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Drawn by and return to:
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**DECLARATION OF COVENANTS,
CONDITIONS & RESTRICTIONS**

039011

PROVIDENCE DOWNS SUBDIVISION

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS made this the 14th day of May, 1999, by LOUISE C. HEMPHILL-NOLAN and WILLIAM J. NOLAN, III hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of the real property shown on maps of PROVIDENCE DOWNS SUBDIVISION which maps are recorded in Plat Cabinet F, Files 408 and 409 in the Union County Registry, which property is more particularly described in Section I of Article II hereof, and desires to create thereon an exclusive residential community of single-family homes to be named PROVIDENCE DOWNS SUBDIVISION, PHASE I; and

WHEREAS, Declarant desires to insure the attractiveness of the subdivision and to prevent any future impairment thereof, to prevent nuisances, to preserve, protect, and enhance the values and amenities of all properties within the subdivision and to this end desires to subject the real property shown upon the aforesaid map together with such additions as may hereafter be made thereto to the covenants, conditions, restrictions, easements, charges and liens hereafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Declarant has incorporated under North Carolina law PROVIDENCE DOWNS SUBDIVISION HOMEOWNERS ASSOCIATION, INC. as a non-profit corporation for the purpose of exercising and performing the aforesaid functions.

NOW, THEREFORE, Declarant, by this Declaration of Covenants, Conditions and Restrictions, does declare that all of the property shown on the aforesaid map of PROVIDENCE DOWNS SUBDIVISION and such additions thereto as may be hereafter made, pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, conditions and restrictions, easements, charges and liens set forth in this Declaration which shall run with the real property and be binding on all parties owning any right, title, or interest in said real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I
DEFINITIONS**

Section 1. "Homeowners Association" (or "Association") shall mean and refer to PROVIDENCE DOWNS SUBDIVISION HOMEOWNERS ASSOCIATION, INC., a North Carolina non-profit corporation, its successors and assigns.

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

Section 3. "Properties" shall mean and refer to the "Initial Property" described in Article II, Section 1, hereof, and any additions thereto as are or shall become subject to this Declaration and brought within the jurisdiction of the Homeowners Association under the provisions of Article II hereof.

Section 4. "Lot" shall mean and refer to any numbered plot of land, with delineated boundary lines, appearing on any recorded subdivision map of the Properties.

GRIFFIN, CALDWELL,
HELDER, LEE,
NELMS & HUFF, P.A.
ATTORNEYS AT LAW
MONROE, NC

Section 5. "Declarant" shall mean and refer to Louise C. Hemphill- Nolan and William J. Nolan, III shall also mean and refer to any such successor in title to Louise C. Hemphill-Nolan.

Section 6. "Member" shall mean and refer to every person or entity who holds membership in the Homeowners Association.

Section 7. "Board of Directors" shall mean and refer to an initial five member board which shall be appointed by the Declarant and later elected by the Association, as further defined in The Bylaws of the Homeowners Association which shall include a President, Vice President, Treasurer and Secretary among the five board members, vested with the responsibility of managing and/or directing the management of the Association.

ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION AND
WITHIN THE JURISDICTION OF
PROVIDENCE DOWNS, PHASE I, SUBDIVISION HOMEOWNERS ASSOCIATION
ADDITIONS THERETO

Section 1. The Initial Properties are described as follows:
BEING all of that real property as shown on map recorded in Plat Cabinet F, Files 408 and 409 in the Union County Public Registry.

Section 2. Additions to Initial Property. Additional land may be brought within the scheme of this Declaration and the jurisdiction of the Homeowners Association in the following manner:

(a) Additional land adjacent to said land and acquired by the Declarant or his successor may be annexed to the initial property by Declarant in future stages of development, without the consent of the Owners, the Homeowners Association or its Members.

(b) The additions authorized under Subsection (a) above shall be made by filing of record Supplementary Declaration of Covenants, Conditions, and Restrictions with respect to the additional properties which shall extend the scheme of this Declaration and the jurisdiction of the Homeowners Association to such properties and thereby subject such additions to the benefits, agreements, restrictions, and obligations set forth herein, including, but not limited to, assessments as herein determined to pay for the Homeowners Association's expenses. Notwithstanding the above, Declarant reserves the right to vary the use of restrictions contained in Article VIII so long as the changes are more restrictive and not less restrictive than set forth herein.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS

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

Section 2. The voting rights of the membership shall be appurtenant to the ownership of the Lots. There shall be two classes of Lots with respect to voting rights and membership in the Homeowners Association.

(a) Class A Lots.

Class A Lots shall be all Lots except Class B Lots as the same are hereinafter defined. Each Class A Lot shall entitle the Owner(s) of said Lot one (1) vote. When more than one person owns an interest (other than a leasehold or a security interest) in any Lot, all such persons shall be Members and the voting rights appurtenant to said Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any one Class A Lot.

(b) Class B Lots.

Class B Lots shall be all Lots owned by Declarant or Successor Declarant which have not been converted to Class A Lots as provided in (a) above. The Declarant shall be entitled to five (5) votes for each Class B Lot owned by it.

Section 3. In the event that the Member owner of any residence ceases to occupy that residence as his own personal living quarters or in the event that any property within the development is leased for rental purposes to tenants, the votes of those member owners, if voted in a block, shall not be entitled to any weight greater than forty-nine percent (49%) on any matter pending before the Homeowners Association.

ARTICLE IV PROPERTY RIGHTS

Section 1. Member's Easement of Enjoyment. Every owner shall have a right of membership in the Homeowners Association, subject to the following:

- (a) The right of the Homeowners Association to charge reasonable membership fees.
- (b) The right of the Homeowners Association to suspend the voting rights of a Member for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

Section 2. Amenities. "Amenities" shall include a swimming pool, two tennis courts, basketball court and walking trail located within the Common Area. These Amenities shall be owned and maintained by the Homeowner's Association. Amenities shall also be available for use to Jake C Helder and heirs or assigns of his taking title to portions of property from which Providence Downs is formed. Any persons using the Amenities under this provision shall be subject to standard dues, by-laws and regulations.

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

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

(c) Guests. Recreational facilities situated upon the Properties may be utilized by guests or Members, tenants, or contract purchasers subject to the rules and regulations of the Homeowners Association, as may be established by its Board of Directors, governing said use.

ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENT, EXCEPTIONS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants with each Owner of any other Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Homeowners Association: (1) monthly or yearly assessments or charges and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. Any such assessment or charge, shall be a continuing lien upon the property again with each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees shall also be the personal obligation of the Member who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title, personally, unless expressly assumed by them, however, the lien for same shall remain upon the Property.

Section 2. Purposes of Assessments. The assessments levied by the Homeowners Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties.

Section 3. Minimum Annual Assessment. Until January 1, 1999, there shall be no assessment. Thereafter, the minimum annual assessment shall be \$595.00 per Class A Lot and \$100.00 per Class B Lot. Assessments shall be prorated on a calendar year basis and payable on the date of assessment.

(a) From and after January 1, 1999, the annual assessment above established may be increased, effective January 1 of each year, without a vote of the membership, but subject to the limitation that any such increase shall not exceed ten per cent (10%).

(b) The annual assessments may be increased without limitation, if such increase is approved by Members entitled to no less than sixty percent (60%) of the votes (appurtenant to each voting class of lots) represented in person or by proxy at a meeting duly called for this purpose.

(c) The ratio of the assessment established for each Class A Lot to the assessment established for each Class B Lot shall always be three (3) to one (1).

Section 4. Assessment Rate. Both regular annual and special assessments must be fixed at a uniform rate for all Lots within each class and may be collected on monthly basis, quarterly or annual basis as determined by the Board of Directors.

Section 5. Notice and Quorum for Any Action Authorized Under Section 3. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of the votes appurtenant to each Class of Lots (Class A and Class B) shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than six (6) days following the preceding meeting.

Section 6. Date of Commencement of Annual Assessment; Due Dates; Certificate of Payment. The annual assessments provided for herein shall commence as to all Lots subject to assessment on the first day of January, 1999.

Section 7. Effect of Nonpayment of Assessments; Remedies of the Homeowners Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eight percent (8%) per annum or the maximum interest rate permitted to be legally charged upon money judgments under the laws of the State of North Carolina at the time of such delinquency, whichever is greater. In addition to such interest charge, the delinquent Member shall also pay such late charge as may have been therefore established by the Board of Directors of the Homeowners Association to defray the costs of late payment. The Homeowners Association may bring an action at law against the Member personally obligated to pay the same or foreclose the lien against the property, and interest, late payment fee, costs, and reasonable attorney's fees of such action or foreclosure shall be added to the amount of such assessment. No member may waive or otherwise escape liability for the assessments provided for herein by non-use of the privileges or abandonment of his Lot.

Section 8. Subordination of the Lien to Mortgages. The liens provided for herein shall be subordinated to the lien of and first mortgage, mortgages, first deed of trust, or deeds of trust on a Lot. Sale or transfer of any Lot which is subject to any mortgage or deed of trust, pursuant to the foreclosure thereof or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to the payment thereof which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof but the liens provided for herein shall continue to be subordinate to the lien of any mortgage, mortgages, deed of trust, or deeds of trust.

ARTICLE VI ARCHITECTURAL AND LANDSCAPING CONTROL

Section 1. General. Notwithstanding anything contained in this Declaration to the contrary, no Improvements including without limitation, site preparation on any Lot, change in grade or slope of any Lot, or erection of buildings or exterior additions or alterations to any building situated upon the Property, erection of or changes or additions in flags (other than the United States official flag), yard ornamentation, fences, hedges, walls and other structures, any landscaping, or any cutting of trees of any Lot or Tract, shall be commenced, erected or maintained on any portion of the Property, until: (a) the Architectural Control Committee (herein called the "Architectural Control Committee"), appointed as hereinafter provided, has approved the plans and specifications therefore and the location of such Improvements and has given its written approval for commencement of construction; (b) the fees set forth in Article VI have been paid; and (c) the agreements set forth in this Article VI have been executed. In addition to any standards established pursuant to this Declaration, Declarant may

establish, by Additional Declarations, architectural and landscaping control standards, guidelines and restrictions in regard to various Phases or sections of the Property. The provisions of this Article VI shall not apply to the construction of any Improvements commenced, erected or maintained by Declarant or any Lot.

The Board may delegate to the Architectural Control Committee any powers of authority reserved or granted to the Board under this Article VI.

Section 2. Composition of Architectural Control Committee. So long as Declarant owns any Lot, the members of the Architectural Control Committee shall be appointed by Declarant. At such time as Declarant no longer owns any Lot, Tract or other portion of the Property or at such earlier date as Declarant releases its right to appoint the members of the Architectural Control Committee, the members of the Architectural Control Committee shall thereafter be appointed by the Board. The members of the Architectural Control Committee shall be appointed annually and will be composed of at least three (3) and not more than seven (7) individuals, the exact number of members of the Architectural Control Committee to be designated from time to time by the body then having the authority to appoint such members (Declarant or the Board, as the case may be). The members of the Architectural Control Committee need not be Owners of property in the Project. In the event of the death or resignation of any member of the Architectural Control Committee, the body then having the authority to appoint members to the Architectural control Committee shall have full authority to designate and appoint a successor. Members of the Architectural Control Committee may be removed and replaced at any time, without cause, and without prior notice, by the body then having the authority to appoint such members. Notwithstanding anything contained herein to the contrary, the Architectural Control Committee shall have the right, power and authority to employ and/or use the services of any architects, engineers or other professionals as it deems necessary or advisable, in its sole discretion, to carry out the duties and obligations of the Architectural control Committee as described in this Article VI.

Section 3. Architectural And Landscape Guidelines. (a) The Architectural Control Committee shall, from time to time, publish and promulgate architectural and design guidelines. Such architectural and design guidelines shall be explanatory and illustrative of the general intent of the development of the Property and are intended as a guide to assist the Architectural Control Committee in reviewing plans and specifications for Improvements. Such architectural and design guidelines shall also set out, among other things the procedures for submission, review and approval of plans and specifications to the Architectural Control Committee, as more specifically described in Section 9 hereof. In any event, such architectural and design guidelines shall not be binding upon the Architectural control Committee, may be revised and amended at any time by the Architectural Control Committee, in its sole discretion, and shall not constitute, in every event, the basis for approval or disapproval of plans, specifications, and other materials submitted to the Architectural Control Committee for approval.

(b) The Architectural Control Committee shall promulgate and amend from time to time landscape guidelines which shall establish approved standards, methods and procedures for landscaping, landscape management and landscape maintenance in the Property, including the removal of trees. Such authorized standards, methods and procedures shall be utilized by Owners, and their contractors and sub-contractors and the approval by the Architectural Control Committee of any landscaping plan or other Improvement in connection with landscaping on a Lot shall be based upon the conformity of such plan or Improvement with such landscape guidelines. In any event, such landscape guidelines shall not be binding upon the Architectural Control Committee, in its sole discretion, and shall not constitute, in every event, the basis for approval or disapproval of landscaping plans, specifications and other materials submitted to the Architectural Control Committee for approval.

(c) The Architectural Control Committee is also hereby authorized to publish and promulgate from time to time, and revise and amend at any time in its sole discretion, construction rules to be followed by all Owners and builders performing work or construction Improvements on the Property.

(d) The architectural and design guidelines described in (a) above, the landscape guidelines described in (b) above and the construction rules described in (c) above shall herein collectively be referred to as the "Architectural and Landscape Guidelines". The Architectural Control Committee may publish and promulgate different Architectural and Landscape Guidelines for different Phases, sections or portions of the Property.

Section 4. Definitions of "Improvements". The term "Improvement" or "Improvements" shall mean and include any and all man-made changes or additions to a Lot, including but not limited to the location, materials, size and design of all buildings (including any exterior devices attached to or

separate from buildings, such as heating and air conditioning equipment, solar heating devices, antennae, etc.), storage sheds or areas, roofed structures, parking areas, fences, "invisible" pet fencing, pet "runs", lines and similar tethers or enclosures, walls, landscaping (including cutting of trees), hedges, mass plantings, poles, driveways, ponds, lakes, changes in grade or slope, site preparation, swimming pools, hot tubs, statues or statuary, Jacuzzis, tennis courts, tree houses, basketball goals, skateboard ramps, and other sports or play apparatus, signs, exterior illumination and changes in any exterior color or shape. The definition of Improvements includes both original improvements and all later changes to Improvements. The definition of Improvements, however, does not include the replacement or repair which does not change exterior colors, materials, designs or appearances from that which were previously approved by the Architectural Control Committee.

Section 5. Enforcements. It is Declarant's intent that the architectural control provisions of this Declaration and any Additional Declarations are to permit control of the architectural design and landscaping and to establish quality standards for construction and construction activity in the Project and to help preserve values of properties in the Project. All owners by purchasing property subject to this Declaration acknowledge that a violation of such provisions could result in irreparable harm and damage to Owners of property in the Project and Declarant, and to the values of their properties, a monetary measure of which harm and damage would be difficult to establish. Accordingly, the Association shall have the specific right (but no obligation) to enforce and/or to prevent any violation of the provisions contained in this Article VI by a proceeding at law or in equity against the person or persons violating or attempting to violate any such provisions. Declarant hereby specifically grants unto the Architectural Control Committee of the Board and any agent or member thereof, the right of entry and inspection upon any portion of the Property for the purpose of determination by the Architectural Control Committee of the Board whether there exists any construction of any Improvement which violates the terms of any approval by the Architectural Control Committee, the terms of the Architectural Control Committee, the terms of the Architectural and Landscape Guidelines, the terms of this Declaration or any Additional Declaration, or any amendments hereto or thereto.

(b) As to non-conforming or unapproved Improvements, the Association may require any Owner to restore such Owner's Improvements to the condition existing prior to the construction thereof (including, without limitation, the demolition and removal of any unapproved Improvement) if such Improvements were commenced or constructed in violation of this Article VI. In addition, the Association may, but has no obligation to cause such restoration, demolition and removal to be done and performed and to levy the amount of the cost thereof to be done and performed as a Special Individual Assessment against the Lot, upon which such Improvements were commenced or constructed. In the event that it becomes necessary to resort to litigation to determine the propriety of any constructed improvements, to remove any unapproved Improvements or otherwise to remedy a violation of the Architectural and Landscape Guidelines, the Association shall be entitled to the recovery of court costs, attorneys' fees and expenses incurred by the Association and/or the Architectural Control Committee in connection therewith, which costs, fees and expenses may be levied as a Special Individual Assessment against the Lot, tract or other portion of the Property upon which such Improvement was commenced or constructed.

Section 6. Action by the Architectural Control Committee. The Architectural Control Committee or its designated agent shall have 15 days after physical receipt of the Plans to accept or reject the same in whole or in part. If no response by the Architectural Control Committee has been made in writing within said 15 days, the Lot Owner or his builder shall notify the Architectural Control Committee c/o the managing partner of the Declarant by certified mail at address for such notices set forth in the current edition of the Architectural Guidelines for the Subdivision that no response has been made to the plans submission and that the Architectural Control Committee has 15 days left to make such response or the plans will be automatically approved as submitted. Thereafter, if not approval is given within 15 days after such notice is given the Architectural Control Committee, the Plans shall be deemed to be approved as submitted. After the Plans are approved and after the Architectural Control Committee gives written permission for construction to begin, the actual construction shall be commenced and completed in accordance with the approved Plans, together with the requirements of the Declaration. The actual construction shall be the responsibility of the Owner of the Lot and his builder. Any permission granted for construction under this covenant shall not constitute or be construed as approval by the Declarant or the Architectural Control Committee or its designated agent of the structural stability, design or quality or any building or other improvement. The architectural control approval as provided herein shall remain in the Declarant, or its successors and assigns.

If plans and specifications or other submittals are not sufficiently complete or are otherwise inadequate, the Architectural Control Committee may reject them as being inadequate or may approve or disapprove part, conditionally or unconditionally, and reject the balance. The Architectural Control Committee is authorized to request the submission of samples of proposed construction materials.

Section 7. Variances. Upon submission of a written request for same, the Architectural Control Committee may, from time to time, in its sole discretion, permit Owners to construct, erect or install Improvements which are at variance with restrictions, requirements or provisions of this Declaration or any Supplemental Declaration from which a variance is permitted, pursuant to the terms hereof or thereof. In any case, however, such variances shall be in basic conformity with and shall blend effectively with the general architectural style and design of the community and shall not materially change the scheme of restrictions herein set forth. Written requests for variances shall be deemed to be disapproved in the event the Architectural Control Committee has not expressly and in writing, approved such request within thirty (30) business days of the submission of such request. No member of the Architectural Control Committee shall be liable to any Owner for any claims, causes of action, or damages arising out of the grant or denial of any variance to any Owner. Each request for a variance submitted hereunder shall be reviewed separately and apart from other such requests and the grant of a variance to any Owner shall not constitute a waiver of the Architectural Control Committee's right to strictly enforce the covenants, restrictions and architectural standards provided hereunder or under any Additional Declaration, against any other Owner.

Section 8. Fees Required by Architectural Control Committee. The Architectural Control Committee, in its sole discretion, may require that each Person submitting plans and specifications for Improvements to the Architectural Control Committee pay one or more fees to the Architectural Control Committee or to Declarant as a condition to commencement or construction of such Improvements. Such fee(s), including the amount(s), payee and purpose(s) thereof, shall be established and set forth in the Architectural and Landscape Guidelines and based on actual costs in time of the Agricultural Control Committee and any Consultants required by the Committee. The initial fee for previous review shall be \$100.00.

Section 9. Approved Builders. The Architectural Control Committee may require, in its sole discretion, that each Owner submitting plans and specifications for improvements to the Architectural Control Committee shall submit a contract with a builder who is approved by the Board of the Architectural Control Committee, in their sole discretion (hereinafter, the "Approved Builder") as a condition to commencement of construction of any Improvements. The Architectural Control Committee shall provide a list of Approved Builders in accordance with the provisions of the Architectural and Landscape Guidelines.

Section 10. No Construction Without Payment of Fees and Use of an Approved Builder. Notwithstanding anything contained in this Article VI to the contrary, plans and specifications for Improvements to be constructed on a Lot, Tract or other portion of the Property shall not be deemed to have been properly submitted unless and until any and all fees required by the Architectural Control Committee to be paid in connection with such Improvements, as provided in Section 9 above, shall have been paid to the Architectural Control Committee or Declarant as required. In addition, such plans and specifications shall not be deemed to have been properly submitted unless a contract with an Approved Builder for construction of such Improvements (if required by the Architectural Control Committee), as provided in Section 10 above, shall have been submitted to the Architectural Control Committee.

Section 11. Notices and Submittals. Notices and submittals to the Architectural Control Committee shall be in accordance with the notice provisions set forth from time to time in the Architectural and Landscape Guidelines.

Section 12. Limitation of Liability. No member of the Architectural Control Committee shall be liable for claims, causes of action or damages (except where occasioned by willful misconduct of such member) arising out of services performed pursuant to this Article VI. Neither the Architectural Control Committee, nor the members thereof, nor the Association, nor any Association, not Declarant, nor any officers, directors, members, employees, agents or affiliates of any of them, shall be liable in damages or otherwise to anyone submitting plans and specifications and other submittals for approval or to any Owner by reason or mistake of judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any plans or specifications. Every person who submits plans or specifications, and every Owner, agrees that he will not bring any action or suit against Declarant, the Association, any Association, the Architectural Control Committee, the Board, or the officers, directors, members, employees, agents or affiliates of

any of them, to recover any such damages and hereby release, demises and quit claims 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. Declarant shall be the sole party responsible for the performance of Declarant's obligations under this Declaration, and no other person, firm or entity, including, without limitation, any entity affiliated with Declarant, shall have any obligation or liability for Declarant's obligations under this Declaration.

Section 13. Miscellaneous. Members of the Architectural Control Committee, in the sole discretion of the body appointing such Members (Declarant or the Board, as the case may be) may be compensated for their services. The Association shall reimburse members of the Architectural Control Committee for reasonable out-of-pocket expenses associated with their activities hereunder. All costs, expenses and attorneys' fees of the Architectural Control Committee including those incurred in connection with their enforcement or other powers as provided herein, shall be borne by the Association; provided however, that nothing herein shall be deemed to negate the Association's right to an award of court costs, attorneys' fees and expenses in accordance with Section 5 hereof.

ARTICLE VII USE RESTRICTIONS AS TO ALL LOTS

Section 1. Land Use. All lots in the tract shall be known and described as residential lots. No structure shall be erected, altered, placed or permitted to remain on any residential building plot other than a single-family dwelling not to exceed two and one-half stories in height, exclusive of basement, and a private garage for each unit for not less than two cars and other accessory structures incidental to the use of the Lot. All garages will be accessed by a concrete drive, asphalt drive or other decorative type of material approved by the Architectural Control Committee to a contiguous street. All garages shall be accessed either from the side line or rear line of each lot, provided, Declarant reserves the right to approve front entrance to garages under unusual circumstances.

Section 2. Building Lines. No building shall be located nearer to the front or side lines than the building setback lines shown on the recorded plat, if such lines are shown. In any event, no building shall be placed nearer to the front, side or rear setback lines as required by the Union County Zoning Ordinance. Except as otherwise provided in this Declaration, the Lots shall be used for residential purposes only, and no structure shall be erected, placed, altered or permitted to remain on any lot other than one detached, single-family dwelling, together with outbuildings customarily incidental to the residential use of the lot, except that Declarant reserves the exclusive right to construct a roadway over any Lot owned by it in order to grant access to other property required by Declarant and in such cases, the remainder of any such lot not used for the roadway shall still be subject to this Declaration.

The Architectural Review Committee shall approve the proposed location of all improvements (ie: house location and position) on any lots for the purpose of giving full consideration to the overall appearance of the Subdivision. Specific house location must be approved by the Architectural Control Committee taking into consideration topography site conditions and other pertinent data.

Unintentional violations not exceeding ten percent (10%) of the minimum building line requirements herein set forth shall not be considered a violation of this Section unless such violation also violates the Zoning Ordinance of the respective County.

Section 3. Subdivision of Lots. More than one (1) Lot as shown on said plats or parts thereof, may be combined to form one (1) or more Lots by or with the written consent of Declarant, or its successors or assigns, and in such event the building line requirements prescribed herein shall apply to such Lots, as combined. No Lot may be subdivided by sale or otherwise, except Declarant, its successors and assigns, reserves the right to subdivide any Lot which it owns. Upon combination or subdivision of Lots, the easements reserved herein shall be applicable to the rear, side and front lot lines of such Lot as combined or subdivided.

Section 4. Temporary Structures. No structures of a temporary nature shall be erected or allowed to remain on any Lot unless and until permission for the same has been granted to the Homeowners Association, or its designated agent or representative. This Section shall not be applicable to temporary construction trailers, sales offices, and materials storage facilities used during construction.

Section 5. New Construction. Construction of new residential buildings only shall be permitted, it being the intent of this covenant to prohibit the moving of any existing building or portion thereof on a Lot and remodeling or converting the same into a dwelling unit in this subdivision excepting however Declarant's mobile offices provided for hereinbelow. Any dwelling constructed upon a lot must be completed within one (1) year subsequent to commencement of construction, except with the written consent of Declarant, its successors or assigns.

Section 6. Square Footage Requirements. No residential structure shall contain less than 3,200 square feet of heated floor space, exclusive of garages and carports; provided, however, that if approved by the Architectural Control Committee, such residence may contain 3,200 square feet under roof.

Section 7. Clothes Drying. No drying or airing of any clothing or bedding shall be permitted outdoors on any Lot or in any other unenclosed area (including patios) within the Properties.

Section 8. Nuisances. It shall be the responsibility of each Owner and Occupant of a Lot to prevent the development of any unclean, unhealthy, or unkempt condition on his or her property. No Lot within the Properties shall be used, in whole or in part, for the deposit, storage or burial of any property or thing that will cause such property 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 upon any Lot, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Owner or Occupant using any property in the subdivision. There shall not be maintained on any Lot or Tract any plants or animals or device or thing of any sort whose activity or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the subdivision. 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, shall be located, installed or maintained upon the exterior of any Lot or Tract unless required by law.

Section 9. Temporary Residence. No trailer, basement, tent, shack, garage, barn, or other outbuilding erected on the tract shall be at any time used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

Section 10. Satellite Dish Antennas. No satellite dish antenna shall be erected, installed, or in any way placed on any Lot in excess of 20" in diameter. Any such antenna shall only be maintained so as not to be visible from the front street.

Section 11. Harmony of Structures. No structure shall be constructed or moved onto any Lot unless it shall conform to and be in harmony with existing structures in the tract, and approved as provided hereinbefore Article VI.

Section 12. Signs. No sign of any kind shall be displayed to the public view on any Lot except one (1) professional sign of not more than one (1) square foot; one (1) sign of not more than five (5) square feet, advertising the property for sale or rent; or one (1) sign not more than four (4) feet by eight (8) feet used by a builder to advertise the property during the construction and initial sales period.

Section 13. Animals. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats, or other customary household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose, do not exceed three (3) in number, and are confined to the property or kept on a leash.

Section 14. Trash Disposal. Except for stump burial pits located with the prior approval of the Committee, no lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or waste and same shall not be kept except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 15. Fences. No fences shall be erected on any Lot nearer to any street line than the rear corner of the residence, nor shall any fence be erected except in accordance with the Architectural Control provisions of Article VI hereof. No fence of greater height than six (6) feet will be allowed in the subdivision except on the perimeter of the Subdivision as approved by provisions provided within Article VI. Fences shall be constructed only of brick, wrought iron or other material approved by the Agricultural Control Committee.

Section 16. Sight Line Limitations. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight-line limitations shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight line.

Section 17. Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, 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 on any Lot or Tract other than in enclosed garages.

Section 18. Diligent Construction. All construction, landscaping or other work which has been commenced on any Lot or Tract must be continued with reasonable diligence to completion and no partially completed houses or other improvements shall be permitted to exist on any Lot or Tract, except during such reasonable time period as is necessary for completion. All construction must be completed within one (1) year after the date upon which it commenced, unless a longer time is approved by the Architectural Control Committee. Any damage to the streets, curbs, or sidewalks or any part of any Common Area, Maintenance Area or any utility system caused by an Owner or Owner's Builder or his subcontractors shall be repaired by such responsible Owner. Any builder of Improvements and his Subcontractors on any portion of the Property shall keep such portion of the Property free of unsightly construction debris, in accordance with the construction rules established by the Architectural Control Committee (of, in the absence of such rules, in accordance with standard construction practices), and shall similarly keep contiguous public and private areas free from any dirt, mud, garbage, trash, or other debris which is occasioned by construction of Improvements. The Board may levy a Special Individual Assessment against an Owner's property in the Properties to pay for the cost of repairing any damage to streets, curbs, or sidewalks or any part of any roadway or utility system, to pay for the cost of cleaning public and private areas, including the roadways in the Properties, and to pay for the cost of the removal of garbage, trash or other debris, which are occasioned by the activities of an Owner or Owner's builder or his subcontractors during the construction of Improvements.

Section 19. Parking.

(a) No vehicles, trucks, vans, cars, trailers, construction equipment, etc. may be parked overnight on any street within the Property.

(b) Commercial-use vehicles, and trucks not involved with construction activity on the Property and with carrying capacity and/or size designation greater than or equal to three-fourths (3/4th) ton, shall be permitted to park overnight on the streets, driveways or otherwise in the Property, unless stored in an enclosed garage of a regular passenger car size. No vehicle of any size which transports inflammatory or explosive cargo may be kept in the Property at any time. No vehicles that are not in a condition to be normally operated or that do not have a current registration tag may be stored or situated on any Lot for more than thirty (30) days unless stored in an enclosed garage.

(c) The owner of each Lot will be responsible for providing on each Lot sufficient paved parking area for all vehicles normally parked and/or situated on or in regard to such Lot.

(d) No recreational vehicles or related equipment, including any boat, houseboat, trailer, motor home, or "camper" vehicle may be maintained, stored or kept on any portion of the Property, except in enclosed garages or in an enclosure specifically approved for such maintenance or storage by the Architectural Control Committee.

(e) All vehicles must be parked so as not to impede traffic or damage vegetation.

(f) No construction office trailers may be placed, erected or allowed to remain on any Lots during construction, except as approved in writing by the Architectural Control Committee. Provided, however, that nothing herein shall prohibit Declarant from erecting or moving temporary buildings onto Lots owned by Declarant to be used as construction or sales offices. Other construction vehicles (trucks, vans, cars, construction equipment, equipment trailers, etc.) may be left overnight on the Property (including any Lot or street) only in accordance with such rules as may be established by the Architectural Control Committee.

Section 20. Mailboxes. Mailboxes shall be of standardized design as approved by the Architectural Control Committee.

Section 21. Unrestricted Property. It is distinctly understood and agreed that nothing contained in this Article shall be taken and construed as imposing any Conditions or Restrictions upon any remaining land of the Declarant not initially covered by these Declarations or specifically covered by any Supplemental Declarations filed with the respective offices of the Register of Deeds of Union County.

ARTICLE VIII EASEMENTS

Section 1. Easements for the installation and maintenance of driveway, walkway, parking area, water line, gas line, telephone, electric power line, sanitary sewer and storm drainage facilities and for other utility installations are reserved twenty feet in width along all side lines and rear lines. The center line of said twenty foot easement being the division line between contiguous lots. Along rear lines that don't abut another lot in this subdivision the easement shall be twenty feet in width and join the front and rear lot line. The Homeowners Association may reserve and grant easements for the installation and maintenance of sewerage, utility, and drainage facilities over the Properties as provided in Article IV, Section 1 (c) of this instrument. Within any such easements above provided for, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation of sewerage disposal facilities and utilities, or which may change the direction of flow or drainage channels in the easements.

Section 2. Street Access. Vehicular access to the subdivision streets shall be restricted to the frontage of each lot unless otherwise approved by the Architectural Review Committee. No easement shall be granted allowing vehicular access to subdivision streets from outside the boundaries of the Property subject to this Declaration provided the right is hereby reserved to Declarant and subsequently the Declarant may grant such easements between subdivision streets and property outside the property subject to the Declarations without the consent of the Homeowners Association or any lot owners. The reservation of this right shall not be considered prohibited by the restriction of lots to residential purposes as set forth in Article VII, Section 1 hereof.

ARTICLE IX MAINTENANCE BY OWNERS

Section 1. Duty of Maintenance. Except for those portions, if any, of a Lot which the Association or an Association may elect to maintain or repair hereunder or under any applicable Supplemental Declaration, the Owner of any Lot shall have the duty and responsibility, at such Owner's sole cost and expense to keep the Lot(s) owned by such Owner, including Improvements thereon and ground and drainage easements or other rights of way incident thereto, in compliance with the covenants, conditions, restrictions and development standards contained in this Declaration (to the extent applicable), and in any applicable Supplemental Declaration, in accordance with the provisions of the Architectural and Landscape Guidelines, and in a well-maintained, safe, clean and attractive condition at all times. Such maintenance, as to unimproved and improved Lots, shall include, but shall not be limited to, the following:

- (1) Prompt removal of all litter, trash, refuse and waste;

(2) Keeping land, including any lawns and shrub beds, well maintained and free to trash, uncut grass and weeds;

(3) Keeping all sediment resulting from land disturbance or construction confined to the respective Owner's property; and

(4) Complying with all governmental health and police requirements.

In addition, such maintenance, as to improved Lots, shall include, but shall not be limited to the following:

(1) Lawn mowing on a regular basis;

(2) Tree and shrub pruning;

(3) Watering by means of a lawn sprinkler system and/or hand watering as needed;

(4) Keeping exterior lighting and mechanical facilities in working order;

(5) Keeping lawn and garden areas alive;

(6) Removing and replacing any dead plant material;

(7) Maintenance of natural areas and landscaping in accordance with the Architectural and Landscape Guidelines;

(8) Keeping parking areas and driveways in good repair;

(9) Repainting of Improvements; and

(10) Repair of damage and deterioration to Improvements, it being understood and agreed that if any Improvements are damaged or destroyed by fire or other casualty, then within six (6) months following the date such damage or destruction occurs, the Owner of the Lot or Tract on which such improvements are situated, must repair and restore such damaged Improvements (in accordance with plans and specifications approved by the Architectural Control Committee and otherwise in accordance with the terms and provisions of this Declaration and of each Additional Declaration applicable thereto) or remove such damaged Improvements and restore the Lot to its condition existing prior to the construction of such Improvements.

Notwithstanding anything contained herein to the contrary, the above-described maintenance responsibilities as to any Lot shall commence upon a Plat showing such Lot being recorded in the Office of the Register of Deeds of Union County and upon the conveyance of such Lot by Declarant.

Section 2. Enforcement. If an Owner of any Lot has failed in any of the duties or responsibilities of such Owner as set forth in this Article IX, then the Board, and Declarant, jointly and severally, may give such Owner written notice of such failure and such Owner must within ten (10) days after reviewing such notice (which notice shall be deemed to have been received upon deposit in an official depository of the United States mail, addressed to the party to whom it is intended to be delivered, and sent by certified mail, return receipt requested), perform the care and maintenance required or otherwise perform the duties and responsibilities of such Owner as described in this Article IX. Provided, however, that this cure period shall be extended for a time not to exceed sixty (60) days so long as Owner shall have commenced to cure such nonconformity and shall diligently prosecute the same. Should any such Owner fail to fulfill this duty and responsibility within such period, then the Association, acting through its authorized agent or agents, or Declarant, (so long as it owns any portion of the Property), acting through its authorized agent or agents, jointly or severally, shall have the right and power to enter onto the premises of such Owner and perform such care and maintenance without any liability for damages for wrongful entry, trespass or otherwise to any Person. The Owner of the Lot on which such work is performed shall be liable for the cost of such work, together with interest on the amounts expended by the Association or Declarant in performing such work computed at the highest lawful rate as shall be permitted by law from the date(s) such amounts are expended until repayment to the Association or Declarant, as the case may be, and for all costs and expenses incurred in seeking the compliances of such Owner with his duties and responsibilities hereunder, and such Owner shall reimburse the Association or Declarant, as the case may be, on demand for such costs and

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expenses (including interest as above provided). If such Owner shall fail to reimburse the Association or Declarant, as the case may be, within thirty (30) days after the mailing to such Owner of a statement for such costs and expenses then, without limitation of any other rights of the Association or Declarant, the Association may impose a Special Individual Assessment against such Owner.

ARTICLE XI GENERAL PROVISIONS

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

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

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by the Owners of not less than ninety per cent (90%) of the Lots and by the Declarant, so long as the Declarant still owns any Lots, and thereafter by an instrument signed by the Owners of not less than seventy-five (75%) percent of the Lots. For the purpose of this section, additions to initial property, as provided for in Article II, Section 2 hereof, shall not be deemed an "Amendment".

IN WITNESS WHEREOF, the undersigned, Louise C. Hemphill, Declarant, by virtue of the provisions of Article I, Section 6, of the aforesaid Declaration of Covenants, Conditions and Restrictions, has caused this instrument to be executed the day and year first above written.

DECLARANT:

William J. Nolan, III (SEAL)
WILLIAM J. NOLAN, III
Louise C. Hemphill Nolan (SEAL)
LOUISE C. HEMPHILL NOLAN

STATE OF NORTH CAROLINA
COUNTY OF UNION

I, Leslie G. Helms, a Notary Public, do hereby certify that Louise C. Hemphill-Nolan and William J. Nolan, III personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and notarial seal, this 2nd day of June, 1999.

Leslie G. Helms
NOTARY PUBLIC

My Commission Expires: May 8, 2001



GRIFFIN CALDWELL,
DEEDS CLERK
HELMES & HUTAFA, P.A.
ATTORNEYS AT LAW
MONROE, N.C.

NOTARY PUBLIC, UNION COUNTY
The foregoing instrument is certified
to be correct. Filed for record this 2 day
of June, 1999 at 5:51 P.M.

JUDY G. PRICE, REGISTER OF DEEDS
BY: Judy G. Price