and to the extent necessary to satisfy the requirements of applicable laws, and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds, if reasonably available. If obtained, the amount of fidelity coverage shall be determined in the three (3) months' assessments plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be canceled, subjected to nonrenewal, or

substantially modified without at least thirty (30) days prior written notice to the Association. The Association shall also obtain construction code endorsements, steam boiler coverage, and flood insurance, if and to the extent necessary to satisfy the requirements of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, and the U.S. Department of Veterans Affairs, or the U.S. Department of Housing and Urban Development.

7.6. Individual Insurance.

By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner acknowledges that the Association has no obligation to provide any insurance for any portion of individual Lots, and each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket "all-risk" casualty insurance on the Lot and all structures constructed thereon and a liability policy covering damage or injury occurring on a Lot. The casualty insurance shall cover loss or damage by fire and other hazards commonly insured under an "all-risk" policy, if reasonably available, including vandalism and malicious mischief, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. If "all-risk" coverage is not reasonably available, Owners shall obtain, at a minimum, fire and extended coverage. The policies required hereunder shall be in effect at all times. Authority to adjust losses under policies obtained by an Owner shall be vested in the Owner. The losses under policies obtained by an Owner shall be vested in the Owner. The Association shall have the right, but not the obligation, at the expense of the Owner, to acquire the insurance required to be maintained by the Owner if the Owner fails to provide a valid policy to the Association with a prepaid receipt within ten (10) days after receipt by the Owner of a written request from the Association. If the Association acquires insurance on behalf of any Owner, the cost thereof shall be assessed against the Owner and the Lot as a specific assessment.

7.7. Damage and Destruction -- Insured by Association.

a. In General. Immediately after damage or destruction by fire or other casualty to all or any portion of any improvement covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. The Board shall have the enforcement powers specified in this Declaration necessary to enforce this provision.

b. Repair and Reconstruction. Any damage or destruction to property covered by insurance written in the name of the Association shall be repaired or reconstructed unless, within sixty (60) days after the casualty, at least seventy-five percent (75%) of the Total Association Vote otherwise agree. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; however, such extension



shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.

c. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the Association's members, levy a special assessment against all Owners in proportion to the number of Lots owned by such Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association.

d. In the event that it is determined by the Association in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the property shall be restored to its natural state and maintained as an undeveloped portion of the Community by the Association in a neat and attractive condition.

7.8. Damage and Destruction -- Insured by Owners.

The damage or destruction by fire or other casualty to all or any portion of any improvement on a lot shall be repaired by the Owner thereof within seventy-five (75) days after such damage or destruction or, where repairs cannot be completed within seventy-five (75) days, they shall be commenced within such period and shall be completed within a reasonable time thereafter. Alternatively, the Owner may elect to demolish all improvements on the Lot and remove all debris therefrom within seventy-five (75) days after such damage or destruction. In the event of noncompliance with this provision, the Board shall have all enforcement powers specified in this Declaration.

7.9. Insurance Deductible.

The deductible for any casualty insurance policy carried by the Association shall in the event of damage or destruction, be allocated among the Persons who are responsible hereunder, or under any declaration or contract requiring the Association to obtain such insurance, for maintenance of the damaged or destroyed property.

## ARTICLE VIII. CONDEMNATION

In the event of a taking by eminent domain of any portion of the Common Property on which improvements have been constructed, then, unless within sixty (60) days after such taking, at least seventy-five percent (75%) of the Total Association Vote shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Property to the extent lands are available therefor. The provisions of this Declaration applicable to Common Property improvements damage, shall govern replacement or restoration and the actions to be taken in the event that the improvements are not restored or replaced.

## ARTICLE IX. MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders of first Mortgages on Lots in the Community. The provisions of this Section apply to both this Declaration and the By-Laws, notwithstanding any other provisions contained therein.

### 9.1. Notices of Action.

An institutional holder, insurer, or guarantor of a first Mortgage, who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the Lot number, therefore becoming an "eligible holder"), will be entitled to timely written notice of :

a. Any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such eligible holder;

b. Any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided that, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by the owner of the encumbered Lot of any obligation under the Declaration or By-Laws of the Association which is not cured within sixty (60) days; and

c. Any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

### 9.2. No Priority.

No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Property.

### 9.3. Notice to Association.

Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

### 9.4. VA/HUD Approval.

As long as the Declarant has the right to appoint and remove the directors of the Association and so long as the project is approved by the U.S. Department of Housing and Urban Development ("HUD"), or the U.S. Department of Veterans Affairs ("VA"), for insuring or guaranteeing any Mortgage in the Community the following actions shall require the prior

approval of the VA or HUD as applicable: annexation of additional property to the Community; dedication of Common Property to any public entity; mergers and consolidations; dissolution of the Association; and material amendment of the Declaration, By-Laws, or Articles of Incorporation.

9.5. Applicability of Section.

Nothing contained in this Section shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws, or North Carolina law for any of the acts set out in this Section.

9.6. Amendments by Board.

Should the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, HUD, or VA subsequently delete any of their respective requirements which necessitate the provisions of this Section or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Section to be recorded to reflect such changes.

**ARTICLE X. EASEMENTS**

10.1. Easements for Encroachment and Overhang.

There shall be reciprocal appurtenant easements for encroachment and overhang as between each Lot and such portion or portions of the Common Property adjacent thereto or as between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of this Declaration) to a distance of not more than five (5) feet, as measured from any point on the common boundary between each Lot and the adjacent portion of the Common Property or as between adjacent Lots, as the case may be, along a line perpendicular to such boundary at such point. In no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an Owner, Occupant, or the Association.

10.2. Easements for Use and Enjoyment.

a. Every Owner of a Lot shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Property which shall be appurtenant to and shall pass with the title to each Lot, subject to the following provisions:

i. The right of the Association to charge reasonable admission and other fees for the use of any portion of the Common Property, to limit the number of guests of Lot Owners and tenants who may use the Common Property, and to provide for the exclusive use and enjoyment of specific portions thereof at certain designated times by an Owner, his family, tenants, guests, and invitees;

ii. The right of the Association to suspend the voting rights of a Owner and the right of an Owner to use the recreational facilities available for use by the Community, if any, for any period during which any assessment against such Owner's Lot which is hereby provided for remains unpaid; and, for a reasonable period of time for an infraction of the Declaration, By-Laws, or rules and regulations;

iii. The right of the Association to borrow money for the purpose of improving the Common Property, or any portion thereof, or for construction, repairing, or improving any facilities located or to be located thereon, and to give as security for the payment of any such loan a Mortgage conveying all or any portion of the Common Property; provided that the lien and encumbrance of any such Mortgage given by the Association shall be subject and subordinate to any rights, interests, options, easements, and privileges herein reserved or established for the benefit of Declarant, or any Lot or Owner, or the holder of any Mortgage, irrespective of when executed, given by Declarant or any Owner encumbering any Lot or other property located within the Community. Any such Mortgage on the Common Property shall be subject to approval by at least two-thirds (2/3) of the Total Association Vote (excluding votes held by the Declarant). Any provision in this Declaration or any such Mortgage given by the Association to the contrary notwithstanding, the exercise of any rights therein by the holder thereof in the event of a default thereunder shall not cancel or terminate any rights, easements, or privileges herein reserved or established for the benefit of Declarant, or any Lot or Owner, or the holder of any Mortgage, irrespective of when executed, given by Declarant or any Owner encumbering any Lot or other property located within the Community;

iv. The right of the Association to dedicate or grant licenses, permits, or easements over, under, and through the Common Property to governmental entities for public purposes;

v. The right of the Association to dedicate or transfer all or any portion of the Common Property subject to such conditions as may be agreed to by the members of the Association. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by the affirmative vote of at least two-thirds (2/3) of the Total Association Vote excluding votes held by the Declarant; and

b. Delegation. Any Lot Owner may delegate such Owner's right of use and enjoyment in and to the Common Property and facilities located thereon to the members of such Owner's family and to such Owner's tenants and guests and shall be deemed to have made a delegation of all such rights to the occupants of such Owner's Lot, if leased.

c. Non-Member Use. Non-members may be granted access to and the right to use Common Property facilities by Declarant or the Association pursuant to Article XII.

#### 10.3. Easements for Utilities.

There is hereby reserved to the Declarant and the Association blanket easements upon, across, above, and under all property within the Community, including all Lots, for access, ingress, egress, installation, repairing, replacing, and maintaining all utilities serving the

Community or any portion thereof. This easement shall include, without limitation, gas, water, sanitary sewer, telephone, electricity, cable television, security, as well as storm drainage and any other service or system which the Declarant or the Association might decide to have installed to service the Community. It shall be expressly permissible for the Declarant, the Association, or the designee of either, as the case may be, to install, repair, replace, and maintain or to authorize the installation, repairing, replacing, and maintaining of such wires, conduits, pipes, cables, and other equipment related to the providing of any such utility or service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the Declarant or the Board, as the case may be, shall have the right to grant such easement.

#### 10.4. Easement for Drainage.

Declarant hereby reserves a perpetual easement across the Community for the purpose of altering drainage and water across the Community for the purpose of altering drainage and water flow. This right shall include, but is not limited to, altering swales, installing drains, drainage ditches, pipes, inlets, headwalls, and altering channeling, or piping waterflow across any Lot or any property in the Community. Rights exercised pursuant to this reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

#### 10.5. Easement for Entry.

In addition to the other rights reserved to Declarant and the Association, the Declarant or the Association shall have the right (but not the obligation) to enter upon any property or Lot within the Community for emergency, security, and safety reasons. This right may be exercised by the Declarant or its designee, any officer of the Board, and all governmental employees, policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner, and the entering party shall be responsible for any damage caused. This right of entry shall include the right of the Board to enter to cure any condition which may increase the possibility of a fire, slope erosion, or other hazard or condition in the event an Owner or Occupant fails or refuses to cure the condition upon request by the Board.

#### 10.6. Easement for Maintenance.

Declarant hereby expressly reserves a perpetual easement for the benefit of Declarant or the Association across such portions of the Community, determined in the sole discretion of the Declarant and the Association, as is necessary to allow for the maintenance required by this Declaration. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment to Owners' property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

10.7. Easement for Entry Features.

There is hereby reserved to the Declarant and the Association an easement for ingress, egress, installation, construction, landscaping, and maintenance of entry features and similar streetscapes for the Community, over and upon each Lot as more fully described on the recorded subdivision plats for the Community. The easement and right herein reserved shall include the right to cut, remove, and plant trees, shrubbery, flowers, and other vegetation around such entry features and the right to grade the land under and around such entry features.

10.8. Construction and Sale Period Easement.

Notwithstanding any provisions contained in the Declaration, the By-Laws, Articles of Incorporation, use restrictions, rules and regulations, design guidelines, and any amendments thereto so long as Declarant owns any property in the Community for development or sale, Declarant reserves an easement across the Community for Declarant and any builder or developer approved by Declarant to maintain and carry on, upon such portion of the Community as Declarant may reasonably deem necessary. This reserved easement shall include an easement for such facilities and activities which, in the sole opinion of Declarant, may be required, convenient, or incidental to the development, construction, and sales activities related to property within or near the Community. This easement shall include, without limitation:

a. The right of access, ingress, and egress for vehicular and pedestrian traffic and construction activities over, under, on, or in any portion of the Community as well as any Lot in the Community;

b. The right to tie into any portion of the Community with driveways, parking areas, and walkways;

c. The right to tie into or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain, and repair any device which provides utility or similar services;

d. The right (but not the obligation) to construct recreational facilities on Common Property;

e. The right to carry on sales and promotional activities in the Community;

f. The right to place direction and marketing signs on any portion of the Community, including any Lot or Common Property;

g. The right to construct and operate business offices, signs, construction trailers, model residences, and sales offices incidental to the construction, development, and sales activities; and

h. Declarant and any such builder or developer may use residences, offices, or other buildings owned or leased by Declarant or such builder or developer as model residences and

sales offices, and may also use recreational facilities available for use by the Community as a sales office or for marketing purposes without charge. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, and reasonable steps shall be taken to protect such property from damage. Any damage shall be repaired by the Person causing the damage at its sole expense. This Section shall not be amended without the Declarant's express written consent until the Declarant's rights hereunder have terminated as provided in this Declaration.

10.9. Irrigation Easements.

There is hereby reserved to the Declarant and the Association a blanket easement to pump water from ponds, lakes, and other bodies of water located within the Community for irrigation purposes.

10.10. Fence Easement.

Declarant hereby reserves an easement across any Lot which borders upon or contains a portion of any water facility, detention pond, or retention pond for the purpose of access to such facility or pond, and for the purpose of erecting any fence which is either required by the subdivision development and construction plans or governmental regulation, rule, ordinance, or plan approval requirement.

**ARTICLE XI. GENERAL PROVISIONS.**

11.1. Enforcement.

Each Owner and Occupant shall comply strictly with the By-Laws, the rules and regulations, and the use restrictions, as they may be lawfully amended or modified from time to time, and with the covenants, conditions, and restrictions set forth in this Declaration and any such restrictions which may be placed in the deed to such Owner's Lot, if any. In the event of a conflict between the provisions of this Declaration and the By-Laws, the Declaration shall prevail. The Board may impose fines or other sanctions, which shall be collected as provided herein for the collection of assessments. Failure to comply with this Declaration, the By-Laws, or the rules and regulations shall be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by the Board of Directors, on behalf of the Association, or in a proper case, by an aggrieved Owner. To determine fines and sanctions against Owners, a hearing shall be held before the Board of Directors or an adjudicatory panel appointed by the Board. The Owner shall be given notice of the charge, an opportunity to be heard and to present evidence, and a notice of decision by the Board. If a fine is imposed it may not exceed one hundred and fifty dollars (\$150.00) for the violation and for each day after the notice of decision that the violation continues. Such fines shall be assessments secured by a lien. If a sanction is imposed it may continue without further hearing until the violation is cured. Failure by the Association or any Owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter. The Board shall have the right to record in the appropriate land records a notice of lien, a notice of violation of the Declaration, By-Laws, rules and regulations, use restrictions, or design guidelines and to assess the cost of recording and removing such notice

against the Owner who is responsible (or whose Occupants are responsible) for violating the foregoing.

#### 11.2. Self-Help.

In addition to any other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon any Lot or any other portion of the Community to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates this Declaration, the By-Laws, the rules and regulations, or the use restriction. Unless an emergency situation exists, the Board shall give the violating Lot Owner ten (10) days written notice of its intent to exercise self-help. Notwithstanding the foregoing, vehicles may be towed after reasonable notice. All costs of self-help, including reasonable attorneys' fees, shall be assessed against the violating Lot Owner and shall be collected as provided for herein for the collection of assessments.

#### 11.3. Duration.

The covenants and restrictions of this Declaration shall run with and bind the Community, and shall inure to the benefit of and shall be enforceable by Declarant, the Association, or any Owner, their respective legal representatives, heirs, successors, and assigns, perpetually to the extent provided by law. If North Carolina law limits the period during which covenants restricting lands to certain uses may run, any provision of this Declaration affected thereby shall run with and bind the land so long as permitted by such law, after which time any such provision shall be automatically extended for successive periods of ten (10) years, unless a written instrument reflecting disapproval signed by the then Owners of two-thirds (2/3) of the Lots and the Declarant (if the Declarant still owns any property in the Community) is recorded within the year immediately preceding the beginning of a ten (10) year renewal period.

#### 11.4. Amendment.

This Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation, or judicial determination which shall be in conflict therewith; (b) if such amendment is necessary to enable any title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association, the Department of Housing and Urban Development, the Veterans Administration, or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase Mortgage loans on the Lots subject to this Declaration; or (d) if such amendment is necessary to enable any governmental agency or private insurance company to insure or guarantee Mortgage Loans on the Lots subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Owner's Lot unless any such Lot Owner shall consent in writing. Further, so long as Declarant owns any property in the Community, Declarant may unilaterally amend this Declaration for any other purpose; provided that any such amendment shall not materially



adversely affect the substantive rights of any Lot Owners hereunder, nor shall it adversely affect title to any Lot without the consent of the affected Lot Owner.

In addition to the above, this Declaration may be amended:

i. For so long as the Declarant owns any property in the Community, with the affirmative written consent of the Declarant and upon the affirmative vote or written consent, or any combination thereof, of the Owners of at least two-thirds (2/3) of the Lots; and

ii. If the Declarant no longer owns any property in the Community, upon the affirmative vote or written consent, or any combination thereof, of the Owners of at least two-thirds (2/3) of the Lots.

11.5. Partition.

The Common Property shall remain undivided, and no Owner nor any other Person shall bring any action for partition or division of the whole or any part thereof without the written consent of all Owners of all portions of the property located within the Community and without the written consent of all holders of all Mortgages encumbering any portion of the property, including, but not necessarily limited to, the Lots located within the Community.

11.6. Gender and Grammar.

The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

11.7. Severability.

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

11.8. Captions.

The captions are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

11.9. Perpetuities.

If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such

provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

11.10. Indemnification.

To the fullest extent allowed by applicable North Carolina law, the Association shall indemnify every officer of the Association and director of the Association against any and all expenses, including, without limitation, attorneys' fees, imposed upon or reasonably incurred by any officer or director in connection with any action, suit, or other proceeding to which such officer or director may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. This indemnification shall also include attorneys' fees and expenses incurred in enforcing this indemnification. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available.

11.11. Books and Records.

a. Inspection by Members and Mortgagees. This Declaration, the By-Laws, copies of rules and use restrictions, membership register, books of account, and minutes of meetings of the members of the Board and of committees shall be made available for inspection and copying by Declarant or any member of the Association or by the duly appointed representative of any member and by holders, insurers, or guarantors of any first Mortgage at any reasonable time and for a purpose reasonably related to such Person's interest as a member or holder, insurer, or guarantor of a first Mortgage at the office of the Association or at such other reasonable place as the Board shall prescribe.

b. Rules for Inspection. The Board shall establish reasonable rules with respect to: (1) notice to be given to the custodian of the records; (2) hours and days of the work when such an inspection may be made; and (3) payment of the cost of reproducing copies of documents.

c. Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make extra copies of documents at the reasonable expense of the Association.

#### 11.12. Financial Review.

A review of the books and records of the Association shall be made annually in the manner as the Board may decide; however, after having received the Board's financial statements at their annual meeting, by a majority of the Total Association Vote, the Owners may require that the accounts of the Association be audited as a common expense by a certified public accountant. Upon written request of any institutional holder of a first Mortgage and upon payment of all necessary costs, such holder shall be entitled to receive a copy of audited financial statements within ninety (90) days of the date of the request.

#### 11.13. Notice of Sale, Lease, or Acquisition.

In the event an Owner sells or leases such Owner's Lot, the Owner shall give to the Association, in writing, prior to the effective date of such sales or lease, the name of the purchaser or lessee of the Lot and such other information as the Board may reasonably require. Upon acquisition of a Lot, each new Owner shall give the Association, in writing, the name and mailing address of the Owner and such other information as the Board may reasonably require.

#### 11.14. Agreements.

Subject to the prior approval of Declarant (so long as Declarant owns any property for development or sale in the Community, or has the right to unilaterally annex additional property to the Community), all agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board shall be binding upon all Owners, their heirs, legal representatives, successors, assigns, and others having an interest in the Community or the privilege of possession and enjoyment of any part of the Community.

#### 11.15. Implied Rights.

The Association may exercise any right or privilege given to it expressly by the Declaration, the By-Laws, the Articles of Incorporation, any use restriction or rule, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

### **ARTICLE XII. USE OF RECREATIONAL FACILITIES**

Declarant may, but shall not be required to, construct recreational facilities on portions of the Common Property. These facilities may take the form of tennis courts, a pool, bathhouse, viewing areas, and the like. In the event Declarant constructs such recreational facilities, the following shall apply:

a. For so long as Declarant holds an interest in any portion of the Community, the Association, with the consent of Declarant, shall have the right to grant to Persons who are not members of the Association the right to use the recreational facilities. Such Persons shall be subject to a user fee or charge by the Association for the use of the Common Property facilities.

All Persons must follow rules and restrictions for Common Property use. The right to use Common Property facilities may be revoked, modified, or suspended by the Association for failure to pay the user fee or to follow Community rules and restrictions.. Additionally, the Declarant may grant nonmember use rights to Persons as an easement appurtenant to their residential real property so that such use rights shall automatically inure to the benefit of such Persons and their heirs and assigns.

b. Declarant hereby reserves unto itself, its successors and assigns, a non-exclusive, perpetual right and privilege, and easement with respect to the Community for the benefit of Declarant, its successors, assigns, and the above nonmember users to access Common Property facilities. These rights shall include, without limitation, an easement for travel across all Common Property in the Community.

b. Declarant shall not be responsible for any fees to be paid by such nonmember.

c. Declarant shall have the sole right to grant nonmembers access to the Common Property facilities and to revoke, modify, or suspend such access so long as Declarant owns property for sale or development within the Community.

#### ARTICLE XIII. VARIANCES.

Notwithstanding anything to the contrary contained herein, the Declarant and the Board or its designee shall be authorized to grant individual variances from any of the provisions of this Declaration, the By-Laws, and any rule, regulation, or use restriction promulgated pursuant thereto if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Community.

#### ARTICLE XIV. LITIGATION.

No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by at least seventy-five percent (75%) of the Total Association Vote. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided in this Declaration, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended during the time period when Declarant owns any property for development or sale in the Community, or has the right to unilaterally annex additional property to the Community unless such amendment is made by the Declarant.

#### ARTICLE XV. CAPITALIZATION OF ASSOCIATION.

Upon acquisition of record title to a <sup>200.00</sup> Lot by the first Owner, which includes any Builder other than Declarant, a contribution of \$ ~~125.00~~ <sup>200.00</sup> ("Initiation Fee") shall be made by or on behalf of the purchaser to the Association as set forth below. The Initiation Fee shall be in addition to, not in lieu of, any annual or special assessments. The Initiation Fee shall be payable

120.00

at closing, shall not be prorated, and the Association shall have all rights under the Declaration for enforcement of assessments if it is not paid. The Initiation Fee shall be deposited into an account of the Association and disbursed from that account (a) \$ ~~75.00~~ for expenses and costs of the Association in accordance with the Declaration and By-Laws, as amended, and (b) \$ ~~50.00~~ of the Initiation Fee shall be held by the Association as a long term "Maintenance Reserve" to be disbursed by the Association for maintenance of any property which the Association is required or permitted to maintain, in its sole discretion. The Initiation Fee referred to in this paragraph is payable only one time, and will not be charged subsequent purchasers of a Lot once paid.

[Signatures to follow on next page]

DRAFT FOR DISCUSSION PURPOSES ONLY

IN WITNESS WHEREOF, the Declarant herein, hereby executes this instrument under seal this the 23<sup>rd</sup> day of May, 2002.



Declarant: D.R. Horton, Inc.-Torrey, a Delaware corporation

By: [Signature]  
Its: Stephen D. Leach, Vice President

Attest: [Signature]  
Its: Asst. Secretary

[SEAL]

Signed, sealed, and delivered  
this 23<sup>rd</sup> day of May, 2002,  
in the presence of:

[Signature]  
Witness

[Signature]  
Witness

STATE OF NORTH CAROLINA

COUNTY OF WAKE

This 23 day of May, 2002, personally came before me, Jackie I. Swymer, Notary Public for the County and State, Stephen D. Leach, who being by me duly sworn, says that he is a <sup>Vice President</sup> ~~partner~~ of D.R. Horton, Inc.-Torrey, a Delaware corporation, and that the seal affixed to the foregoing instrument in writing is the seal of said corporation, and that said writing was signed and sealed by him in behalf of said ~~partnership~~ <sup>corporation</sup> by its authority duly given. And the said Stephen D. Leach acknowledged the said writing to be the act and deed of said corporation.

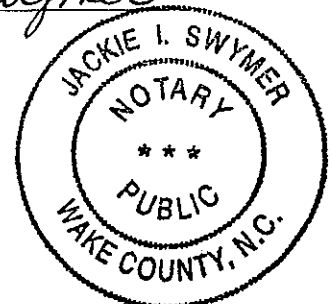
Witness my hand and official seal, this the 23<sup>rd</sup> day of May, 2002.

[OFFICIAL SEAL]

Jackie I. Swymer  
Notary Public

My commission expires February 16, 2007.

6012-13/Oakhurst/Cadocs/CCR



**Exhibit "A" - Property Subject to this Declaration**

**Map 1**

**ALL THAT TRACT OR PARCEL OF LAND** lying and being in Triangle Township, Durham County, North Carolina, and being more particularly described on that certain plat entitled Final Subdivision Plat of Oakhurst – Map 1 prepared by Kenneth Close, Inc., containing the seal of Mark E. Wood, P.L.S. No. 3773, and recorded in the Office of the Register of Deeds of Durham County, North Carolina on June 7, 2002 in Plat Book 155, Page 281.

Such plat has the metes and bounds set forth therein.

**Map 2**

**ALL THAT TRACT OR PARCEL OF LAND** lying and being in Triangle Township, Durham County, North Carolina, and being more particularly described on that certain plat entitled Final Subdivision Plat of Oakhurst – Map 2 prepared by Kenneth Close, Inc., containing the seal of Mark E. Wood, P.L.S. No. 3773, and recorded in the Office of the Register of Deeds of Durham County, North Carolina on June 7, 2002 in Plat Book 155, Page 283.

Such plat has the metes and bounds set forth therein.

**Map 3**

**ALL THAT TRACT OR PARCEL OF LAND** lying and being in Triangle Township, Durham County, North Carolina, and being more particularly described on that certain plat entitled Final Subdivision Plat of Oakhurst – Map 3 prepared by Kenneth Close, Inc., containing the seal of Mark E. Wood, P.L.S. No. 3773, and recorded in the Office of the Register of Deeds of Durham County, North Carolina on June 7, 2002 in Plat Book 155, Page 285.

Such plat has the metes and bounds set forth therein.

**Map 4**

**ALL THAT TRACT OR PARCEL OF LAND** lying and being in Triangle Township, Durham County, North Carolina, and being more particularly described on that certain plat entitled Final Subdivision Plat of Oakhurst – Map 4 prepared by Kenneth Close, Inc., containing the seal of Mark E. Wood, P.L.S. No. 3773, and recorded in the Office of the Register of Deeds of Durham County, North Carolina on June 7, 2002 in Plat Book 155, Page 287.

Such plat has the metes and bounds set forth therein.