

(25) years from the date of recordation of these restrictions pertaining to said subdivision, and after that time these restrictions shall be extended automatically for successive periods of twenty-five (25) years unless an instrument signed by at least the percentage of owners in the Property as is required under N.C.G.S. §47F (North Carolina Planned Community Act) (the "Act") has been recorded agreeing to change said restrictions in whole or in part. So long as Declarant is the owner of any lot in the subdivision, Declarant may change or modify these restrictions in whole or in part by written instrument duly recorded.

16. Violations. If any person, persons, or entity owning property situated in the said subdivision shall violate or attempt to violate any of the restrictive covenants contained herein, it shall be lawful (i) for any other person, persons, or entity owning property situated in said subdivision (including, without limitation, the Association) to prosecute any proceedings at law or in equity against the person, persons, or entity violating or attempting to violate any such covenant either to prevent the violation thereof or to recover damages therefore or both and (ii) for the Association to assess fines pursuant to the Act for the duration of the violations after notice and opportunity for hearing.

17. Compliance. In the event that the Owner of any Lot fails to comply with any of the restrictions set forth herein or the rules and regulations subsequently promulgated by the Declarant, the Declarant shall have the right, but not the obligation, to enter any Lot and undertake any necessary action in order to cure such Owner's default. All expenses and costs incurred by the Declarant, including attorneys' fees, in curing such default shall be charged to the defaulting Owner and shall be payable by such Owner to the Declarant immediately upon demand. Furthermore, said default shall constitute a personal obligation of the Owner of the Lot, and also a continuing lien upon the Lot.

18. Severability. Invalidation of any one of these restrictive covenants by Judgment, Court Order, or Statute shall not affect any of the other provisions hereof, which shall remain in full force and effect.

19. Homeowners' Association. Developer has established the Association as a North Carolina non-profit corporation as the homeowner's association for the Property. Developer has conveyed or will convey to the Association by deed recorded in the Iredell County Public Registry the common areas within the Property as depicted on the Plat (together herein, "Common Areas"). In the future, Developer may, but is not obligated to, develop additional common areas and amenities for the use of lot owners and will likewise convey any such additional Common Areas, if any, to the Association. The Association shall be responsible for, among other things, establishing a budget for the Common Areas (referred to as "common elements" in the Act) for expenses for maintenance, repairs, taxes, insurance and the like; assessing and collecting periodic assessments ("Assessments") and special assessments from all Owner's of a lot or lots in the Property for such Common Areas' expenses; maintaining, insuring, repairing the Common Areas; and remitting payment for the Common Areas' expenses to vendors of products and services for the benefit of the Common Areas or Property. Each Owner of the Property

shall be, by virtue of the acceptance of a deed to one or more lots in the Property, (i) a member of the Association for the duration of such Owner's ownership of one or more lots in the Property, and no longer and (ii) obligated to abide by these covenants, conditions and restrictions and to pay when due the periodic assessments levied by the Association. All of the Owners together, if more than one person, of a particular lot in the Property shall constitute one member of the Association. Each lot in the Property is hereby allocated the following: (1) one vote to be exercised by its Owner(s) in meetings and for proxies and other voting and (2) a pro rata share (the numerator of which is 1 and denominator of which is the total number of lots on the Plat) of the Common Areas expenses assessed by the Association. The rights and obligations of Developer, the Association and the Owners of lots in the Property as regards Common Areas, the Association and assessments for Common Areas expenses shall be governed by the Act as the same shall exist from time to time. Included in the rights of the Association is the right to a lien in accordance with the Act for unpaid and past due assessments upon the lot of any Owner who has not paid the assessments for such lot which lien may be foreclosed by the sale of the Lot subject to such lien. In addition to the foregoing activities, the Association may, (1) upon relinquishment or assignment by Developer of Developer's rights with regard thereto, (A) act as the architectural control committee for all matters under the purview of such committee or Developer herein and (B) take any other action or have any other control or authority regarding such matters as are permitted under the Act for an "Association" to do or have, and (2) take any action that an "Association" is permitted to take under the Act. Included in the rights and powers of the Association by way of example and not limitation, the Association shall have the right to assess fines and to suspend the use of Common Areas for violations of the provisions of this Declaration and to assess late fees for past due assessments as permitted in the Act. Developer shall control the Association as permitted a "Declarant" under the Act until the latest time permitted under the Act unless Developer shall earlier voluntarily cede or assign such control and authority in a writing signed by Developer and the Association and recorded in the County land records as referred to in the Act. Thereafter, the Association shall be controlled by the lot owners as set forth in the Act and the Bylaws for the Association.

20. Lot for Pool and Playground Amenities designated. Lot 67 of CASTLE GATE, as depicted on a plat of survey recorded in Plat Book 54, Pages 98 - 100 in the Iredell County Public Registry (the "Pool Lot") shall be used only for and restricted to use as a pool and playground amenity area. The Pool Lot shall be used for a swimming pool and playground, and other amenities customary to this use. The Association shall be responsible for the maintenance of the Pool Lot upon the same conditions as all other Common Areas and subject to the provisions of Paragraph 15. The Association shall charge an annual membership fee in the amount of Two Hundred and No/100 Dollars (\$200.00) per Owner for the use of the Pool Lot. Neither Declarant, nor the Association, nor the officers, directors, members, employees, agents or affiliates of any of them, shall have any liability arising directly or indirectly out of the construction and maintenance of the pool and playground amenities described herein. Declarant hereby reserves a non-exclusive perpetual easement over all property within the Pool Lot for the purposes of facilitating the construction and maintenance of the Pool Lot.

21. Sewage Disposal.

A. Every dwelling unit erected on any Lot shall be served by an approved septic system for the disposal of sewage or connected to a private or public sewage disposal system ("Septic System"). All septic systems or other private sewage disposal systems shall be approved by and constructed and maintained in accordance with all the regulations and requirements of all governmental authorities and regulatory agencies having jurisdiction. All Owners, by purchasing property subject to this Declaration, acknowledge that any governmental permit or approval allowing for the construction and operation of a septic system or other private sewage disposal system may be limited in duration in accordance with the terms thereof and neither Declarant, nor the Association, nor the officers, directors, members, employees, agents or affiliates of any of them, shall have any liability arising directly or indirectly out of the inability of an Owner to obtain any such permit or approval following the initial expiration thereof.

B. Each Lot Owner shall maintain, in accordance with all rules, regulations and requirements, all portions of any septic system or other sewage disposal system located on such Lot: (i) in an orderly condition, clean and free from debris, including any upkeep, repair, removal and replacement of any Improvements located thereon and (ii) in a good operating condition in compliance with any requirements imposed by the Declarant, the Association, or any governmental authority. If any septic system or other sewage disposal system located on a Lot is not maintained by the applicable Lot Owner as set forth herein, the Declarant or the Association, in its sole discretion, may enter such Lot to perform such maintenance and may levy a Special Individual Assessment upon the Lot Owner for the purpose of maintaining, repairing or replacing the Septic System or other sewage disposal system serving such Lot. In addition to the foregoing, the Association (or its designee) shall have the right to enter any Lot from time to time for purpose of inspecting and/or maintaining any septic system or other sewage disposal system and may levy Special Septic inspection Assessments to pay for any costs incurred in connection with any such maintenance, as more particularly described herein. In this regard, each Owner of a Lot (other than Declarant) 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 Association (in addition to other assessments provided for herein) Special Individual Assessments as levied in the discretion of the Association. Any such assessment or charge together with interest costs and reasonable attorneys' fees shall be a charge and a continuing lien upon the Lot against which each such assessment, or charge is made. Each such assessment or charge, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot effective at the time when the assessment fell due.

C. Declarant hereby reserves unto itself, its successors and assigns, and grants to the Association, a non-exclusive easement burdening each Lot for the

purpose of connecting any residence(s) upon such Lot(s) to any public or private sewer line providing service accessible to such Lot, including access across such Lot and the right to install any pipes and apparatus as may be necessary to connect any such residences to such sewer line. By reserving said Easement, Declarant has not obligated itself, its successors or assigns, or the Association, to connect any public or private sewer line to the above-described Lots.

22. Septic System Inspection and Septic Inspection and Repair Easement.

A. The Association shall cause all private Septic Systems located within the Property to be inspected no less than every six (6) months. Such inspections shall be conducted in order to confirm that each such system is properly functioning and is generally in compliance with any applicable law, ordinances or governmental regulations. If an inspection reveals that a Septic System is not functioning properly, or is otherwise not in compliance with any applicable law, ordinance or regulations, the inspector shall notify the Owner, the Association and any other party or agency as required by law. The Owner shall be responsible for immediately repairing the Septic System at such Owner's sole cost and expense and providing the Association, within thirty (30) days, with proof of such repair. The Association shall be authorized to notify any applicable governmental or regulatory agencies or officials of the malfunctioning or noncompliance of any Septic System located within the Property.

B. The foregoing notwithstanding, neither Declarant, the Association, nor its directors, officers, agents or employees shall be responsible for damages or otherwise to anyone by reason of mistake of judgment, omission, negligence or nonfeasance arising out of the inspection services performed pursuant to this Declaration including, without limitation, any damages to any Lot or property by reason of the failure to inspect or the failure of such inspections to detect any malfunction, damage or noncompliance with law.

C. Declarant hereby reserves a non-exclusive perpetual easement over all property within the Property for the purposes of conducting the Septic System inspections and repairing and/or replacing the Septic System if an Owner fails to repair or replace the Septic System within thirty (30) days of notification by the Association. The Board of Directors of the Association shall have the right to levy a Special Individual Assessment against such Lot Owner pursuant to the Act to recover the costs and expenses incurred by the Association in maintaining, repairing or replacing the Lot Owner's Septic System.

23. Encroachment Agreement with the North Carolina Department of Transportation. Prior to the acceptance of the subdivision roads for public maintenance, the North Carolina Department of Transportation will require all Lot Owners to execute an encroachment agreement to allow the Association, Declarant and/or a Lot Owner to have the right to construct, install, excavate, dig, build, maintain, operate, remove and reinstall

septic lines, pipes and related equipment and apparatus within and upon the road rights-of-way adjacent to the Lots. Upon the request of the Association or Declarant, each Lot Owner, by acceptance of a deed of a Lot in the Property, agrees to execute any such Encroachment Agreement required by the North Carolina Department of Transportation or other governmental entity. In the event a Lot Owner does not execute the requested encroachment agreement, the North Carolina Department of Transportation will not accept the Roadways for dedication and will not maintain the Roadways as public roads.

24. Dedicated Open Space. The Plat depicts dedicated open space labeled as "Common Area" as required by Iredell County. Iredell County shall have no liability for such dedicated open space, however, and it shall be the responsibility of the Association to maintain the dedicated open space and to insure the same with liability and/or hazard insurance as deemed prudent by the Association.

25. Roadways. The roadways have been dedicated to the public as shown on the subdivision plat and will be maintained by the Association until such time as the Department of Transportation accepts them for state maintenance. Declarant contemplates all public rights of way will be turned over to the North Carolina Department of Transportation at which time the State of North Carolina will be responsible for maintenance of the roads. All roads in the Subdivision are hereby declared public. The maintenance of all roads in this Subdivision shall be the responsibility of the Lot Owners, and it shall be his/her/their responsibility to bring the roads up to the standards of the North Carolina Department of Transportation Secondary Roads Council before any public street or roads on the recorded plat are added into the North Carolina State Maintained Road System. Areas within the unsurfaced portions of the right of way, including the road shoulders and ditches shall, at all times, be the responsibility of the abutting property Owner(s) prior to and following acceptance into the North Carolina Department of Transportation.

26. Architectural Control.

A. Declarant hereby reserves the right to full architectural control and approval or disapproval of improvements to be constructed within the Subdivision. Prior to commencing construction upon any lot or any part of the land within the Subdivision, a lot owner shall submit to Declarant two full sets of plans and specifications for the proposed improvements to be constructed. In addition, the lot owner shall submit with the plans and specifications a \$400.00 refundable construction deposit payable to Declarant to insure that no damage is done during construction to the roadway, entryway, common areas or septic easement and other utility easement areas depicted on the New Plat and to further insure that such roadway and other areas are kept in good, clean and useable condition during the construction of the improvements. Such deposit shall be refunded to the lot owner upon issuance of a certificate of occupancy or completion of landscape installation whichever is later, for the new improvements less, however, the cost of any needed repairs or cleaning, in Declarant's discretion, to the roadway or other areas

mentioned herein. Declarant shall approve or disapprove any plans and specifications submitted to Declarant within 30 days after Declarant has received two full sets of plans and specifications. Declarant shall not be considered to have received a full and proper submission of plans and specifications however, until Declarant has received such additional materials or information as Declarant shall request of the lot owner. If Declarant shall not IN WRITING, have approved or disapproved or conditionally approved or disapproved a lot owner's submission of plans and specifications within 30 days after full and complete submission, then such plans and specifications shall be deemed approved. A conditional approval or conditional disapproval shall be deemed a disapproval of the plans and specifications as submitted requiring submission of new plans and specifications by the lot owner or submission of at least those items specified with particularity by Declarant after which new or additional submission. Declarant shall have an additional 30-day period to approve or disapprove the amended or additional plans and specifications. Such new or additional submission shall be deemed approved if not approved or disapproved (or conditionally approved or disapproved) by Declarant IN WRITING within such additional 30-day period. Declarant shall have the right through access to the courts (the costs of which shall be charged to the lot owner) to enjoin any lot owner from beginning or continuing or completing construction of any and all improvements which are or would be (if allowed to continue) in violation of this section and, to the extent permitted by the Act, to establish fines against the lot owner, to remove unapproved improvements and charge the lot owner with the costs of such removal and, after due demand upon the lot owner for collective action, to construct, correct, reconstruct, modify or complete any improvements which are or would otherwise be in violation of this section and to charge the lot owner for such corrective action.

B. In addition to the foregoing, landscaping plans must be provided by a lot owner to Declarant prior to the certificate of occupancy being issued for any improvements on such lot and prior to the installation of any landscaping improvements on the lot. Each lot shall have at least one landscaped "island" consisting of not less than two (2) trees of a minimum caliper of two-inches and at least eight (8) three-gallon perennials, or the equivalent thereof. Each house must be accented at the front right and left corners of the house with at least one (1) four-foot (minimum) Nellie Stevens holly. Each lot shall have in the front yard a minimum two-inch caliper tree within 50 feet of the centerline of the roadway every 50 feet across the front of the lot; this requirement may be satisfied from trees existing in the natural landscape. Declarant shall have 5 business days to approve or disapprove IN WRITING any landscaping plans submitted or else such plans shall be deemed approved. To the extent allowed by the Act. Declarant shall have the same rights of enjoinder of and enforcement for violations of these landscaping requirements as are set forth above regarding other improvements.

IN WITNESS WHEREOF, Developer has caused this instrument to be executed as of the day and year first above written.

PHOENIX RISING DEVELOPMENT, LLC
a North Carolina limited liability company

By: [Signature]
JOEL H. PATTERSON, III, Manager of PHOENIX RISING DEVELOPMENT, LLC

By: [Signature]
VIRGLE RAY SHORT, JR., Manager of PHOENIX RISING DEVELOPMENT, LLC

[Signature] County, North Carolina

BARBARA A. BOYLE
NOTARY PUBLIC
Iredell County
North Carolina

I, a Notary Public of the State and County aforesaid, do hereby certify that **Joel H. Patterson, III, Manager of PHOENIX RISING DEVELOPMENT, LLC**, a North Carolina limited liability company personally came before me this day and acknowledged the execution of the foregoing instrument being authorized to do so on behalf of the corporation by authority duly given. Witness my hand and official stamp or seal, this the 11th day of August, 2008.

[Signature]
Notary Public
My Commission Expires: 2-11-2009

[Signature] County, North Carolina

BARBARA A. BOYLE
NOTARY PUBLIC
Iredell County
North Carolina

I, a Notary Public of the State and County aforesaid, do hereby certify that **Virgle Ray Short, Jr., Manager of PHOENIX RISING DEVELOPMENT, LLC**, a North Carolina limited liability company personally came before me this day and acknowledged the execution of the foregoing instrument being authorized to do so on behalf of the corporation by authority duly given. Witness my hand and official stamp or seal, this the 11th day of August, 2008.

[Signature]
Notary Public
My Commission Expires: 2-11-2009