

002032

FILED FOR REGISTRATION  
March 15, 2005 3:30 p.m.  
DATE TIME  
AND RECORDED IN BOOK 598 PAGE 325  
M. BRENT SHOAF, REGISTER OF DEEDS  
DAVIE COUNTY, NC  
BY Cynthia C. Whitaker  
Deputy

Drafted by: B. Jeffrey Wood, Attorney at Law (Box 35)  
ROBERTSON & ISENHOUR PROPERTIES  
3411 HEAVY DR.  
W-S N.C. 27103 SRA.

DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
TURNBERRY AT BOXWOOD VILLAGE

THIS DECLARATION is made on the date hereinafter set forth by ROBERTSON & ISENHOUR PROPERTIES, INC., a North Carolina corporation having an office in Davie County, North Carolina (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Davie, State of North Carolina, which is more particularly described as follows:

All of the land shown on the plat entitled TURNBERRY AT BOXWOOD VILLAGE recorded in Plat Book 8, Page 145, in the Office of the Register of Deeds of Davie County, North Carolina.

WHEREAS, it is the intent of the Declarant hereby to cause the above-described property to be subjected to this Declaration of Covenants, Conditions, and Restrictions.

NOW, THEREFORE, Declarant hereby declares that all of the property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and

conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, such real property and be binding on all parties having any right, title or interest in described properties or any part thereof, their heirs, successors and assigns, and shall insure to the benefit of each owner thereof.

ARTICLE I  
DEFINITIONS

SECTION 1. "Additional Property" shall mean and refer to the property located adjacent to the Properties. For the purpose of determining whether property is adjacent to the Properties, the rights-of-way of public roads and utilities, as well as rivers and streams, shall be deemed not to separate otherwise adjacent property.

SECTION 2. "Appropriate Local Governmental Authority" shall mean and refer to the Town of Mocksville or other appropriate local governmental authority having jurisdiction over the Properties.

SECTION 3. "Association" shall mean and refer to TURNBERRY AT BOXWOOD VILLAGE OWNERS ASSOCIATION, INC. its successors and assigns.

SECTION 4. "Common Elements" or Common Area" shall mean all real property owned by the Association (whether owned in fee or by way of license or easement) or leased by the Association, other than a Lot. The Common Elements to be owned by the Association at the time of the conveyance of title of the first Lot is described as follows:

All of the land designated "Common Elements" as shown on the plat entitled TURNBERRY AT BOXWOOD VILLAGE and recorded in Plat Book 8, Page 145, in the Office of the Register of Deeds of Davie County, North Carolina, and any amendments thereto.

Declarant reserves the right, in its sole discretion, to convey or cause to be conveyed to the Association from time to time and without the consent of the Association or its Members, additional

property, which property may include any portion of the Properties, including any Additional Property annexed by Declarant pursuant to Article XII, Section 4, hereof. The Association shall accept any such conveyance of property and thereafter such property shall be held and maintained by the Association as Common Elements. Improvements, which may include without limitation roadways, sidewalks, landscaped areas, retention or detention ponds, or erosion control devices, may be located on such additional Common Elements. Declarant does not contemplate the construction of any recreational improvements or amenities within the Common Elements (i.e., swimming pool, tennis courts, clubhouse, etc.). Except as otherwise provided in Section 47F-3-113 of the Planned Community Act, the Association shall be required to promptly repair and replace any portion of the Common Elements which is damaged or destroyed, for which the Association is required to maintain casualty insurance pursuant to the Bylaws of the Association.

The Association also may acquire additional Common Elements with the consent of the Members of the Association entitled to cast at least sixty-seven percent (67%) of the votes of each class of Members of the Association, who are voting, in person or by proxy, at any meeting duly called for such purpose, provided however, during Declarant's Development Period, Declarant's consent and approval must be obtained in writing. For such a conveyance to be effective, the deed or instrument conveying to the Association additional Common Elements must: (1) be executed on behalf of the Association by its duly authorized officers; (2) contain an attestation by the officers executing the instrument on behalf of the Association that the requisite owner and Declarant approval has been obtained and is evidenced by written acknowledgments signed by the owners approving the amendment and, if required, Declarant; and that such acknowledgments are made a part of the minute book of the Association; and (3) be properly recorded in the Davie County Registry.

SECTION 5. "Limited Common Elements" or "Limited Common Area" shall mean and refer to all real property owned by the Association, whether owned in fee, by license, or by easement, or leased by the Association, other than a Lot, and shall be Common Area which shall be specifically designated to the adjacent Lot(s), and which shall in all respects be the same as Common Elements or Common Area, except that the adjoining Lot Owner(s)

shall have exclusive use of said Element or Area subject to the rights of the Association, as with Common Elements or Common Area.

SECTION 6. "Member" shall mean and refer to every person or entity who holds Membership with voting rights in the Association.

SECTION 7. "Declarant" shall mean and refer to ROBERTSON & ISENHOUR PROPERTIES, INC., its successors and assigns, if such successors and assigns should acquire all rights, title and interest in the Property then owned by it, and to whom ROBERTSON & ISENHOUR PROPERTIES, INC. shall expressly transfer, and assign all of its rights, title and interest under this Declaration, or any amendment or modification thereof.

SECTION 8. "Declarant's Development Period" shall mean and refer to a period of time commencing on the date this Declaration is recorded in the Office of the Register of Deeds of Davie County, North Carolina, and continuing for so long as Declarant or its successors or assigns shall own a Lot within the Property, including without limitation, the period the Declarant shall have the right to annex Additional Properties pursuant to the provisions of Article XII Section 4 hereof, or as long as the Declarant or any affiliate of the Declarant shall own any portion of the Properties.

SECTION 9. "Declaration" shall mean and refer to this Declaration, as amended from time to time.

SECTION 10. "FHA" shall mean and refer to the Federal Housing Administration of the Department of Housing and Urban Development.

SECTION 11. "Lot" shall mean and refer to any separately numbered plat of land shown upon any now or subsequently recorded subdivision plat of the Properties intended for residential villa purposes and shall include any improvements constructed thereon, and "Lots" shall refer to all such lots collectively. Declarant hereby reserves the right to reconfigure, from time to time and without the consent of the Owners or the Members of the Association, the boundaries of any Lot or Lots owned by Declarant and to thereby create additional Lots, eliminate existing Lots or

create additional Common Element; provided, however, in no event shall the Properties contain a greater number of Lots than the number from time to time permitted by the Appropriate Local Governmental Authority, nor shall any Lot within the Properties contain fewer square feet than the minimum number of square feet from time to time required by the Appropriate Local Governmental Authority. If Declarant elects to exercise its right to revise the boundaries of one or more Lots owned by Declarant, Declarant shall record a revised plat of the affected Lot or Lots. Upon recording by Declarant of such revised plat, each lot shown on the previously recorded plat or plats, the boundaries of which are revised by the revised plat, shall cease to be a "Lot" as defined in this Declaration, and each newly configured lot shown on the revised plat shall be a "Lot" as defined in this Declaration.

SECTION 12. "Master Association" shall mean and refer to Boxwood Village Master Association, Inc., a North Carolina non-profit corporation formed for the purposes set forth in the Master Declaration, including without limitation the purpose of maintaining, preserving and administering the "Master Association Common Elements," as hereinafter defined.

SECTION 13. "Master Association Common Elements" shall mean and refer to all real property owned by the Master Association for the Common use and enjoyment of the members of the Master Association as more fully described in the Master Declaration, as amended from time to time.

SECTION 14. "Master Declaration" shall mean and refer to The Master Declaration of Covenants, Conditions and Restrictions of Boxwood Village recorded in Book 442, Page 574, and re-recorded in Book 522, page 499, in the Office of the Register of Deeds, Davie County, North Carolina, as amended from time to time.

SECTION 15. "Member" shall mean and refer to every person or entity that holds Membership with voting rights in the Association.

SECTION 16. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, as

hereinafter defined but excluding tenants and those having such interest merely as security for the performance of an obligation.

SECTION 17 "Period of Declarant Control" shall mean and refer to the period of time commencing on the date this Declaration is recorded in the Office of the Register of Deeds of Davie County, North Carolina, and continuing until the earlier of: (i) ten years from the date this Declaration is recorded in the Office of the Register of Deeds of Davie County, North Carolina; or (ii) such time as seventy-five percent (75%) of the lots shown on the plat recorded in Book 8, Page 145, Davie County Registry (herein "Turnberry Phase One Plan") have been conveyed by Declarant, a successor declarant or an affiliate of Declarant, to an Owner other than Declarant, a successor declarant or an affiliate of Declarant; provided however, if after the expiration of such period of time, the Turnberry Phase One Plan is amended to add additional lots and fewer than seventy-five percent (75%) of the lots shown on the Turnberry Phase One Plan have been conveyed by Declarant, a successor declarant or an affiliate of Declarant to an Owner other than Declarant, a successor declarant or an affiliate of Declarant, such period of time shall be reinstated and shall continue until the earlier of (i) ten years from the date this Declaration is recorded in the Office of the Register of Deeds of Davie County, North Carolina; or (ii) such time as seventy-five percent (75%) of the lots shown on the Turnberry Phase One Plan have been conveyed by Declarant, a successor declarant or an affiliate of Declarant to an owner other than Declarant, a successor declarant or an affiliate of Declarant, provided however, anything else to the contrary notwithstanding the Period of Declarant Control shall continue until all of the villas are constructed and "as built" plats filed as required by the Local Governmental Authorities.

SECTION 18. "Planned Community Act" shall mean and refer to the provisions of Chapter 47F of the General Statutes of North Carolina.

SECTION 19. "Properties" shall mean and refer to all of the property described in Plat Book 8, Page 145, Davie County Registry and property hereafter made subject to the terms, covenants and conditions of this Declaration, as amended from time to time.

SECTION 20. "VA" shall mean and refer to the Department of Veterans Affairs.

SECTION 21. "Turnberry Phase One Plan" shall mean and refer to the plat captioned Turnberry at Boxwood Village recorded in Plat Book 8, Page 145, Davie County Registry, and shall include all of the separate forms of construction set forth thereon, specifically referencing Townhomes and Patio Homes.

ARTICLE II  
PROPERTY RIGHTS

SECTION 1. EXISTING COVENANTS. The Master Declaration of Covenants and Restrictions of Boxwood Village recorded in Book 442, page 574, and re-recorded in Book 522, page 499, Davie County Registry are incorporated herein by reference; however, in the event of any conflict, the provisions set forth in the Master Declaration are to control.

SECTION 2. RULES AND REGULATIONS. The Executive Board of the Association may establish reasonable rules and regulations concerning the use of the Common Elements and improvements located thereon from time to time. The Association may impose reasonable monetary fines and other sanctions for the violation of established rules and regulations and for the violation of any of the covenants contained in this Declaration, which monetary fines and sanctions shall be assessed and collected pursuant to the provisions of Articles IV and XI hereof. Copies of such rules and regulations and the amendments thereto shall be furnished by the Association to all owners upon request. All such rules and regulations shall be binding upon the owners, their families, tenants, guests, invitees and agents until and unless such regulation, rule or requirement shall be specifically overruled, canceled or modified by the members of the Executive Board of the Association entitled to cast at least two thirds (2/3) of the votes of the Executive Board of Directors, who are voting, in person or by proxy, at a meeting duly called for such purpose; provided however, during any Period of Declarant Control, Declarant must also consent to such action

SECTION 3. OWNERS EASEMENTS OF ENJOYMENT. Every Owner shall have a right and easement of enjoyment in and to the Common Elements, which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

a. the easements herein reserved by Declarant or created in favor of the Association, the Master Association, and its Members, including without limitation the easements set forth in Article VII hereof; the right of the Association to permit the use of and to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Elements;

b. the right of the Association to suspend the voting right by the Owner(s) of any Lot for a period during which any assessment against such Lot remains unpaid and for any period during which such Lot or any Owner or occupant thereof is in violation of the terms of this Declaration or the published rules and regulations of the Association and for a period not to exceed sixty (60) days after any such violation;

c. the right of the Association to dedicate or transfer non-exclusive easements on, over and upon all or any part of the Common Elements for such purposes and subject to such conditions as may be agreed to by the Association's Executive Board; provided however, no such dedication or transfer shall be effective unless an instrument executed on behalf of the Association by its duly authorized officers, agreeing to such dedication or transfer, has been recorded;

d. the right of the Association, pursuant to Section 47F-3-112 of the Planned Community Act and with the consent of the Members entitled to cast at least eighty percent (80%) of the votes of each class of Member of the Association, to dedicate or transfer fee title to all or any part of the Common Elements for such purposes and subject to such conditions as may be agreed to by the Members consenting to such dedication or transfer; provided however, during Declarant's Development Period, Declarant must also consent to such action and, further provided that no such dedication or transfer shall interfere with or obstruct utility service to, or ingress, egress and regress to or from, the Lots or any remaining Common Elements or cause any



lot or any remaining Common Elements to fail to comply with applicable laws, regulations or ordinances;

e. the right of the Association to impose rules and regulations for the use and enjoyment of the Common Elements and improvements thereon, which regulations may further restrict the use of the Common Elements, and specifically including the right to make permanent and temporary assignments of parking spaces and to establish rules and regulations concerning parking and vehicular traffic flow on and along the streets and roadways, whether public or private, within or abutting the Properties which rules and regulations may restrict or prohibit on-street parking and may be enforced by towing at the expense of the vehicle's owner, by reasonable fine levied against the vehicle's owner and/or any Owner of a Lot to which such violation reasonably may be attributed, or by any other reasonable method of enforcement established by the Association's Executive Board;

f. the right of the Association to borrow money for the purpose of improving the Common Elements and facilities thereon and, with the assent of Members entitled to cast at least eighty percent (80%) of the votes of each class of Members of the Association, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred (any such mortgage shall be effective if it is executed on behalf of the Association by its duly authorized officers and recited that the requisite consent of Members has been obtained and documented in the Minute Book of the Association); provided however, during Declarant's Development Period, Declarant must also consent to such action, and further provided that no such mortgage, encumbrance or hypothecation or foreclosure of the lien thereby created shall interfere with or obstruct utility service to, or ingress, egress and regress to or from, the Lots or any remaining Common Elements or cause any Lot or any remaining Common Elements to fail to comply with applicable laws, regulations or ordinances.

g. the right of the Association to convey to Declarant or the Master Association portions of the Common Elements for the purpose of correcting erroneous conveyances of Common Elements or eliminating unintentional encroachment of dwellings or other improvements onto portions of the Common Elements or for the purpose of enhancing the utility of the Common Elements to be

retained by the Association; provided however, no such conveyance shall interfere with or obstruct utility service to, or ingress, egress and regress to or from, the Lots or any remaining Common Elements or cause any Lot or any remaining Common Elements to fail to comply with applicable laws, regulations or ordinances.

SECTION 4. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment of the Common Elements and facilities to the members of his family, his tenants or contract purchasers who reside on the Lot of such Owner.

SECTION 5. LEASES OF LOTS. Any Lease Agreement between an Owner and a lessee for the lease of such Owner's Lot shall provide that the terms of the Lease shall be subject in all respects to the provisions of this Declaration of Covenants, Conditions and Restrictions, the Articles of Incorporation and Bylaws of the Association, and that any failure by the lessee to comply with the terms of such document shall be a default under the terms of the lease. All leases of Lots shall be in writing and shall have a term of not less than one (1) month. Other than the foregoing, there is no restriction on the right of any Owner to lease his Lot.

SECTION 6. PROPERTY RIGHTS PURSUANT TO MASTER DECLARATION. As more particularly set forth in the Master Declaration and the governing documents of the Master Association, each Lot Owner, shall have the right to use and enjoy the Master Association Common Elements and any improvements now or hereafter located thereon subject to the terms and conditions of the Master Declaration.

#### ARTICLE III MEMBERSHIP AND VOTING RIGHTS

SECTION 1. MEMBERSHIP. Every person or entity who or which is a record owner of a fee simple undivided fee interest in any Lot including Declarant and any affiliated entity shall be a voting Member of the Association. The foregoing is not intended to include persons or entities that hold an interest in a Lot merely as security interest for the performance of an obligation. Such Membership shall be appurtenant to and may not be separated from ownership of any Lot that is subject to assessment by the

Association. Except as otherwise provided in Section 2 below, on all matters which the Membership shall be entitled to vote, the Member(s) owning each Lot shall be entitled to one (1) vote per Lot. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

SECTION 2. DECLARANT RIGHT TO REPRESENTATION ON THE EXECUTIVE BOARD OF THE ASSOCIATION. During any Period of Declarant Control, Declarant shall have the right to designate and select all of the Members of the Board of the Association. Whenever Declarant shall be entitled to designate and select any person or persons to serve on any Board of the Association. The manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or Bylaws of the Association, and Declarant shall have the right to remove any person or persons selected by it to act and serve on said Board and to replace such person or persons with another person or other persons to act and serve in the place of any member or members of the Board so removed. Any Board member designated and selected by Declarant need not be a resident of the Properties. Except as otherwise provided in the Bylaws with respect to the filing of vacancies, any members of the Board which Declarant is not entitled to designate or select shall be elected by the Members of the Association.

#### ARTICLE IV COVENANT FOR MAINTENANCE AND ASSESSMENTS

SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner for any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay: (a) to the Association and Master Association: (i) annual dues, other assessments and charges of the Association and annual dues, other assessments and charges of the Master Association provided for herein, together with interest, and late fees, costs and reasonable attorneys' fees; (ii) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided; and (b) to the appropriate governmental taxing authority: (i) ad valorem taxes levied against the Common

Elements; and (ii) assessments for public improvements to or for the benefit of the Common Elements if the Association shall default in the payment of either or both for a period of six (6) months. All assessments and charges provided for herein, together with interest, and late fees, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made when a claim of lien is filed of record in the Office of the Clerk of Superior Court of Davie County, North Carolina. Each such assessment and charge, together with interest, any late fees, costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such property at the time when the assessment fell due. The personal obligation for subsequent assessments shall not pass to his successors in title unless expressly assumed by them.

## SECTION 2. PURPOSE OF ASSESSMENTS

(a) The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties and in particular for the acquisition, improvement and maintenance of the Properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Elements or the Lots, including without limitation the costs of repairs, replacements and additions; the costs of labor, equipment, materials, management and supervision; the payment of any taxes assessed against the Common Elements; the maintenance of open spaces and streets within the Common Elements which have not been accepted for dedication by a public authority; roadway medians and islands (including medians and islands located in dedicated rights-of-ways with the Properties), drives, and parking areas within the Common Elements; the procurement and maintenance of insurance in accordance with the Bylaws; the maintenance of dams and ponds, including retention and detention ponds, or other bodies of water, if any, located within the Common Elements; the erection, maintenance and repair of signs, entranceways, landscaping and lighting within the Common Elements; the erection, maintenance and repair of signs, entranceways, irrigation systems, landscaping and lighting within the Common Elements, road medians and islands; the cost of operating, maintaining and repairing any street lights erected by the Association or the Declarant in the rights-of-way of streets (whether public or private), or in any other easement provided therefore within the Properties; the

payment of charges for garbage collection and municipal water and sewer services furnished to the Common Elements; the employment of attorneys and other agents to represent the Association when necessary; the provision of adequate reserves for the replacement of capital improvements including without limiting the generality of the foregoing, any other major expense for which the Association is responsible; and such other needs as may arise.

(b) The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Lots, Common Elements and those other portions of the Properties which the Association may be obligated to maintain. Such reserve fund is to be established out of regular assessments for Common expense.

(c) All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association as the payment of any expense of operating and managing the Properties, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation, and the Bylaws of the Association. As monies for any assessments are paid to the Association by any Owner, the same may be commingled with monies paid to the Association by the other Owners. Although all funds and common surplus, including other assets of the Association, and any increment thereto or profits derived therefrom shall be held for the benefit of the Members of the Association, no Member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his Membership interest therein, except as an appurtenance to his Lot. When any Owner shall cease to be a Member of the Association by reason of his divestment of ownership of his Lot, by whatsoever means, the Association shall not be required to account to such Owner for any share of the fund or assets of the Association, or which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Properties.

SECTION 3. ADOPTION OF BUDGET AND FIXING OF ANNUAL ASSESSMENTS; MAXIMUM ANNUAL ASSESSMENT.

(a) At least thirty (30) days in advance of each annual assessment period, the Executive Board shall establish an annual budget and fix the amount of the annual assessments for the following year. The annual budget shall specify the annual assessment for each dwelling type in Turnberry at Boxwood Village and identify the basis upon which the annual assessment was established. Within thirty (30) days of the adoption of any proposed budget, the Executive Board shall provide to all of the Owners a summary of the budget and a notice of the meeting to consider ratification of the budget, including a statement that the budget may be ratified without a quorum. The Executive 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 sixty (60) days after mailing the summary and notice. There shall be no requirement that a quorum be present at the meeting. The budget shall be ratified unless, at that meeting, the Owners of a majority of the Lots reject the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the Owners shall be considered to remain in effect until such time as the Owners ratify a subsequent budget proposed by the Executive Board.

(b) Until December 31 of the year of the conveyance of the first Lot to an Owner, the maximum annual assessment (exclusive of assessments which may be levied by the Master Association) will be collected annually as follows: (1) Townhome - \$934.00; (2) Patio Home - \$1,087.00. The Maximum annual assessment for the calendar year immediately following the year in which conveyance of the first Lot to an Owner is made and for each calendar year thereafter shall be established by the Executive Board and may be increased by the Executive Board without approval of the Membership by an amount not to exceed twenty-five percent (25%) of the maximum annual assessment of the previous year. The maximum annual assessment for the calendar year immediately following the year in which conveyance of the first Lot to an Owner is made and for each calendar year thereafter may be increased without limit by a vote of the members entitled to cast at least two thirds (2/3) of the votes of each class of Members of the Association who are voting, in person or by proxy, at a meeting duly called for this purpose; provided however, during any Period of Declarant Control, Declarant must also consent to such action.

(c) The Executive Board may fix the annual assessment at an amount not in excess of the maximum, subject to the provision of Section 6 of this Article.

SECTION 4. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS. In addition to the annual assessments authorized above, the Association may levy, in any calendar year, a special assessment for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Elements, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of the Members entitled to cast at least two thirds (2/3) of the votes of the Members of the Association who are voting, in person or by proxy, at a meeting duly called for this purpose; provided however, during the Declarant's Development Period, Declarant must also consent to such action. All special assessments may be collected on a monthly, quarterly or annual basis and shall be fixed at a uniform ratio for all Lots in a specific classification of dwelling type, with the Assessment established being different for each classification as the Association may deem necessary and proper.

SECTION 5. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 3 AND 4 OF THIS ARTICLE. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 of this Article shall be sent to all Members no less than fifteen (15) 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 twenty percent (20%) of all of the votes of each class of Members of the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and said required quorum at the subsequent meeting shall be waived so that Members present or representatives with proxies may conduct business. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

SECTION 6. RATE OF ANNUAL ASSESSMENT. Both annual and special assessments may be collected on a monthly, quarterly, or annual basis and shall be fixed at a uniform ratio for all Lots in a specific classification of dwelling type, with the Assessment established being different for each classification as

the Association may deem necessary and proper; provided however, that so long as the dwelling on any Lot owned by Declarant or any affiliated entity is unoccupied as a residence, the amount of the assessment for each such Lot shall be an amount equal to twenty-five percent (25%) of the regular assessments fixed for each Lot.

SECTION 7. DATE AND COMMENCEMENT OF ANNUAL ASSESSMENTS; DUE DATES. The annual assessments provided for herein shall commence as to a Lot on the first day of the month following the date such Lot is made subject to this Declaration. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The due dates shall be established by the Executive Board. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

SECTION 8. EFFECT OF NON-PAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a rate from time to time established by the Association not to exceed eighteen percent (18%) per annum. In addition, the Association may charge a reasonable late fee, the amount of which shall be established from time to time by the Executive Board of the Association, for assessments not paid within thirty (30) days after the due date, and after notice and an opportunity to be heard, the Association may suspend privileges or services provided by the Association (except rights of access to Lots during any period that assessments or other amounts due or owing to the Association remain unpaid for a period of thirty (30) days or longer, which suspension may continue without further hearing until the delinquency is cured. The Association may bring an action at law against the property in the same manner as prescribed by the laws of the State of North Carolina for the foreclosure of a mortgage or deed of trust on real estate under the power of sale, and interest, any late fees, costs and reasonable attorneys' fees for representation of the Association in such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the Common Elements or abandonment of his Lot, nor shall damage to or destruction of any improvement on any Lot by fire or other casualty result in any abatement or diminution of the assessments provided for herein.



SECTION 9. EFFECT OF DEFAULT IN PAYMENT OF AD VALOREM TAXES OR ASSESSMENTS FOR PUBLIC IMPROVEMENT BY ASSOCIATION. Upon default by the Association in the payment to the governmental authority entitled thereto of any ad valorem taxes levied against the Common Elements or assessments for public improvements to the Common Elements, which default shall continue for a period of six (6) months, each Owner of a Lot in the development shall become personally obligated to pay to the taxing or assessing governmental authority a portion of such unpaid taxes or assessments in an amount determined by dividing the total taxes and/or assessments due the governmental authority by the total number of Lots in the development. If such sum is not paid by the Owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the Lot of the then Owner, his heirs, devices, personal representatives and assigns, and the taxing or assessing governmental authority may either bring an action at law or elect to foreclose the lien against the Lot of the Owner.

SECTION 10. SUBORDINATION OF THE LIEN FOR ASSESSMENTS TO THE LIEN OF FIRST MORTGAGES. When the holder of a first mortgage or first deed of trust of record, or other purchaser of a Lot obtains title to the Lot as a result of foreclosure of the first mortgage or first deed of trust or deed in lieu of foreclosure, such purchaser and its heirs, successors and assigns shall not be liable for the assessments against such Lot which become due prior to the acquisition of title to such Lot by such purchaser. Such unpaid assessments shall be deemed to be Common expenses collectible from all Owners including such purchaser, its heirs, successors and assigns. Such sale or transfer of any Lot which is subject to any such first mortgage or deed of trust, pursuant to a foreclosure thereof or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to the payment thereof which become due prior to such sale or transfer; provided however, no such sale or transfer shall relieve such Lot or the Owner thereof from liability for any assessments thereafter becoming due or from the lien thereof.

SECTION 11. EXEMPT PROPERTY. All property dedicated to and accepted by a public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the

assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE V  
COVENANTS OF OWNER TO KEEP LOTS INSURED AGAINST LOSS,  
TO REBUILD AND TO KEEP IN GOOD REPAIR

The Declarant covenants with the Association, on behalf of itself and on behalf of each subsequent owner of a Lot within the properties, by acceptance of a deed therefore, whether or not it shall be so expressed in said deed, or by exercise of any act of ownership, as follows:

(1) The Association shall have no duty or obligation to obtain a group or blanket insurance policy on Turnberry at Boxwood Village on any individual Lot, but rather each Owner shall have the duty and responsibility to provide full insurance coverage for his or her individual Lot. Said insurance shall contain a replacement cost endorsement providing for replacement of the dwelling from insurance proceeds. The Association shall be named as an additional insured on the Owner's policy of insurance. The Owner shall at all times maintain such replacement cost coverage and shall furnish to the Association a copy of that policy not less than annually.

(2) In the event of a loss, the Owner shall apply the full amount of any insurance proceeds to the rebuilding or repair of any dwelling unit located on the Owner's Lot (subject to the provisions and covenants contained in any mortgage or mortgages creating a lien against any lot).

(3) The Owner shall rebuild or repair the dwelling located on his/her Lot in the event of damage thereto. The unit Owner is required to maintain full coverage hazard insurance on his or her unit.

(4) Any repairs or reconstruction of a dwelling unit shall be substantially identical to the damaged or destroyed dwelling unit unless a change is approved by the Executive Board and shall be constructed in conformity with plans submitted to and approved by the Board prior to construction. All repairs or

reconstruction shall be performed within a reasonable time not exceeding ninety (90) days from the loss.

(5) In the event of a loss and the Owner fails to perform as herein stated, the Association shall be empowered to perform the necessary repairs and/or reconstruction and, in such event, the Owner of such unit incurring such loss shall become liable to the Association for such cost incurred. Further, in such event, the Association shall have a lien on the respective building and Lot of the respective unit Owner which incurred the loss for the costs incurred or to be incurred by the Association. Further, in such event, the Association shall have a lien on any funds paid to the unit Owner, for coverage of loss to the building or Lot, for the costs incurred by the Association.

(6) Dues During Reconstruction. If a dwelling is not habitable by reason of damage, the obligation of the Owner to pay annual assessment installments shall be suspended either for a period of ninety (90) days or until the dwelling is restored to a habitable condition, whichever shall first occur. In the event a dwelling is damaged or destroyed, and the Owner does not begin repair or reconstruction within thirty (30) days following the damage or destruction, he shall remove or cause to be removed, at his or her expense, all debris from the Lot, so that the Lot shall be placed in a neat, clean and safe condition; and if he fails to do so, the Association may cause the debris to be removed, and the cost of removal shall constitute a lien upon the dwelling until paid by the Owner, unless the dwelling is thereafter acquired by the Association.

(7) Application of Declaration and By-Laws. Any dwelling which has been destroyed, in whole or in part, by fire or other casualty, and is subsequently restored or reconstructed, shall be subject to the provisions of this Declaration and to the By-Laws of the Association.

(8) The Owner shall keep the dwelling unit in good repair except for repairs required of the Association.

(9) The Association shall obtain a broad form public liability policy covering all common areas and all damage or injury caused by the negligence of the Association or any of its agents, officers or employees in an amount of not less than one million dollars for each occurrence and such policies shall

contain a waiver of the right of subrogation against members of Turnberry at Boxwood Village Owners Association, its officers, agents, and employees.

ARTICLE VI  
ARCHITECTURAL CONTROL

SECTION 1. IMPROVEMENTS. No improvements, alteration, repair, change in paint color, excavation, change in grade, planting, landscaping, exterior decoration (including without limitation yard ornaments, figurines, statues, bird baths, houses and feeders, flags and similar items), or other work which in any way alters the exterior of any Lot or the improvements located thereon from their natural or improved state existing on the date such Lot was first conveyed in fee by the Declarant to an Owner, other than Declarant, shall be commenced, erected or maintained upon any Lot, and no building, fence, wall, residence or other structure shall be commenced, erected, maintained, improved, altered, or removed, until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing, as to harmony of external design and location in relation to surrounding structures and topography by the Executive Board of the Association or by an architectural committee composed of three (3) or more representatives appointed by the Board (the "Architectural Control Committee"). Temporary seasonal exterior decorations shall not require the prior approval of the Executive Board or the Architectural Control Committee, but if any such decorations are determined in the sole discretion of the Executive Board or the Architectural Control Committee to be distasteful or otherwise disruptive of the aesthetics or visual harmony of the community, the Executive Board or the Architectural Control Committee may require that such decorations promptly and permanently be removed. In the event that an Owner neglects or fails to remove any such decorations at the request of the Executive Board or the Architectural Control Committee, the Association may provide for such removal. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each Lot at all reasonable times for such purposes; and the cost of such removal shall be added to and become a part of

the assessment of which such Lot is subject. Notwithstanding the foregoing, nothing herein contained shall prevent or interfere with the right of Declarant to improve and develop the Properties, including the Lots, as Declarant chooses, so long as said development follows the general plan of development of the Properties previously approved by the Appropriate Local Governmental Authority. Accordingly, Declarant need not seek or obtain the approval of the Architectural Control Committee for improvements erected on the Properties by or at the direction of Declarant. In addition, for so long as Declarant or any affiliated entity owns any Lot or has the right to annex any Additional Property pursuant to this Declaration, Declarant or its affiliate may approve any plans and specifications rejected by the Executive Board or the Architectural Control Committee for the construction or alteration of improvements on any lot provided the construction or alteration approved by Declarant, or its affiliate, comport with the general scheme of development approved by the Appropriate Local Governmental Authority. Such approval by Declarant or its affiliate shall operate and have the same effect as approval by the Executive Board or the Architectural Control Committee.

## SECTION 2. PROCEDURES

(a) Any person desiring to make any improvement, alteration or change described in Section 1 above shall submit the plans and specifications therefore, showing the nature, kind, shape, height, materials and location of the same, to the Executive Board of the Association or the Architectural Control Committee which shall evaluate such plans and specifications in light of the purposes of this Article.

(b) Upon approval by the Architectural Control Committee of any plans and specifications submitted pursuant to this Declaration, a copy of such plans and specifications., as approved, shall be deposited for permanent record with the Architectural Control Committee, and a copy of such plans and specifications bearing such approval in writing shall be returned to the applicant submitting the same. Approval for use in connection with any Lot of any plans and specifications shall not be deemed a waiver of the Architectural Control Committee's right, in its discretion, to disapprove similar plans and specifications or any of the features of elements included therein if such plans, specifications, features or elements are

subsequently submitted for use in connection with any other Lot. Approval of any such plans and specifications relating to any Lot, however, shall be final as to that Lot, and such approval may not be reviewed or rescinded thereafter, provided that there has been adherence to and compliance with such plans and specifications as approved, and any conditions attached to any such approval. As a condition of the granting of approval of any request made under this Article, the Association may require that the Owner(s) requesting such change be liable for any costs of maintaining, repairing and insuring the approved alteration. If such condition is imposed, the Owner(s) shall evidence consent thereto by a written document in recordable form satisfactory to the Association. Thereafter, the Owner(s) and any subsequent Owner(s) of the Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, are deemed to covenant and agree that the cost of maintaining, repairing, and insuring such alteration shall be a part of the annual assessment or charge set forth herein, and subject to the lien rights described herein.

(c) Neither Declarant, nor any other member of the Association's Executive Board or Architectural Control Committee shall be responsible or liable in any way for any defects in any plans or specifications approved by them, nor for any structural defects in any work done according to such plans and specifications. Further, neither Declarant nor any member of the Association's Executive Board or Architectural Control Committee shall be liable for damages to anyone by reason of mistake in judgment, negligence, misfeasance, malfeasance or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications or the exercise of any other power or right provided for in this Declaration.

#### ARTICLE VII EXTERIOR MAINTENANCE

SECTION 1. EXTERIOR MAINTENANCE TO BE PERFORMED BY THE ASSOCIATION FOR TOWNHOMES. The Association shall maintain the Common Elements and shall maintain the grounds of each Lot which is subject to assessments hereunder (except for any enclosed privacy area, which area shall be maintained by the Owner(s) of

the Lot on which the residence is located as set forth in Section 2 below, as follows: mow, seed and fertilize all grassed areas; mulch, remove dead or diseased trees or shrubs on which the tree or shrub is located, replace dead or diseased trees or shrubs planted by the Declarant or the Association and prune all trees or shrubs planted by the Declarant or the Association. In addition, the Association shall provide exterior maintenance for the dwelling located on each Lot which is subject to assessments hereunder as follows: paint, repair, replace and care of roofs, gutters, downspouts, exterior building surfaces (including doors and garage doors, but excluding glass surfaces, window or door screens, any storm doors installed by Owners, and garage door openers), steps, and other exterior improvements. Such exterior maintenance shall not include the exterior maintenance to be performed by the Owners as provided in Section 3 below. In the event that the need for any maintenance, repair, or replacement required hereunder to be performed by the Association is caused through the willful or negligent act of the Owner, his family, guests or invitees, or is caused by fire, lightning, windstorm, hail, explosion, riot, riot attending strike, commotion, aircraft, vehicles or smoke, as the foregoing are defined and explained in North Carolina Standard Fire and Extended Coverage insurance policies, the costs of such maintenance, replacement or repairs shall be added to and become a part of the assessment to which such Lot is subject.

SECTION 2. EXTERIOR MAINTENANCE TO BE PERFORMED BY THE ASSOCIATION FOR PATIO HOMES. The Association shall maintain the Common Elements and shall maintain the grounds of each Lot which is subject to assessments hereunder (except for any enclosed privacy area, which area shall be maintained by the Owner(s) of the Lot on which the residence is located as set forth in Section 3 below, as follows: mow, seed and fertilize all grassed areas; mulch, remove dead or diseased trees or shrubs on which the tree or shrub is located, replace dead or diseased trees or shrubs planted by the Declarant or the Association and prune all trees or shrubs planted by the Declarant or the Association. Such exterior maintenance shall not include the exterior maintenance to be performed by the Owners as provided in Section 3 below. In the event that the need for any maintenance, repair, or replacement required hereunder to be performed by the Association is caused through the willful or negligent act of the Owner, his family, guests or invitees, or is caused by fire, lightning, windstorm, hail, explosion, riot, riot attending strike,

commotion, aircraft, vehicles or smoke, as the foregoing are defined and explained in North Carolina Standard Fire and Extended Coverage insurance policies, the costs of such maintenance, replacement or repairs shall be added to and become a part of the assessment to which such Lot is subject.

SECTION 3. EXTERIOR MAINTENANCE TO BE PERFORMED BY THE OWNERS FOR TOWNHOMES AND PATIO HOMES. Each owner shall be liable and responsible for maintenance, repair and replacement, as the case may be, of all glass surfaces, window or door screens, and storm doors, and any improvements approved by the Architectural Control Committee (any such installation being subject to Article V hereof), air conditioning and heating equipment, and all other equipment required to provide water, light, power, telephone, sewage, and sanitary service to his Lot which are not publicly maintained. In the event that the Owner neglects or fails to maintain his Lot and/or the exterior of his dwelling in a manner consistent with other Lots and dwellings within the Properties, the Association may provide such exterior maintenance and all costs incurred by the Association in providing such exterior maintenance shall be added to the annual assessment for such Lot and subject to the lien rights described in Article IV; provided however, that the Association shall first give written notice to the Owner of the specific item of exterior maintenance or repair that the Association intends to perform and the Owner shall have twenty (20) days from the date of mailing of said notice within which to perform such exterior maintenance himself. The determination as to whether an Owner has neglected or failed to maintain his Lot and/or dwelling in a manner consistent with other Lots and dwellings within the Properties shall be made by the Executive Board of the Association, in its sole discretion.

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



SECTION 4. EASEMENT TO PERFORM EXTERIOR MAINTENANCE. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each Lot at all reasonable times to perform maintenance as provided in this Article.

ARTICLE VIII  
RESTRICTIONS

SECTION 1. LAND USE. No Lot shall be used except for single-family residential purposes for Townhomes and Patio Homes.

SECTION 2. RULES AND REGULATIONS. The Executive Board of Directors of the Association shall have the power to formulate, amend, publish, and enforce reasonable rules and regulations concerning the use and enjoyment of the front and rear yard space, if any, of each Lot and the common area. Such rules and regulations, along with all policy resolutions and policy actions taken by the Executive Board of Directors, shall be recorded in its minutes, which shall be maintained in a place convenient to the owners and available to them for inspection during normal business hours which shall be set forth in the Bylaws of the Association.

SECTION 3. DWELLING SPECIFICATIONS. No dwelling shall be erected or allowed to remain on a Lot if the main structure, exclusive of open porches, decks, and garages, contains less than the prescribed square feet of heated floor area set forth hereinbelow:

- (a) Townhomes 1,200 square feet of heated floor area
- (b) Patio Homes 1,500 square feet of heated floor area

SECTION 4. NUISANCE. No noxious or offensive activity shall be conducted upon any Lot or the Common Elements, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No Lot or other area within Properties shall be used as a dumping ground for rubbish or as a site for the accumulation of unsightly materials of any kind, including without limitation broken or rusty equipment and discarded appliances and furniture. No outdoor clotheslines shall be permitted.

SECTION 5. ANIMALS. No animals, livestock or poultry of any kind shall be kept or maintained on the Common Elements or on any Lot or in any dwelling except dogs, cats, or other household pets may be kept or maintained, provided that they are not kept or maintained for commercial purposes, and further provided that they are kept and maintained in compliance with (i) all laws and ordinances of the State of North Carolina, and the Town of Mocksville, relating thereto; and (ii) such rules and regulations pertaining thereto as the Executive Board may adopt from time to time.

SECTION 6. OUTSIDE ANTENNAS. No outside radio or television antennas or discs and no free standing transmission or receiving tower or satellite dishes or discs shall be erected on the Common Elements or on any Lot or dwelling within the Properties unless prior written permission for the same has been granted by the Executive Board of the Association, or the Architectural Control Committee.

SECTION 7. PARKING. No boats, trailers, recreational vehicles, campers, or other similar equipment or vehicles, excluding specifically operative automobiles, non-commercial trucks and passenger vehicle vans and mini-vans, shall be parked or stored within the Common Elements, or on any Lot unless completely enclosed within a garage. No recreational vehicles, campers or other like equipment or vehicles, shall be located or installed on any Lot, or the Common Elements to be used as a residence. Commercial vehicles shall not be parked or stored on any Lot or the Common Elements within the Properties; provided, however, the foregoing shall not be construed to prevent the temporary, non-recurrent parking of such vehicle on a Lot for a period not to exceed 24 hours or during any period the Lot is being serviced by such vehicle.

SECTION 8. SUBDIVISION OF LOTS. No Lot shall be subdivided into a Lot smaller than or different from the Lot shown on the recorded plat, and no street shall be laid out across or through any Lot, except with the written consent of Declarant or of the Association..

SECTION 9. SIGNS. No sign shall be placed or allowed to remain on any Lot except for ONE (1) "For Sale" sign, or one other temporary sign to advertise a yard sale or other temporary

activity on the Lot, and such other temporary sign shall not be permitted to remain on any Lot for more than SEVENTY-TWO (72) consecutive hours. No sign deemed by the Association, the Architectural Committee or Declarant to be a nuisance to the Properties or the Additional Properties shall be permitted to be erected or to remain on any Lot. Notwithstanding the foregoing, during Declarant's Development Period, Declarant and any affiliate shall have the right to erect and maintain signs within the Common Elements or on any Lot owned or leased by Declarant or any affiliate for the purpose of advertising and promoting the sale of such Lots.

SECTION 10. MOBILE HOMES, MANUFACTURED HOMES, ETC. No mobile home, manufactured home, modular home, trailer or other like structure shall be located or installed on any Lot. As used in this Section, mobile home, manufactured home or modular home shall mean a structure, assembled in whole or in part in a location other than on the Lot itself, transportable in one or more sections, any section of which during transport, is four (4) feet or more in width and ten (10) feet or more in length, which may or may not be built on a permanent chassis and which is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities. Notwithstanding the foregoing, Declarant, builders, or contractors may maintain temporary improvements (such as sales office and/or construction trailer) on any Lot during the construction and development period.

SECTION 11. USE OF PROPERTY.

(a) All buildings, and the common area and facilities, shall be used for residential, and related purposes. No dwelling structure may be subdivided. Declarant may use one or more dwelling structures for offices and/or model homes for sale purposes.

(b) Nothing shall be kept and no activity shall be carried on in any building or dwelling structure, or in the common area and facilities which will increase the rate of insurance, applicable to residential use, for the property or the contents thereof. No Owner shall do or keep anything, nor cause or allow anything to be done or kept, in his or her dwelling structure, or in the common area and facilities which will result in the cancellation of insurance for any portion of the property,

or the contents thereof, or which will be in violation of any law, ordinance, or regulation. No waste shall be committed in any portion of the common area and facilities. All garbage receptacles, containers and enclosures shall be located at the rear or side of the dwelling structures, and deposited by the owner into the dumpster on a weekly basis.

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

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

(e) No industry, business, trade, occupation, or profession of any kind, whether commercial or otherwise, shall be conducted, maintained or permitted in any part of the property, except that the Declarant or its agents may use any unsold dwelling structures for sales or display purposes.

(f) No Owner shall display, or cause or allow to be displayed, to public view any sign, placard, poster, billboard, or identifying name or number upon any dwelling structure, building or any portion of the common area and facilities, except as may be required by the Town of Mocksville Code or Ordinances, or allowed by the Association, provided, however, that the Declarant, any owner, and any mortgagee who may become the owner of any unit, or their respective agents, may place "For Sale" or "For Rent" signs on any unsold or unoccupied dwelling structures directly in front of said dwelling, and in suitable places in the common area. No lead signs shall be permitted.

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

(h) The common area and facilities shall be used only for the purposes for which they are intended and reasonably suited and which are incident to the use and occupancy of the dwellings, subject to any rules or regulations that may be adopted by the Association pursuant to its Bylaws.

#### ARTICLE IX EASEMENTS

SECTION 1. UTILITIES. Easements for installation and maintenance of utilities (including cable television service) and drainage facilities are reserved as indicated on recorded plats. Within these easements, no structures, planting or other materials shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the drainage easements, or which may obstruct or retard the flow of water through drainage channels in the easements. An easement is hereby established for the benefit of the Appropriate Governmental Entity (and any person or firm providing services to the Properties under agreement with or at the direction of the Association) over all Common Elements as may be reasonably necessary for the setting, removal and reading of water meters, and the maintenance and replacement of water, sewer and drainage facilities, and for the fighting of fires and collection of garbage. The Association shall have the power and authority to grant and establish upon, over and across the Common Elements such additional easements as are necessary or desirable for the providing of services or utilities to the Common Elements or Lots.

SECTION 2. SIGNS. The Association shall have easement rights to maintain all subdivision signs and landscaping and lighting surrounding same, now or hereafter erected within the Common Elements. The costs of all such maintenance, repair and replacement of such signs, landscaping and lighting shall be part of the common expenses of the Association, payable by the Owners

as set out in Article IV hereof. Further, during Declarant's Development Period, Declarant and any affiliated entity shall have (i) the right to erect within the Common Elements additional subdivision signs and landscaping and lighting surrounding the same to be maintained by the Association as herein provided and (ii) the right to erect within the Common Elements signs advertising the sale and promotion of Lots or any portion of the Additional Property.

SECTION 3. EASEMENTS RESERVED BY DECLARANT. Declarant hereby reserves such easements on, across and over the Common Elements as shall be reasonably necessary for (i) the exercise by Declarant or any affiliated entity of any right herein reserved, including, without limitation, Declarant's right, should Declarant elect, to annex the Additional Property, as hereinafter defined and (ii) the development by Declarant or any affiliate, their respective successors and assign of the Additional Property should Declarant elect not to annex the Additional Property, including without limitation easements for ingress, egress, and regress over private roads and streets now or hereafter erected on the Properties, and easements for the use of all utility lines, fixtures and/or their connections located within the Common Elements for the purpose of providing water, light, power, telephone, sewage and sanitary service to the Additional Properties.

SECTION 4. ENCROACHMENTS. In the event that any improvements on a Lot shall encroach upon any Common Elements, or upon any other Lot as a result of the initial improvements constructed by Declarant, or for any reason not caused by the purposeful or negligent act of the Owner or agents of such Owner, then an easement appurtenant to such Lot shall exist for the continuance of such encroachment and for the maintenance of any such improvement so encroaching upon the Common Elements or other Lot for so long as such encroachment shall naturally exist, including the replacement of any necessary improvements; and, in the event that any portion of the Common Elements shall encroach upon any Lot, then an easement shall exist for the continuance of such encroachment of the Common Elements into any such Lot for so long as such encroachment shall naturally exist, including the replacement of any necessary improvements.

SECTION 5. WALKS, DRIVES, PARKING AREAS, AND UTILITIES. All of the Property, including Lots and Common Area, shall be

subject to a perpetual non-exclusive easement or easements in favor of all Owners of Lots for their use and the use of their immediate families, guests, invitees, tenants or lessees for all proper and normal purposes, and for ingress and egress and regress and to such easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines, television antenna lines, and other public utilities as shall be established prior to subjecting the property to this Declaration by the Declarant, or its predecessors in title, and for the use of the Owners, their families, guests and tenants; and the Association shall have the power and authority to grant and establish in, over, upon, and across the Common Area conveyed to it, such further easements as are requisite for the convenient use and enjoyment of the property.

SECTION 6. STRUCTURAL SUPPORT FOR TOWNHOMES. Every portion of a dwelling structure which contributes to the structural support of the building shall be burdened with an easement of structural support for the benefit of all other dwelling structures within the building.

SECTION 7. EMERGENCIES. Every Lot and dwelling structure shall be subject to an easement for entry by the Association for the purpose of correcting any situation or circumstance which arises upon any Lot or within any dwelling structure that endangers any building or portion of the Common Area.

SECTION 8. PUBLIC EASEMENTS. An easement is hereby established over all common area for the benefit of applicable governmental agencies for the setting, removing, and reading of water meters, maintaining and replacing water, drainage and drainage facilities, fire fighting, law enforcement, garbage collection, and the delivering of mail.

ARTICLE X  
RIGHTS RESERVED UNTO INSTITUTIONAL LENDERS

SECTION 1. ENTITIES CONSTITUTING INSTITUTIONAL LENDERS. "Institutional Lender" as the term is used herein shall mean and refer to banks, savings and loan associations, insurance companies or other firms or entities customarily affording loans

secured by first liens on residences and eligible insurers and governmental guarantors.

SECTION 2. OBLIGATIONS OF ASSOCIATION TO INSTITUTIONAL LENDERS. So long as any Institutional Lender shall hold any first lien upon any Lot and shall have given notice to the Association as set forth in Section 3 of this Article, or shall be the owner of any Lot, such Institutional Lender shall have the following rights:

(a) To inspect the books and records of the Association during normal business hours and to be furnished with at least one (1) copy of the annual financial statement and report of the Association prepared by a certified public accountant designated by the Executive Board of the Association, such financial statement and report to be furnished by April 15 of each calendar year.

(b) To be given notice by the Association of the call of any meeting of the Membership to be held for the purpose of considering any proposed amendment to this Declaration of Covenants, Conditions and Restrictions, or the Articles of Incorporation or Bylaws of the Association, or any proposed abandonment or termination of the association, or the effectuation of any decision to terminate professional management of the Association and assume self-management by the Association.

(c) To receive notice of any condemnation or casualty loss affecting the Common Elements or any portion thereof.

(d) To be notified of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

(e) To have the right to approve any alienation, release, transfer, hypothecation or other encumbrance of the Common Elements other than those specific rights vested in the Association under Article II hereof.

(f) To be given notice of any delinquency in the payment of any assessment or Charge (which delinquency remains uncured for a period of sixty (60) days by any Owner owning a Lot encumbered by a mortgage held by the Institutional Lender, such notice to be given in writing, and to be sent to the principal office of such



Institutional Lender, or to the place which it may designate in writing.

SECTION 3. REQUIREMENTS OF INSTITUTIONAL LENDER. Whenever any Institutional Lender desires to avail itself of the provisions of this Declaration, it shall furnish written notice thereof to the Association by CERTIFIED MAIL at the address shown in the Articles of Incorporation identifying the Lot or Lots upon which any such Institutional Lender holds any first lien, or identifying any Lot or Lots owned by such Institutional Lender, and such notice shall designate the place to which notices, reports or information are to be sent by the Association to such Institutional Lender.

#### ARTICLE XI PARTY WALLS

SECTION 1. GENERAL RULES OF LAW TO APPLY. Each wall which is built as a part of the original construction of the Townhomes upon the Properties and placed on the dividing line between Lots shall constitute a party wall and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence, or willful acts or omissions, shall apply thereto.

SECTION 2. REPAIR AND MAINTENANCE. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

SECTION 3. DESTRUCTION BY FIRE OR OTHER CASUALTY. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

SECTION 4. WEATHERPROOFING. Notwithstanding any other provisions of this Article, any Owner, who by his negligent or willful act, causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection

against such elements and repairing any damage resulting from such exposure.

SECTION 5. RIGHT TO CONTRIBUTION RUNS WITH LAND. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the Owner's Lot and shall pass to such Owner's successors in title.

SECTION 6. EASEMENT AND RIGHT OF ENTRY FOR REPAIR, MAINTENANCE, AND RECONSTRUCTION. Every Owner shall have an easement and right of entry upon the Lot of any other Owner to the extent reasonably necessary to perform repairs, maintenance, or reconstruction of a party wall. Such repair, maintenance, or reconstruction shall be done expeditiously, and, upon completion of the work, the Owner shall restore the adjoining Lot or Lots to as near the same condition as that which prevailed prior to commencement of the work, as is reasonably practicable.

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

## ARTICLE XII GENERAL PROVISIONS

SECTION 1. ENFORCEMENT. The Owners(s) of each Lot shall be governed by and shall comply with the provisions of this Declaration, the Bylaws of the Association and all rules and regulations of the Association adopted pursuant thereto, as any of the same are now constituted, or as they may be amended from time to time. A default by any owner shall entitle the Association or the Owner(s) of any of the other Lots to the following relief:

(a) The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions,

conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Declaration, the Bylaws of the Association and all rules and regulations of the Association adopted pursuant thereto. Failure to comply with any of the terms of this Declaration, or other restrictions and regulations contained in the Bylaws of the Association, or which may be adopted pursuant thereto, shall be grounds for relief, including without limitation an action to recover sums due for damages, injunctive relief, foreclosure of lien, or any combination thereof. The Association shall have the right to request that law enforcement, public safety and animal control officers come on the Properties to facilitate the enforcement of the laws, code, and ordinances of any governmental authority.

(b) The Association, after notice to the Owner and a reasonable opportunity to be heard, shall have the right to assess reasonable fines against an Owner for violations of this Declaration or the Bylaws or Articles of the Association, or the Association's published rules and regulations by such Owner, or by such Owner's family, guest, invitees and lessees in a reasonable amount for each violation, and without further hearing, to assess a reasonable amount for each day after the decision that the violation continues. Such fines shall be deemed to be assessments as set forth in Article IV of the Declaration and if not paid within thirty (30) days after notice and demand therefor, the Association shall be entitled to the remedies set forth in the Declaration for the enforcement and collection of delinquent assessments.

(c) The Association, after notice to the Owner and a reasonable opportunity to be heard shall have the right to suspend privileges or services provided by the Association (except right of access to Lots) for reasonable periods for violations of this Declaration or the Bylaws, Articles or rules and regulation of the Association. If it is decided that a suspension of privileges or services provided by the Association should be imposed, the suspension may be continued without further hearing until the violation is cured.

(d) If an Owner is legally responsible for damage inflicted on any Common Elements, the Association may direct such Owner to repair such damage, or the Association may itself cause the repairs to be made and recover damages from the responsible Owner. If damage is inflicted on any Lot by an agent of the

Association in the scope of the agent's activities as such agent, the Association is liable to repair such damage or to reimburse the Owner for the cost of repairing such damages. The Association shall also be liable for any losses to the Owner. When any such claim for damages against an Owner or the Association is less than or equal to the amount established for small claims by North Carolina General Statute 7A-210, any aggrieved party may request that a hearing be held before an adjudicatory panel appointed by the Executive Board of the Association to determine if an Owner is responsible for damages to any Common Elements, or the Association is responsible for damages to any Lot. If the Executive Board fails to appoint an adjudicatory panel to hear such matters, such hearing shall be held before the Executive Board. Such panel shall accord to the party charged with causing damages, notice of the charge, and the opportunity to be heard and to present evidence, and notice of the decision. This panel may assess liability for each damage incident against each Owner charged or against the Association not in excess of the jurisdictional amount established for small claims by North Carolina General Statute 7A-210. When such claim exceeds the jurisdictional amount established for small claims, liability of any Owner charged, or the liability of the Association, shall be determined as otherwise provided by law. Liabilities of Owners determined by adjudicatory hearing, or as otherwise provided by law, shall become assessments secured by lien under Section 47F-3-116 of the Planned Community Act. Liabilities of the Association determined by adjudicatory hearing, or as otherwise provided by law, may be offset by the Owner against sums owing to the Association, and if so offset, shall reduce the amount of any lien of the Association against the Lot at issue.

(e) In any proceeding arising because of an alleged default by an Owner, the Association, if successful, shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be determined by the court.

(f) The failure of the Association or any Owner to enforce any right, provision, covenant or condition which may be granted by this Declaration, or the other above mentioned documents, shall not constitute a waiver of the right of the Association, or the Owner, to enforce such right, provision, covenant or condition in the future.

(g) All rights, remedies and privileges granted to the Association or the Owners, pursuant to any terms, provisions, covenants or conditions of the Declaration or other above mentioned documents shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same, from exercising such other and additional rights, remedies, or privileges as may be available to such party at law or in equity.

(h) The failure of Declarant to enforce any right, privilege, covenant or condition which may be granted to it by this Declaration, or other above mentioned document, shall not constitute a waiver of the right of Declarant to thereafter enforce such right, provision, covenant or condition in the future.

SECTION 2. SEVERABILITY. Invalidation of any one of the covenants or restrictions by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect.

SECTION 3. AMENDMENT. The covenants and restrictions of this Declaration shall run and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless terminated as hereinafter provided. This Declaration may be terminated or amended with the consent of the Owners entitled to cast at least sixty-seven percent (67%) of the votes of the Association; provided however, during Declarant's Development Period this Declaration may not be amended or terminated without Declarant's consent; no amendment purporting to revoke or curtail any right herein conferred to Declarant shall be effective unless executed by Declarant; and no amendment relating to the maintenance or ownership of any permanent detention or retention pond shall be effective unless reviewed and approved by the governmental office having jurisdiction for watershed protection.

#### SECTION 4. ANNEXATION.

(a) Except as provided in Subsection (b) of this Section 4, Article XII, additional residential property and Common Elements may be annexed to the Properties only with the consent of the

Members entitled to cast two-thirds (2/3) of the votes of the Association, who are voting in person or by proxy at a meeting duly called for such purpose; provided however, during Declarant's Development Period, Declarant must also consent to such action.

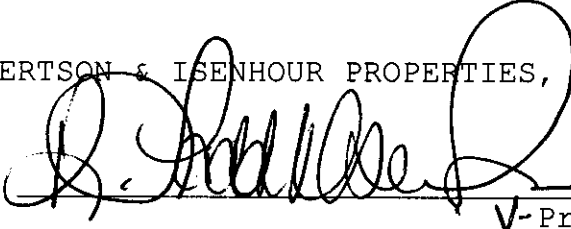
(b) All or any portion of the Additional Property may be annexed by the Declarant without the consent of Members within ten (10) years of the date of this instrument, provided that, in the event FHA or VA insured loans have been obtained to purchase Lots, the FHA and VA determine that the annexation is in accord with the general plan from time to time approved by the. Declarant shall have no obligation of any kind to annex any or all of the Additional Property and should Declarant elect to annex all or any portion of the Additional Property, Declarant shall have no obligation of any kind to annex the Additional Property in any particular sequential order. Should Declarant elect to annex all or any portion of the Additional Property, and accordingly to subject such property to the terms and conditions of the Declaration, with regard to all or any part of the Additional Property annexed by Declarant, to make such complementary additions and/or modifications of the covenants and restrictions contained in this Declaration (including, without limitations, those contained in Section 3 of Article VIII hereof) as may be necessary or convenient, in the sole judgment of the Declarant, to and reflect the different character, if any, of the added properties and as are not inconsistent with the plat of this Declaration, but such additions and/or modifications shall have no effect upon the properties previously subjected to this Declaration. With regard to any portion of the Additional Property not annexed by Declarant, Declarant makes no representations with regard to the use of such property or the exterior appearance, design, size or intended purpose of any improvements now or hereafter erected on such property.

SECTION 6. AMPLIFICATION. The provisions of the Declaration are amplified by the Articles of Incorporation and Bylaws of the Association, but no such amplification shall alter or amend any of the rights or obligations of the Owners set forth in this Declaration. Declarant intends that the provisions of this Declaration on the one hand, and the Articles of Incorporation and Bylaws of the Association on the other, be interpreted, construed and applied to avoid inconsistencies or conflicting results. If such conflict necessarily results,

however, Declarant intends that the provisions of this Declaration control anything contained in the Articles of Incorporation or the Bylaws of the Association.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this instrument to be executed in its name and its corporate seal hereto affixed as of the 15<sup>th</sup> day of March, 2005.

ROBERTSON & ISENHOUR PROPERTIES, INC.

By:   
V-President

NORTH CAROLINA

FORSYTH COUNTY

I, a Notary Public of County and State aforesaid, certify that TODD ISENHOUR personally came before me this day and acknowledged the execution of the foregoing instrument, all in his capacity as VICE President of, and in the name, and for and on behalf of ROBERTSON & ISENHOUR PROPERTIES, INC., a North Carolina corporation, organized under the laws of the State of North Carolina.

Witness my hand and official stamp or seal, this the 15<sup>th</sup> day of March, 2005.



Sonya Allen  
Notary Public

My Commission Expires:

12-28-2009

NORTH CAROLINA

FORSYTH COUNTY

The foregoing certificate(~~3~~) of Sonya Allen, a Notary Public of Davie County, North Carolina is certified to be correct.

This the 15<sup>th</sup> day of March, 2005.

REGISTER OF DEEDS - DAVIE COUNTY  
M. BRENT SHOAF

By: Cynthia C. Whitaker  
Deputy/~~Assistant~~