DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

HIGHLAND CREEK

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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

HIGHLAND CREEK

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS is made this 10th day of December, 1991, by American Newland Associates, a California general partnership (hereinafter referred to as "Declarant") qualified to do business in North Carolina.

Declarant is the owner of the real property described in Exhibit "A" attached hereto and incorporated herein by reference. Declarant intends by this Declaration to impose upon the Properties (as defined herein) mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of real property within the Properties. Declarant desires to provide a flexible and reasonable procedure for the overall development of the Properties, and to establish a method for the administration, maintenance, preservation, use and enjoyment of such Properties as are now or hereafter subjected to this Declaration.

Declarant hereby declares that all of the property described in Exhibit "A" and any additional property which is hereafter subjected to this Declaration by Supplemental Declaration (as defined herein) shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of and which shall run with the real property subjected to this Declaration and which shall be binding on all parties having any right, title, or interest in the described Properties or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof.

This Declaration does not and is not intended to create a condominium within the meaning of the North Carolina Condominium Act, N.C. Gen. Stat. §47C-1-101, et seq.

Article I
Definitions

Section 1. "Area of Common Responsibility" shall mean and refer to the Common Area, together with those areas, if any, which by the terms of this Declaration or by contract or agreement with any Neighborhood or third party, become the responsibility of the Association. The office of any property manager employed by or contracting with the Association, if located on the Properties, or any public rights-of-way within or adjacent to the Properties, may be part of the Area of Common Responsibility. The Area of Common Responsibility shall also include those areas identified in Article IV, Section 1 hereof.

Section 2. "Articles of Incorporation" or "Articles" shall mean and refer to the Articles of Incorporation of Highland Creek Community Association, Inc., as filed with the Secretary of State of the State of North Carolina.

Section 3. "Association" shall refer to Highland Creek Community Association, Inc., a North Carolina non-profit corporation, its successors or assigns. The use of the term "association" or "associations" in lower case shall refer to any condominium association or other owners associations having jurisdiction over any part of the Properties.

Section 4. "Base Assessment" shall mean and refer to assessments levied against all Units in the Properties to fund Common Expenses.

Section 5. "Benefitted Assessment" shall mean assessments levied in accordance with Article X, Section 5 of this Declaration.

Section 6. "Board of Directors" or "Board" shall be the body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under North Carolina corporate law.

Section 7. "By-Laws" shall mean and refer to the By-Laws of Highland Creek Community Association, Inc., attached hereto as Exhibit "C" and incorporated herein by reference, as they may be amended from time to time.

Section 8. "Class "B" Control Period" shall mean and refer to the period of time during which the Class "B" Member is entitled to appoint a majority of the members of the Board of Directors, as provided in Article III, Section 2, of the By-Laws.

Section 9. "Common Area" shall be an inclusive term referring to all General Common Area and all Exclusive Common Area, as defined in Section 13 of this Article. The Common Area may include, without limitation, easements, private streets, open space, landscaping, signage and entry features, lakes, ponds, wetlands, streams, swimming pool(s), recreational center, parking areas, playing fields, tot lots, paths and trails, and similar active and passive recreational facilities, among other things; provided, nothing herein shall obligate the Declarant to provide or include any of the foregoing within the Common Area.

Section 10. "Common Expenses" shall mean and include the actual and estimated expenses incurred by the Association for the general benefit of all Unit Owners, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the By-Laws, and the Articles of Incorporation of the Association, but shall not include any expenses incurred during the Class "B" Control Period for initial development, original construction or installation of infrastructure, original capital improvements, or other original construction costs unless approved by Voting Members representing a majority of the total Class "A" vote of the Association.

Section 11. "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard may be more specifically determined by the Board of Directors and the New Construction Committee pursuant to Article XI hereof. In no event, however, shall such standard be reduced below that standard established by the Declarant as of the termination of the Class "B" Control Period.

Section 12. "Declarant" shall mean and refer to American Newland Associates, a California general partnership, or its successors, successors-in-title or assigns who take title to any portion of the property described on Exhibits "A" or "B" for the purpose of development and/or sale and are designated as the Declarant hereunder in a recorded instrument executed by the immediately preceding Declarant.

Section 13. "Exclusive Common Area" shall mean all real and personal property which the Association now or hereafter owns or otherwise holds for the exclusive use and benefit of one or more, but less than all, Neighborhoods, as more particularly described in Article II of this Declaration.

Section 14. "General Common Area" shall mean all real and personal property which the Association now or hereafter owns or otherwise holds for the common use and enjoyment of all Owners.

Section 15. "Master Land Use Plan" shall mean and refer to the plan for the development of the property described on Exhibits "A" and "B", prepared by _____ and dated _____, 19__, as it may be amended from time to time.

Section 16. "Member" shall mean and refer to a Person entitled to membership in the Association, as provided herein.

Section 17. "Mortgage" shall mean and refer to a mortgage, a deed of trust, a deed to secure debt, or any other form of security deed.

Section 18. "Mortgagee" shall mean and refer to a beneficiary or holder of a Mortgage.

Section 19. "Mortgagor" shall mean and refer to any Person who gives a Mortgage.

Section 20. "Neighborhood" shall mean and refer to each separately developed residential area comprised of one or more housing types subject to this Declaration, whether or not governed by an additional owners association, in which owners may have common interests other than those common to all Association Members, such as a common theme, entry feature, development name, and/or common areas and facilities which are not available for use by all Association Members. For example, and by way of illustration and not limitation, each condominium, townhome development, cluster home development, and single-family detached housing development shall constitute a separate

Neighborhood. In addition, each parcel of land intended for development as any of the above shall constitute a Neighborhood, subject to division into more than one Neighborhood upon development.

Where the context permits or requires, the term Neighborhood shall also refer to the Neighborhood Committee, if one, (established in accordance with the By-Laws) or Neighborhood Association (as defined in Article III, Section 3) having jurisdiction over the property within the Neighborhood. It shall not be necessary for any Neighborhood to be governed by an additional owners association except in the case of a condominium or otherwise as required by law. Neighborhoods may be divided or combined in accordance with Article III, Section 3, of this Declaration.

Section 21. "Neighborhood Assessments" shall mean assessments levied against the Units in a particular Neighborhood or Neighborhoods to fund Neighborhood Expenses, as more particularly described in Article X, Sections 1 and 3, of this Declaration.

Section 22. "Neighborhood Expenses" shall mean and include the actual and estimated expenses incurred by the Association for the benefit of Owners of Units within a particular Neighborhood or Neighborhoods, which may include a reasonable reserve for capital repairs and replacements, all as may be specifically authorized from time to time by the Board of Directors and as more particularly authorized herein.

Section 23. "Owner" shall mean and refer to one or more Persons who hold the record title to any Unit which is part of the Properties, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded contract of sale, and the contract specifically so provides, then the purchaser (rather than the fee owner) will be considered the Owner.

Section 24. "Participating Builder" shall mean any Person which purchases one or more Units or a parcel or parcels of land within the Properties for the purpose of constructing improvements thereon for later sale to consumers or for further subdivision and development.

Section 25. "Person" means a natural person, a corporation, a partnership, a trustee, or any other legal entity.

Section 26. "Private Amenities" shall mean certain real property and the improvements and facilities thereon located adjacent to, in the vicinity of, or within the Properties, which are privately owned and operated by Persons other than the Association for recreational and related purposes, on a club membership basis or otherwise, and shall include, without limitation, the golf course and related facilities adjacent to the Properties.

Section 27. "Properties" shall mean and refer to the real property described in Exhibit "A" attached hereto. together with such additional property as is hereafter subjected to this Declaration by Supplemental Declaration.

Section 28. "Special Assessment" shall mean and refer to assessments levied in accordance with Article X, Section 4, of this Declaration.

Section 29. "Supplemental Declaration" shall mean an amendment or supplement to this Declaration which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described therein, or designates Voting Groups as specified in Article III, Section 3(b), hereof. The term shall also refer to the instrument recorded by the Association pursuant to Article VIII, Section 2, of this Declaration to subject additional property to this Declaration. Additional property may only be annexed as provided by the terms of this Declaration.

Section 30. "Unit" shall mean a portion of the Properties, whether developed or undeveloped, intended for development, use, and occupancy as an attached or detached residence for a single family, and shall, unless otherwise specified, include within its meaning (by way of illustration, but not limitation) condominium units, townhouse units, cluster homes, patio or zero lot line homes, and single-family detached houses on separately platted lots, as well as unimproved land intended for development as such, all as may be developed, used, and defined as herein provided or as provided in Supplemental Declarations covering all or a part of the Properties. The term shall include all portions of the lot owned as well as any structure thereon. In the case of any structure which contains multiple dwellings, each dwelling shall be deemed to be a separate Unit.

In the case of a parcel of vacant land or land on which improvements are under construction, the parcel shall be deemed to contain the number of Units designated for residential use for such parcel on the Master Land Use Plan or the site plan approved by Declarant, whichever is more recent, until such time as a certificate of occupancy is issued on all or a portion thereof by the local governmental entity having jurisdiction. After issuance of a certificate of occupancy on any portion thereof, the portion designated in the certificate of occupancy shall constitute a separate Unit or Units as determined above and the number of Units on the remaining land, if any, shall continue to be determined in accordance with this paragraph.

Section 31. "Voting Group" shall mean one (1) or more Voting Members who vote on a common slate for election of directors to the Board of Directors of the Association, as more particularly described in Article III, Section 3(b), of this Declaration or, if the context permits, the group of Members whose Units are represented thereby.

Section 32. "Voting Member" shall mean and refer to the representative selected by the Members of each Neighborhood pursuant to Article III, Section 3(a) to be responsible for casting all votes attributable to Units in the Neighborhood for election of directors, amending this Declaration or the By-Laws, and all other matters provided for in this Declaration and in the By-Laws. The term "Voting Member" shall also refer to the alternate Voting Member elected by such Members, when acting in the absence of the designated Voting Member.

Article II
Property Rights

Section 1. General. As an appurtenance to his/her Unit and passing with the title to such Unit, every Owner shall have a right and nonexclusive easement of use, access and enjoyment in and to the Common Area, subject to:

(a) this Declaration as it may be amended from time to time and to any restrictions or limitations contained in any deed conveying such property to the Association;

(b) the right of the Board to limit the number of guests who may use the Common Area, and to adopt other rules regulating the use and enjoyment of the Common Area;

(c) the right of the Board to adopt rules regulating the use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;

(d) the right of the Board to suspend the right of an Owner to use recreational facilities within the Common Area (i) for any period during which any charge against such Owner's Unit remains delinquent, and (ii) for a period not to exceed thirty (30) days for a single violation, or for the period of any continuing violation, of the Declaration, By-Laws, or rules of the Association after notice and a hearing pursuant to Article III, Section 22, of the By-Laws;

(e) the right of the Association to dedicate or transfer all or any part of the Common Area pursuant to Article XIII, Section 5, hereof;

(f) the right of the Board to impose reasonable membership requirements and charge reasonable admission or other fees for the use of any recreational facility situated upon the Common Area;

(g) the right of the Board to permit use of any recreational facility situated on the Common Area by Persons other than Owners, their families, lessees and guests upon payment of use fees established by the Board;

(h) the right of the Association, acting through the Board, to mortgage, pledge or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred pursuant to Article XIII, Section 5 hereof; and

(i) the rights of certain Owners to the exclusive use of portions of the Common Areas, designated Exclusive Common Areas, as more particularly described in Section 2 below.

Any Owner may delegate his or her right of enjoyment to the members of his or her family, lessees and social invitees, as applicable, subject to reasonable regulation by the Board and in accordance with procedures it may adopt. An Owner who leases his or her Unit shall be deemed to have delegated all such rights to the Unit's lessee.

The initial Common Area shall be conveyed to the Association prior to the conveyance of a Unit to any Person other than a Participating Builder or developer holding title for the purpose of development and resale.

Section 2. Exclusive Common Area. Certain portions of the Common Area may be designated as Exclusive Common Area and reserved for the exclusive use of Owners and occupants of Units within a particular Neighborhood or Neighborhoods. All costs associated with maintenance, repair, replacement, and insurance of an Exclusive Common Area shall be assessed as a Neighborhood Assessment against the Owners of Units in those Neighborhoods to which the Exclusive Common Areas are assigned.

By way of illustration and not limitation an Exclusive Common Area may include recreational facilities intended for the exclusive use of Owners within a particular Neighborhood or Neighborhoods and supported exclusively by Neighborhood Assessments. Initially, any Exclusive Common Area shall be designated as such and the exclusive use thereof shall be assigned in the deed conveying the Common Area to the Association or on the plat of survey relating to such Common Area.

A portion of the Common Area may be assigned as Exclusive Common Area of a particular Neighborhood or Neighborhoods and Exclusive Common Area may be reassigned upon the vote of Voting Members representing a majority of the total Class "A" votes in the Association, including a majority of the Class "A" votes within the Neighborhood(s) to which the Exclusive Common Areas are assigned, if applicable, and within the Neighborhood(s) to which the Exclusive Common Areas are to be assigned. As long as the Declarant owns any property described on Exhibits "A" or "B" for development and/or sale, any such assignment or reassignment shall also require the consent of the Declarant.

Section 3. Private Amenities. Access to and use of the Private Amenities is strictly subject to the rules and procedures of the respective Owners of the Private Amenities, and no Person gains any right to enter or to use those facilities by virtue of membership in the Association or ownership or occupancy of a Unit.

All Persons, including all Owners, are hereby advised that no representations or warranties, either written or oral, have been or are made by the Declarant or any other Person with regard to the nature or size of improvements to, or the continuing ownership or operation of the Private Amenities. No purported representation or warranty, written or oral, in regard to the Private Amenities shall ever be effective without an amendment hereto executed or joined into by the Declarant.

The ownership or operational duties of and as to the Private Amenities may change at any time and from time to time by virtue of, but without limitation, (a) the sale to or assumption of operations by an independent entity, (b) conversion of the membership structure to an "equity" club or similar arrangement whereby the members of a Private Amenity or an entity owned or controlled thereby become the owner(s) and/or operator(s) of the Private Amenity, or (c) the conveyance of a Private Amenity to one or more

affiliates, shareholders, employees, or independent contractors of the Declarant. No consent of the Association, any Neighborhood Association, or any Owner shall be required to effectuate such a transfer or conversion.

Rights to use the Private Amenities will be granted only to such persons, and on such terms and conditions, as may be determined by their respective owners. Such owners shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Private Amenities and to terminate use rights altogether.

Article III
Membership and Voting Rights

Section 1. Membership. Every Owner, as defined in Article I, shall be deemed to have a membership in the Association. Membership is appurtenant to and inseparable from ownership of a Unit.

No Owner, whether one or more Persons, shall have more than one membership per Unit owned. In the event the Owner of a Unit is more than one Person, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership may be exercised by a Member or the Member's spouse, subject to the provisions of this Declaration and the By-Laws. The membership rights of a Unit owned by a corporation or partnership shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

In addition to the foregoing, the record owner of the Highland Creek golf course ("Golf Course"), which is more particularly described in Exhibit "D" attached hereto, shall have a membership in the Association for so long as the Golf Course is dependent upon the Association's facilities for sewage treatment, unless earlier terminated upon written notice to the Association by the Class "C" member acting in its sole discretion.

Section 2. Voting. The Association initially shall have three classes of membership, Class "A", Class "B" and Class "C":

(a) Class "A". Class "A" Members shall be all Owners with the exception of the Class "B" Member, if any.

Class "A" Members shall be entitled to one equal vote for each Unit in which they hold the interest required for membership under Section 1 hereof; there shall be only one vote per Unit. Each Class "A" Member shall be entitled personally to exercise the vote for its Unit until such time as an election is called pursuant to Section 3 of this Article to elect a Voting Member to represent the Neighborhood of which the Unit is a part; thereafter, the vote for such Unit shall be exercised by the Voting Member unless otherwise specified in this Declaration or the By-Laws. The Voting Member may cast all such votes as it, in its discretion, deems appropriate.

In any situation where a Member is entitled personally to exercise the vote for his Unit and more than one Person holds the interest in such Unit required for membership, the vote for such Unit shall be exercised as those Persons determine among themselves and advise the Secretary of the Association in writing prior to any meeting. In the absence of such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise it.

(b) Class "B". The Class "B" Member shall be the Declarant. The rights of the Class "B" Member, including the right to approve actions taken under this Declaration and the By-Laws, are specified elsewhere in the Declaration and the By-Laws. The Class "B" Member shall be entitled to appoint a majority of the members of the Board of Directors during the Class "B" Control Period, as specified in Article III, Section 2, of the By-Laws. Failure of the Class "B" Member to exercise such power within thirty (30) days of the opening of such a position shall be deemed a waiver of that power, and shall entitle the Class "A" Members to exercise such power. After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Board of Directors and any committee as provided in Article III, Section 3, of the By-Laws. The Class "B" membership shall terminate and become converted to Class "A" membership upon the earlier of:

(i) two (2) years after expiration of the Class "B" Control Period pursuant to Article III of the By-Laws;

(ii) when the Declarant no longer owns any portion of the property described on Exhibits "A" or "B"; or

(iii) when, in its discretion, the Declarant so determines and declares in a written recorded instrument.

(iv) when, by failure to exercise the rights accorded the Declarant or the Class "B" Member under this Declaration for a period in excess of five (5) years, the Declarant is deemed to have abandoned the development.

(c) Class "C". The Class "C" Member shall be the owner of the Golf Course, as defined in Section 1 above. Notwithstanding any general language to the contrary contained herein or in the By-Laws, the Class "C" Member shall not be entitled to vote except as may specifically be set forth herein or in Exhibit "D" to this Declaration, nor shall the Class "C" Member or its representatives be entitled to serve on the Board of Directors of the Association. Although certain rights may be reserved or granted to the owner of the Golf Course under this Declaration, neither the Class "C" Member nor the Golf Course shall be subject to the provisions of this Declaration, it being intended that the responsibilities of the owner of the Golf Course with respect to the Association be governed by the terms of that Declaration of Easemements and Covenant to Share Costs Relating to Highland Creek Golf Course set forth in Exhibit "D" attached hereto. The Class "C" Membership shall terminate at such time as the Golf Course is no longer dependent upon the Association's facilities for sewage treatment, unless earlier terminated by the Class "C" Member in its sole discretion by written notice to the Association; provided, termination of the Class "C" membership shall not

operate to terminate the rights and responsibilities of the Association and the owner of the Golf Course under this Declaration and Exhibit "D", respectively.

Section 3. Neighborhoods and Voting Groups.

(a) Neighborhoods. Every Unit shall be located within a Neighborhood as defined in Article I. The Units within a particular Neighborhood may be subject to additional covenants and/or the Unit Owners may all be members of another owners association ("Neighborhood Association") in addition to the Association, but no such Neighborhood Association shall be required except in the case of a condominium or otherwise as required by law. Such additional covenants shall apply to every Unit within that Neighborhood and shall set forth a general plan of development for that Neighborhood. Such covenants shall be enforceable by each Unit within that Neighborhood and shall be appurtenant to and pass with the title to each Unit in that Neighborhood. The Association shall also be empowered by this Declaration and by the separate Neighborhood covenants to enforce the provisions of those covenants. Any Neighborhood which does not have a Neighborhood Association may elect a Neighborhood Committee, as described in Article V, Section 3, of the By-Laws, to represent the interests of Owners of Units in such Neighborhood.

Each Neighborhood may require that the Association provide a higher level of service or special services for the benefit of Units in such Neighborhood upon the affirmative vote, written consent, or a combination thereof of a majority of Owners within the Neighborhood. In such event, the Association shall provide the requested services. The cost of such services shall be assessed against the Units within such Neighborhood as a Neighborhood Assessment pursuant to Article X hereof.

Each Neighborhood shall elect a Voting Member who shall be responsible for casting all Class "A" votes attributable to Units in the Neighborhood on all Association matters requiring a membership vote, unless otherwise specified in this Declaration or the By-Laws. In addition, each Neighborhood shall elect an alternate Voting Member who shall be responsible for casting such votes in the absence of the Voting Member. The Voting Member and alternate Voting Member from each Neighborhood shall be elected on an annual basis, either by written ballot or at a meeting of the Class "A" Members within such Neighborhood, as determined by the Board of Directors; provided, upon written petition signed by Class "A" Members holding at least ten (10%) percent of the Class "A" votes attributable to Units within any Neighborhood, the election for such Neighborhood shall be held at a meeting. The presence, in person or by proxy, of Class "A" Members representing at least one-third (1/3) of the total Class "A" votes attributable to Units in the Neighborhood shall constitute a quorum at any meeting of the Neighborhood. The Board of Directors shall call for the first election not later than one year after the conveyance of a Unit to a Person other than a Participating Builder. Subsequent elections shall be held within thirty (30) days of the same date each year. Each Class "A" Member who owns a Unit within the Neighborhood shall be entitled to cast one (1) equal vote per Unit owned in the Neighborhood for each position. The candidate for each position who receives the greatest number of votes shall be elected to serve a term of one

year and until a successor is elected. Prior to a vote on any issue for which this Declaration requires approval by the Class "A" Members, the Association shall cause to be delivered to all such Members a referendum upon which they may indicate their vote. All such referenda must be returned to the Voting Member for that Neighborhood at least forty-eight (48) hours before the scheduled vote. Voting Members shall cast the votes as directed by the referendum. The votes of those Class "A" Members not responding to the referendum shall be cast by the Voting Member in his or her sole discretion. Notwithstanding the above, each Voting Member shall cast only one (1) equal vote for election of directors.

The Voting Member from a Neighborhood may be removed, with or without cause, by a vote or written consent, or combination thereof of a majority of the Owners of Units in the Neighborhood.

Exhibit "A" to this Declaration, and each Supplemental Declaration filed to subject additional property to this Declaration, shall initially assign the property described therein to a specific Neighborhood by name, which Neighborhood may be then existing or newly created. The Declarant may unilaterally amend this Declaration or any Supplemental Declaration from time to time to redesignate Neighborhood boundaries; provided, two or more Neighborhoods shall not be combined without the consent of Owners of a majority of the Units in the affected Neighborhoods.

The Owner(s) of a majority of the total number of Units within any Neighborhood may at any time petition the Board of Directors to divide the property comprising the Neighborhood into two or more Neighborhoods. Such petition shall be in writing and shall include a plat of survey of the entire parcel which indicates the boundaries of the proposed Neighborhood(s) or otherwise identifies the Units to be included within the proposed Neighborhood(s). Such petition shall be granted upon the filing of all required documents with the Board, unless the Board of Directors denies such application in writing within thirty days of its receipt thereof. The Board may deny an application only upon determination that there is no reasonable basis for distinguishing between the areas proposed to be divided into separate Neighborhoods. All applications and copies of any denials shall be filed with the books and records of the Association and shall be maintained as long as this Declaration is in effect.

(b) Voting Groups. In order to guarantee representation on the Board of Directors for various groups having dissimilar interests and to avoid a situation in which the Voting Members representing similar Neighborhoods are able, due to the number of Units in such Neighborhoods, to elect the entire Board of Directors, excluding representation of others, the Declarant shall establish Voting Groups for election of directors to the Board in order to promote representation on the Board of Directors for various groups having dissimilar interests and to avoid a situation in which the Voting Members representing similar Neighborhoods are able, due to the number of Units in such Neighborhoods, to elect the entire Board of Directors, excluding representation of others. Each Voting Group shall be entitled to elect the number of directors specified in Article III, Section 6 of the By-Laws. Any other members of the Board of Directors shall be elected at large by all Voting Members without regard to Voting Groups.

The Declarant shall establish Voting Groups not later than the date of expiration of the Class "B" Control Period by filing with the Association and in the public registries for Mecklenburg County and/or Cabarrus County, North Carolina, as applicable, a Supplemental Declaration identifying each Voting Group and designating the Units within each group. Such designation may be amended from time to time by Declarant, acting alone, at any time prior to the expiration of the Class "B" Control Period. Until such time as Voting Groups are established by Declarant, or in the event that Declarant fails to establish Voting Groups, all Units shall be assigned to the same Voting Group.

Article IV
Maintenance

Section 1. Association's Responsibility. The Association shall maintain and keep in good repair the Area of Common Responsibility, such maintenance to be funded as hereinafter provided. The Area of Common Responsibility shall include, but need not be limited to:

(a) all landscaping and other flora, parks, structures and improvements situated upon the Common Area, including, without limitation, any swimming pool(s), recreational center, playing field(s), playground(s), bike and pedestrian pathways and trails comprising the Common Area;

(b) landscaping within public rights-of-way within or abutting the Properties, and landscaping and other flora within any public utility easement within the Properties (subject to the terms of any easement agreement relating thereto);

(c) such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, or any contract or agreement for maintenance therof entered into by the Association;

(d) all lakes, ponds, streams and/or wetlands located within the Properties which serve as part of the drainage and storm water retention system for the Properties, except to the extent that responsibility for any of the foregoing is assigned to the owner of the golf course pursuant to that certain Declaration of Easements and Covenants Relating to Highland Creek Golf Course, attached hereto as Exhibit "D"; and

(e) if conveyed to the Association as Common Area, the real property and facilities comprising the private sewage treatment system serving the Properties, including the treatment plant, lift station and collection lines, until such time as title reverts back to the Declarant or is reconveyed to Declarant pursuant to Article VIII, Section 3 hereof and responsibility for sewage treatment is assumed by the Charlotte-Mecklenburg Utility Department.

Except as provided above, the Area of Common Responsibility shall not be reduced by amendment of this Declaration or any other means except with the prior written approval of the Declarant.

The Association shall also be responsible for maintenance, repair and replacement of property within any Neighborhood to the extent designated in any Supplemental Declaration affecting the Neighborhood. The Association may also assume maintenance responsibilities with respect to any Neighborhood in addition to those that may be designated by any Supplemental Declaration. This assumption of responsibility may take place either by agreement with the Neighborhood or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard of the Properties. All costs of maintenance pursuant to this paragraph shall be assessed only against the Units within the Neighborhood to which the services are provided. The provision of services in accordance with this Section shall not constitute discrimination within a class.

The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of General Common Areas shall be a Common Expense to be allocated among all Units as part of the Base Assessment. All costs associated with maintenance, repair and replacement of Exclusive Common Areas shall be a Neighborhood Expense assessed as a Neighborhood Assessment solely against the Units within the Neighborhood(s) to which the Exclusive Common Areas are assigned, notwithstanding that the Association may be responsible for performing such maintenance hereunder.

Section 2. Owner's Responsibility. Each Owner shall maintain his or her Unit and all structures, parking areas and other improvements comprising the Unit. Owners of Units which are adjacent to any portion of the Common Area on which walls have been constructed shall maintain and irrigate that portion of the Common Area which lies between such wall and the Unit boundary. Owners of Units adjacent to any roadway within the Properties shall maintain driveways serving their respective Units and shall maintain and irrigate landscaping on that portion of the Common Area, if any, or right-of-way between the Unit boundary and the back of curb of the adjacent street.

All maintenance required by this Section 2 shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to a Neighborhood pursuant to any additional declaration of covenants applicable to such Unit. In addition to any other enforcement rights available to the Association, if any Owner fails properly to perform his or her maintenance responsibility, the Association may perform it and assess all costs incurred by the Association against the Unit and the owner thereof in accordance with Article X, Section 5(b) of this Declaration; provided, however, except when entry is required due to an emergency situation, the Association shall afford the owner reasonable notice and an opportunity to cure the problem prior to entry.

Section 3. Neighborhood's Responsibility. Upon resolution of the Board of Directors, the Owners of Units within each Neighborhood shall be responsible for paying, through Neighborhood Assessments, the costs of operating, maintaining and insuring certain portions of the Area of Common Responsibility within or adjacent to such Neighborhood. This may include, without limitation, the costs of maintaining any signage, entry features, right-of-way and greenspace between the Neighborhood and adjacent public roads, private streets within the Neighborhood, and lakes or ponds within the Neighborhood, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association.

Any Neighborhood Association whose common property is adjacent to any portion of the Common Area upon which a wall, other than a wall which forms part of a building, is constructed shall maintain and irrigate that portion of the Common Area between the wall and the Neighborhood Association's property line. Any Neighborhood Association whose common property fronts on any roadway within the Properties shall maintain and irrigate the landscaping on that portion of the Common Area or right-of-way between the property line and the nearest edge of such roadway. Any Neighborhood Association whose common property abuts the bank or water's edge, or abuts a portion of the Common Area abutting the bank or water's edge, of any lake, river, pond, stream, or wetland area within the Properties shall maintain and irrigate all landscaping between the boundary of its common property and such bank or water's edge; provided, there shall be no right to remove trees, shrubs or similar vegetation from this area without prior approval pursuant to Article XI hereof.

Any Neighborhood Association having responsibility for maintenance of all or a portion of the property within a particular Neighborhood pursuant to additional covenants affecting the Neighborhood shall perform such maintenance responsibility in a manner consistent with the Community-Wide Standard. If any Neighborhood Association fails to perform its maintenance responsibility as required herein and in any additional covenants, the Association may perform it and assess the costs against all Units within such Neighborhood as provided in Article X, Section 5(b) of this Declaration.

Section 4. Standard of Performance. Unless otherwise specifically provided herein, responsibility for maintenance shall include responsibility for repair and replacement, as necessary. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants. The Association, and/or an Owner and/or a Neighborhood Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities hereunder.

Section 5. Party Walls and Party Fences.

(a) General Rules of Law to Apply. Each wall or fence built as a part of the original construction on the Units which shall serve and separate any two adjoining Units shall constitute a party wall or fence and, to the

extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall or fence shall be shared by the Owners who make use of the wall or fence in equal proportions.

(c) Damage and Destruction. If a party wall or fence is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the wall or fence may restore it. If the other Owner or Owners thereafter make use of the wall or fence, they shall contribute to the cost of restoration thereof in equal proportions 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.

(d) Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

(e) Arbitration. In the event of any dispute arising concerning a party wall or fence, or under the provisions of this Section, each party shall appoint one arbitrator. Should any party refuse to appoint an arbitrator within ten days after written request therefor by the Board of Directors, the Board shall appoint an arbitrator for the refusing party. The arbitrators thus appointed shall appoint one additional arbitrator and the decision by a majority of all three arbitrators shall be binding upon the parties and shall be a condition precedent to any right of legal action that either party may have against the other.

Article V
Insurance and Casualty Losses

Section 1. Association Insurance. The Association, acting through its Board of Directors or its duly authorized agent, shall have the authority to and shall obtain blanket "all-risk" property insurance, if reasonably available, for all insurable improvements on the Common Area and on other portions of the Area of Common Responsibility to the extent that the Association has assumed responsibility for maintenance, repair and/or replacement thereof in the event of a casualty. If blanket "all-risk" coverage is not reasonably available, then at a minimum an insurance policy providing fire and extended coverage, including coverage for vandalism and malicious mischief shall be obtained. The face amount of such insurance shall be sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any insured peril.

In addition, the Association may, upon request of a Neighborhood, and shall, if so specified in a Supplemental Declaration applicable to the Neighborhood, obtain and continue in effect adequate blanket "all-risk"

property insurance on properties within such Neighborhood, if reasonably available. If "all-risk" property insurance is not reasonably available, then fire and extended coverage may be substituted. Such coverage may be in such form as the Board of Directors deems appropriate. The face amount of the policy shall be sufficient to cover the full replacement cost of all structures to be insured. The costs thereof shall be charged to the Owners of Units within the benefitted Neighborhood as a Neighborhood Assessment. All policies shall provide for a certificate of insurance to be furnished, upon request, to each Member insured, to the Association, and to the Neighborhood Association, if any.

The Board shall also obtain a public liability policy covering the Area of Common Responsibility, insuring the Association and its Members for all damage or injury caused by the negligence of the Association, any of its Members, its employees, agents, or contractors while acting on behalf of the Association. The public liability policy shall have at least a One Million ($1,000,000.00) Dollar combined single limit as respects bodily injury and property damage, at least a Three Million ($3,000,000.00) Dollar limit per occurrence and in the aggregate, if reasonably available, and at least a Five Hundred Thousand ($500,000.00) Dollar property damage limit.

Except as otherwise provided above with respect to property within a Neighborhood, premiums for all insurance on the Area of Common Responsibility shall be Common Expenses and shall be included in the Base Assessment. However, premiums for insurance on Exclusive Common Areas may be included in the Neighborhood Assessment of the Neighborhood(s) benefitted unless the Board of Directors reasonably determines that other treatment of the premiums is more appropriate.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the coverage required hereunder. In the event of an insured loss, the deductible shall be treated as a Common Expense or a Neighborhood Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines after notice and an opportunity to be heard in accordance with Article III, Section 22 of the By-Laws, that the loss is the result of the negligence or willful conduct of one or more Unit Owners, then the Board may specifically assess the full amount of such deductible against such Owner(s) and their Units pursuant to Article X, Section 4(b).

All insurance coverage obtained by the Board of Directors, whether obtained on behalf of the Association or a Neighborhood, shall be governed by the following provisions:

(a) All policies shall be written with a company authorized to do business in North Carolina which holds a Best's rating of A or better and is assigned a financial size category of IX or larger as established by A. M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating which is available.

(b) All insurance shall be written in the name of the Association as trustee for the benefitted parties. Policies on the Common Area shall be for the benefit of the Association and its Members. Policies secured at the request of a Neighborhood shall be for the benefit of the Neighborhood Association, if any, the Owners of Units within the Neighborhood, and their Mortgagees, as their interests may appear.

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

(d) In no event shall the insurance coverage obtained and maintained by the Association be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees.

(e) All property insurance policies shall have an inflation guard endorsement, if reasonably available. If the policy contains a co-insurance clause, it shall also have an agreed amount endorsement. The Association shall arrange for an annual review of the sufficiency of insurance coverage by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Charlotte area.

(f) The Board of Directors shall be required to use reasonable efforts to secure insurance policies that will provide the following:

(i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests;

(ii) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;

(iii) a statement that no policy may be cancelled, invalidated, suspended, or subjected to non-renewal on account of any one or more individual Owners;

(iv) a statement that no policy may be cancelled, invalidated, suspended, or subjected to non-renewal on account of any curable defect or violation without prior demand in writing delivered to the Association to cure the defect or violation and the allowance of a reasonable time thereafter within which it may be cured by the Association, its manager, any Owner, or Mortgagee;

(v) a statement that any "other insurance" clause in any policy excludes individual Owners' policies from consideration; and

(vi) a statement that the Association will be given at least thirty days' prior written notice of any cancellation, substantial modification, or non-renewal.

In addition to other insurance required by this Section, the Association shall obtain, as a Common Expense, worker's compensation insurance, if and to the extent required by law, directors' and officers' liability coverage, if reasonably available, and flood insurance, if advisable.

The Association shall also obtain, as a Common Expense, a fidelity bond or bonds, if reasonably available, covering all persons responsible for handling Association funds. The amount of fidelity coverage shall be determined in the Board of Directors' best business judgment but, if reasonably available, may not be less than one-sixth of the annual Base Assessments on all Units plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least thirty days' prior written notice to the Association of any cancellation, substantial modification or non-renewal.

Section 2. Individual Insurance. By virtue of taking title to a Unit subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket "all-risk" property insurance on its Unit(s) and structures constructed thereon providing full replacement cost coverage (less a reasonable deductible), unless either the Neighborhood in which the Unit is located or the Association carries such insurance (which they are not obligated to do hereunder). The Association may, but shall not be obligated to, take action to monitor and enforce this covenant, and may require Owners to provide copies of such policies or other evidence of such insurance upon request.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures comprising his Unit, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article XI of this Declaration. Alternatively, the Owner shall clear the Unit of all debris and ruins and thereafter shall maintain the Unit in a neat and attractive landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs of repair or reconstruction which are not covered by insurance proceeds.

Additional recorded covenants applicable to any Neighborhood may establish more stringent requirements regarding the standards for rebuilding or reconstructing structures on the Units within the Neighborhood and the standards for clearing and maintaining the Units in the event the structures are not rebuilt or reconstructed.

Section 3. Damage and Destruction.

(a) Immediately after damage or destruction by fire or other peril to all or any part of the Properties covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and shall obtain reliable and detailed estimates of the cost of

repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Property to substantially the same condition in which it existed prior to the fire or other peril, allowing for any changes or improvements necessitated by changes in applicable building codes.

(b) Any damage to or destruction of the Common Area shall be repaired or reconstructed unless the Voting Members representing at least seventy-five percent of the total Class "A" votes in the Association decide within sixty days after the loss not to repair or reconstruct.

Any damage to or destruction of the common property of any Neighborhood Association shall be repaired or reconstructed unless the Unit Owners representing at least seventy-five percent of the total vote of the Neighborhood Association decide within sixty days after the damage or destruction not to repair or reconstruct.

If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such funds or information shall be made available. However, such extension shall not exceed sixty additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area or common property of a Neighborhood Association shall be repaired or reconstructed.

(c) If it is determined in the manner described above that the damage or destruction to the Common Area or to the common property of any Neighborhood Association shall not be repaired or reconstructed and no alternative improvements are authorized, the affected portion of the Properties shall be cleared of all debris and ruins. Thereafter the Properties shall be maintained by the Association or the Neighborhood Association, as applicable, in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Section 4. Disbursement of Proceeds. Any insurance proceeds remaining after defraying such costs of repair or reconstruction, or if no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Owner or Owners and their Mortgagee(s) as their interests may appear, shall be retained by and for the benefit of the Association or the Neighborhood Association and placed in a capital improvements account. This is a covenant for the benefit of any Mortgagee of a Unit and may be enforced by such Mortgagee.

Section 5. Repair and Reconstruction. If the insurance proceeds are insufficient to defray the costs of repairing or reconstructing the damage to the Common Area or to the common property of a Neighborhood Association, the Board of Directors shall, without the necessity of a vote of the Voting Members, levy a special assessment against those Unit Owners responsible for the premiums for the applicable insurance coverage under Section 1 of this Article. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

Article VI
No Partition

Except as is permitted in the Declaration or amendments thereto, there shall be no judicial partition of the Common Area or any part thereof, nor shall any Person acquiring any interest in the Properties or any part thereof seek any judicial partition unless the Properties have been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

Article VII
Condemnation

Whenever all or any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Voting Members representing at least sixty-seven (67%) percent of the total Class "A" vote in the Association and of the Declarant, as long as the Declarant owns any property described on Exhibits "A" or "B") by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant, so long as the Declarant owns any property described in Exhibits "A" or "B" of this Declaration, and Voting Members representing at least seventy-five (75%) percent of the total Class "A" vote of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available therefor, in accordance with plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, the above provisions in Article V hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply.

If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors of the Association shall determine.

Article VIII
Annexation of Additional Property

Section 1. Annexation Without Approval of Membership. The Declarant shall have the unilateral right, privilege, and option, from time to

time at any time until all property described on Exhibit "B" has been subjected to this Declaration or December 31, 2007, whichever is earlier, to subject to the provisions of this Declaration and the jurisdiction of the Association all or any portion of the real property described in Exhibit "B", attached hereto. The Declarant shall have the unilateral right to transfer to any other Person the right, privilege, and option to annex additional property which is herein reserved to Declarant, provided that such transferee or assignee shall be the developer of at least a portion of the real property described in Exhibits "A" or "B" and that such transfer is memorialized in a written, recorded instrument executed by the Declarant.

Such annexation shall be accomplished by filing in the public registries for Mecklenburg County and/or Cabarrus County, North Carolina, as applicable, a Supplemental Declaration annexing such property. Such Supplemental Declaration shall not require the consent of Voting Members, but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein.

Section 2. Annexation With Approval of Membership. Subject to the consent of the owner thereof, the Association may annex real property other than that described on Exhibit "B", and following the expiration of the right in Section 1, any property described on Exhibit "B", to the provisions of this Declaration and the jurisdiction of the Association. Such annexation shall require the affirmative vote of Voting Members or alternates representing two-thirds of the Class "A" votes of the Association present at a meeting duly called for such purpose and of the Declarant, so long as Declarant owns property subject to this Declaration or which may become subject hereto in accordance with Section 1 of this Article.

Annexation shall be accomplished by filing of record in the public registries for Mecklenburg County and/or Cabarrus County, North Carolina, as applicable, a Supplemental Declaration describing the property being annexed. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the owner of the property being annexed, and any such annexation shall be effective upon filing unless otherwise provided therein. The relevant provisions of the By-Laws dealing with regular or special meetings, as the case may be, shall apply to determine the time required for and the proper form of notice of any meeting called for the purpose of considering annexation of property pursuant to this Section 2 and to ascertain the presence of a quorum at such meeting.

Section 3. Acquisition of Additional Common Area. Declarant may convey to the Association additional real estate, improved or unimproved, located within the properties described in Exhibits "A" or "B" which upon conveyance or dedication to the Association shall be accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of all its Members, subject to any restrictions or limitations set forth in the deed of conveyance. The Declarant may, but shall not be obligated to, convey to the Association real property and facilities comprising the private sewage treatment system serving the Properties, including the treatment plant, lift station and collection lines, subject to

reversion of title to the Declarant at such time as the Charlotte-Mecklenburg Utility Department extends its lines to serve the Properties and agrees to assume responsibility for sewage treatment.

Section 4. Withdrawal of Property. Subject to the provisions of Article XIV, Sections 2 and 10, the Declarant reserves the right to amend this Declaration unilaterally at any time so long as it holds an unexpired option to expand the community pursuant to this Article IX, without prior notice and without the consent of any Person, for the purpose of removing certain portions of the Properties then owned by the Declarant or its affiliates or the Association from the provisions of this Declaration, to the extent originally included in error or as a result of minor changes in the boundaries of the Private Amenities or other adjacent parcels, plat revisions, or changes in the Master Land Use Plan, provided such withdrawal does not reduce the total number of Units then subject to this Declaration.

Section 5. Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the property submitted to this Declaration initially or by Supplemental Declaration to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Association through Neighborhood Assessments. Such additional covenants and easements shall be set forth in a Supplemental Declaration filed either concurrent with or after the annexation of the subject property, and shall require the written consent of the owner(s) of such property, if other than the Declarant. All additional covenants shall be for the mutual benefit of all Units within the Properties and may be enforceable by any Owner.

Section 6. Amendment. This Article shall not be amended without the prior written consent of Declarant, so long as the Declarant owns any property described in Exhibits "A" or "B" hereof.

Article IX
Rights and Obligations of the Association

Section 1. Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon (including, without limitation, furnishings and equipment related thereto and common landscaped areas), and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof and consistent with the Community-Wide Standard.

Section 2. Personal Property and Real Property for Common Use. The Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests within the Properties conveyed to it by the Declarant.

Section 3. Rules and Regulations. The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Properties, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Such regulations and use restrictions shall be binding upon all Owners, occupants, invitees, and licensees, if any, until and unless overruled, cancelled, or modified in a regular or special meeting of the Association by the vote of Voting Members representing a majority of the total Class "A" votes in the Association and by the Class "B" Member, so long as such membership shall exist.

Section 4. Enforcement. The Association shall be authorized to impose sanctions for violations of this Declaration, the By-Laws, or rules and regulations. Sanctions may include reasonable monetary fines and suspension of the right to vote and to use any recreational facilities on the Common Area. In addition, the Association, through the Board, in accordance with Article III, Section 22 of the By-Laws, shall have the right to exercise self-help to cure violations, and shall be entitled to suspend any services provided by the Association to any Owner or such Owner's Unit in the event that such Owner is more than thirty days delinquent in paying any assessment or other charge due to the Association. The Board shall have the power to seek relief in any court for violations or to abate nuisances. Sanctions shall be imposed as provided in the By-Laws.

The Association, through the Board, by contract or other agreement, shall have the right, but not the obligation, to enforce county ordinances and shall permit the counties to enforce ordinances on the Properties for the benefit of the Association and its Members.

Section 5. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or the By-Laws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 6. Governmental Interests. For so long as the Declarant owns any property described on Exhibits "A" or "B," the Association shall permit the Declarant to designate sites within the Properties for fire, police, water, and sewer facilities, public schools and parks, and other public facilities. The sites may include Common Areas owned by the Association.

Section 7. Indemnification. The Association shall indemnify every officer, director, and committee member against any and all expenses, including counsel fees, reasonably incurred by or imposed upon such officer, director, or committee member in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member.

The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own

individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 8. Dedication of Common Areas. The Association, acting through the Board of Directors upon two-thirds vote thereof, shall have the power to dedicate portions of the Common Areas to any other local, state, or federal governmental entity, subject to such approval requirements as may be contained in Article XIV, Section 2 of this Declaration.

Section 9. Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. NEITHER THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTIES. NEITHER THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE FOR FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY UNIT, AND ALL TENANTS, GUESTS, AND INVITEES OF ANY OWNER, ACKNOWLEDGE THAT THE ASSOCIATION, AND ITS BOARD OF DIRECTORS, DECLARANT, ANY SUCCESSOR DECLARANT, AND NEW CONSTRUCTION AND MODIFICATIONS COMMITTEES DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM, OR OTHER SECURITY SYSTEM DESIGNATED BY OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY THE DECLARANT OR THE NEW CONSTRUCTION OR MODIFICATIONS COMMITTEES MAY NOT BE COMPROMISED OR CIRCUMVENTED; NOR THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP, OR OTHERWISE; NOR THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. ALL OWNERS AND OCCUPANTS OF ANY UNIT, AND ALL TENANTS, GUESTS, AND INVITEES OF ANY OWNER, ACKNOWLEDGE AND UNDERSTAND THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, COMMITTEES, DECLARANT, OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS. ALL OWNERS AND OCCUPANTS OF ANY UNIT AND ALL TENANTS, GUESTS, AND INVITEES OF ANY OWNER ASSUME ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO UNITS, AND TO THE CONTENTS OF UNITS AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, COMMITTEES, DECLARANT, OR ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES. NOR HAS ANY OWNER, OCCUPANT, OR ANY TENANT, GUEST, OR INVITEE OF ANY OWNER RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTIES.

Section 10. Powers of the Association with Respect to Neighborhoods. The Association shall have the power to veto any action taken or contemplated to be taken by any Neighborhood Association or Neighborhood Committee which the Board reasonably determines to be adverse to the interests of the Association or its Members or inconsistent with the Community-Wide Standard. The Association shall also have the power to require specific action to be taken by any Neighborhood Association or Neighborhood Committee in connection with its obligations and responsibilities hereunder or under any other covenants affecting the Properties. Without limiting the generality of the foregoing, the Association may require specific maintenance or repairs or aesthetic changes to be effectuated by the Neighborhood Association or Neighborhood Committee, may require that a proposed budget include certain items and that expenditures be made therefor, and may veto or cancel any contract providing for maintenance, repair, or replacement of the property governed by such Neighborhood Association or Neighborhood Committee.

Any action required by the Association in a written notice, pursuant to the foregoing paragraph, to be taken by a Neighborhood Association or Neighborhood Committee shall be taken within the time frame set by the Association in such written notice, which time frame shall be reasonable. If the Neighborhood Association or Neighborhood Committee fails to comply with the requirements set forth in such written notice, the Association shall have the right to effect such action on behalf of the Neighborhood Association or Neighborhood Committee. To cover the Association's administrative expenses in connection with the foregoing and to discourage failure to comply with the requirements of the Association, the Association shall assess the Units in such Neighborhood for their pro rata share of any expenses incurred by the Association in taking such action in the manner provided in Article X, Section 4. Such assessments may be collected as a Benefitted Assessment hereunder and shall be subject to all lien rights provided for herein.

Section 11. Sewer Service. If the Declarant conveys to the Association the real property and facilities comprising the private sewage treatment system serving the Properties, as more particularly described in Article VIII, Section 3 hereof, the Association shall assume responsibility for maintaining such property and facilities in operating condition as provided in Article IV hereof and for providing sewage treatment service to all Units and to the Golf Course (subject to the terms of Exhibit "D" attached to this Declaration), until such time as the Charlotte-Mecklenburg Utility Department extends its lines to serve the Properties and the Golf Course, respectively, and agrees to assume responsibility for sewage treatment. The Association may charge a fee for such service which may be assessed against each Unit as a Benefitted Assessment pursuant to Article X, Section 5 hereof or as part of the annual Base Assessment, in the Board's discretion, and may be charged to the Golf Course Owner in accordance with the provisions of Exhibit "D" attached hereto. Upon assumption of such responsibility by the Charlotte-Mecklenburg Utility Department, the Association agrees to execute such deed of conveyance, bill of sale and other documents as requested by Declarant to evidence the reversion of title to such property and facilities to Declarant.

Article X
Assessments

Section 1. Creation of Assessments.

(a) General. There are hereby created, and the Association is hereby authorized to levy, assessments for expenses incurred or anticipated to be incurred by the Association in performing its responsibilities and exercising its rights and powers under this Declaration, any Supplemental Declaration, the Declaration of Easements and Covenants Relating to Highland Creek Golf Course, and under the By-Laws, specifically including but not limited to: expenses of maintaining, repairing, replacing, operating and insuring the Area of Common Responsibility, including amounts due to third parties who perform such tasks on behalf of the Association; the cost of insurance and fidelity bond coverage obtained pursuant to Article V hereof; expenses of monitoring and enforcing compliance with the provisions of this Declaration and all exhibits hereto and instruments referenced herein; expenses arising out the Association's indemnification obligations under Article XI, Section 7 hereof; expenses arising out of any measures undertaken to enhance the safety of the Owners and occupants of Units and the Properties pursuant to Article IX, Section 9 hereof; expenses arising out of its responsibilities for architectural control under Article XI hereof, expenses of managing the Association, including compensation of management personnel, maintaining books and records, handling Association funds, providing financial reports, and corresponding with Members; postage and copying expense; cost of office supplies and equipment necessary or desirable to perform its responsibilities; legal, accounting and other professional fees; and such other expenses as the Board of Directors deems necessary or desirable to keep the Properties in good, clean and attractive condition, and to maintain and enhance property values and marketability of Units within the Properties. Such assessments shall commence at the time and in the manner set forth in Section 8 of this Article.

There shall be four (4) types of assessments: (i) Base Assessments to fund Common Expenses for the benefit of all Members of the Association; (ii) Neighborhood Assessments for Neighborhood Expenses benefitting only Units within a particular Neighborhood or Neighborhoods; (iii) Special Assessments as described in Section 4 below; and (iv) Benefitted Assessments as described in Section 5 below. Each Owner, by acceptance of a deed or recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay these assessments. This covenant is appurtenant to the land and shall pass to each Owner's successors-in-title.

Base Assessments shall be levied equally on all Units subject to assessment; provided, each Unit shall be assessed at fifty (50%) percent of the full Base Assessment until the first day of the first month following (a) the issuance of a certificate of occupancy for the residential dwelling thereon or (b) actual occupancy of the Unit, whichever is earlier. Neighborhood Assessments shall be levied equally against all Units in the Neighborhood benefitting from the services supported thereby, provided that in the event of assessments for exterior maintenance of structures, or insurance on structures, or replacement reserves which pertain to particular structures,

such assessments for the use and benefit of particular Units shall be levied on each of the benefitted Units in proportion to the benefit received, if so directed by the Neighborhood in writing to the Board of Directors. Special Assessments shall be levied as provided in Section 4 below.

Any assessment or installment thereof which is delinquent for a period of fifteen (15) days shall incur a late charge in the amount of four (4%) percent of the principal amount past due. All assessments, together with interest (at a rate determined by the Board from time to time, but not to exceed the lesser of sixteen (16%) percent or the highest rate allowed by North Carolina law) as computed from the date the delinquency first occurs, late charges (subject to the limitations of North Carolina law), costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Unit against which each assessment is made until paid. Each such assessment, together with interest, late charges, costs, and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Owner of such Unit at the time the assessment arose, and, in the event of a transfer of title, if expressly agreed, his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance, except no first Mortgagee who obtains title to a Unit pursuant to the remedies provided in the Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

The Association shall, upon demand at any time, furnish to any Owner liable for any type of assessment a certificate in writing signed by an officer of the Association setting forth whether such assessment has been paid as to any particular Unit. Such certificate shall be conclusive evidence of payment to the Association of any assessments therein stated to have been paid. The Association may require the advance payment of a processing fee for the issuance of such certificate.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors. Unless the Board otherwise provides, the Base Assessment and any Neighborhood Assessment may be paid in monthly installments. Each Owner, by acceptance of a deed to his or her Unit, acknowledges that all Base Assessments and Neighborhood Assessments levied hereunder are annual assessments due and payable in advance on the first day of the fiscal year; provided, the Board may permit any assessment to be paid in installments. If any Owner is delinquent in paying any assessments or other charges levied on his Unit, the Board may revoke the privilege of paying in installments and require all annual assessments to be paid in full immediately.

No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration and not limitation, by non-use of Common Areas or abandonment of the Unit. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the By-Laws, or for inconvenience or discomfort arising from the making of repairs or

improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

(b) Declarant's Obligation for Assessments. So long as the Class "B" Membership shall exist, the Declarant may annually elect to pay to the Association either: (i) the Base Assessment and the Neighborhood Assessment established under Sections 2 and 3 hereof, respectively, for each Unit which it owns and for each other Unit, until such time as the Owner thereof becomes obligated to pay full assessments pursuant to subsection (a) above; or (ii) the difference between the amount of assessments collected on all Units subject to assessment and the amount of actual expenditures, including budgeted contributions to reserves, required to operate the Association during the fiscal year. Unless the Declarant otherwise notifies the Board of Directors in writing at least sixty (60) days before the beginning of each fiscal year, the Declarant shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year. To secure this obligation, the Association shall have lien rights, as provided in Section 6 hereof, against the Units owned by the Declarant.

The Association is specifically authorized to enter into subsidy contracts or contracts for services or materials or a combination of services and materials with Declarant or other entities.

Section 2. Computation of Base Assessment. It shall be the duty of the Board, at least sixty days before the beginning of each fiscal year, to prepare a budget covering the estimated Common Expenses of the Association during the coming year. The budget shall include a capital contribution establishing a reserve fund in accordance with a budget separately prepared, as provided in Section 7 of this Article.

The Base Assessment to be levied against each Unit for the coming year shall be determined by dividing the total budgeted Common Expenses, including reserves, by the total number of Units subject to the Declaration. In determining the total number of Units subject to the Declaration, the Board shall take into account the number of Units subject to the Declaration on the first day of the fiscal year for which the budget is prepared and may, in its discretion, take into account, on an adjusted basis, the number of Units reasonably anticipated to be subjected to the Declaration during the fiscal year. The Board, in its discretion, may also consider other sources of funds available to the Association.

So long as the Declarant has the right unilaterally to annex additional property pursuant to Article VIII hereof, the Declarant may elect on an annual basis, but shall not be obligated, to reduce the resulting Base Assessments for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 1 above), which may be either a contribution or an advance against future assessments due from Declarant, in the Declarant's discretion; provided, any such subsidy and the intended treatment thereof shall be conspicuously disclosed as a line item in the income portion of the Common Expense budget and shall be made known to the

membership. The payment of such subsidy in any year shall under no circumstances obligate the Declarant to continue payment of such subsidy in future years.

The Board shall cause a copy of the Common Expense budget and notice of the amount of the Base Assessment to be levied against each Unit for the following year to be delivered to each Owner at least thirty days prior to the beginning of the fiscal year. Any annual increase of the budget in excess of ten percent must be approved at a meeting of the Association by the affirmative vote of two-thirds of the votes cast at such a meeting by the Voting Members. Voting Members representing sixty percent of the total eligible vote of the Association shall constitute a quorum at such a meeting. Should such a quorum not be attained, the quorum requirement at any meeting subsequently convened for such purpose shall be reduced to thirty percent of the total number of eligible votes.

Notwithstanding the foregoing, however, in the event the proposed budget is disapproved or the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

Section 3. Computation of Neighborhood Assessments. It shall be the duty of the Board, at least sixty days before the beginning of each fiscal year, to prepare a separate budget covering the estimated Neighborhood Expenses to be incurred by the Association for each Neighborhood on whose behalf Neighborhood Expenses are expected to be incurred during the coming year. The Board shall be entitled to set such budget only to the extent that this Declaration, any Supplemental declaration, or the By-Laws specifically authorizes the Board to assess certain costs as a Neighborhood Assessment. Any Neighborhood may request that additional services or a higher level of services be provided by the Association, and in such case, any additional costs shall be added to such budget. Such budget may include a capital contribution establishing a reserve fund for repair and replacement of capital items within the Neighborhood, as appropriate. Except as otherwise provided in Section 1 of this Article X, Neighborhood Expenses shall be allocated equally among all Units within the Neighborhood benefitted thereby and levied as a Neighborhood Assessment, except that any portion of the assessment intended for exterior maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures shall be levied on each of the benefitted Units in proportion to the benefit received, if so specified in the Supplemental Declaration applicable to such Neighborhood or if so directed by the Neighborhood in writing to the Board of Directors.

The Board shall cause a copy of such budget and notice of the amount of the Neighborhood Assessment to be levied on each Unit in the Neighborhood for the coming year to be delivered to each Owner of a Unit in the Neighborhood at least thirty days prior to the beginning of the fiscal year. Any annual increase of such budget in excess of ten percent must be approved at a meeting of the Neighborhood Association by the affirmative vote of two-thirds of the Owners of Units in such Neighborhood at a meeting called for that purpose. The presence in person or by proxy of sixty percent of the

total eligible vote of the Neighborhood Association shall constitute a quorum at such meeting. Should such a quorum not be attained, the quorum requirement at any subsequently convened meeting for such purpose shall be reduced to thirty percent of the total number of eligible votes.

In the event the proposed budget for any Neighborhood is disapproved or the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

Section 4. Special Assessments.

(a) Unbudgeted Expenses. In addition to the Base Assessments and Neighborhood Assessments authorized hereunder, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Such Special Assessment may be levied against the entire membership, if such Special Assessment is for general Common Expenses, or against the Units within any Neighborhood if such Special Assessment is for Neighborhood Expenses. Except as otherwise specifically provided in this Declaration, any Special Assessment shall have the affirmative vote or written consent of Voting Members representing at least two-thirds of the total Class "A" votes allocated to Units which will be subject to such Special Assessment, and the affirmative vote or written consent of the Class "B" Member, if such exists. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.

(b) Costs to Cure Non-compliance. The Association may levy a Special Assessment against any Unit or Neighborhood to reimburse the Association for costs incurred in bringing the Unit or Neighborhood Association into compliance with the provisions of the Declaration, any applicable Supplemental Declaration, the Articles, the By-Laws, and the Association rules and regulations. Such Special Assessments may be levied upon the vote of the Board after notice to the Unit Owner or the Voting Member of the Neighborhood, as applicable, and an opportunity for a hearing.

Section 5. Benefitted Assessments. The Board shall have the power to specifically assess expenses of the Association in the amount of the benefit received against Units receiving benefits, items, or services not provided to all Units within a Neighborhood or within the Properties (1) that are incurred upon request of the Owner of a Unit for specific items or services relating to the Unit or (2) that are incurred as a consequence of the conduct of less than all Owners, their licensees, invitees, or guests.

Section 6. Lien for Assessments. The Association shall have a lien against any Unit to secure payment of delinquent assessments, including interest, late charges (subject to the limitations of North Carolina law), and costs (including attorneys fees). Such lien shall be prior and superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any

first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure in the same manner as mechanics' and materialmen's liens under North Carolina law.

The Association, acting on behalf of the Owners, shall have the power to bid for the Unit at the foreclosure sale and to acquire, hold, lease, mortgage, and convey the Unit. During the period in which a Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid Common Expenses and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same.

The sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any assessments thereafter becoming due. However, the sale or transfer of any Unit pursuant to foreclosure of a first Mortgage shall extinguish the lien as to any installments of such assessments which became due prior to such sale or transfer. Where the Mortgagee holding a first Mortgage of record or other purchaser of a Unit obtains title pursuant to foreclosure of the Mortgage, it shall not be personally liable for the share of the Common Expenses or assessments by the Association chargeable to such Unit which became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Units, including such acquirer, its successors and assigns.

Section 7. Reserve Budget and Capital Contribution. The Board of Directors shall annually prepare a reserve budget to take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget, with respect both to amount and timing by annual assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within and distributed with the applicable budget and notice of assessments and subject to any approval requirements, as provided in Sections 2 and 3 of this Article.

Section 8. Date of Commencement of Assessments. The obligation to pay the assessments provided for herein shall commence as to each Unit on: (a) the first day of the first month following the month in which the Unit becomes subject to this Declaration; or (b) the first day of the first month following the month in which a subdivision plat is recorded for the property comprising the Unit, whichever is later. Assessments shall be due and payable in a manner and on a schedule as the Board of Directors may provide. The first annual assessment against each Unit shall be adjusted according to the number of days remaining in the fiscal year at the time assessments commence on the Unit.

Section 9. Failure to Assess. The omission or failure of the Board to fix the assessment amounts or rates or to deliver or mail to each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay annual assessments on the same basis as for the last year for which an assessment was made, if any, until a new assessment is made, at which time any shortfalls in collections may be assessed retroactively by the Association.

Section 10. Capitalization of Association. Upon acquisition of record title to a Unit by the first purchaser thereof other than the Declarant or an owner who purchases solely for the purpose of constructing a dwelling thereon for resale, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to one-sixth of the annual Base Assessment per Unit for that year as determined by the Board. This amount shall be in addition to, not in lieu of, the annual Base Assessment levied on the Unit and shall not be considered an advance payment of any portion thereof. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association for use in covering operating expenses and other expenses incurred by the Association pursuant to the terms of this Declaration and the By-Laws.

Section 11. Exempt Property. Notwithstanding anything to the contrary herein, the following property shall be exempt from payment of Base Assessments, Neighborhood Assessments, and Special Assessments:

(a) all Common Area; and

(b) all property dedicated to and accepted by any governmental authority or public utility, including, without limitation, public schools, public streets, and public parks, if any.

Article XI
Architectural Standards

Section 1. General. No construction, which term shall include within its definition staking, clearing, excavation, grading, and other site work, no exterior alteration or modification of existing improvements, and no plantings or removal of plants, trees, or shrubs shall take place except in strict compliance with this Article, until the requirements below have been fully met, and until the approval of the appropriate committee has been obtained as provided below. The Board of Directors may establish reasonable fees to be charged by the committees on behalf of the Association for review of applications hereunder and may require such fees to be paid in full prior to review of any application.

All dwellings constructed on any portion of the Properties shall be designed by and built in accordance with the plans and specifications of a licensed architect or licensed building designer.

This Article shall not apply to the activities of the Declarant, nor to construction or improvements or modifications to the Common Area by or on behalf of the Association.

The Board of Directors shall have the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdiction decisions of the committees established in this Article XI. This Article may not be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Declaration or subject to annexation to this Declaration.

Section 2. Architectural Review. Responsibility for administration of the Design Guidelines, as defined below, and review of all applications for construction and modifications under this Article shall be handled by two committees, as described in subsections (a) and (b) of this Section 2. The members of the Committees need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Board of Directors. The Board of Directors may establish reasonable fees to be charged by the committees on behalf of the Association for review of applications hereunder and may require such fees to be paid in full prior to review of any application.

(a) New Construction Committee. The New Construction Committee (NCC) shall consist of at least three, but not more than five, persons and shall have exclusive jurisdiction over all original construction on any portion of the Properties. Until one hundred percent of the Properties have been developed and conveyed to Owners in the normal course of development and sale, the Declarant retains the right to appoint all members of the NCC who shall serve at the discretion of the Declarant. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by Declarant. Upon the expiration of such right, the Board of Directors shall appoint the members of the NCC, who shall serve and may be removed at the discretion of the Board of Directors.

(b) Modifications Committee. The Board of Directors may establish a Modifications Committee (MC) to consist of at least three and no more than five persons, all of whom shall be appointed by, and shall serve at the discretion of, the Board of Directors. Members of the MC may include architects or similar professionals who are not Members of the Association. The MC, if established, shall have exclusive jurisdiction over modifications, additions, or alterations made on or to existing Units or structures containing Units and the open space, if any, appurtenant thereto. Provided, however, the MC may delegate its authority as to a particular Neighborhood to the appropriate board or committee of the Neighborhood Association, if any, subsequently created or subsequently subjected to this Declaration so long as the MC has determined that such board or committee has in force review and enforcement practices, procedures, and appropriate standards at least equal to those of the MC. Such delegation may be revoked and jurisdiction reassumed at any time by written notice. Notwithstanding the above, the NCC shall have the right to veto any action taken by the MC which the NCC determines, in its sole discretion, to be inconsistent with the guidelines promulgated by the NCC.

The MC shall promulgate detailed standards and procedures governing its areas of responsibility and practice, consistent with those of the NCC. In addition, plans and specifications showing the nature, kind, shape, color, size, materials, and location of such modifications, additions, or alterations shall be submitted to the MC for approval as to quality of workmanship and design and as to harmony of external design with existing structures, location in relation to surrounding structures, topography, and finish grade elevation.

Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his Unit, or to paint the interior of his Unit any color desired. However, modifications or alterations to the interior of screened porches, patios, and similar portions of a Unit visible from outside the Unit shall be subject to approval.

Section 3. Guidelines and Procedures. The Declarant shall prepare the initial design and development guidelines and applications and review procedures (the "Design Guidelines") which shall be applicable to all construction activities within Highland Creek. The Design Guidelines may contain general provisions applicable to all of the Properties, as well as specific provisions which vary from one portion of the Properties to another, depending upon the location, the unique characteristics, and intended use.

The NCC, acting on behalf of the Board of Directors, shall adopt such Design Guidelines at its initial organizational meeting and, thereafter shall have sole and full authority to amend them from time to time, without the consent of the Owners.

The NCC shall make the Design Guidelines available to Owners, Participating Builders, and developers who seek to engage in development of or construction upon all or any portion of the Properties and all such Persons shall conduct their activities in strict accordance with such Design Guidelines. In the discretion of the Declarant, such Design Guidelines may be recorded in the public registries for Mecklenburg County and Cabarrus County, North Carolina, in which event the recorded version, as it may unilaterally be amended from time to time by the NCC by recordation of amendments thereto, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time. All Owners, Participating Builders, and developers shall conduct their activities strictly in accordance with the Design Guidelines.

Any amendments to the Design Guidelines adopted from time to time by the NCC in accordance with this Section shall apply to construction and modifications commenced after the date of such amendment only, and shall not apply to require modifications to or removal of structures previously approved by the NCC or MC once the approved construction or modification has commenced.

The MC may promulgate detailed application and review procedures and design standards governing its area of responsibility and practice. Any such standards shall be consistent with those set forth in the Design Guidelines. Plans and specifications showing the nature, kind, shape, color, size, materials, and location of such modifications, additions, or alterations, shall be submitted to the MC for approval as to quality of workmanship and

design and as to harmony of external design with existing structures, and as to location in relation to surrounding structures, topography, and finishing grade elevation. No permission or approval shall be required to repaint in accordance with originally approved color scheme, or to rebuild in accordance with originally approved plans and specifications.

Nothing contained herein shall be construed to limit the right of an Owner to remodel or redecorate the interior of structures comprising a Unit in any manner desired. However, modifications or alterations to the interior of screened porches, balconies, decks, patios, and similar portions of the Unit visible from outside the Unit shall be subject to approval.

In the event that the NCC or MC fails to approve or to disapprove any application within fifty days after submission of all information and materials reasonably requested, the application shall be deemed approved. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted in writing by the NCC pursuant to Section 5 below.

Section 4. No Waiver of Future Approvals. The approval of either the NCC or MC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

Section 5. Variance. The NCC may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) estop the Committee from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

Section 6. Limitation of Liability. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and neither the NCC or MC shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, the Board of Directors, any committee, or member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any Unit.

Section 7. Enforcement. Any construction, alteration, or other work done in violation of this Article shall be deemed to be nonconforming. Upon written request from the Board or the Declarant, Owners shall, at their

own cost and expense, remove such construction, alteration, or other work and shall restore the land to substantially the same condition as existed prior to the construction, alteration, or other work. Should an Owner fail to remove and restore as required hereunder, the Association, acting through its directors or the Board's designees, shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as existed prior to the construction, alteration or other work. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the benefitted Unit and collected as a Special Assessment pursuant to Article X, Section 4(b) hereof.

Review of all applications and enforcement of all provisions of the Design Guidelines shall be conducted reasonably and undertaken in good faith.

Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines may be excluded by the Board from the Properties, subject to the notice and hearing procedures contained in the By-Laws. In such event, neither the Association, its officers, or directors shall be held liable to any Person for exercising the rights granted by this paragraph.

In addition to the foregoing, the Association shall have the authority and standing, acting through the Board, to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the NCC and MC.

Article XII
Use Restrictions

The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, streets, schools, parks, utilities, offices for any property manager retained by the Association, and sales, business and construction offices for the Declarant, Participating Builders and the Association) as may more particularly be set forth in this Declaration and amendments hereto. Any Supplemental Declaration or additional covenants imposed on the property within any Neighborhood may impose stricter standards than those contained in this Article. The Association, acting through its Board of Directors, shall have standing and the power to enforce such standards.

The Association, acting through its Board of Directors, shall have authority to make and to enforce standards and restrictions governing the use of the Properties, in addition to those contained herein, and to impose reasonable user fees for use of Common Area facilities. Such regulations and use restrictions shall be binding upon all Owners, occupants, guests, invitees and licensees until and unless overruled, cancelled or modified in a regular or special meeting of the Association by the vote of Voting Members representing a majority of the total Class "A" votes in the Association and by the Class "B" Member, so long as such membership shall exist.

Section 1. Signs. No sign of any kind shall be erected within the Properties without the written consent of the Board of Directors, except

entry and directional signs installed by Declarant. If permission is granted to any Person to erect a sign within the Properties, the Board reserves the right to restrict the size, color, lettering and placement of such sign. The Board of Directors and Declarant shall have the right to erect signs as they, in their discretion, deem appropriate. Notwithstanding the above, no signs, flags, banners or similar items advertising or providing directional information with respect to activities being conducted outside the Properties shall be permitted within the Properties.

Section 2. Parking and Prohibited Vehicles.

(a) Parking. Vehicles shall be parked only in the garages or in the driveways, if any, serving the Units or in appropriate spaces or designated areas in which parking may or may not be assigned and then subject to such reasonable rules and regulations as the Board of Directors, or any Neighborhood Association, if any, having concurrent jurisdiction over parking areas within the Neighborhood, may adopt. No garage shall be permanently enclosed, nor shall the use thereof otherwise be converted, such that the capacity for parking of vehicles therein is reduced below that for which it was originally designed. The Declarant and/or the Association may designate certain on-street parking areas for visitors or guests subject to reasonable rules.

(b) Prohibited Vehicles. Commercial vehicles, vehicles with commercial writing on their exteriors, vehicles primarily used or designed for commercial purposes, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, and boat trailers shall be parked only in enclosed garages or areas, if any, designated by the Board or by the Neighborhood Association, if any, having jurisdiction over parking areas within a particular Neighborhood. Neither the Declarant, the Association, or any Neighborhood Association shall be obligated to provide or designate parking areas for such vehicles. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall not be permitted on the Properties except within enclosed garages. For purposes of this Section, a vehicle shall be considered "stored" if it is put up on blocks or covered with a tarpaulin and remains on blocks or so covered for fourteen consecutive days without the prior approval of the Board. Notwithstanding the foregoing, service and delivery vehicles may be parked in the Properties during business hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit or the Common Areas. Any vehicle parked in violation of this Section or parking rules promulgated by the Board may be towed in accordance with Article III, Section 22 of the By-Laws.

Section 3. Occupants Bound. All provisions of the Declaration, By-Laws and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants, guests and invitees of any Unit. Every Owner shall cause all occupants of his or her Unit to comply with the Declaration, By-Laws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations and losses to the Common Areas caused by such occupants, notwithstanding the fact

that such occupants of a Unit are fully liable and may be sanctioned for any violation of the Declaration, By-Laws, and rules and regulations adopted pursuant thereto.

Section 4. Animals and Pets. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any portion of the Properties, except that dogs, cats, or other usual and common household pets not to exceed a total of two may be permitted in a Unit. However, those pets which are permitted to roam free, or, in the sole discretion of the Association, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Units or the owner of any portion of the Properties shall be removed upon request of the Board; if the owner fails to honor such request, the pet may be removed by the Board. No pets shall be kept, bred, or maintained for any commercial purpose. Dogs shall at all times whenever they are outside a Unit be confined on a leash held by a responsible person.

Section 5. Quiet Enjoyment. No portion of the Properties shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any portion of the Properties that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property.

No noxious, illegal, or offensive activity shall be carried on upon any portion of the Properties, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any portion of the Properties. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the Properties.

Section 6. Unsightly or Unkempt Conditions. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Unit. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Properties.

Section 7. Antennas. No exterior antennas, aerials, satellite dishes, or other apparatus for the transmission of television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Properties, including any Unit, without the prior written consent of the Board or its designee. The Declarant and/or the Association shall have the right, without obligation, to erect or install an

aerial, satellite dish, master antenna, cable system, or other apparatus for the transmission of television, radio, satellite or other signals for the benefit of all or a portion of the Properties.

Section 8. Basketball Equipment, Clotheslines, Garbage Cans, Tanks, Etc. No basketball hoops, backboards or similar sports equipment, and no clotheslines shall be erected or installed on the exterior portion of any Unit. All garbage cans, above-ground storage tanks, mechanical equipment, and other similar items on Units shall be located or screened so as to be concealed from view of neighboring Units, streets, and property located adjacent to the Unit. All rubbish, trash, and garbage shall be stored in appropriate containers approved pursuant to Article XI hereof and shall regularly be removed from the Properties and shall not be allowed to accumulate thereon.

Section 9. Subdivision of Unit and Time Sharing. No Unit shall be subdivided or its boundary lines changed except with the prior written approval of the Board of Directors of the Association. Declarant, however, hereby expressly reserves the right, subject to the provisions of Article XIV, Section 10, to replat any Unit or Units owned by Declarant. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations.

No Unit shall be made subject to any type of timesharing, fraction-sharing or similar program whereby the right to exclusive use of the Unit rotates among members of the program on a fixed or floating time schedule over a period of years.

Section 10. Firearms. The discharge of firearms within the Properties is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size. Notwithstanding anything to the contrary contained herein or in the By-Laws, the Association shall not be obligated to take action to enforce this Section.

Section 11. Pools. No above-ground swimming pools shall be erected, constructed or installed on any Unit.

Section 12. Irrigation. No sprinkler or irrigation systems of any type which draw upon water from creeks, streams, rivers, lakes, ponds, wetlands, canals or other ground or surface waters within the Properties shall be installed, constructed or operated within the Properties unless prior written approval has been received from the NCC. All sprinkler and irrigation systems shall be subject to approval in accordance with Article XI of this Declaration. Private irrigation wells are prohibited on the Properties. Provided, however, this Section 12 shall not apply to the Declarant, and it may not be amended without Declarant's written consent so long as Declarant has the right to add property in accordance with Article VIII, Section 1.

Section 13. Tents, Trailers and Temporary Structures. Except as may be permitted by the Declarant or the NCC during initial construction within the Properties, no tent, utility shed, shack, trailer or other structure of a temporary nature shall be placed upon a Unit or any part of the

Properties. Notwithstanding the above, party tents or similar temporary structures may be erected for special events with prior written approval of the Board, or by the Declarant.

Section 14. Drainage and Septic Systems. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person other than Declarant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant hereby reserves for itself and the Association a perpetual easement across the Properties for the purpose of altering drainage and water flow.

Section 15. Tree Removal. No trees shall be removed, except for diseased or dead trees and trees needing to be removed to promote the growth of other trees or for safety reasons, unless approved in accordance with Article XI of this Declaration. In the event of an intentional or unintentional violation of this Section, the violator may be required by the committee having jurisdiction to replace the removed tree with one or more comparable trees of such size and number, and in such locations, as such committees may determine necessary in its sole discretion, to mitigate the damage.

Section 16. Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

Section 17. Utility Lines. No overhead utility lines, including lines for cable television, shall be permitted within the Properties, except for power line easements granted prior to the recording of this Declaration, temporary lines as required during construction, and high voltage lines if required by law or for safety purposes.

Section 18. Air Conditioning Units. Except as may be permitted by the Board or its designee, no window air conditioning units may be installed in any Unit.

Section 19. Lighting. Except for reasonable seasonal decorative lights, which may be displayed between Thanksgiving and January 10 only, all exterior lights must be approved in accordance with Article XI of this Declaration.

Section 20. Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on the exterior of any portion of the Properties. Exterior sculpture, fountains, and similar items must be approved in accordance with Article XI of this Declaration.

Section 21. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any Unit unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the appropriate committee pursuant to Article XI hereof.

Section 22. Wetlands, Lakes and Water Bodies. All wetlands, lakes, ponds, and streams within the Properties, if any, shall be aesthetic amenities only, and no other use thereof, including, without limitation, fishing, swimming, boating, playing, or use of personal flotation devices, shall be permitted without the prior approval of the Board of Directors. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds, or streams within the Properties. No docks, piers, or other structures shall be constructed on or over any body of water within the Properties, except such as may be constructed by the Declarant or the Association.

Section 23. Playground. Any playground or other play areas or equipment furnished by the Association or erected within the Properties shall be used at the risk of the user, and the Association shall not be held liable to any Person for any claim, damage, or injury occurring thereon or related to use thereof.

Section 24. Fences. No hedges, walls, dog runs, animal pens or fences of any kind shall be permitted on any Unit except as approved in accordance with Article XI of this Declaration.

Section 25. Business Use. No garage sale, moving sale, rummage sale or similar activity and no trade or business may be conducted in or from any Unit, except that an Owner or occupant residing in a Unit may conduct business activities within the Unit so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Unit; (b) the business activity conforms to all zoning requirements for the Properties; (c) the business activity does not involve persons coming onto the Properties who do not reside in the Properties or door-to-door solicitation of residents of the Properties; and (d) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the leasing of a Unit shall not be considered a trade or business within the meaning of this section. This section shall not apply to any activity conducted by the Declarant or a builder approved by the Declarant with respect to its development and sale of the Properties or its use of any Units which it owns within the Properties, including the operation of a timeshare or similar program.

Section 26. On-Site Fuel Storage. No on-site storage of gasoline, heating or or other fuels shall be permitted on any part of the Properties

except that up to five gallons of fuel may be stored on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment.

Section 27. Leasing of Units.

(a) Definition. "Leasing", for purposes of this Declaration, is defined as regular, exclusive occupancy of a Unit by any person or persons other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to a fee, service, gratuity, or emolument.

(b) General. Units may be rented only in their entirety; no fraction or portion may be rented. There shall be no subleasing of Units or assignment of leases unless prior written approval is obtained from the Board of Directors. No transient tenants may be accommodated in a Unit. All leases shall be in writing and shall be for an initial term of no less than six months, except with the prior written consent of the Board of Directors. Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the Unit Owner within ten days of execution of the lease. The Owner must make available to the lessee copies of the Declaration, By-Laws, and the rules and regulations. The Board may adopt reasonable rules regulating leasing and subleasing.

(c) Lease Provisions. Any lease of a Unit in the Properties shall be deemed to contain the following provisions, whether or not expressly therein stated, and each Owner covenants and agrees that if such language is not expressly contained therein, then such language shall be deemed incorporated into the lease by existence of this covenant and the lessee, by occupancy of the Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(i) Compliance with Declaration, By-Laws, and Rules and Regulations. The lessee agrees to abide and comply with all provisions of the Declaration, By-Laws, and rules and regulations adopted pursuant thereto. The Owner agrees to cause all occupants of his or her Unit to comply with the Declaration, By-Laws, and the rules and regulations adopted pursuant thereto and is responsible for all violations thereof and resulting losses or damages caused by such occupants, notwithstanding the fact that such occupants of the Unit are fully liable and may be sanctioned for any violation of the Declaration, By-Laws, and rules and regulations adopted pursuant thereto. In the event that the lessee or a person living with the lessee violates the Declaration, By-Laws, or a rule and regulation for which a fine is imposed, such fine shall be assessed against the lessee; provided, however, if the fine is not paid by the lessee within the time period set by the Board, the Owner shall pay the fine upon notice from the Association of the lessee's failure to pay the fine. Unpaid fines shall constitute a lien against the Unit. Any lessee charged with a violation of the Declaration, By-Laws, or rules and regulations adopted pursuant thereto is entitled to the same procedure to which an Owner is entitled prior to the imposition of a fine or other sanction.

Any violation of the Declaration, By-Laws, or rules and regulations adopted pursuant thereto is deemed to be a violation of the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with North Carolina law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, By-Laws, and the rules and regulations adopted pursuant thereto, including, without limitation the power and authority to evict the lessee on behalf of and for the benefit of the Owner, in accordance with the terms hereof. In the event the Association proceeds to evict the lessee, any costs, including attorney's fees and court costs, associated with the eviction shall be specially assessed against the Unit and the Owner thereof, such being deemed hereby as an expense which benefits the leased Unit and the Owner thereof.

(ii) Use of Common Area. The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Area, including, but not limited to, the use of any and all common facilities and amenities.

Section 28. Laws and Ordinances. Every Owner and occupant of any Unit, their guests and invitees, shall comply with all laws, statutes, ordinances and rules of federal, state and municipal governments applicable to the Properties and any violation thereof may be considered a violation of this Declaration; provided, the Board shall have no obligation to take action to enforce such laws, statutes, ordinances and rules.

Section 29. Single Family Occupancy. No Unit shall be occupied by more than a single family. For purposes of this restriction, a single family shall be defined as any number of persons related by blood, adoption, or marriage living with not more than one person who is not so related as a single household unit, or no more than two persons who are not so related living together as a single household unit, and the household employees of either such household unit.

Article XIII
Easements

Section 1. Easements of Encroachment. There are hereby created reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area and between adjacent Units due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, an Owner, occupant, or the Association.

Section 2. Easements for Utilities, Etc. There are hereby reserved unto Declarant, so long as the Declarant owns any property described on Exhibit "A" or "B," of this Declaration, the Association, and the designees of each (which may include, without limitation, Mecklenburg County or Cabarrus County, North Carolina and any utility) access and maintenance easements upon, across, over, and under all of the Properties to the extent reasonably necessary for the purpose of replacing, repairing, and maintaining cable television systems, master television antenna systems, security and similar systems, roads, walkways, bicycle pathways, lakes, ponds, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, gas, and electricity, and for the purpose of installing any of the foregoing on property which it owns or within easements designated for such purposes on recorded plats of the Properties. Notwithstanding anything to the contrary herein, this easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any existing dwelling on a Unit, and any damage to a Unit resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of this easement shall not unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

Without limiting the generality of the foregoing, there are hereby reserved for the local water supplier, electric company, and natural gas supplier easements across all the Common Area for ingress, egress, installation, reading, replacing, repairing, and maintaining utility meters and boxes. However, the exercise of this easement shall not extend to permitting entry into the dwelling on any Unit. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Properties, except as may be approved by the Association's Board of Directors or as provided by Declarant.

Section 3. Easements for Lake and Pond Maintenance and Flood Water. The Declarant reserves for itself and its successors, assigns, and designees the nonexclusive right and easement, but not the obligation, to enter upon the lakes, ponds, streams, and wetlands located within the Area of Common Responsibility to (a) install, keep, maintain, and replace pumps in order to provide water for the irrigation of any of the Area of Common Responsibility; (b) construct, maintain, and repair any bulkhead, wall, dam, or other structure retaining water; and (c) remove trash and other debris therefrom and fulfill their maintenance responsibilities as provided in this Declaration. The Declarant's rights and easements provided in this Section shall be transferred to the Association at such time as the Declarant shall cease to own any property subject to the Declaration, or such earlier time as Declarant may elect, in its sole discretion, to transfer such rights by a written instrument. The Declarant, the Association, and their designees shall have an access easement over and across any of the Properties abutting or containing any portion of any of the lakes, ponds, streams, or wetlands to the extent reasonably necessary to exercise their rights under this Section.

There is further reserved herein for the benefit of Declarant, the Association, and their designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Area and Units (but not the dwellings thereon) adjacent to or within one hundred feet of lake beds, ponds, and streams within the Properties, in order to (a) temporarily flood and back water upon and maintain water over such portions of the Properties; (b) fill, drain, dredge, deepen, clean, fertilize, dye, and generally maintain the lakes, ponds, streams, and wetlands within the Area of Common Responsibility; (c) maintain and landscape the slopes and banks pertaining to such lakes, ponds, streams, and wetlands; and (d) enter upon and across such portions of the Properties for the purpose of exercising its rights under this Section. All persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from the intentional exercise of such easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to hurricanes, heavy rainfall, or other natural disasters.

Section 4. Easements to Serve Additional Property. The Declarant and its duly authorized agents, representatives, and employees, as well as its successors, assigns, licensees, and mortgagees, shall have and hereby reserves an easement over the Common Area for the purposes of enjoyment, use, access, and development of the Additional Property described in Exhibit "B" attached hereto and incorporated herein, whether or not such Additional Property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on the Additional Property. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of vehicular traffic connected with development of the Additional Property. Declarant further agrees that if the easement is exercised for permanent access to the Additional Property and such Additional Property or any portion thereof is not made subject to this Declaration, the Declarant, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of maintenance of any access roadway serving the Additional Property. Such agreement shall provide for sharing of costs based on the ratio which the number of residential dwellings on that portion of the Additional Property which is served by the easement and is not made subject to this Declaration bears to the total number of residential dwellings within the Properties and on such portion of the Additional Property.

Section 5. Easements for Golf Balls. Every Unit, the Common Area, and the common property of any Neighborhood are burdened with an easement permitting golf balls unintentionally to come upon the Units, Common Area, or common property immediately adjacent to the golf course and for golfers at reasonable times and in a reasonable manner to come upon the exterior portions of a Unit, Common Area, or common property to retrieve errant golf balls. However, if any Unit is fenced or walled, the golfer will seek the Owner's permission before entry. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls. Under no circumstances shall the Declarant, the Association, or the owner or operator of the golf course be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement.

Section 6. Right of Entry. The Association shall have the right, but not the obligation, to enter any Unit for emergency, security, and safety reasons to perform maintenance pursuant to Article V hereof, and to inspect for the purpose of ensuring compliance with this Declaration, any Supplemental Declaration, By-Laws, and rules and regulations, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter a Unit to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after requested by the Board.

Section 7. Landscape Easements. There are hereby reserved to Declarant (so long as the Declarant owns any property described on Exhibits "A" or "B" to this Declaration), the Association and the designees of each, non-exclusive easements for access, installation, pruning and other maintenance, removal and replacement of street trees and landscaping over those portions of the Properties lying adjacent to public road rights-of-way and consisting of a strip of land 10 feet in width and running the entire length of, and on both sides of, each public road right-of-way within the Properties ("Landscape Easement"). Such easement shall include the right to disturb existing landscaping within the Landscape Easement, to dig holes and to temporarily pile dirt and plant material upon the Landscape Easement, provided the area is restored to a neat and attractive condition to the extent practical, as soon as reasonably possible after completion of the activities authorized hereunder. Nothing herein shall obligate the Declarant or the Association to undertake any of the activities which such easement authorizes. Except as may otherwise be provided in any written agreement executed by the Declarant, the Declarant may, but shall not be obligated to, install street trees and landscaping within such public rights-of-way and/or these Landscape Easements at its option, at such times and in such numbers and locations as it may deem appropriate in its sole discretion.

Article XIV
Mortgagee Provisions

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

Section 1. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage who provides written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the Unit number, therefore becoming an "eligible holder"), will be entitled to timely written notice of:

(a) any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such eligible holder;

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

(c) any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(d) any proposed action which would require the consent of a specified percentage of eligible holders.

Section 2. Special FHLMC Provision. The following provisions apply in addition to and not in lieu of the foregoing. Unless at least sixty-seven percent of the first Mortgagees or the Voting Members representing at least sixty-seven percent of the total Association vote entitled to be cast thereon consent, the Association shall not:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell, convey, or transfer all or any portion of the real property comprising the Common Area which the Association owns, directly or indirectly (The granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection).;

(b) change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner of a Unit (A decision, including contracts, by the Board or provisions of any declaration subsequently recorded on any portion of the Properties regarding assessments for Neighborhoods or other similar areas shall not be subject to this provision where such decision or subsequent declaration is otherwise authorized by this Declaration).;

(c) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Units and of the Common Area (The issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision).;

(d) fail to maintain insurance, as required by this Declaration; or

(e) use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such property.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

Section 3. Other Provisions for First Lien Holders. To the extent possible under North Carolina law:

(a) Any restoration or repair of the Properties after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with this Declaration and the original plans and specifications unless the approval is obtained of the eligible holders of first Mortgages on Units to which at least fifty-one percent of the votes of Units subject to Mortgages held by such eligible holders are allocated.

(b) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the eligible holders of first Mortgages on Units to which at least fifty-one percent of the votes of Units subject to Mortgages held by such eligible holders are allocated.

Section 4. Amendments to Documents. The following provisions do not apply to amendments to the constituent documents or termination of the Association made as a result of destruction, damage, or condemnation pursuant to Section 3 (a) and (b) of this Article, or to the addition of land in accordance with Article VIII.

(a) The consent of at least sixty-seven percent of the Class "A" votes and of the Declarant, so long as it owns any land subject to this Declaration, and the approval of the eligible holders of first Mortgages on Units to which at least sixty-seven percent of the votes of Units subject to a Mortgage appertain, shall be required to terminate the Association.

(b) The consent of at least sixty-seven percent of the Class "A" votes and of the Declarant, so long as it owns any land subject to this Declaration, and the approval of eligible holders of first Mortgages on Units to which at least fifty-one percent of the votes of Units subject to a Mortgage appertain, shall be required to materially amend any provisions of the Declaration, By-Laws, or Articles of Incorporation of the Association, or to add any material provisions thereto, which establish, provide for, govern, or regulate any of the following:

(i) voting;

(ii) assessments, assessment liens, or subordination of such liens;

(iii) reserves for maintenance, repair, and replacement of the Common Area;

(iv) insurance or fidelity bonds;

(v) rights to use the Common Area;

(vi) responsibility for maintenance and repair of the Properties;

(vii) expansion or contraction of the Properties or the addition, annexation, or withdrawal of Properties to or from the Association;

(viii) boundaries of any Unit;

(ix) leasing of Units;

(x) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey his or her Unit;

(xi) establishment of self-management by the Association where professional management has been required by an eligible holder; or

(xii) any provisions included in the Declaration, By-Laws, or Articles of Incorporation which are for the express benefit of holders, guarantors, or insurers of first Mortgages on Units.

Section 5. No Priority. No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

Section 6. Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

Section 7. Applicability of Article XIV. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws, or North Carolina law for any of the acts set out in this Article.

Section 8. Failure of Mortgagee to Respond. Any Mortgagee who receives notice and a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

Section 9. HUD/VA Approval. So long as there is a Class "B" membership and so long as the Department of Housing and Urban Development ("HUD") and/or the U.S. Department of Veterans Affairs ("VA") is holding, insuring, or guaranteeing any loan secured by property subject to this Declaration, the following actions shall require the prior approval of HUD and/or VA, respectively: annexation of additional property other than that described on Exhibit "B", dedication or mortgage of Common Area, merger or consolidation in which the Association is a participant, dissolution of the Association, or material amendment of this Declaration.

Article XV
Declarant's Rights

This Declaration and the covenants, conditions and restrictions contained herein are intended to promote and maintain a common scheme of development as described in the Master Land Use Plan, as that plan may change during the course of development. This Declaration, and any amendment hereto, whether made unilaterally by the Declarant or by the Association, shall become a part of this common scheme of development and be enforceable uniformly by and against all Units hereunder.

Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the By-Laws may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein or in the By-Laws, as applicable, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the public registries for Mecklenburg County and/or Cabarrus County, North Carolina, as applicable. Nothing in this Declaration shall be construed to require Declarant or any successor to develop any of the property set forth in Exhibit "B" in any manner whatsoever.

Notwithstanding any provisions contained in the Declaration to the contrary, so long as construction and initial sale of Units shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such Units, including, but not limited to, business offices, signs, model units, and sales offices, and the Declarant and any designated Participating Builder(s) shall have an easement for access to and use of such facilities. The right to maintain and carry on such facilities and activities shall include specifically, without limitation, the right to use Units owned by the Declarant and any clubhouse or community center which may be owned by the Association, as models and sales offices, respectively.

So long as Declarant continues to have rights under this paragraph, no Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's review and written consent. Any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant and recorded in the public registry.

This Article may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this Article shall terminate upon the earlier of (a) twenty years from the date this Declaration is recorded, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

Article XVI
General Provisions

Section 1. Term. The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any property subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten years, unless an instrument in writing, signed by a majority of the then Owners, has been recorded within the year preceding the beginning of each successive period of ten years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein.

Section 2. Amendment. Prior to the conveyance of the first Unit, Declarant may amend this Declaration for any reason, subject to the approval requirements set forth in Article XIV, Section 9 hereof.

Except as otherwise specifically set forth above or elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Members representing seventy-five percent of the total Class "A" votes in the Association, including seventy-five percent of the Class "A" votes held by Members other than the Declarant, and the consent of the Class "B" Member, so long as such membership exists. In addition, the approval requirements set forth in Article XIV hereof shall be met, if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment to be effective must be recorded in the public registries of Mecklenburg County and/or Cabarrus County, North Carolina.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

No amendment may exempt any individual Units from the requirements of this Declaration or in any other way defeat the common scheme of development for Highland Creek which is set forth in this Declaration.

Section 3. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 4. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such

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

Section 5. Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of seventy-five percent of the Voting Members. In the case of such a vote, and notwithstanding anything contained in this Declaration or the Articles of Incorporation or By-Laws of the Association to the contrary, a Voting Member shall not vote in favor of bringing or prosecuting any such proceeding unless authorized to do so by a vote of seventy-five percent of all Members of the Neighborhood represented by the Voting Member. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided in Article X hereof, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made by the Declarant or is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Section 6. Cumulative Effect; Conflict. The covenants, restrictions, and provisions of this Declaration shall be cumulative with those of any Neighborhood and the Association may, but shall not be required to, enforce the latter; provided, however, in the event of conflict between or among such covenants and restrictions, and provisions of any articles of incorporation, by-laws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, those of any Neighborhood shall be subject and subordinate to those of the Association. The foregoing priorities shall apply, but not be limited to, the liens for assessments created in favor of the Association.

In the event of a conflict between the provisions of this Declaration and the provisions of North Carolina law, then to the extent that the provisions of North Carolina law cannot be waived by agreement, the North Carolina law shall control.

Section 7. Use of the Words "Highland Creek". No Person shall use the words "Highland Creek" or any derivative thereof in any printed or promotional material without the prior written consent of the Declarant. However, Owners may use the terms "Highland Creek" in printed or promotional matter where such term is used solely to specify that particular property is located within Highland Creek and the Association shall be entitled to use the words "Highland Creek" in its name.

Section 8. Compliance; Enforcement. Every Owner and occupant of any Unit shall comply with all lawful provisions of this Declaration, the By-Laws and rules and regulations of the Association. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Association or, in a proper case, by any aggrieved Unit Owner or Owners. In addition, the Association may avail itself of any and all remedies provided in this Declaration or the By-Laws.

Section 9. Notice of Sale or Transfer of Title. In the event that any Owner desires to sell or otherwise transfer title to his or her Unit, such Owner shall give the Board of Directors at least seven days prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board of Directors may reasonably require. Until such written notice is received by the Board of Directors, the transferor shall continue to be jointly and severally responsible for all obligations of the Owner of the Unit hereunder, including payment of assessments, notwithstanding the transfer of title to the Unit.

Section 10. Shareholders Agreement/Irrevocable Proxy. To the extent necessary to permit the exercise of all rights and powers set forth herein, this Declaration shall be deemed to constitute a Shareholders Agreement. In addition, all Members constitute and appoint the President, as chairman of the Board of Directors, as their duly authorized attorney-in-fact, with full power of substitution, to provide any necessary approval of the exercise by the Declarant of the rights or powers set forth in this Declaration. This proxy may be exercised by affirmative vote on any resolution authorizing such action submitted at a duly called meeting of the Association or by the execution of a consent to action in place of a meeting. This proxy is coupled with an interest and is irrevocable.

Section 11. Covenant Relating to Highland Creek Golf Course. The Association shall cooperate with the owners of the property which is subject to that certain Declaration of Easements and Covenants Relating to Highland Creek Golf Course attached hereto as Exhibit "D" and incorporated herein, and shall comply fully with the terms and provisions of such Declaration of Easements and Covenants.

[CONTINUED ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration of Covenants, Conditions and Restrictions for Highland Creek this 9th day of December, 19 91.

DECLARANT: AMERICAN NEWLAND ASSOCIATES, a California general partnership (SEAL)

[Corporate Seal]

BY: THE NEWLAND GROUP, INC., a California corporation, General Partner

By: _____
Name: BRIAN K. LAUDER
Title: _____

THE NEWLAND GROUP, INC. INCORPORATED June 3, 1987 CALIFORNIA

Attest: _____
Name: M.R. Scott, Sr. V.P. &
Title: Assistant Secretary

[Corporate Seal]

BY: THE NEWLAND GROUP, INC., a California corporation, General Partner

By: _____
Name: LaDONNA K. MCKEE
Title: _____

THE NEWLAND GROUP, INC. June 3, 1987 CALIFORNIA

Attest: _____
Name: M.R. Scott, Sr. V.P. &
Title: Assistant Secretary

BY: AMERICAN GENERAL REALTY INVESTMENT CORPORATION (formerly Atlas Realty Company), a Texas corporation, General Partner

By: _____
Name: Donald R. Nichols
Title: Vice President

Attest: _____
Name: _____
Title: Assistant Secretary
C. J. Hullman
Asst. Secretary

AMERICAN GENERAL REALTY INVESTMENT CORPORATION TEXAS

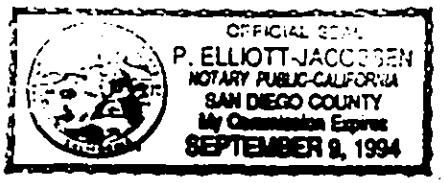
[SIGNATURES CONTINUED ON NEXT PAGE]

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

On December 10, 1991, before me, P. Elliott-Jacobsen, a Notary Public, personally appeared LaDonna K. Monsees, Senior Vice President and Secretary of The Newland Group, Inc., a California corporation, a general partner of American Newland Associates, a California general partnership, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that by her signature on the instrument, she executed the same on behalf of the partnership.

WITNESS my hand and official seal.



P. Elliott-Jacobsen
Notary Public in and for the State of California

P. Elliott-Jacobsen
Printed Name of Notary:

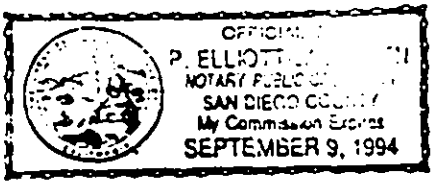
My commission expires:
September 9, 1994

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

On December 10, 1991, before me, P. Elliott-Jacobsen, a Notary Public, personally appeared Brian K. Laidlaw, Senior Vice President and Assistant Secretary of The Newland Group, Inc., a California corporation, a general partner of American Newland Associates, a California general partnership, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that by his signature on the instrument, he executed the same on behalf of the partnership.

WITNESS my hand and official seal.



P. Elliott-Jacobsen
Notary Public in and for the State of California

P. Elliott-Jacobsen
Printed Name of Notary:

My commission expires:
September 9, 1994

[CONTINUED ON NEXT PAGE]

STATE OF TEXAS

COUNTY OF Harris

I, Debbie Meers, a Notary Public, certify that Donald W. Nicholson personally came before me this day and acknowledged the he is Vice President of American General Realty Investment Corporation, a Texas corporation, a general partner of American Newland Associates, a California general partnership, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President, sealed with its corporate seal and attested by C. J. Hallman, as its Assistant Secretary, as an act of, and for and on behalf of, said partnership.

WITNESS my hand and Notarial Stamp/Seal this the 18th day of December, 1991.

Debbie Meers
Notary Public in and for the State of Texas

Debbie Meers
Printed Name of Notary:

My commission expires:
12/27/94

2686g --10/29/91

DEBBIE MEERS
NOTARY PUBLIC, STATE OF TEXAS
MY COMMISSION EXPIRES
DECEMBER 27, 1994

EXHIBIT "A"

Land Initially Submitted

ALL THOSE TRACTS OR PARCELS OF LAND lying and being in Mallard Creek Township, Mecklenburg County, North Carolina, and being more particularly described on the following plats recorded in the Mecklenburg Public Registry:

That certain plat of Springhurst Village, Highland Creek Subdivision, recorded at Plat Book 24, Pages 703 & 704

That certain plat of Brookside Village, Highland Creek Subdivision, recorded at Plat Book 24, Page 699;

That certain plat of Faircroft Village, Phase 1 - Map 1, Highland Creek Subdivision, recorded at Plat Book 24, Page 700;

That certain plat of Glen Royal Village, Highland Creek Subdivision, recorded at Plat Book 24, Page 701; and

That certain plat of CrownVista Village, Phase 1 - Map 1, Highland Creek Subdivision, recorded at Plat Book 24, Page 702.

NEIGHBORHOOD DESIGNATIONS:

Each of the five Villages identified by the foregoing plats shall constitute separate "Neighborhoods" as defined in Article III, Section 3, of the Declaration, subject to the future expansion or modification in accordance with the terms of the Declaration.

EXHIBIT "B"

Land Subject To Annexation

Lying and being partly in Mallard Creek Township, Mecklenburg County and partly in Cabarrus County, North Carolina, and being more particularly described as follows:

BEGINNING at a point in the right-of-way of Eastfield Road, said point being the northeast corner of a 12-acre tract of land conveyed to C.M. Wallace and wife Faye F. Wallace by deed recorded in Book 1664, Page 272 of the Mecklenburg Public Registry ("MPR"); thence within the right-of-way of said Eastfield Road N 49-51-59 E 200.65 feet to a point; thence N 29-27-43 E 164.63 feet to an existing iron pin; thence N 64-02-36 E 1207.18 feet to a point; thence N 67-32-25 E 517.85 feet to an existing iron pin; thence N 44-22-33 E 135.46 feet to an existing iron pin; thence, running with the southwesterly boundary of the property, now or formerly, of Francis P. Coleman as described in Deed 1764 at Page 155 of the MPR, if that boundary were extended to the last mentioned existing iron pin S 63-57-30 E 586.76 feet to an existing iron pin; thence, continuing with the boundary of said Coleman property the following two (2) courses and distances: (1) S 63-21-55 E 204.74 feet to a new iron pin; and (2) S 31-41-33 E 252.86 feet to an existing iron pin marking the northeasterly corner of the property, now or formerly, of John R. Benjamin as described in Deed recorded in Book 5010 at Page 116 of the MPR; thence with two courses of the property of John R. Benjamin as follows: (1) S 67-43-48 W 571.32 feet to an existing iron pin; and (2) S 67-44-25 W 41.01 feet to an existing iron pin in the northerly margin of the right-of-way of Street Acres Road; thence S 67-55-50 W 43.51 feet to a point; thence S 48-20-17 E 117.50 feet to a point; thence S 48-28-25 E 934.42 feet to a point; thence S 48-48-25 E 57.70 feet to a point; thence N 58-56-09 E 23.43 feet to an existing iron pin; thence S 08-37-57 E 34.12 feet to a point in the centerline of Street Acres Road; thence with the centerline of Street Acres Road three (3) courses and distances as follows: (1) S 48-48-25 E 424.29 feet to a point; (2) with the arc of a curve to the left having a radius of 686.82 feet, an arc distance of 361.09 feet (said curve having a chord bearing of S 63-52-06 E 356.95 feet) to a point; and (3) S 78-55-48 E 320.81 feet to a point; thence N 09-23-43 E 30.01 feet to a new iron set in the corner of the property, now or formerly, of J.B. Beaty as described in Deed 1820 at Page 171 of the MPR; thence with the easterly line of the property of Beaty N 09-23-43 E 682.77 feet to an existing iron pin marking the northeasterly corner of the property of Beaty as aforesaid and the southeasterly corner of the property, now or formerly, of John W. Wallace, Sr. as described in Deed 3737 at Page 816 of the MPR; thence with the boundaries of the said property of Wallace three (3) courses and distances as follows: (1) N 07-57-19 E 1138.57 feet to a new iron pin; (2) N 60-51-55 E 863.00 feet to an old iron pin; and (3) N 37-13-12 E 763.13 feet to an old iron pin marking the southwesterly corner of the property, now or formerly, of Wallace J. Woodley, Sr. as described in Deed 4476 at Page 558 of the MPR; thence with the southerly boundary of the property of said Wallace S 89-45-39 E 910.18 feet to an old iron pin marking the southwesterly corner of

the property, now or formerly, of Felix E. Rankin as described in Deed 178 at Page 563 of the Cabarrus Public Registry ("CPR"); thence with the southerly line of the property of Rankin S 89-50-39 E 351.21 feet to an existing iron pin marking the southwesterly corner of the property, now or formerly, of Kirksey D. Rankin as described in Deed 509 at Page 685 of the CPR; and running thence with the southerly boundary of the property of said Rankin S 89-52-27 E 493.43 feet to an existing iron pin marking the southwesterly corner of the property, now or formerly, of Laurie F. Palmer as described in Deed 593 at Page 790 of the CPR; and running thence with the said southerly line of said Palmer and crossing the county line into Cabarrus County two (2) courses and distances as follows: (1) S 89-52-37 E 300.12 feet to an existing iron pin; and (2) N 11-46-57 W 389.10 feet to an existing iron pin marking the corner of the property, now or formerly, of Laurie F. Palmer as described in Deed 567 at Page 174 of the CPR; and running thence with the southerly boundary of the property of said Palmer and the property, now or formerly, of Edward H. Dalton as described in Deed 521 at Page 564 and Deed 320 at Page 175, both of the CPR, S 78-02-52 E 1379.21 feet to an existing iron pin; thence continuing with the easterly boundary of the property of Edward H. Dalton N 13-38-44 W 288.48 feet to an existing iron pin marking the southeasterly corner of the property, now or formerly, of Thomas A. Rankin as described in Deed 489 at Page 566 of the CPR; and running thence with the easterly boundary of the property of said Rankin N 01-41-59 E 873.60 feet to an existing iron pin, said pin marking the southwesterly corner of the property, now or formerly, of Mark H. Allen, et al. as described in Deed 673 at Page 132 of the CPR; and running thence with three (3) courses and distances of the property of said Allen property as follows: (1) N 59-31-30 E 2370.46 feet to an existing iron pin; (2) S 08-49-58 E 1201.95 feet to an existing iron pin; and (3) N 69-30-41 E 313.75 feet to a new iron pin; thence running first with the line of said Allen property and thence with the westerly line of the property, now or formerly, of Benjamin Walker, et al. as described in Deed 435 at Page 661 of the CPR S 10-47-03 E 942.87 feet to an existing iron pin marking the southwesterly corner of said Walker property; thence with the property of said Walker two (2) courses and distances as follows: (1) S 87-38-58 E 1057.57 feet to a new iron pin; and (2) S 87-38-58 E 75.00 feet to a point in Clark's Creek; thence with the meanderings of Clark's Creek twenty-two (22) courses and distances as follows: (1) S 42-45-38 E 274.80 feet to a point; (2) S 55-05-35 W 93.42 feet to a point; (3) S 50-35-28 E 98.79 feet to a point; (4) S 85-27-12 E 101.30 feet to a point; (5) S 68-37-37 E 95.64 feet to a point; (6) S 42-58-07 E 69.75 feet to a point; (7) N 68-27-19 E 30.32 feet to a point; (8) S 20-20-14 E 90.75 feet to a point; (9) S 35-01-31 W 44.20 feet to a point; (10) S 23-31-30 W 102.15 feet to a point; (11) S 85-48-39 W 107.86 feet to a point; (12) S 17-55-49 E 99.93 feet to a point; (13) S 37-40-29 E 71.02 feet to a point; (14) S 55-07-02 W 193.11 feet to a point; (15) S 05-45-12 W 192.49 feet to a point; (16) S 15-36-58 E 205.08 feet to a point; (17) S 21-51-34 E 139.85 feet to a point; (18) S 27-31-43

W 197.44 feet to a point; (19) S 39-01-46 W 232.62 feet to a point; (20) S 24-03-37 E 101.14 feet to a point; (21) S 07-47-21 E 244.61 feet to a point; and (22) S 25-45-21 E 36.39 feet to a point; thence S 12-11-02 E 219.09 feet to the southwesterly corner of the property, now or formerly, of George T. Benton described in Deed 650 at Page 122 of the CPR; thence with the southerly boundary of the property of said Benton N 83-29-21 E 229.03 feet to a point in Clark's Creek; thence with the meanderings of Clark's Creek fifteen (15) courses and distances as follows: (1) S 75-10-12 E 35.34 feet to a point; (2) S 15-36-36 E 92.69 feet to a point; (3) S 36-05-46 E 81.39 feet to a point; (4) N 77-37-01 E 37.96 feet to a point; (5) S 04-21-46 W 129.33 feet to a point; (6) S 63-55-20 E 59.26 feet to a point; (7) S 40-27-46 E 87.33 feet to a point; (8) S 13-40-56 E 165.48 feet to a point; (9) S 16-19-56 E 125.34 feet to a point; (10) S 66-22-04 W 221.47 feet to a point; (11) S 03-30-26 E 129.64 feet to a point; (12) S 43-26-33 W 113.76 feet to a point, (13) S 29-52-43 W 51.89 feet to a point; (14) S 22-01-56 W 41.24 feet to a point; and (15) S 01-38-47 E 30.97 feet to a point in the northerly boundary of the property, now or formerly of S. W. Christenbury as described in Deed 178 at Page 220 of the CPR; thence with three (3) courses and distances of the property of Christenbury as follows: (1) N 78-38-22 W 680.95 feet to an existing iron pin; (2) S 11-46-01 E 657.25 feet to a new iron pin; and (3) S 88-59-52 W 336.81 feet to an existing iron pin in the boundary of the property of K. L. Christenbury as described in Deed 567 at Page 53 of the CPR; thence with three (3) courses and distances of the property of said Christenbury as follows: (1) N 16-58-30 W 395.33 feet to an existing iron pin; (2) N 86-44-42 W 514.48 feet to an existing iron pin; and (3) S 19-42-22 W 1170.74 feet to an existing iron pin in the northerly boundary of the property, now or formerly, of Pleasant Grove Church as described in Deed 98 at Page 43 of the CPR; thence with three (3) courses and distances of the property of Pleasant Grove Church as follows: (1) N 82-03-05 W 22.75 feet to an existing concrete monument; (2) S 07-35-13 E 356.38 feet to a new iron pin; and (3) S 14-19-54 W 411.98 feet to an existing iron pin in the northerly boundary of the property, now or formerly, of Leoma S. M. Showmar as described in Deed 1545 at Page 541 of the MPR and running thence with two (2) courses and distances of the property of said Showmar and crossing from Cabarrus County into Mecklenburg County as follows: (1) N 56-45-18 W 593.56 feet to an existing iron pin; and (2) N 56-54-08 W 797.63 feet to an existing iron pin marking the northeasterly corner of the property, now or formerly, of Christenbury General Partnership as described in Deed 4507 at Page 279 of the MPR; thence with three (3) courses and distances of the property of said Christenbury General Partnership as follows: (1) N 58-08-53 W 213.57 feet to a new iron pin set in an old rock pile; (2) S 76-30-36 W 510.95 feet to an existing iron pin; and (3) S 75-07-35 W 295.20 feet to an existing iron pin in a creek; thence with the meanderings of that creek seventeen (17) courses and distances as follows: (1) S 27-50-26 E 128.89 feet to a new iron pin; (2) S 28-34-12 W 104.74 feet to a point; (3) S 07-39-27 W 79.70 feet to

a point; (4) S 45-50-37 W 54.41 feet to a point; (5) S 03-23-17 W 31.49 feet to an existing iron pin; (6) S 21-22-07 W 240.52 feet to an existing iron pin; (7) S 30-21-09 W 91.67 feet to an existing iron pin; (8) S 51-36-40 W 100.78 feet to an existing iron pin; (9) S 88-49-02 W 80.81 feet to an existing iron pin; (10) S 49-40-55 W 94.47 feet to an existing iron pin; (11) S 09-58-15 W 115.48 feet to an existing iron pin; (12) S 15-33-29 W 87.94 feet to an existing iron pin; (13) S 43-05-16 W 194.05 feet to an existing iron pin; (14) S 15-49-18 W 162.95 feet to an existing iron pin; (15) S 35-32-46 W 137.16 feet to an existing iron pin; (16) S 23-47-13 W 100.56 feet to an existing iron pin; and (17) S 14-24-47 W 153.63 feet to an existing iron pin; thence N 89-09-30 E 64.57 feet to an existing iron pin; thence, running in part with the southerly line of the property of Christenbury General Partnership (now or formerly) S 85-51-47 E 925.18 feet to an iron pin found; thence, continuing with the southerly line of said Christenbury property S 85-48-00 E 360.89 feet to an iron pin found; thence, S 02-39-55 E 1248.64 feet to a point; thence, S 70-59-07 E 581.17 feet to an iron pin found; thence, S 63-20-54 W 2642.04 feet to an iron pin found; thence, S 53-57-17 W 383.80 feet to an iron pin found; thence, S 53-55-44 W 272.67 feet to an iron pin found; thence, S 53-55-44 W 34.91 feet to a point in the centerline of Ridge Road (State Road 2601); thence with the centerline of Ridge Road N 43-52-56 W 60.54 feet to a point; thence, N 53-55-44 E 25.30 feet to an iron pin set; thence, running with two lines of the property (now or formerly) of John Raymond Morris as described in Deed recorded in Book 5823 at Page 404 of the MPR as follows: (1) N 53-55-44 E 290.36 feet to an iron pin found; and (2) N 42-14-41 W 395.96 feet to an iron pin found, the northeasterly corner of the property (now or formerly) of Helen B. Tucker as described in Deed recorded in Book 5110 at Page 261 of the MPR; thence with four (4) courses and distances of the property of said Tucker as follows: (1) N 11-18-12 W 507.57 feet to an iron pin found; (2) S 41-36-38 W 219.28 feet to an iron pin found; (3) S 41-20-27 W 200.40 feet to an iron pin found; and 4) S 41-23-06 W 362.47 feet to an iron pin found in the northerly margin of the right-of-way of Ridge Road; thence, S 41-23-06 W 30.86 feet to a point which is located in the centerline of the right-of-way of Ridge Road; thence, continuing with said centerline the following seven courses and distances: 1) N 66-07-16 W 74.27 feet to a point; 2) N 63-06-50 W 95.90 feet to a point; 3) N 58-15-46 W 100.31 feet to a point; 4) N 55-24-45 W 97.10 feet to a point; 5) N 54-20-20 W 99.33 feet to a point; 6) N 53-52-57 W 514.98 feet to a point; and 7) N 54-40-24 W 69.37 feet to the point of intersection of the centerline of Ridge Road (State Road 2601) and the centerline of Street Avenue (60-foot right-of-way); thence continuing with the centerline of Street Avenue the following three (3) courses and distances: (1) N 19-13-55 E 585.07 feet to a point: (2) N 22-43-55 E 266.53 feet to a point; and (3) N 27-30-07 E 84.14 feet to a point; thence, N 62-40-58 W 29.67 feet to a new iron pin in the southeast corner Lot 1, Block B of Ridgewood Acres as shown on Map recorded in Map Book 9 at Page 93 of the MPR; thence N 27-21-48 E 250.00 feet to an

existing iron pin; thence N 30-21-25 E 124.71 feet to an existing iron pin; thence N 30-31-02 E 124.95 feet to an existing iron pin; thence N 30-30-46 E 86.21 feet to a point; thence N 64-22-52 W 1839.27 feet to an existing iron pin in the easterly margin of the right-of-way of Shelley Drive (60-foot right-of-way); thence with the easterly margin of the right-of-way of Shelley Drive the following two (2) courses and distances: 1) N 22-08-43 E 60.01 feet to an existing iron pin; and 2) N 14-08-57 E 172.56 feet to a point; thence N 64-55-10 W 344.11 feet to an existing iron pin marking the northwesterly corner of Tract 3 as shown on map of Ridgewood Acres as recorded in Map Book 9 at Page 93 of the MPR; thence with the westerly boundary of said Tract 3 S 17-41-56 W 771.51 feet to an existing iron pin; thence, S 63-28-09 E 270.37 feet to an existing iron pin in the westerly margin of the right-of-way (60-foot right-of-way) of Shelley Drive; thence with the westerly margin of said right-of-way S 18-02-28 W 60.01 feet to an existing iron pin in the northerly line of the property of Stubbs (now or formerly) as described in deed recorded in Book 6410 at Page 510 of the MPR; thence running with the boundary of said Stubbs property the following two (2) courses and distances: 1) N 63-30-50 W 270.45 feet to a point; and 2) S 18-08-45 W 503.57 feet to an existing iron pin in the northerly property line of Jean B. Helms as described in Deed 3418 at Page 349 of the MPR; thence with the property of said Jean B. Helms two (2) courses and distances as follows: (1) N 58-08-59 W 1121.01 feet to an existing iron pin; and (2) S 03-29-53 W 922.94 feet to an existing iron pin; thence S 09-49-13 W 83.56 feet to a point in the centerline of Ridge Road (State Road 2601); thence with the centerline of said Ridge Road thirteen (13) courses and distances as follows: (1) N 79-29-24 W 33.76 feet to a point; (2) N 83-39-30 W 49.67 feet to a point; (3) N 88-41-40 W 50.34 feet to a point; (4) S 85-53-39 W 50.97 feet to a point; (5) S 80-42-28 W 47.79 feet to a point; (6) S 76-29-26 W 49.84 feet to a point; (7) S 74-34-21 W 52.00 feet to a point; (8) S 74-13-22 W 294.61 feet to a point; (9) S 73-54-17 W 460.87 feet to a point; (10) S 73-33-18 W 70.81 feet to a point; (11) S 72-49-26 W 72.88 feet to a point; (12) S 71-29-41 W 100.73 feet to a point; and (13) S 71-03-45 W 533.76 feet to a point in the southeasterly corner of the property, now or formerly, of Herbert S. Tesh, Jr. as described in Deed 3808 at Page 855 of the MPR; thence with three (3) courses and distances of the property of Tesh as follows: (1) N 12-53-17 W 1586.54 feet to an existing iron pin; (2) N 50-45-03 W 259.93 feet to an existing iron pin; and (3) N 49-33-49 W 307.44 feet to an existing iron pin marking the corner of the property, now or formerly, of C.E.H. Ferrell as described in Deed 1793 at Page 442 of the MPR; thence with seven (7) courses and distances of the property of Ferrell as follows: (1) N 50-23-28 W 409.67 feet to an existing iron pin; (2) N 50-14-12 W 601.68 feet to an existing iron pin; (3) N 50-01-30 W 299.65 feet to an existing iron pin; (4) N 45-33-00 E 344.34 feet to a new iron pin; (5) N 56-22-54 E 67.55 feet to an existing iron pin; (6) N 04-05-31 E 291.21 feet to a new iron pin; and (7) N 08-59-01 E 422.94 feet to a new iron pin set in the corner of the property, now or

formerly, of C.M. Wallace as described in Deed 1664 at Page 272 of the MPR, thence with five (5) courses and distances of the property of Wallace as follows: (1) N 66-35-08 E 652.15 feet to an existing iron pin; (2) N 66-49-34 E 400.24 feet to an existing iron pin; (3) N 66-59-52 E 200.11 feet to an existing iron pin; (4) N 67-29-58 E 200.47 feet to an existing iron pin; and (5) N 38-33-28 W 1860.51 feet to the point and place of BEGINNING.

BK: 06302 PG: 0584/0621 $:0310 30.00

Cross-Reference to Declaration:
Book 6730
Page 0017

After recording, mail to:

William T. Graves, Esq.
Robinson, Bradshaw & Hinson, P.A.
1900 Independence Center
101 North Tryon Street
Charlotte, NC 28246

This instrument was prepared by:

Hyatt & Rhoads, P.C.
1200 Peachtree Center South Tower
225 Peachtree Street, N.E.
Atlanta, Georgia 30303

FIRST AMENDMENT TO THE
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
HIGHLAND CREEK

This Amendment is adopted by Highland Creek Community Association, Inc. (the "Association") as of the date set forth below.

WHEREAS, American Newland Associates, a California general partnership (the "Declarant"), executed that certain Declaration of Covenants, Conditions and Restrictions for Highland Creek which was recorded on January 6, 1992, in Book 6730, Page 17, et seq., in the Office of the Register of Deeds of Mecklenburg County, North Carolina ("Declaration"); and

WHEREAS, pursuant to Article XVI, Section 2, of the Declaration, the Declaration may be amended upon the affirmative vote or written consent of Voting Members representing 75% of the total Class "A" votes in the Association and the consent of the Class "B" Member; and

WHEREAS, the Declarant, as the sole Class "B" Member, and Members entitled to cast at least 75% of the total Class "A" votes in the Association have consented to and approved of this Amendment;

NOW, THEREFORE, the Declaration is hereby amended as follows:

1.

Article XII, Section 2(b), is amended by striking the first sentence of that subsection and inserting the following in its place:

(b) Prohibited Vehicles. Commercial vehicles (defined as trucks or vans with commercial writing on their exteriors or primarily used or designed for commercial purposes), vehicles with advertising signage attached thereto (but excluding passenger cars with identifying decals not exceeding one square foot in size and official vehicles owned by governmental or quasi-governmental bodies), tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, and boat trailers shall be parked only in enclosed garages or areas, if any, designated by the Board or by the

Neighborhood Association, if any, having jurisdiction over parking areas within a particular Neighborhood.

2.

Article XII, Section 8, is amended by deleting the first sentence of that section, which reads:

> No basketball hoops, backboards or similar sports equipment, and no clotheslines shall be erected or installed on the exterior portion of any Unit.

and substituting in its place the following:

> No basketball hoops, backboards, skateboard ramps, climbing walls or similar sports equipment shall be erected or installed on any Unit unless specifically authorized in the Design Guidelines, and then only upon approval of the appropriate committee as required by Article XI hereof. No clotheslines shall be erected or installed on the exterior portions of any Unit.

3.

Article XIII, Section 5, is amended by deleting the last sentence of that Section and substituting the following:

> Under no circumstances shall the Declarant, the Association, any home builder constructing homes within the Properties, or the owner or operator of the golf course be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement.

4.

Article XIII, Section 7, is amended by deleting that section in its entirety and substituting the following in its place:

> Section 7. Landscape Easements. There are hereby reserved to Declarant (so long as the Declarant owns any property described on Exhibits "A" or "B" to this Declaration), the Association and the designees of each, non-exclusive easements for access, installation, pruning and other maintenance, removal and replacement of street trees and landscaping over those portions of the Properties lying adjacent to public road rights-of-way and consisting of a strip of land 10 feet in width and running the entire length of, and on both sides of, each public road right-of-way within the Properties ("Landscape Easement"), and over such other portions of the Properties as are designated "Landscape and Access Easement" on the recorded plats of the Properties. Such easements shall include the right to disturb existing landscaping within the easement area, to dig holes and to temporarily pile dirt and

plant material upon the easement area, provided the area is restored to a neat and attractive condition to the extent practical, as soon as reasonably possible after completion of the activities authorized hereunder. Nothing herein shall obligate the Declarant or the Association to undertake any of the activities which such easement authorizes. Except as may otherwise be provided in any written agreement executed by the Declarant, the Declarant and the Association may, but shall not be obligated to, install trees and landscaping within such *public rights-of-way and/or these easement areas at its* option, at such times and in such numbers and locations as it may deem appropriate in its sole discretion. Notwithstanding anything to the contrary in Article IV, Section 1, of this Declaration, neither the Declarant nor the Association shall have any responsibility for maintenance of landscaping within the easement areas except to the extent that such responsibility is expressly assumed pursuant to the easements reserved herein.

5.

Article XIII, Section 2, is amended by adding to the end of the first sentence of that section the words ", specifically including those drainage and utility easements designated 'PDE' and 'PUE', respectively, on the recorded plats", such that the sentence now reads as follows:

> Section 2. Easements for Utilities, Etc. There are hereby reserved unto Declarant, so long as the Declarant owns any property described on Exhibit "A" or "B," of this Declaration, the Association, and the designees of each (which may include, without limitation, Mecklenburg County or Cabarrus County, North Carolina and any utility) access and maintenance easements upon, across, over, and under all of the Properties to the extent reasonably necessary for the purpose of replacing, repairing, and maintaining cable television systems, master television antenna systems, security and similar systems, roads, walkways, bicycle pathways, lakes, ponds, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, gas, and electricity, and for the purpose of installing any of the foregoing on property which it owns or within easements designated for such purposes on recorded plats of the Properties, specifically including those drainage and utility easements designated as "PDE" and "PUE", respectively, on the recorded plats.

6.

The Declaration is further amended by striking Exhibit "D", entitled Declaration of Easements and Covenants Relating to Highland Creek Golf Course, in its entirety, and substituting the attached instrument labeled Exhibit "D" in its place.

[CONTINUED ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned officers of Highland Creek Community Association, Inc. hereby certify that the foregoing Amendment was duly approved by the affirmative vote or written consent of the Members as of the 5th day of JUNE, 1992.

HIGHLAND CREEK COMMUNITY ASSOCIATION, INC.,
a North carolina corporation [SEAL]

BY: David B. Wright
Name: DAVID B. WRIGHT
Title: PRESIDENT

ATTEST: Janice W. Baratta
Name: Janice W. Baratta
Title: Asst. Secretary

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, a Notary Public of the County and State aforesaid, certify that DAVID B. WRIGHT personally came before me this day and acknowledged that he is the _____ President of Highland Creek Community Association, Inc., a North Carolina corporation, and that the seal affixed to the foregoing instrument in writing is the corporate seal of the corporation, and that said writing was signed and sealed by him, on behalf of the corporation, by its authority duly given. And the said _____ President acknowledged the said writing to be the act and deed of said corporation.

WITNESS my hand and official seal this 5th day of June, 1992.

Ronelle L. Scharnberg
Notary Public

My commission expires: August 28, 1996

[CONTINUED ON NEXT PAGE]

CONSENT OF CLASS "B" MEMBER

The undersigned, being the sole Class "B" Member of Highland Creek Community Association, Inc., does hereby consent to and approve of the foregoing First Amendment to the Declaration of Covenants, Conditions and Restrictions for Highland Creek this 9th day of March, 1992.

DECLARANT: AMERICAN NEWLAND ASSOCIATES, a California general partnership [SEAL]

[Corporate Seal]

BY: AMERICAN GENERAL REALTY INVESTMENT CORPORATION (formerly Atlas Realty Company), a Texas corporation, General Partner

By: _____
Name: Richard W. Nicholas
Title: Vice President

Attest: _____
Name: John Mabry
Title: Assistant Secretary

[Corporate Seal]

BY: THE NEWLAND GROUP, INC., a California corporation, General Partner

By: _____
Name: _____
Title: _____

Attest: _____
Name: _____
Title: Assistant Secretary

[Corporate Seal]

BY: THE NEWLAND GROUP, INC., a California corporation, General Partner

By: _____
Name: James M. Delaney
Title: V.P. & Asst Secretary

Attest: _____
Name: _____
Title: Assistant Secretary

[CONTINUED ON NEXT PAGE]

STATE OF TEXAS

COUNTY OF Harris

I, Debbie Moers, a Notary Public, certify that ~~Connie Brackeen~~ personally came before me this day and acknowledged the ~~she~~ he is ~~Vice President~~ Asst Sec of American General Realty Investment Corporation, a Texas corporation, a general partner of American Newland Associates, a California general partnership, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President, sealed with its corporate seal and attested by John Ashcroft, as its Assistant Secretary, as an act of, and for and on behalf of, said partnership.

WITNESS my hand and Notarial Stamp/Seal this the 14th day of April, 1992.

Debbie Moers
Notary Public in and for the State of Texas

Debbie Moers
Printed Name of Notary:

My commission expires:
12/27/94

DEBBIE MOERS
NOTARY PUBLIC, STATE OF TEXAS
MY COMMISSION EXPIRES
DECEMBER 27, 1994

STATE OF CALIFORNIA

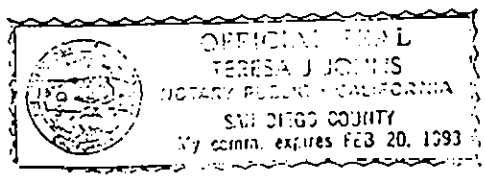
COUNTY OF San Diego

On March 27, 1992, before me, Peter Ohno, a Notary Public, personally appeared James M. Heimann, ~~Vice President~~ Secretary of The Newland Group, Inc., a California corporation, a general partner of American Newland Associates, a California general partnership, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that by his

FIRST AMENDMENT TO CC&R'S
HIGHLAND CREEK

signature on the instrument, he executed the same on behalf of the partnership.

WITNESS my hand and official seal.



(NOTARIAL SEAL)

Notary Public in and for the State of California

Printed Name of Notary:

My commission expires:
Feb. 20 1993

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 19____, before me, _____, a Notary Public, personally appeared _____, _____ of The Newland Group, Inc., a California corporation, a general partner of American Newland Associates, a California general partnership, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that by ____ signature on the instrument, ____ executed the same on behalf of the partnership.

WITNESS my hand and official seal.

(NOTARIAL SEAL)

Notary Public in and for the State of California

Printed Name of Notary:

My commission expires:

30920

[CONTINUED ON NEXT PAGE]

CONSENT OF CLASS "A" MEMBER

The undersigned, being a Class "A" Member of Highland Creek Community Association, Inc., does hereby consent to and approve of that certain First Amendment to the Declaration of Covenants, Conditions and Restrictions for Highland Creek, which modifies Article XIII, Sections 2 and 7 of that instrument, a copy of the proposed Amendment being attached hereto with the pages initialled by the undersigned for identification.

CENTEX REAL ESTATE CORP
Printed Name of Member

By: Randy Luther
Name: RANDY LUTHER
Title: Division President

Attest:
Robert H Klingaheim
Name:
Title: Asst Sec

[Corporate Seal]

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, a Notary Public of the County and State aforesaid, certify that Randy Luther personally came before me this day and acknowledged that he is the Div. President of Centex Real Estate Corp. a _____ corporation, and that the seal affixed to the foregoing instrument in writing is the corporate seal of the corporation, and that said writing was signed and sealed by him, on behalf of the corporation, by its authority duly given. And the said Div. President acknowledged the said writing to be the act and deed of said corporation.

WITNESS my hand and official seal this 9 day of March, 1992.

Kimberly Ann Braud
Notary Public

My commission expires: 3/27/96

30920

CONSENT OF CLASS "A" MEMBER

The undersigned, being a Class "A" Member of Highland Creek Community Association, Inc., does hereby consent to and approve of that certain First Amendment to the Declaration of Covenants, Conditions and Restrictions for Highland Creek, which modifies Article XIII, Sections 2 and 7 of that instrument, a copy of the proposed Amendment being attached hereto with the pages initialled by the undersigned for identification.

PULTE HOME CORPORATION,
a Michigan Corporation

BY: _____ (SEAL)
Thomas W. Bruce,
Attorney in Fact for
Pulte Home Corporation,
a Michigan Corporation

STATE OF NORTH CAROLINA COUNTY OF MECKLENBURG

I, Holly C. Burton a Notary Public of Mecklenburg County and state aforesaid, do hereby certify that THOMAS W. BRUCE, Attorney-in-Fact for PULTE HOME CORPORATION, personally appeared before me this day and being by me duly sworn, acknowledged that he executed the foregoing and annexed instrument for and in behalf of PULTE HOME CORPORATION and that his authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged and recorded in the Office of the Register of Deeds of Mecklenburg County, North Carolina on January 15, 1992 and recorded in Book 06738, at page 29 - 34, Mecklenburg County Registry and that this instrument was executed under and by virtue of the authority given by said instrument granting him Power-of-Attorney; that the said THOMAS W. BRUCE acknowledged the due execution of the foregoing and annexed instrument for the purposes therein expressed for and in behalf of the said PULTE HOME CORPORATION.

Witness my hand and notarial seal this the 23rd day of March, 1992.

Holly C Burton
Notary Public

My commission expires March 27, 1996.

30920

EXHIBIT "D"

AMENDED AND RESTATED
DECLARATION OF EASEMENTS AND COVENANTS
RELATING TO HIGHLAND CREEK GOLF COURSE

THIS DECLARATION is made this 9th day of March, 1992, by AMERICAN NEWLAND ASSOCIATES, a California general partnership ("Declarant"), and by HIGHLAND CREEK COMMUNITY ASSOCIATION, INC., a North Carolina corporation (the "Association").

BACKGROUND STATEMENT

Declarant and the undersigned owners are the owners of all that property which is subject to the Declaration of Covenants, Conditions and Restrictions for Highland Creek, recorded in Book 6730, Page 17, et seq., in the Office of the Register of Deeds of Mecklenburg County and which may hereafter be filed in the Office of the Register of Deeds of Cabarrus County, North Carolina, as appropriate (such Declaration is herein referred to as the "Residential Declaration" and all property subject thereto, together with such additional property as is from time to time made subject thereto in accordance with the terms thereof, whether located in Mecklenburg or Cabarrus County, is herein referred to as the "Residential Property"). Declarant is also the owner of all that property described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Golf Course"). Acknowledging that the efficient operation and maintenance of the Golf Course and the Residential Property require the creation of various easements and the performance of certain maintenance for the mutual benefit of the Golf Course and the Residential Property, Declarant, the undersigned owners, and the Association desire to establish certain covenants and easements governing the interrelationships between the Golf Course and the owner(s) thereof (the "Golf Course Owner"), the Residential Property and the owners thereof, and the Highland Creek Community Association, Inc. (the "Association"), and to provide for an equitable allocation of certain costs as set forth herein.

NOW, THEREFORE, Declarant and the undersigned owners hereby declare that all of the Residential Property and all of the Golf Course shall be held, sold, and conveyed subject to the covenants, conditions and easements contained herein, which shall run with the title to the Residential Property and the Golf Course and shall bind all parties having any right, title, or interest in the Residential Property or Golf Course or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of the Association, its successors, assigns, and members, and the present and future owner(s) of any part of the Golf Course or the Residential Property.

By execution below, the Association accepts and agrees to be bound by the terms and provisions of this Declaration, as it may be amended.

Article I
Easements

Section 1. Easements Appurtenant to Residential Property.

(a) The following perpetual, nonexclusive easements appurtenant to the Residential Property are hereby granted to the Association, its agents and employees, over, under and across the Golf Course:

(i) a blanket easement for the purpose of storm water drainage and retention of storm water runoff from the Residential Property;

(ii) an easement to the extent reasonably necessary for the installation, operation, maintenance, repair, replacement, monitoring and controlling of irrigation systems and equipment serving all or portions of the Residential Property;

(iii) an easement to pump water from wells and draw water from lakes, ponds and streams within and running through the Golf Course for irrigation of the Association's Common Areas; provided, unless the Golf Course Owner otherwise agrees, access to such water shall only be from and through the main lake located within the perimeter boundaries of the Golf Course and in the vicinity of the Golf Course clubhouse, but being a part of the Common Area of the Association (the "Main Lake") and its interconnection to such other lakes, ponds, streams and wells within the Golf Course; and

(iv) blanket easements for access, ingress and egress, maintenance and repair to the extent reasonably necessary for the Association to perform its responsibilities and exercise its rights under the Residential Declaration and hereunder.

(b) A perpetual, nonexclusive easement for pedestrian access, use and enjoyment is also granted hereby to the Association, its agents and employees, and to the owners and occupants of the Residential Property, over those certain walkways or paths leading from the Common Area of the Association to the Main Lake and around the shoreline of the Main Lake as shown on the recorded plats of the Golf Course; provided, such easement shall be limited to pedestrian use of such walkways and shall not be construed to grant such persons any right to use other portions of the Golf Course nor engage in any activity which may interrupt normal operation of or play on the Golf Course without the express permission of the Golf Course Owner.

Section 2. Easements Appurtenant to Golf Course. The following perpetual easements appurtenant to the Golf Course are hereby granted to the Golf Course Owner, its agents, employees, successors and assigns over, under and across the Common Areas (as defined in the the Residential Declaration) of the Association, as such Common Areas may now exist and as the same may hereafter be supplemented:

(a) a non-exclusive easement for access, ingress and egress to, from, over and through the Main Lake for the purpose of maintaining the Main Lake, its lakebed, shoreline, and water quality, and for the purpose of installing, maintaining, repairing and replacing any bulkheads or retaining walls retaining water therein, dam(s), recharging wells, pumps, lighting,

fountains and irrigation systems and equipment drawing water from the Main Lake to irrigate all or a portion of the Golf Course;

(b) an exclusive easement of access, ingress and egress to, from, over and through the Main Lake for the purpose of retrieval of golf balls from the Main Lake, including its shoreline and lakebed;

(c) a non-exclusive easement to the extent reasonably necessary for the installation, operation, maintenance, repair, replacement, monitoring and controlling of irrigation systems and equipment, including, without limitation, wells, pumps and pipelines, serving all or portions of the Golf Course;

(d) a non-exclusive easement to draw water from the Main Lake for the purpose of irrigating the Golf Course; and

(e) an easement of access and use over those portions of the Common Areas reasonably necessary to the operation, maintenance, repair and replacement of the Golf Course.

Article II
Obligation To Maintain

Section 1. Maintenance Property. The Maintenance Property, as such term is used herein, shall mean and refer to the Main Lake, including the shoreline, lakebed and water therein, as well as any dam(s), other structures, mechanical systems and equipment related thereto, including bulkheads or retaining walls retaining water therein, recharging wells, pumps, lighting, fountains, pipes, lines, computer systems, controls and equipment which are part of the irrigation system serving all or a portion of the Golf Course, but only to the extent that the foregoing are also part of the irrigation system serving all or a portion of the Residential Property. The Maintenance Property shall also include the easement area described in Article I, Section 1(b). Notwithstanding the above, neither the Main Lake nor such easement area shall be included in the Maintenance Property until such time as they are conveyed by Declarant to the Association as Common Area, at which time this Declaration shall be supplemented as provided in Article V, Section 3, to include legal descriptions of the same.

Section 2. Maintenance Responsibility. The Golf Course Owner shall maintain the Maintenance Property in proper working order and good repair, consistent with and to the level of a first class golf course, which shall be not less than the standard prevailing at other top-rated golf courses located in residential communities in the metropolitan Charlotte, North Carolina area and a level generally consistent with the Community-Wide Standard of the Highland Creek development established pursuant to the Residential Declaration. Such maintenance shall include periodic treatment of all lakes and ponds within the Maintenance Property to maintain a water quality which would be adequate to support fish life and to avoid excessive breeding of insects.

Article III
Obligation to Share Costs

Section 1. Responsibility for Assessments. The Association covenants and agrees to pay annual assessments to the Golf Course Owner to cover a portion of the costs incurred by the Golf Course Owner in maintaining, repairing, replacing, and operating the Maintenance Property, as defined in Article II, Section 1, above. The obligation of the Association to pay this assessment shall be a separate and independent covenant on the part of the Association, and no diminution or abatement of the assessment or setoff shall be claimed or allowed by reason of any alleged failure of the Golf Course Owner to adequately perform such maintenance responsibilities, the sole remedy of the Association for failure of the Golf Course Owner to perform being suit at law or in equity.

Section 2. Computation of Assessments. On an annual basis, the Golf Course Owner shall determine an estimated budget for performing its responsibilities under Article II, Section 2 hereof during the upcoming year, including a reasonable and appropriate amount to be placed in a reserve fund for capital repairs and replacements. Such budget shall be adjusted to reflect any excess or deficiency in the budget assessed for the immediately preceding year, as compared to actual expenses for that period. Such annual budget, plus any unreimbursed costs incurred by the Golf Course Owner to collect amounts due hereunder for previous fiscal years from the Association, shall be allocated between the Association and Golf Course Owner in direct proportion to their relative usage of water from the irrigation system, as reflected by the usage meters which are installed as part of such system. The Association's share of such budget shall be the total annual assessment obligation of the Association.

Section 3. Payment of Assessments and Security Agreement.

(a) Within thirty (30) days after receipt of written notice of the annual assessment due pursuant to Section 2, above, the Association shall pay one-half (1/2) of the total amount due. Within 180 days thereafter, the Association shall pay the balance due. Any assessment delinquent for a period of more than thirty (30) days shall incur a one-time late charge equal to four (4%) percent of the principal amount past due. In addition, the Golf Course Owner shall be entitled to interest (at a rate not to exceed the lesser of sixteen (16%) percent or the maximum rate allowed by North Carolina law) on the principal amount due from the date first due and payable, all costs of collection, reasonable attorneys fees actually incurred, and any other amounts provided or permitted by law

(b) In order to secure all sums due from the Association to the Golf Course Owner hereunder, the Association hereby grants to the Golf Course Owner a lien and encumbrance upon, and a security interest in, all of the present and future accounts receivable of the Association, including, without limitation, the payments due to the Association from the Owners (as defined in the Residential Declaration) on account of assessments levied by the Association against the Residential Property, whenever due and payable. The Association hereby assigns to the Golf Course Owner the right to collect all such accounts receivable in the event that the Association is more than sixty (60) days delinquent in the payment of any amounts due to the Golf

Course Owner hereunder, which right to collect may be exercised by the Golf Course Owner upon not less than ten (10) days' written notice to the Association and an opportunity to cure any such delinquency, and the Golf Course Owner may continue to exercise such right to collect so long as any such amounts remain past due.

The Association agrees to and shall, upon the request of the Golf Course Owner, execute and deliver to the Golf Course Owner, in form and content satisfactory to the Golf Course Owner, such financing statements and further assurances as the Golf Course Owner may from time to time reasonably consider necessary to create, perfect, continue and preserve the liens and encumbrances hereof and the security interest herein granted. The Association hereby appoints the Golf Course Owner its attorney-in-fact to sign, deliver and file on the Association's behalf any such financing statements and further assuarances as shall be unsigned by the Association ten (10) days after written request therefor from the Golf Course Owner, it being expressly agreed that the power of attorney herein given is coupled with an interest and that the appointment of the Golf Course Owner hereunder shall be irrevocable as long as the security interest herein granted continues. Without the prior written consent of the Golf Course Owner, the Association shall not create, or suffer to be created, any other security interest in the Assocation's accounts receivable.

The Association agrees that the Golf Course Owner shall have the right to file in the Office of the Secretary of State of North Carolina and in any county where the Association maintains a place of business such instruments as may be necessary from time to time to perfect and continue the security interest created herein. The Association agrees to notify the Golf Course Owner in writing of any change in its place of business and of any new place or places of business.

(c) In addition to the rights set forth in subsection (b) above, in the event that any amount due from the Association to the Golf Course Owner hereunder remains unpaid after sixty (60) days, the Golf Course Owner may institute suit to collect such amounts without waiving its right to exercise its rights under subsection (b) above.

(d) All payments shall be applied first to costs and attorney's fees, then to late charges, then to interest and then to delinquent assessments.

Article IV
Sewage Treatment

Upon request of the Golf Course Owner, the Association shall provide sewer service to the Golf Course and facilities constructed thereon so long as the Association owns and operates a sewage treatment facility for the benefit of the Owners of Units within the Residential Property, except as otherwise specifically provided herein. The Association may charge the Golf Course Owner for such sewer service; provided, such charges shall be based upon the same rates and method of computation used to compute charges for Units within the Residential Property, and shall be payable on the same schedule as required of the owners of Units within the Residential Property,

unless the Association and the Golf Course Owner agree otherwise. No charges for sewer service shall be made by the Association against the Golf Course Owner until such time as service is actually provided to the Golf Course, notwithstanding the Association's willingness or ability to provide service at an earlier time.

In the event that the Golf Course Owner is more than 30 days delinquent in paying any charges owed to the Association for sewer service, the Association may levy a late charge against the Golf Course Owner in an amount equal to four (4%) of the principal amount due. In the event that the Golf Course Owner is more than 60 days delinquent in paying any charges owed to the Association for sewer service, the Association may discontinue such service until the past due amount plus all late charges are paid in full, and thereafter may require the Golf Course Owner to post a reasonable monetary deposit as a condition of restoring sewer service to the Golf Course; provided, the Association shall not discontinue sewer service without at least 10 days' prior written notice to the Golf Course Owner, which notice shall be sent by certified mail, return receipt requested, to the billing address provided to the Association by the Golf Course Owner from time to time.

Article V
General

Section 1. Notice. Any notice provided for in this Declaration shall be served personally or shall be mailed by registered or certified mail to the president or secretary of the Association or to the Golf Course Owner, as applicable, at the address of such property or such other address as is registered with the Association by written notice from the Golf Course Owner. All such notices shall, for all purposes, be deemed delivered (a) upon personal delivery to the party or address specified above; or (b) on the third (3rd) day after mailing when mailed by registered or certified mail, postage prepaid, and properly addressed.

Section 2. Recordkeeping. The Golf Course Owner shall maintain or cause to be maintained full and accurate books of account with respect to the management, maintenance and operation of the Maintenance Property. Such books and records and financial statements related thereto shall be made available for inspection and copying upon request, during normal business hours or under other reasonable circumstances. Copying charges shall be paid by the requesting party. If the Association desires to have the records audited, it may do so at its expense, and the Golf Course Owner shall cooperate by making available to the party performing the audit the records, including all supporting materials (e.g., check copies, invoices, etc.) for the year then ended. If the amount of actual expenses for the preceding year is disputed after audit, a second audit shall be performed by a mutually acceptable auditor and the decision of the second auditor shall be binding. If the amount as determined by the second auditor varies from the amount asserted by the Golf Course Owner by more than five (5%) percent of the amount asserted, then the Golf Course Owner shall pay the entire cost of the second auditor. If the amount as determined by the second auditor varies from the amount asserted by the Golf Course Owner by five (5%) percent or less, then the Association shall pay the entire cost of the

second auditor. Variances shall be taken into account in the following year's budget as provided under Article III hereof.

Section 3. Unilateral Annexation and Withdrawal By Declarant. Declarant shall have the unilateral right, privilege and option from time to time at any time to amend this Declaration for the purpose of subjecting additional property to the terms hereof, and/or to reflect minor changes in the boundaries of the Golf Course, and/or to include legal descriptions of the Main Lake and the easement area described in Article I, Section 1(b) hereof. In addition, Declarant shall have the right to expand the real property included within the Residential Property in accordance with the terms of the Residential Declaration, without the necessity of an amendment hereto. As long as covenants applicable to the real property previously subjected to this Declaration are not changed and as long as rights of the then owners are not adversely affected, the Declarant may unilaterally amend this Declaration to reflect the different character of any real property annexed by Declarant.

The rights reserved unto Declarant to subject additional land to this Declaration shall not be implied or construed so as to impose any obligation upon Declarant to subject any additional land to this Declaration.

Section 4. Amendment. This Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of at least a majority of the total number of directors of the Association and owners of a majority of the total acreage within the Golf Course and, so long as the Declarant has an option unilaterally to subject additional property to the Residential Declaration as provided in that instrument, the consent of the Declarant. Amendments to this Declaration shall become effective upon recordation, unless a later effective date is specified therein.

Any procedural challenge to an amendment must be made within six (6) months of its recordation. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

Section 5. Duration. The provisions of this Declaration shall run with and bind the land and shall be and remain in effect for a period of thirty (30) years after the date that this Declaration is recorded, after which time they shall automatically be extended for successive periods of ten (10) years, unless such extension is disapproved by at least a majority of the directors of the Association, owners of a majority of the total acreage within the Golf Course and, so long as the Declarant has an option unilaterally to subject additional property to the Residential Declaration as provided in that instrument, the consent of Declarant. Every purchaser or grantee of any interest in any portion of the Residential Property or Golf Course, by acceptance of a deed or other conveyance therefor, agrees that the provisions of this Declaration may be extended and renewed as provided in this Section.

Section 6. Binding Effect. This Declaration shall be binding upon and shall inure to the benefit of every owner of any portion of the Residential Property and the Golf Course and also shall inure to the benefit of the Association.

Section 7. Interpretation. This Declaration shall be governed by and construed under the laws of the State of North Carolina.

Section 8. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 9. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 10. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable.

Section 11. Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

IN WITNESS WHEREOF, the undersigned have executed this Declaration of Easements and Covenants Relating to Highland Creek Golf Course as of the date first above written.

DECLARANT: AMERICAN NEWLAND ASSOCIATES,
a California general partnership (SEAL)

[Corporate Seal]

BY: THE NEWLAND GROUP, INC., a California corporation, General Partner

By: _____
Name: _____
Title: _____

Attest:

_____
Name: [illegible] WENDING
Title: Assistant Secretary

[CONTINUED ON NEXT PAGE]

[Corporate Seal]

BY: THE NEWLAND GROUP, INC., a California corporation, General Partner

By: _____
Name: James M. Dellmore
Title: Vice President

Attest:

_____
Name: _____
Title: Assistant Secretary

BY: AMERICAN GENERAL REALTY INVESTMENT CORPORATION (formerly Atlas Realty Company), a Texas corporation, General Partner

By: _____
Name: Donald D. Nicholas
Title: Vice President

Attest:

_____
Name: John Lohrey
Title: Assistant Secretary

STATE OF CALIFORNIA

COUNTY OF San Diego

On March 27, 1992, before me, _____, a Notary Public, personally appeared _____, Vice President/Asst. Sec. of The Newland Group, Inc., a California corporation, a general partner of American Newland Associates, a California general partnership, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that by his signature on the instrument, he executed the same on behalf of the partnership.

WITNESS my hand and official seal.

_____
(NOTARIAL SEAL)

OFFICIAL SEAL
TERESA J. JOHNS
NOTARY PUBLIC - CALIFORNIA
SAN DIEGO COUNTY
My comm. expires FEB 20, 1993

Notary Public in and for the State of California

_____
Printed Name of Notary:

My commission expires:
_____

[CONTINUED ON NEXT PAGE]

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 19____, before me, _____, a Notary Public, personally appeared _____, _____ of The Newland Group, Inc., a California corporation, a general partner of American Newland Associates, a California general partnership, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that by ___ signature on the instrument, ___ executed the same on behalf of the partnership.

WITNESS my hand and official seal.

_____
(NOTARIAL SEAL)

Notary Public in and for the State of California

_____
Printed Name of Notary:

My commission expires:
_____

STATE OF TEXAS

COUNTY OF Harris

I, Debbie Moers, a Notary Public, certify that ~~[illegible]~~ personally came before me this day and acknowledged the ~~he~~ is Vice President Asst. Sec. of American General Realty Investment Corporation, a Texas corporation, a general partner of American Newland Associates, a California general partnership, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President, sealed with its corporate seal and attested by John Stoberg, as its Assistant Secretary, as an act of and for and on behalf of, said partnership.

WITNESS my hand and Notarial Stamp/Seal this the 14th day of April, 1992.

DEBBIE MOERS
NOTARY PUBLIC, STATE OF TEXAS
MY COMMISSION EXPIRES
DECEMBER 27, 1994

Debbie Moers
Notary Public in and for the State of Texas

Debbie Moers
Printed Name of Notary:

My commission expires:
12-27-94

DECLARATION OF EASEMENTS[CONTINUED ON NEXT PAGE]

ASSOCIATION: HIGHLAND CREEK COMMUNITY ASSOCIATION, INC., a North Carolina corporation

[Corporate Seal]

BY: David B. Wright

NAME: DAVID B. WRIGHT

TITLE: PRESIDENT

Attest:

Janice W. Baratta

Name: Janice W. Baratta

Title: Assistant Secretary

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, a Notary Public of the County and State aforesaid, certify that DAVID B. WRIGHT personally came before me this day and acknowledged that he is the _____ President of Highland Creek Community Association, Inc., a North Carolina corporation, and that the seal affixed to the foregoing instrument in writing is the corporate seal of the corporation, and that said writing was signed and sealed by him, on behalf of the corporation, by its authority duly given. And the said _____ President acknowledged the said writing to be the act and deed of said corporation.

WITNESS my hand and official seal this 5th day of June, 1992.

Romelle D. Scharnberg

Notary Public

My commission expires: August 28, 1996

[CONTINUED ON NEXT PAGE]

CONSENT OF OWNER OF RESIDENTIAL PROPERTY

The undersigned, being the owner of those portions of the Residential Property described on Exhibit "A" to this Consent, does hereby consent to and approve of that certain Amended and Restated Declaration of Easements and Covenants Relating to Highland Creek Golf Course dated _____, 19___, to which this consent is attached.

PULTE HOME CORPORATION,
a Michigan Corporation

BY: _____ (SEAL)

Thomas W. Bruce,
Attorney in Fact for
Pulte Home Corporation,
a Michigan Corporation

STATE OF NORTH CAROLINA COUNTY OF MECKLENBURG

I, _____, a Notary Public of Mecklenburg County and state aforesaid, do hereby certify that THOMAS W. BRUCE, Attorney-in-Fact for PULTE HOME CORPORATION, personally appeared before me this day and being by me duly sworn, acknowledged that he executed the foregoing and annexed instrument for and in behalf of PULTE HOME CORPORATION and that his authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged and recorded in the Office of the Register of Deeds of Mecklenburg County, North Carolina on January 15, 1992 and recorded in Book 06738, at page 29 - 34, Mecklenburg County Registry and that this instrument was executed under and by virtue of the authority given by said instrument granting him Power-of-Attorney; that the said THOMAS W. BRUCE acknowledged the due execution of the foregoing and annexed instrument for the purposes therein expressed for and in behalf of the said PULTE HOME CORPORATION.

Witness my hand and notarial seal this the 27 day of March, 1992.

_____
Notary Public

2773g - 2/21/92

EXHIBIT "A"

to Consent of Owner - Pulte Home Corporation

Lying and being in Mallard Creek Township, Mecklenburg County, North Carolina, and being more particularly described as follows:

(1) Lots 25, 30 and 32 in Block 1 of Springhurst Village, Highland Creek Subdivision, as shown on plat recorded in Map Book 24, Pages 703 and 704, in the Office of the Register of Deeds of Mecklenburg County, North Carolina (the "Mecklenburg Public Registry");

(2) Lots 13, 26, 33, 39 and 40 in Block 2 of Springhurst Village, Highland Creek Subdivision, as shown on plat recorded in Map Book 24, Page 669, in the Mecklenburg Public Registry;

(3) Lot 13 in Block 1 of Brookside Village, Highland Creek Subdivision, as shown on plat recorded in Map Book 24, Page 699, in the Mecklenburg Public Registry; and

(4) Lots 43, 50, 54, 56, 61, 64 and 80 in Block 2 of Brookside Village, Highland Creek Subdivision, as shown on plat recorded in Map Book 24, Page 699, in the Mecklenburg Public Registry.

CONSENT OF OWNER OF RESIDENTIAL PROPERTY

The undersigned, being the owner of those portions of the Residential Property described on Exhibit "A" to this Consent, does hereby consent to and approve of that certain Amended and Restated Declaration of Easements and Covenants Relating to Highland Creek Golf Course dated _____, 19___, to which this consent is attached.

CENTEX REAL ESTATE CORP
Printed Name of Owner

By: Randy Luther
Name: RANDY LUTHER
Title: Division President

Attest: Robert G Guggenheim
Name: _____
Title: Asst Sec

[Corporate Seal]

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, a Notary Public of the County and State aforesaid, certify that Randy Luther personally came before me this day and acknowledged that he is the Div President of Centex Real Estate Corp. a ___ ____ _____ corporation, and that the seal affixed to the foregoing instrument in writing is the corporate seal of the corporation, and that said writing was signed and sealed by him, on behalf of the corporation, by its authority duly given. And the said Div President acknowledged the said writing to be the act and deed of said corporation.

WITNESS my hand and official seal this 9 day of March, 1992.

Kimberly Ann Baars
Notary Public

My commission expires: 3/27/96

2773g - 2/21/92

EXHIBIT A

COMMON OPEN SPACE
HIGHLAND CREEK SUBDIVISION

PARCEL 1:

All of the tracts or parcels of land labeled "Common Open Space" as shown on that certain Plat of Springhurst Village, Highland Creek Subdivision recorded in Map Book 24, Pages 703 and 704 in the office of the Register of Deeds of Mecklenburg County, North Carolina (the "Mecklenburg Public Registry"), said Common Open Space consisting of five (5) tracts or parcels containing an aggregate of 4.81 acres as shown on said map;

PARCEL 2:

All of the tracts or parcels of land labeled "Common Open Space" as shown on that certain Plat of Brookside Village, Highland Creek Subdivision recorded in Map Book 24, Page 699 in the Mecklenburg Public Registry, said Common Open Space consisting of ten (10) tracts or parcels containing an aggregate of 1.86 acres as shown on said map;

PARCEL 3:

All of the tracts or parcels of land labeled "Common Open Space" as shown on that certain Plat of CrownVista Village - Phase 1, Map 1 Highland Creek Subdivision recorded in Map Book 24, Page 702 in the Mecklenburg Public Registry, said Common Open Space consisting of four (4) tracts or parcels containing an aggregate of 9.04 acres as shown on said map;

PARCEL 4:

All of the tracts or parcels of land labeled "Common Open Space" as shown on that certain Plat of Glen Royal Village, Highland Creek Subdivision recorded in Map Book 24, Page 701 in the Mecklenburg Public Registry, said Common Open Space consisting of two (2) tracts or parcels containing an aggregate of 1.23 acres as shown on said map;

PARCEL 5:

All of the tracts or parcels of land labeled "Common Open Space" as shown on that certain Plat of Ravencrest South Village,

Highland Creek Subdivision recorded in Map Book 25, Page 238 in the Mecklenburg Public Registry, said Common Open Space consisting of two (2) tracts or parcels containing an aggregate of 0.22 acres as shown on said map;

PARCEL 6:

All of the tracts or parcels of land labeled "Common Open Space" as shown on that certain Plat of CrownVista Village, Phase II, Highland Creek Subdivision recorded in Map Book 25, Page 194 in the Mecklenburg Public Registry, said Common Open Space consisting of six (6) tracts or parcels containing an aggregate of 3.50 acres as shown on said map;

PARCEL 7:

All of the tracts or parcels of land labeled "Common Open Space" as shown on that certain Plat of Highland Creek Parkway - Phase 1, Map 1, Highland Creek Subdivision recorded in Map Book 25, Page 156 in the Mecklenburg Public Registry, said Common Open Space consisting of seven (7) tracts or parcels containing an aggregate of 1.83 acres as shown on said map;

PARCEL 8:

ALL THAT TRACT OR PARCEL OF LAND lying and being in the County of Mecklenburg, North Carolina, containing 13.61 acres more or less and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, begin at a control point located at the approximate intersection of the centerline of Ridge Road and the centerline of Street Avenue, said County; thence North 07 degrees 30 minutes 48 seconds West a distance of 3416.51 feet to a point which is the TRUE POINT OF BEGINNING; thence South 35 degrees 54 minutes 36 seconds East a distance of 257.63 feet to a point; thence South 47 degrees 05 minutes 41 seconds East a distance of 141.17 feet to a point; thence South 59 degrees 14 minutes 10 seconds East a distance of 196.32 feet to a point; thence South 77 degrees 46 minutes 24 seconds East a distance of 210.17 feet to a point; thence North 87 degrees 29 minutes 09 seconds East a distance of 129.05 feet to a point; thence North 66 degrees 20 minutes 22 seconds East a distance of 425.49 feet to a point; thence North 12 degrees 31 minutes 12 seconds West a distance of 137.84 feet to a point; thence North 75 degrees 02 minutes 41 seconds East a distance of 28.97 feet to a point; thence South 53 degrees 04 minutes 34 seconds East a distance of 77.81 feet to a point; thence South 38 degrees 09 minutes 49 seconds East a distance of 60.99 feet to a point; thence South 17 degrees 32 minutes 42 seconds East a distance of 157.31 feet to a point;

thence South 17 degrees 32 minutes 42 seconds East a distance of 159.19 feet to a point; thence South 04 degrees 59 minutes 34 seconds West a distance of 124.96 feet to a point; thence South 39 degrees 53 minutes 22 seconds West a distance of 205.50 feet to a point; thence South 62 degrees 50 minutes 17 seconds West a distance of 191.78 feet to a point; thence South 35 degrees 15 minutes 51 seconds West a distance of 96.62 feet to a point; thence North 87 degrees 34 minutes 53 seconds East a distance of 125.65 feet to a point; thence North 18 degrees 25 minutes 21 seconds East a distance of 135.70 feet to a point; thence North 24 degrees 05 minutes 29 seconds West a distance of 25.89 feet to a point; thence North 75 degrees 50 minutes 55 seconds West a distance of 112.08 feet to a point; thence North 47 degrees 17 minutes 22 seconds West a distance of 129.07 feet to a point; thence North 61 degrees 43 minutes 27 seconds West a distance of 390.45 feet to a point; thence North 69 degrees 40 minutes 25 seconds West a distance of 226.77 feet to a point; thence North 08 degrees 34 minutes 48 seconds West a distance of 98.15 feet to a point; thence North 40 degrees 21 minutes 55 seconds West a distance of 183.50 feet to a point; thence North 63 degrees 04 minutes 33 seconds West a distance of 179.25 feet to a point; thence North 07 degrees 38 minutes 09 seconds West a distance of 87.21 feet to a point; thence North 38 degrees 43 minutes 15 seconds West a distance of 132.77 feet to a point; thence North 87 degrees 46 minutes 13 seconds West a distance of 112.30 feet to a point; thence North 37 degrees 47 minutes 51 seconds West a distance of 61.19 feet to a point; thence North 45 degrees 29 minutes 40 seconds East a distance of 238.17 feet to a point; thence North 67 degrees 36 minutes 08 seconds East a distance of 137.91 feet to a point; thence South 41 degrees 24 minutes 46 seconds East a distance of 152.73 feet to a point; thence South 05 degrees 33 minutes 25 seconds East a distance of 216.21 feet to a point which is the point known as the True Point of Beginning.

PARCEL 9:

All of the tracts or parcels of land labeled "Common Open Space" as shown on that certain plat of Timberglade Village, Highland Creek Subdivision, recorded in Map Book 25, Page 399 in the office of the Register of Deeds of Mecklenburg County, North Carolina, said Common Open Space consisting of two (2) tracts or parcels containing an aggregate of 0.68 acres as shown on said map.

PARCEL 10:

All of the tracts or parcels of land labelled "Common Open Space" as shown on that certain Plat of Ravencrest North Village, Highland Creek Subdivision, recorded in Map Book 25, Page 455 in the Office of the Register of Deeds of Mecklenburg County, North Carolina, said Common Open Space consisting of three (3) tracts or parcels containing an aggregate of 0.47 acres as shown on said map.

PARCEL 11:

All of the tracts or parcels of land labelled "Common Area" as shown on that certain Plat of Downfield Wood Village, Map 1, Highland Creek Subdivision, recorded in Map Book 25, Page 860 in the Office of the Register of Deeds of Mecklenburg County, North Carolina, said Common Area consisting of six (6) tracts or parcels containing an aggregate of 2.05 acres as shown on said map.

PARCEL 12:

All of the tracts or parcels of land labelled "Common Area" as shown on that certain Plat of Ridgefield Village, Map 1, Highland Creek Subdivision, recorded in Map Book 25, Page 861 in the Office of the Register of Deeds of Mecklenburg County, North Carolina, said Common Area consisting of seven (7) tracts or parcels containing an aggregate of 5.48 acres as shown on said map.

PARCEL 13:

All of the tracts or parcels of land labelled "Common Area" as shown on that certain Plat of Wingrove Village, Highland Creek Subdivision (Village 4), recorded in Map Book 26, Page 143 in the Office of the Register of Deeds of Mecklenburg County, North Carolina, said Common Area consisting of five (5) tracts or parcels containing an aggregate of 2.96 acres as shown on said map.

PARCEL 14:

All of the tracts or parcels of land labelled "Common Area" as shown on that certain Final Plat of Graburn's Ford Village, Highland Creek Subdivision (Village 5), recorded in Map Book 26, Page 262, and revised on that certain plat of A Revision of a Portion of Final Plat of Graburn's Ford Village, Highland Creek Subdivision (Village 5) recorded in Map Book 26, Page 483, both in the Office of the Register of Deeds of Mecklenburg County, North Carolina (the "Mecklenburg Public Registry"), said Common

Area consisting of six (6) tracts or parcels containing an aggregate of 2.39 acres as shown on said map.

PARCEL 15:

All of the tracts or parcels of land labelled "Common Area" as shown on that certain Plat of Highland Creek Parkway, Phase 2, Map 1, recorded in Map Book 25, Page 859 in the Office of the Register of Deeds of Mecklenburg County, North Carolina, said Common Area consisting of three (3) tracts or parcels containing an aggregate of 3.18 acres as shown on said map.

PARCEL 16:

All of the tracts or parcels of land labelled "Common Area #1, Common Area #2, and Common Area #3" as shown on that certain Plat of Harburn Forest Village Map 1, Highland Creek Subdivision (Village 3), recorded in Map Book 26, Page 357 in the Office of the Register of Deeds of Mecklenburg County, North Carolina (the "Mecklenburg Public Registry"), which three (3) Common Areas contain an aggregate of 3.61 acres as shown on said map.

PARCEL 17:

All of the tract or parcel of land labelled "Common Area" as shown on that certain Final Plat of Ridgefield Village Map 2, Highland Creek Subdivision (Village 2), recorded in Map Book 26, Page 376 in the Office of the Register of Deeds of Mecklenburg County, North Carolina, said Common Area consisting of .20 acres as shown on said map.

PARCEL 18:

All of the tract or parcel of land labelled "Common Area" as shown on that certain Final Plat of Highland Creek, Village 2B, Map 1, (Wingrove East), recorded in Map Book 26, Page 851 in the Office of the Register of Deeds of Mecklenburg County, North Carolina, said Common Area consisting of .17 acres as shown on said map.

PARCEL 19:

All of the tract or parcel of land labelled "Common Area" as shown on that certain Final Plat of Bell's Mill Village, Map 1, Highland Creek Subdivision (Village 6), recorded in Map Book 27, Page 74 in the Office of the Register of Deeds of Mecklenburg County, North Carolina, said Common Area consisting of 7.7744 acres as shown on said map.

PARCEL 20:

All of the tract or parcel of land labelled "Common Area" as shown on that certain Final Plat of Bell's Mill Village (Village 6), Map 2, Highland Creek Subdivision, recorded in Map Book 27, Page 358 in the Office of the Register of Deeds of Mecklenburg County, North Carolina, said Common Area consisting of 5.34 acres as shown on said map.

PARCEL 21:

All of the tract or parcel of land labelled "Common Area" as shown on that certain Final Plat of McChesney Village Map 1, Highland Creek Subdivision, recorded in Map Book 27, Page 401 in the Office of the Register of Deeds of Mecklenburg County, North Carolina, said Common Area consisting of .14 acres as shown on said map.

PARCEL 22:

All of the tract or parcel of land labelled "Common Area" as shown on that certain Final Plat of Hartfield Downs Village Map 1, Highland Creek Subdivision, recorded in Map Book 27, Page 401 in the Office of the Register of Deeds of Mecklenburg County, North Carolina, said Common Area consisting of 2.503 acres as shown on said map.

EXHIBIT "A"

to Consent of Owner - Centex

Lying and being in Mallard Creek Township, Mecklenburg County, North Carolina, and being more particularly described as follows:

(1) Lots 6 and 7 of Block 1 of Brookside Village, Highland Creek Subdivision, as shown on plat recorded in Map Book 24, Page 699, in the Office of the Register of Deeds of Mecklenburg County, North Carolina (the "Mecklenburg Public Registry");

(2) Lots 68, 69, 73, 74, 75 and 83 of Block 2 of Brookside Village, Highland Creek Subdivision, as shown on plat recorded in Map Book 24, Page 699, in the Mecklenburg Public Registry;

(3) Lot 3 of Block 6 of CrownVista Village, Phase 1 - Map 1, Highland Creek Subdivision, as shown on plat recorded in Map Book 24, Page 702, in the Mecklenburg Public Registry; and

(4) Lots 8, 9, 14, 15, 16 and 17 of Block 7 of CrownVista Village, Phase 1 - Map 1, Highland Creek Subdivision, as shown on plat recorded in Map Book 24, Page 702, in the Mecklenburg Public Registry.

Exhibit "A"

Golf Course Property

THOSE TWELVE TRACTS OF LAND lying and being in Mallard Creek Township, Mecklenburg County, State of North Carolina, and being more particularly described on the attached legal descriptions as:

Tract Having Point of Beginning "A"
Tract Having Point of Beginning "B"
Driving Range and Maintenance Area
Tract Having Point of Beginning "C"
Clubhouse
Tract Having Point of Beginning "E"
Tract Having Point of Beginning "F"
Tract Having Point of Beginning "G"
Tract Having Point of Beginning "H"
Tract Having Point of Beginning "I"
Tract Having Point of Beginning "J"
Tract Having Point #1 As Point of Beginning

[TRACT HAVING POINT OF BEGINNING "A" -- LEGAL DESCRIPTION]

Lying and being in Mallard Creek Township, Mecklenburg County, State of North Carolina, and being more particularly described as follows:

BEGINNING at a point, said point being located in the southwesterly boundary of a 150 foot Duke Power Tower Line Easement and N 32° 10' 13" E 1786.98 feet from an iron pin located at the southeastern corner of Lot 1, Block 6 of CrownVista Village, Phase 1, as shown on a map thereof recorded in Map Book 24, Page 702, in the Mecklenburg County Public Registry; thence from said point of BEGINNING N 66° 06' 33" W 442.18 feet to a point; thence N 58° 36' 27" W 76.23 feet to a point; thence N 44° 56' 02" W 76.23 feet to a point; thence N 39° 31' 37" W 340.63 feet to a point; thence S 50° 28' 23" W 130.00 feet to a point; thence with the arc of a circular curve to the left having a radius of 425.00 feet, a chord distance of 235.43 feet, a chord bearing of N 55° 36' 23" W, and a delta of 32° 09' 32", an arc distance of 238.54 feet to a point; thence N 18° 18' 49" E 183.14 feet to a point; thence N 01° 40' 59" E 380.47 feet to a point; thence N 22° 30' 05" W 666.63 feet to a point; thence N 23° 41' 22" E 57.29 feet to a point; thence N 39° 47' 28" E 144.60 feet to a point located in the southwesterly boundary of the aforesaid Duke Power easement; thence with the southwesterly boundary of said Duke Power easement S 29° 57' 26" E 2214.62 feet to the point and place of all BEGINNING, as shown on a Golf Course Boundary Map of Highland Creek by Deaton/Hasty Engineering Corporation dated November 22, 1991, and last revised January 13, 1992.

[TRACT HAVING POINT OF BEGINNING "B" -- LEGAL DESCRIPTION]

Lying and being in Mallard Creek Township, Mecklenburg County, State of North Carolina, and being more particularly described as follows:

BEGINNING at a point, said point being located in the northeasterly boundary of a 150 foot Duke Power Tower Line Easement and N 63° 49' 16" E 2433.27 feet from an iron pin located at the southeastern corner of Lot 1, Block 6 of CrownVista Village, Phase I, as shown on a map thereof recorded in Map Book 24, Page 702, in the Mecklenburg County Public Registry; thence from said point of BEGINNING N 03° 24' 21" E 154.62 feet to a point; thence N 83° 24' 32" W 153.69 feet to a point; thence N 47° 20' 14" W 707.94 feet to a point; thence N 35° 50' 31" W 776.79 feet to a point; thence N 86° 41' 27" W 254.76 feet to a point; thence N 10° 31' 31" W 761.86 feet to a point; thence N 39° 51' 58" W 101.72 feet to a point; thence N 46° 53' 03" W 584.51 feet to a point; thence N 89° 49' 46" W 79.84 feet to a point; thence S 56° 25' 14" W 152.76 feet to a point located in the northeasterly boundary of the aforesaid Duke Power easement; thence with the northeasterly boundary of said Duke Power easement S 29° 57' 26" E 2720.29 feet to a point; thence continuing with the northeasterly boundary of said Duke Power easement S 84° 37' 03" E 856.93 feet to the point and place of all BEGINNING, as shown on a Golf Course Boundary Map of Highland Creek by Deaton/Hasty Engineering Corporation dated November 22, 1991, and last revised January 13, 1992.

[DRIVING RANGE & MAINTENANCE AREA -- LEGAL DESCRIPTION]

Lying and being in Mallard Creek Township, Mecklenburg County, State of North Carolina, and being more particularly described as follows:

BEGINNING at a point, said point being located in the northeasterly boundary of a 150 foot Duke Power Tower Line Easement and N 63° 49' 16" E 2433.27 feet from an iron pin located at the southeastern corner of Lot 1, Block 6 of CrownVista Village, Phase I, as shown on a map thereof recorded in Map Book 24, Page 702, in the Mecklenburg County Public Registry; thence from said point of BEGINNING N 03° 24' 21" E 154.62 feet to a point; thence N 83° 24' 32" W 153.69 feet to a point; thence N 03° 21' 22" E 270.73 feet to a point; thence S 81° 16' 14" E 1222.00 feet to a point; thence S 01° 31' 50" E 273.12 feet to a point; thence S 66° 31' 02" W 177.84 feet to a point located in the northeasterly boundary of the aforesaid Duke Power easement; thence with the northeasterly boundary of said Duke Power easement N 84° 37' 03" W 928.48 feet to the point and place of all BEGINNING, as shown on a Golf Course Boundary Map of Highland Creek by Deaton/Hasty Engineering Corporation dated November 22, 1991, and last revised January 13, 1992.

[TRACT HAVING POINT OF BEGINNING "C" -- LEGAL DESCRIPTION]

Lying and being in Mallard Creek Township, Mecklenburg County, State of North Carolina, and being more particularly described as follows:

BEGINNING at a point, said point being located in the southwesterly boundary of a 150 foot Duke Power Tower Line Easement and N 65° 26' 42" E 2251.45 feet from an iron pin located at the southeastern corner of Lot 1, Block 6 of CrownVista Village, Phase I, as shown on a map thereof recorded in Map Book 24, Page 702, in the Mecklenburg County Public Registry; thence from said point of BEGINNING with the southwesterly boundary of said Duke Power easement S 84° 37' 03" E 1465.90 feet to a point; thence leaving the southwesterly boundary of said Duke Power easement S 05° 22' 57" W 183.74 feet to a point; thence S 00° 04' 47" E 175.00 feet to a point; thence in a northwesterly direction with the arc of a circular curve to the left having a radius of 810.00 feet, an arc distance of 337.43 feet to a point; thence N 76° 41' 16" W 603.85 feet to a point; thence in a northwesterly direction with the arc of a circular curve to the left having a radius of 600.00 feet, an arc distance of 182.48 feet to a point; thence N 16° 45' 29" W 111.67 feet to a point; thence N 16° 45' 29" W 21.62 feet to a point; thence N 16° 45' 29" W 165.45 feet to the point and place of all BEGINNING, as shown on a Golf Course Boundary Map of Highland Creek by Deaton/Hasty Engineering Corporation dated November 22, 1991, and last revised January 13, 1992.

[CLUBHOUSE -- LEGAL DESCRIPTION]

Lying and being in Mallard Creek Township, Mecklenburg County, State of North Carolina, and being more particularly described as follows:

BEGINNING at a point, said point being located N 18° 37' 14" W 2565.66 feet from a point at the intersection of the centerline of Ridge Road and the centerline of Street Avenue; thence from said point of BEGINNING N 51° 20' 14" E 275.26 feet to a point; thence N 22° 12' 01" E 206.94 feet to a point; thence N 04° 26' 42" W 79.29 feet to a point; thence N 06° 43' 54" W 78.96 feet to a point; thence N 07° 46' 05" E 188.95 feet to a point located in the southwesterly boundary of a 150 foot Duke Power Tower Line Easement; thence with the southwesterly boundary of said Duke Power easement N 84° 37' 03" W 400.00 feet to a point; thence leaving the southwesterly boundary of said Duke Power easement S 05° 22' 57" W 183.74 feet to a point; thence S 00° 04' 47" E 175.00 feet to a point; thence S 72° 58' 36" W 297.54 feet to a point; thence S 52° 49' 11" E 497.62 feet to the point and place of all BEGINNING, as shown on a Golf Course Boundary Map of Highland Creek by Deaton/Hasty Engineering Corporation dated November 22, 1991, and last revised January 13, 1992.

[TRACT HAVING POINT OF BEGINNING "E" -- LEGAL DESCRIPTION]

Lying and being in Mallard Creek Township, Mecklenburg County, State of North Carolina, and being more particularly described as follows:

BEGINNING at a point, said point being located N 13° 04' 05" W 2672.54 feet from a point at the intersection of the centerline of Ridge Road and the centerline of Street Avenue; thence from said point of BEGINNING N 22° 12' 01" E 206.94 feet to a point; thence N 04° 26' 42" W 79.29 feet to a point; thence N 06° 43' 54" W 78.96 feet to a point; thence N 07° 46' 05" E 188.95 feet to a point located in the southwesterly boundary of a 150 foot Duke Power Tower Line Easement; thence with the southwesterly boundary of said Duke Power easement S 84° 37' 03" E 90.70 feet to a point located in the southerly shore of Main Lake; thence leaving the southwesterly boundary of the said Duke Power easement and continuing with the southerly shore of Main Lake the following twelve (12) courses and distances: (1) S 40° 21' 55" E 127.81 feet to a point; (2) S 08° 34' 48" E 98.15 feet to a point; (3) S 69° 40' 25" E 226.77 feet to a point; (4) S 61° 43' 27" E 390.45 feet to a point; (5) S 47° 17' 22" E 129.07 feet to a point; (6) S 75° 50' 55" E 112.08 feet to a point; (7) S 24° 05' 29" E 25.89 feet to a point; (8) S 18° 25' 21" W 135.70 feet to a point; (9) N 87° 34' 53" E 125.65 feet to a point; (10) N 35° 15' 51" E 96.62 feet to a point; (11) N 62° 50' 17" E 191.78 feet to a point; and (12) N 39° 53' 22" E 205.50 feet to a point; thence leaving the southerly shore of Main Lake N 86° 10' 41" E 55.20 feet to a point; thence S 03° 49' 19" E 104.86 feet to a point; thence S 55° 00' 40" W 288.59 feet to a point; thence S 48° 58' 43" W 234.83 feet to a point; thence S 83° 26' 30" W 152.56 feet to a point; thence N 62° 29' 27" W 117.90 feet to a point; thence N 64° 22' 52" W 677.85 feet to a point; thence S 80° 05' 02" W 273.22 feet to the point and place of all BEGINNING, as shown on a Golf Course Boundary Map of Highland Creek by Deaton/Hasty Engineering Corporation dated November 22, 1991, and last revised January 13, 1992.

[TRACT HAVING POINT OF BEGINNING "F" -- LEGAL DESCRIPTION]

Lying and being in Mallard Creek Township, Mecklenburg County, State of North Carolina, and being more particularly described as follows:

BEGINNING at a point, said point being located in the northeasterly shore of Main Lake and N 07° 30' 38" W 3416.51 feet from a point located at the intersection of the centerline of Ridge Road and the centerline of Street Avenue; thence from said point of BEGINNING continuing with the northeasterly shore of Main Lake the following two (2) courses and distances: (1) N 05° 33' 25" W 216.21 feet to a point; and (2) N 41° 24' 46" W 152.73 feet to a point; thence leaving the northeasterly shore of Main Lake N 10° 30' 12" E 293.21 feet to a point; thence N 17° 54' 10" E 650.03 feet to a point; thence N 28° 12' 14" E 242.47 feet to a point; thence N 48° 53' 10" W 39.02 feet to a point; thence N 00° 05' 49" W 40.68 feet to a point; thence N 18° 12' 22" E 158.97 feet to a point; thence N 32° 08' 55" E 288.73 feet to a point; thence N 05° 56' 50" W 62.25 feet to a point; thence N 04° 16' 29" E 67.91 feet to a point; thence N 32° 45' 14" E 107.87 feet to a point; thence in a northeasterly direction with the arc of a circular curve to the right having a radius of 947.14 feet, an arc distance of 504.39 feet to a point; thence S 42° 58' 38" W 430.95 feet to a point; thence S 17° 34' 34" W 120.40 feet to a point; thence S 39° 42' 20" W 359.05 feet to a point; thence S 32° 05' 27" E 211.65 feet to a point; thence S 24° 19' 42" W 856.11 feet to a point; thence S 16° 48' 33" W 579.48 feet to the point and place of all BEGINNING, as shown on a Golf Course Boundary Map of Highland Creek by Deaton/Hasty Engineering Corporation dated November 22, 1991, and last revised January 13, 1992.

[TRACT HAVING POINT OF BEGINNING "G" -- LEGAL DESCRIPTION]

Lying and being in Mallard Creek Township, Mecklenburg County, State of North Carolina, and being more particularly described as follows:

BEGINNING at a point, said point being located N 05° 33' 12" E 5,751.59 feet from a point at the intersection of the centerline of Ridge Road and the centerline of Street Avenue; thence from said point of BEGINNING with the arc of a circular curve to the left having a radius of 1,067.14 feet, a chord distance of 153.47 feet, a chord bearing of N 87° 40' 32" W, and a delta of 08° 14' 50", an arc distance of 153.61 feet to a point; thence N 22° 18' 40" E 944.55 feet to a point; thence N 31° 07' 12" E 560.87 feet to a point; thence N 49° 36' 27" W 79.11 feet to a point; thence N 27° 47' 03" W 169.65 feet to a point; thence N 23° 53' 52" E 72.38 feet to a point; thence N 75° 05' 51" E 34.52 feet to a point; thence S 65° 48' 58" E 74.67 feet to a point; thence N 56° 05' 16" E 280.15 feet to a point; thence S 89° 14' 17" E 161.05 feet to a point; thence S 07° 37' 23" W 272.33 feet to a point; thence N 48° 34' 25" E 326.52 feet to a point; thence N 47° 13' 40" W 30.26 feet to a point; thence N 01° 15' 53" E 71.02 feet to a point; thence N 66° 29' 47" E 99.79 feet to a point; thence S 86° 33' 01" E 743.14 feet to a point; thence S 72° 28' 24" E 77.90 feet to a point; thence S 66° 51' 30" E 168.22 feet to a point; thence S 35° 43' 59" E 297.63 feet to a point; thence S 18° 57' 14" E 130.32 feet to a point; thence S 40° 54' 14" E 225.21 feet to a point; thence S 18° 38' 51" W 386.24 feet to a point; thence S 07° 02' 59" E 401.70 feet to a point; thence S 18° 24' 10" W 491.13 feet to a point; thence S 43° 15' 13" W 49.42 feet to a point; thence S 80° 40' 01" W 121.13 feet to a point; thence N 50° 10' 38" W 142.90 feet to a point; thence N 17° 51' 59" E 467.90 feet to a point; thence N 04° 57' 34" E 374.23 feet to a point; thence N 00° 32' 54" W 377.29 feet to a point; thence N 12° 50' 55" W 57.87 feet to a point; thence N 47° 36' 35" W 426.21 feet to a point; thence N 76° 45' 17" W 755.46 feet to a point; thence S 48° 34' 25" W 364.14 feet to a point; thence S 07° 37' 23" W 229.30 feet to a point; thence S 39° 13' 40" W 602.34 feet to a point; thence S 29° 35' 42" W 863.72 feet to the point and place of all BEGINNING, as shown on a Golf Course Boundary Map of Highland Creek by Deaton/Hasty Engineering Corporation dated November 22, 1991, and last revised January 13, 1992.

[TRACT HAVING POINT OF BEGINNING "H" -- LEGAL DESCRIPTION]

Lying and being in Mallard Creek Township, Mecklenburg County, State of North Carolina, and being more particularly described as follows:

BEGINNING at a point, said point being located N 30° 45' 27" E 4109.11 feet from a point located at the intersection of the centerline of Ridge Road and the centerline of Street Avenue; thence from said point of BEGINNING in a northwesterly direction with the arc of a circular curve to the left having a radius of 695.00 feet, an arc distance of 342.49 feet to a point; thence S 86° 59' 05" E 554.56 feet to a point; thence N 43° 49' 45" E 631.25 feet to a point; thence N 18° 05' 08" W 27.15 feet to a point; thence N 53° 41' 02" W 417.86 feet to a point; thence N 33° 37' 24" W 123.60 feet to a point; thence N 09° 19' 13" E 439.21 feet to a point; thence N 09° 19' 13" E 439.21 feet to a point; thence N 82° 45' 39" E 143.26 feet to a point; thence S 00° 08' 32" W 787.11 feet to a point; thence S 55° 46' 10" E 441.27 feet to a point; thence S 06° 08' 02" E 304.35 feet to a point; thence S 19° 08' 35" W 209.12 feet to a point; thence S 21° 08' 20" W 174.66 feet to a point; thence S 20° 45' 37" W 106.27 feet to a point; thence S 59° 36' 12" W 297.50 feet to a point; thence S 67° 30' 22" W 305.22 feet to a point; thence N 84° 15' 24" W 151.66 feet to a point; thence N 68° 26' 58" W 111.10 feet to a point; thence N 88° 17' 58" W 173.95 feet to the point and place of all BEGINNING, as shown on a Golf Course Boundary Map of Highland Creek by Deaton/Hasty Engineering Corporation dated November 22, 1991, and last revised January 13, 1992.

[TRACT HAVING POINT OF BEGINNING "I" -- LEGAL DESCRIPTION]

Lying and being in Mallard Creek Township, Mecklenburg County, State of North Carolina, and being more particularly described as follows:

BEGINNING at a point, said point being located in the northeasterly boundary of a 150 foot Duke Power Tower Line Easement and N 19° 11' 31" E 3,324.72 feet from a point located at the intersection of the centerline of Ridge Road and the centerline of Street Avenue; thence from said point of BEGINNING N 17° 45' 35" E 286.16 feet to a point; thence N 74° 44' 57" E 659.63 feet to a point; thence N 17° 20' 25" E 207.31 feet to a point; thence in a southeasterly direction with the arc of a circular curve to the right having a radius of 575.00 feet, an arc distance of 370.84 feet to a point; thence S 66° 26' 26" W 781.65 feet to a point located in the northeasterly boundary of the aforesaid Duke Power easement; thence with the northeasterly boundary of said Duke Power easement N 84° 37' 03" W 177.55 feet to the point and place of all BEGINNING, as shown on a Golf Course Boundary Map of Highland Creek by Deaton/Hasty Engineering Corporation dated November 22, 1991, and last revised January 13, 1992.

[TRACT HAVING POINT OF BEGINNING "J" -- LEGAL DESCRIPTION]

Lying and being in Mallard Creek Township, Mecklenburg County, State of North Carolina, and being more particularly described as follows:

BEGINNING at an iron pin located at the northwestern corner of Lot 1, Block 1 of Brookside Village, as shown on a map thereof recorded in Map Book 24, Page 699, in the Mecklenburg County Public Registry; thence from said point of BEGINNING with the arc of a circular curve to the right having a radius of 390.00 feet, a chord distance of 129.41 feet, a chord bearing of N 27° 08' 30" E, and a delta of 19° 06' 01", an arc distance of 130.01 feet to a point; thence N 36° 41' 30" E 250.14 feet to a point; thence S 24° 19' 37" E 156.11 feet to a point; thence S 81° 51' 16" E 148.23 feet to a point; thence N 72° 57' 10" E 93.65 feet to a point; thence N 52° 39' 59" E 89.14 feet to a point; thence N 70° 29' 24" E 63.57 feet to a point; thence S 83° 29' 19" E 832.00 feet to a point; thence N 78° 16' 30" E 248.27 feet to a point; thence N 61° 16' 36" E 307.24 feet to a point; thence N 47° 04' 31" E 93.29 feet to a point; thence N 47° 23' 51" E 112.60 feet to a point; thence N 24° 56' 06" E 97.91 feet to a point; thence N 00° 21' 27" W 175.53 feet to a point; thence with the arc of a circular curve to the right having a radius of 480.00 feet, a chord distance of 114.26 feet, a chord bearing of S 83° 31' 19" E, and a delta of 13° 40' 14", an arc distance of 114.53 feet to a point; thence S 76° 41' 16" E 326.66 feet to a point; thence S 42° 13' 24" W 701.06 feet to a point; thence S 02° 22' 01" W 95.71 feet to a point; thence S 73° 33' 28" W 181.63 feet to a point; thence S 63° 35' 53" W 67.12 feet to a point; thence S 63° 04' 24" W 154.68 feet to a point; thence S 63° 49' 42" W 352.29 feet to a point; thence N 71° 41' 55" W 400.55 feet to a point; thence N 82° 23' 33" W 156.44 feet to a point; thence N 82° 48' 30" W 142.39 feet to a point; thence N 81° 37' 22" W 452.01 feet to a point; thence N 87° 01' 22" W 314.96 feet to the point and place of all BEGINNING, as shown on a Golf Course Boundary Map of Highland Creek by Deaton/Hasty Engineering Corporation dated November 22, 1991, and last revised January 13, 1992.

[TRACT HAVING CONTROL POINT #1 AS POINT OF BEGINNING -- LEGAL DESCRIPTION]

Lying and being in Mallard Creek Township, Mecklenburg County, State of North Carolina, and being more particularly described as follows:

BEGINNING at an iron pin located at the southeastern corner of Lot 1, Block 6 of CrownVista Village, Phase I, as shown on a map thereof recorded in Map Book 24, Page 702, in the Mecklenburg County Public Registry; thence from said point of BEGINNING N 50° 09' 16" W 988.87 feet to a point; thence N 29° 08' 21" W 126.31 feet to a point; thence N 08° 00' 53" W 117.52 feet to a point; thence N 08° 39' 01" E 230.73 feet to a point; thence N 22° 54' 28" E 106.29 feet to a point; thence N 56° 11' 36" E 720.60 feet to a point; thence N 33° 10' 41" E 330.74 feet to a point; thence N 37° 48' 01" E 87.96 feet to a point; thence with the arc of a circular curve to the left having a radius of 375 feet, a chord distance of 241.59 feet, a chord bearing of N 58° 19' 06" W, and a delta of 37° 34' 58", an arc distance of 245.98 feet to a point; thence S 12° 14' 56" W 279.85 feet to a point; thence S 66° 44' 20" W 991.16 feet to a point; thence S 03° 37' 27" E 901.89 feet to a point; thence S 50° 23' 28" E 1,003.94 feet to a point; thence S 72° 25' 27" E 169.55 feet to a point; thence in a northeasterly direction with the arc of a circular curve to the right having a radius of 510.00 feet, an arc distance of 170.15 feet to a point; thence N 36° 41' 30" E 56.21 feet to the point and place of all BEGINNING, as shown on a Golf Course Boundary Map of Highland Creek by Deaton/Hasty Engineering Corporation dated November 22, 1991, and last revised January 13, 1992.

State of North Carolina, County of Mecklenburg

The foregoing Certificate(s) of Romelle D. Scharnberg, Debbie Moers, Teresa J. Johns, Kimberley Ann Baars, Holly C. Burton, Martha A. Hill

Notary(ies) Public is are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

ANNE A. POWERS, REGISTER OF DEEDS

By Hazel L. Elmore Deputy - Register of Deeds

C-75319

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

Cross-Reference to Declaration: Book 6730

Page 17

SUPPLEMENTAL DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR HIGHLAND CREEK

THIS SUPPLEMENTAL DECLARATION is made this 10th day of August, 1994, by A G LAND ASSOCIATES (f/k/a American Newland Associates), a California general partnership qualified to do business in North Carolina (hereinafter referred to as "Declarant").

WITNESSETH:

Declarant is the owner of the real property described in Exhibit "A" attached hereto and incorporated herein by reference (the "Additional Property"). By Declaration of Covenants, Conditions, and Restrictions for Highland Creek ("Declaration") dated December 10, 1991, and recorded in Book 6730, Pages 17-118, in the Office of the Register of Deeds of Mecklenburg County, North Carolina (the "Mecklenburg Registry"), Declarant imposed certain covenants, conditions and restrictions on the Properties (as defined in the Declaration). Pursuant to the provisions of Article VIII of the Declaration, Declarant reserved the right to subject and annex to the Declaration certain additional property described in the Declaration and impose additional covenants and restrictions on such property. The Additional Property is a portion of such property and Declarant wishes to subject the Additional Property to the Declaration.

NOW, THEREFORE, pursuant to the powers retained by Declarant under the Declaration, Declarant hereby subjects the Additional Property described on Exhibit "A" hereof to the lien and operation of the Declaration and the provisions of this Supplemental Declaration, which shall apply to such property in addition to the provisions of the Declaration. Such property shall be sold, transferred, used, conveyed, occupied, and mortgaged or otherwise encumbered pursuant to the provisions of this Supplemental Declaration and the Declaration, both of which shall run with the title to such property and shall be binding upon all persons having any right, title, or any interest in such property, their respective heirs, legal representatives, successors, successors-in-title, and assigns. The provisions of this Supplemental Declaration shall be binding upon Highland Creek Community Association, Inc. in accordance with the terms of the Declaration.

Drawn By: Hyatt & Stubblefield
Mail to: American General Land Development, Inc.
8604 Cliff Cameron Drive Ste. 180 Charlotte, N.C. 28269

mmp

ARTICLE I
Definitions

The definitions set forth in Article I of the Declaration are incorporated herein by reference.

ARTICLE II
Easements

Section 1. Easement for Construction and Maintenance of Joint Driveway. The Declarant hereby reserves unto itself, its successors, assigns and designees, a nonexclusive easement over and across each platted lot (hereafter "Unit") within the Additional Property for the purpose of constructing, maintaining, repairing and replacing a paved driveway (the "Joint Driveway") to provide access, ingress and egress between each Unit within the Additional Property and Graburn's Ford Drive. The Joint Driveway shall consist of the "trunk," meaning that portion which is intended to serve more than one Unit, and one "stub" for each Unit served thereby, meaning that portion which branches off of the trunk to provide individual access to each Unit, and shall be located within the boundaries of the area designated for such purpose on the recorded subdivision plat referenced on Exhibit "A" (the "Easement Area"). Neither the trunk nor any stub of the Joint Driveway shall exceed 22 feet in paved width. Except as set forth in the preceding sentence, the manner and extent of construction shall be solely within the discretion of the Declarant. The Joint Driveway shall not include any portion of a driveway providing individual access to a Unit which lies outside of the Easement Area.

Section 2. Easements for Access, Ingress, Egress and Utilities. The Declarant hereby creates for the benefit of each Unit within the Additional Property perpetual, nonexclusive easements over and across that portion of each other Unit lying within the Easement Area:

(a) as necessary for installation of utilities within the areas designated for such purpose on the plat referenced in Exhibit "A," to provide service to the benefitted Unit; and

(b) as necessary for direct access, ingress and egress between the benefitted Unit and Graburn's Ford Drive; provided, from and after such time as the Joint Driveway is paved, the exercise of this easement for the benefit of any particular Unit shall be restricted to the paved area providing direct access to such Unit and shall not give any person the right to go upon unpaved portions of any other Unit, or upon paved portions of any other Unit which do not provide direct access to the benefitted Unit, without the consent of the Owner thereof. The Association shall be authorized to promulgate rules and regulations governing use of the Joint Driveway in order to maintain orderly traffic flow, including rules prohibiting, restricting or regulating parking on the Joint Driveway.

Section 3. Easement for Maintenance and Repair. The Declarant hereby creates for the benefit of the Association, its successors, assigns, agents and designees, a perpetual, nonexclusive easement over and across the paved and unpaved portions of the Easement Area for the purpose of

inspecting, maintaining, repairing, and replacing those portions of the Easement Area which are the responsibility of the Association pursuant to Article III below.

Section 4. Easement for Trail System. The Declarant hereby creates for the benefit of the Association and each Owner of a Unit within the Properties a perpetual, nonexclusive easement over and across the paved portions of the Easement Area, and such portions of the Easement Area immediately adjacent to the pavement as may be necessary to make way for vehicular traffic, for the purpose of access to, and use and enjoyment of the trail system within the Properties, subject to such rules and regulations governing use of such trail system as the Association may promulgate pursuant to the Declaration.

ARTICLE III
Maintenance and Use of Easement Area

Section 1. Association Responsibility. The Association shall be responsible for maintaining, repairing and replacing those portions of the Joint Driveway which serve two or more Units (the "Common Portion") and any landscaping within the Easement Area. Such maintenance shall be performed at a level consistent with the Community-Wide Standard as determined by the Association's Board of Directors, or such higher level of maintenance as may be requested by a majority of Owners of Units within the Additional Property pursuant to Article III, Section 3(a) of the Declaration. All costs incurred by the Association pursuant to this Article III shall be allocated equally among the Units within the Additional Property and assessed as a Neighborhood Assessment pursuant to Article IV, Section 1 and Article X, Section 3 of the Declaration.

Notwithstanding the foregoing, the Association may delegate its responsibility for maintaining the landscaping within that portion of the Easement Area which lies between the Joint Driveway and the front lot line of a particular Unit to the Owner of such Unit, upon request of such Owner. In such event, the Owner shall have a nonexclusive easement for landscape maintenance over such portion of the Easement Area, but shall not be entitled to any offset or credit against assessments levied for maintenance of the Easement Area unless the Board otherwise determines it appropriate, in its sole discretion. The Association may revoke such delegation and reassume responsibility for such maintenance at any time upon written notice to the responsible Owner.

Section 2. Owner's Responsibility. Each Owner of a Unit within the Additional Property shall be responsible for maintaining, repairing and replacing that portion of the Joint Driveway, if any, which serves only his Unit (the "Individual Portion"), regardless of whether the Individual Portion lies wholly or partially within or crosses over on to another Unit within the Additional Property.

Section 3. Use of Easement Area. Except as expressly permitted by the easements granted to Declarant herein, no Person shall construct or install any structure or thing, including landscaping materials, within the Easement Area without prior approval pursuant to Article XI of the Declaration.

ARTICLE IV
Amendments

Section 1. Until conveyance of the first Unit within the Additional Property, Declarant may amend this Supplemental Declaration for any purpose, subject to the approval requirements set forth in Article XIV, Section 9, of the Declaration, if applicable. Thereafter and otherwise, this Supplemental Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Owners of seventy-five (75%) percent of the Units subject to this Supplemental Declaration, the written consent of the Association acting upon resolution of its Board of Directors, and, so long as the Declarant owns any property subject to the Declaration, the consent of the Declarant. In addition, the approval requirements set forth in Article XIV, Section 9, of the Declaration shall be met, if applicable.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. To be effective, any amendment must be recorded in the Mecklenburg Registry.

If an Owner consents to any amendment to this Supplemental Declaration, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of the Declarant without the written consent of the Declarant or the assignee of such right or privilege.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Supplemental Declaration, under seal, as of the date first above written.

DECLARANT: A G LAND ASSOCIATES (f/k/a American Newland Associates), a California general partnership [SEAL]

BY: AMERICAN GENERAL LAND DEVELOPMENT, INC., a Delaware corporation, as Managing General Partner [SEAL]

By: _____
Name: _____
Title: Vice President

ATTEST:

_____, Secretary

[CORPORATE SEAL]

APPROVED
AS TO CONTRACT COMPLIANCE
PER SPM NO. 132
LAW DEPARTMENT
AGC
CONTROL NO. _____
DATE: _____
SIGNED: _____

STATE OF TEXAS

COUNTY OF HARRIS

I, a Notary Public of the County and State aforesaid, certify that Laurence Kudskis personally came before me this day, who, being by me duly sworn, acknowledged that he is the Vice President of AMERICAN GENERAL LAND DEVELOPMENT, INC., a Delaware corporation, as managing general partner of A G LAND ASSOCIATES, a California general partnership, and that the seal affixed to the foregoing instrument in writing is the corporate seal of the corporation, and that said writing was signed and sealed by him, on behalf of said corporation, by its authority duly given. And the said Vice President acknowledged the said writing to be the act and deed of said corporation.

Witness my hand and official stamp or seal, this 4th day of August, 1994.

Notary Public

My commission expires: _____

[Seal-Stamp]

Notary Public, State of Texas
My Commission Expires
MAY 6, 1996

jps655-70694

EXHIBIT "A"

Additional Property
Submittedd to the Declaration

ALL THOSE TRACTS OR PARCELS OF LAND lying and being in Mallard Creek Township, Mecklenburg County, North Carolina, and being more particularly described as Lots 10, 11, 12, 13, 14, 15, 16 and 17 as shown on that certain plat of Graburn's Ford, Highland Creek Subdivision, recorded in Plat Book 26, Page 262, in the Mecklenburg Registry.

NEIGHBORHOOD DESIGNATION: Graburn's Ford Cul-de-Sac Lots

The above-described Additional Property shall constitute a separate "Neighborhood" as defined in Article III, Section 3 of the Declaration, subject to future expansion or modification in accordance with the terms of the Declaration.

State of North Carolina, County of Mecklenburg

The foregoing certificate(s) of Dianne Reed

Notary(ies) Public is/are certified to be correct.
This 10th day of August, 1994
JUDITH A. GIBSON, REGISTER OF DEEDS
By: Rosalie B. Deese Deputy Register of Deeds

FILE COPY	
FILED FOR REGISTRATION	DOC. # 499
DATE 1/16/98	TIME 4:51
BOOK 9454	PAGE 192
STAMPS —	REC FEE 22.00
JUDITH A. GIBSON REGISTER OF DEEDS MECKLENBURG COUNTY, NC	

Please record and return to:
WESTBROOK Communities
13155 Noel Road, LB54, Suite 2300
Dallas, Texas 75240
Attention: Cathleen Chapman

STATE OF NORTH CAROLINA Cross-Reference to: Book 6730, Page 17

COUNTY OF MECKLENBURG Book 6902, Page 594

AMENDMENT TO THE
AMENDED AND RESTATED DECLARATION OF EASEMENTS AND COVENANTS RELATING TO HIGHLAND CREEK GOLF COURSE

THIS AMENDMENT is made this 15th day of January, 1998, by **HIGHLAND CREEK COMMUNITY ASSOCIATION, INC.**, a North Carolina nonprofit corporation (with its successors and assigns, the "Association"), and **WESTBROOK HIGHLAND CREEK, L.L.C.**, a Delaware limited liability company (with its successors and assigns, the "Declarant"), and **WESTBROOK HIGHLAND CREEK GOLF, L.L.C.**, a Delaware limited liability company (with its successors and assigns, the "Golf Course Owner").

BACKGROUND STATEMENT

On December 10, 1991, American Newland Associates, a California general partnership (the "Original Declarant"), executed and filed a Declaration of Covenants, Conditions, and Restrictions for Highland Creek which was recorded in Book 6730, Pages 17-118, in the Office of the Register of Deeds of Mecklenburg County, North Carolina (such Declaration as amended and supplemented, is referred to herein as the "Residential Declaration" and the property subject thereto is referred to herein as the "Residential Property").

In addition, the Original Declarant executed and recorded a Declaration of Easements and Covenants Relating to Highland Creek Golf Course, which was attached and recorded as Exhibit "D" to the Residential Declaration and which was subsequently amended and restated by instrument dated March 9, 1992, recorded in Book 6902, Pages 594-621, in the Office of the Register of Deeds of Mecklenburg County, North Carolina (as amended, the "Golf Course Covenant"). The Golf Course Covenant established certain easements and obligations between the Association and the owner of the Golf Course, as defined therein.

Article V, Section 4 of the Golf Course Covenant provides that the Golf Course Covenant may be amended upon the affirmative vote or written consent, or any combination thereof, of a majority of the total number of directors of the Association and owners of a majority of the total

acreage within the Golf Course and, so long as the Declarant (as defined therein) has an option unilaterally to subject additional property to the Declaration as provided therein, the consent of the Declarant.

The Golf Course Owner took title to the Golf Course on August 15, 1997. Declarant succeeded to all rights and status as Declarant under the Declaration and the Golf Course Covenant by instrument dated as of August 15, 1997, and recorded in Book 9454, Pages 190 - 193, in the Office of the Register of Deeds of Mecklenburg County, North Carolina.

Golf Course Owner acknowledges that the Golf Course and the operation thereof benefit from the performance by the Association of certain activities which it engages in with respect to the Residential Property, including, without limitation, the maintenance of certain rights-of-way, signage and other areas; the enforcement of covenants and restrictions applicable to property subject to the Residential Declaration, and the administration of architectural controls.

Declarant, Golf Course Owner and the Association desire to amend the Golf Course Covenant to (i) establish certain architectural and maintenance standards for the Golf Course and to provide to the Association a right to enforce such standards; and (ii) to provide for an equitable contribution by Golf Course Owner on behalf of the Golf Course to the common expenses which the Association incurs and expects to incur in owning, maintaining, operating and insuring the Common Areas and other properties and maintaining and enforcing the Community-Wide Standard within the Residential Property for the common benefit of the Residential Property and the Golf Course.

NOW, THEREFORE, the Golf Course Covenant is hereby amended as follows:

1.

Article IV, Sewage Treatment, is hereby deleted in its entirety and the following is substituted in its place:

Article IV
Additional Obligations Relating to Golf Course

Section 1. Architectural and Maintenance Standards. The provisions of this Section 1 shall not apply to the Golf Course so long as the Golf Course is owned by the Golf Course Owner or a person or persons who are affiliates of the "Declarant" under the Residential Declaration; provided, if any portion of the Golf Course is conveyed, leased or otherwise controlled by a person other than the Golf Course Owner or a person or persons who are affiliates of the "Declarant" under the Residential Declaration, this Section shall apply to such portion. "Affiliate," as used herein, shall mean any member, any partner, parent or subsidiary of a member, or any person or entity holding more than 10% of the ownership interest in any member or partner, parent or subsidiary of a member, of the Declarant or any person or entity under common control with the Declarant.

(a) The Golf Course shall be subject to the architectural standards set forth in Article XI of the Declaration as if the Golf Course were legally submitted to the terms of the Declaration; provided, no Design Guidelines or amendments thereto shall unreasonably interfere with construction or expansion of the clubhouse or related facilities in a manner which complements the existing improvements. All buildings constructed on the Golf Course shall be designed and built in accordance with the plans and specifications of a licensed architect.

(b) Golf Course Owner shall maintain the Golf Course, and all improvements now or hereafter constructed thereon, in a manner consistent with the Community-Wide Standard established pursuant to the Declaration, which shall include, without limitation:

(i) prompt removal of all litter, trash, refuse and waste from the grounds;

(ii) mowing of turf areas at least once per week during the growing season, and fertilizing and weed control on a regular basis;

(iii) pruning and mulching of trees and shrubs and removal of weeds from shrub beds on a regular basis as necessary to maintain them in a healthy, attractive condition;

(iv) watering of landscaped areas as needed to maintain plants and turf in a healthy condition;

(v) keeping exterior lighting and signage in good condition and repair and in proper working order;

(vi) pressure washing, painting, staining and/or sealing, as appropriate, of the exteriors of structures and improvements as needed to maintain a clean and attractive appearance and prevent deterioration;

(vii) repair and/or replacement of roofs as needed to maintain a clean and attractive appearance and prevent deterioration;

(viii) maintaining and repairing of driveways and parking areas free of excessive cracks, crumbling and potholes; and

(ix) complying with all applicable government health, safety and building code requirements.

(c) Upon written notice from the Association to Golf Course Owner specifying any nonconforming work on the Golf Course, any item of maintenance or repair, or any other condition which the Association's board of directors deems inconsistent with the foregoing or the Community-Wide Standard, Golf Course Owner shall promptly cure the violation, perform the needed maintenance or repair, or correct the other condition within 60 days after receipt of such notice or, if incapable of being cured within such 60 day period, Golf Course Owner shall

commence necessary work and shall proceed to cure it as promptly as reasonably possible. Upon Golf Course Owner's failure to do so, the Association shall be entitled to pursue any and all remedies available at law or in equity to enforce Golf Course Owner's obligations hereunder.

Section 2. Obligation for Assessments. The provisions of this Section 2 shall not apply to the Golf Course so long as the Golf Course is owned by the Golf Course Owner or a person or persons constituting an affiliate of the "Declarant" under the Residential Declaration; provided, if any portion of the Golf Course is conveyed to a person other than the Golf Course Owner or a person or persons constituting an affiliate of the "Declarant" under the Residential Declaration, the portion so conveyed shall pay its pro rata share (based upon relative acreage) of the total assessments which would otherwise be due hereunder if no portion of the Golf Course were exempted by this provision.

(a) Creation of Obligation for Assessments; Lien Rights. Golf Course Owner, by accepting title to the Golf Course or any portion thereof, is deemed to covenant and agree to pay assessments to the Association as provided herein. Each three acres of land (whether improved or unimproved, rounded to the nearest three acres) comprising the Golf Course (or such portion thereof so owned) shall be deemed the equivalent of one Unit subject to full assessment under Article X of the Residential Declaration.

All assessments, late charges and interest as authorized herein, and costs of collection, including reasonable attorneys' fees, shall be the personal obligation of the Golf Course Owner and shall be secured by a continuing lien in favor of the Association against the Golf Course, which lien shall be prior and superior to all other liens except (a) the lien of all taxes, bonds, assessments and other governmental levies which by law would be superior; and (b) the lien of any deed of trust recorded prior to the date of this Agreement or any other deed of trust made at arm's length, in good faith and for value which has first priority over all other deeds of trust. In the event of a transfer of title to the Golf Course, the grantor and grantee shall be jointly and severally liable for any unpaid assessment or installments thereof due and payable as of the date of conveyance, except that no holder of any first deed of trust on the Golf Course satisfying the requirements set forth above who obtains title to the Golf Course pursuant to the remedies provided in such deed of trust shall be liable for unpaid assessments which accrued prior to such acquisition of title. The sale or transfer of the Golf Course shall not otherwise affect the Association's lien nor relieve the Golf Course from the lien for assessments thereafter coming due.

Golf Course Owner may not exempt itself or the Golf Course from the obligation to pay assessments hereunder by non-use of the Common Area or abandonment of the Golf Course. Such obligation shall be a separate and independent covenant, and no diminution or abatement of the assessment or setoff shall be claimed or allowed by reason of any alleged failure of the Association to adequately perform its responsibilities hereunder or under the Declaration, the sole remedy of Golf Course Owner for the Association's failure to perform being suit at law or in equity.

(b) Payment of Assessments; Delinquencies. Golf Course Owner shall pay all assessments in such manner and on such dates as the Association's board may specify, except that if the Association permits its members to pay such assessments in installments, Golf Course Owner shall be afforded the same privilege, subject to the same conditions as apply to the Association's members. Golf Course Owner acknowledges that the regular Base Assessment levied by Association is an annual assessment due and payable in advance on the first day of each fiscal year of the Association, unless the Association's board otherwise permits payment in installments. If Golf Course Owner is delinquent in paying any installment of an assessment, the Association may revoke the privilege of paying in installments and declare the unpaid balance of all assessments levied against the Golf Course to be due in full and payable immediately.

Any assessment or installment thereof which is delinquent for a period of 15 days or more shall incur a late charge in the same amount as the Association may charge its members from time to time. In addition, the Association may charge interest on the principal amount due (at such rate as the Association's board of directors may establish from time to time, not to exceed the lesser of 16% or the highest rate permitted by North Carolina law) as computed from the date the delinquency first occurs. All payments shall be applied first to costs of collection, then to late charges, then to interest, and then to delinquent assessments.

In the event of a delinquency in payment of any assessment hereunder which is not cured within 30 days after written notice from the Association, the Association may enforce its lien by suit, judgment and foreclosure in the same manner as the lien of a deed of trust may be foreclosed under North Carolina law. The Association may file suit on Golf Course Owner's personal obligation to recover a money judgment without foreclosing or waiving its lien hereunder.

2.

Except as specifically amended hereby, the Golf Course Covenant shall remain in full force and effect.

[continued on next page]

GOLF COURSE OWNER: **WESTBROOK HIGHLAND CREEK GOLF, L.L.C.**, a Delaware limited liability company

BY: WESTERRA MANAGEMENT, L.L.C., Authorized Representative

By: [signature]
Name: DAVID B. WRIGHT
Title: VICE PRESIDENT

STATE OF North Carolina

COUNTY OF Mecklenburg

I, a Notary Public of the County and State aforesaid, certify that David Wright personally came before me this day, who, being by me duly sworn, acknowledged that he is the Vice President of WESTERRA MANAGEMENT, L.L.C., a Delaware limited liability company, the duly Authorized Representative of **WESTBROOK HIGHLAND CREEK GOLF, L.L.C.**, a Delaware limited liability company, and that the seal affixed to the foregoing instrument in writing is the seal of the limited liability company, and that said writing was signed and sealed by him, on behalf of said limited liability company, by its authority duly given. And the said Vice President acknowledged the said writing to be the act and deed of said limited liability company.

Witness my hand and official stamp or seal, this 15th day of January, 1998.

[signature]
Notary Public

My commission expires: 10-09-00

[Seal-Stamp]

GRAYSON MACDONALD NOTARY PUBLIC MECKLENBURG COUNTY, NC

State of North Carolina, County of Mecklenburg

The foregoing certificate(s) of Grayson MacDonald

Notary(ies) Public is/are certified to be correct.

This 16th of January, 19 98

JUDITH A. GIBSON, REGISTER OF DEEDS

By: [signature] Deputy Register of Deeds

RD101

DECLARANT: **WESTBROOK HIGHLAND CREEK, L.L.C.**, a Delaware limited liability company

BY: WESTERRA MANAGEMENT, L.L.C.,
Authorized Representative

By: D/B Wyt
Name: DAVID B. WRIGHT
Title: VICE PRESIDENT

STATE OF North Carolina

COUNTY OF Mecklenburg

I, a Notary Public of the County and State aforesaid, certify that David Wright personally came before me this day, who, being by me duly sworn, acknowledged that he is the Vice President of WESTERRA MANAGEMENT, L.L.C., a Delaware limited liability company, the duly Authorized Representative of **WESTBROOK HIGHLAND CREEK, L.L.C.**, a Delaware limited liability company, and that the seal affixed to the foregoing instrument in writing is the seal of the limited liability company, and that said writing was signed and sealed by him, on behalf of said limited liability company, by its authority duly given. And the said Vice President acknowledged the said writing to be the act and deed of said limited liability company.

Witness my hand and official stamp or seal, this 5th day of January, 1998

Notary Public

My commission expires: 10-09-00

[Seal-Stamp]

WATER USE AGREEMENT

This Water Use Agreement (this "Agreement") made on this 29th day of December 2000, by and between Highland Creek Golf Club LLC, a Delaware limited liability company("GC Owner") Westbrook Highland Creek, L.L.C., a Delaware limited liability company ("Developer") and Highland Creek Community Association, Inc., a North Carolina nonprofit corporation ("Association"), is as follows:

WITNESSETH

WHEREAS, GC Owner is the owner of the real property described on Exhibit A ("Golf Course Property");

WHEREAS, Developer is the owner of land generally described on Exhibit B ("Development Property");

WHEREAS, Association owns all the property subject to the Declaration of Covenants, Conditions and Restrictions for Highland Creek, originally recorded in Book 6730, Page 17, et seq., in the Office of the Register of Deeds of Mecklenburg County, North Carolina, as amended and supplemented and as may be recorded in Cabarrus County, North Carolina ("Association Property").

WHEREAS, the Association and GC Owner use water for irrigation purposes from the approximately nine (9) acre lake ("Main Lake") located along the perimeter boundary of the Golf Course Property and owned by the Association.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, the parties hereto agree as follows:

1. The existing pump at the Main Lake contains separate discharge pipes for the Association Property and the Golf Course Property with separate flow meters for each. Pursuant to the Amended and Restated Declaration of Easements and Covenants Relating to Highland Creek Golf Course ("GC CCRs") dated March 9, 1992 between American Newland Associates and Highland Creek Community Association, Inc., as amended and assigned, GC Owner shall maintain and operate the Maintenance Property (as defined in the GC CCRs) and the costs incurred for such maintenance and operation shall be shared by the Association and the GC Owner in direct proportion to their usage of the water as reflected by the water meters. Costs shall be allocated on an annual basis. In the event the Association defaults under its obligation to pay costs related to the Maintenance Property, GC Owner shall, in addition to notifying the Association, notify the Developer and provide Developer with a thirty day notice of Association's default and an option to cure the Association's default before exercising any remedy under the GC CCRs except for default interest.

2. Developer, Association and GC Owner agree water shall be shared by GC Owner and Association. The GC Owner is entitled to no more than 525,000 gallons per day of water from the Main Lake ("GC Max") and the Association is entitled to no more than 300,000 gallons per day of water from the Main Lake ("Association Max").

3. Developer, Association and GC Owner recognize that there may be times that the water level in the Main Lake is below full capacity. Therefore, whenever the lake is (i) between one and two feet below full capacity, GC Owner is entitled to no more than 90% of GC Max and Association is entitled to no more than 90% of Association Max, (ii) between two and three feet below full capacity, GC Owner is entitled to no more than 75% of GC Max and Association is entitled to no more than 75% of the Association Max, (iii) between three and four feet below full capacity, GC Owner is entitled to no more than 60% of GC Max and Association is entitled to no more than 60% of Association Max and (iv) more than four feet below full capacity, GC Owner shall have the sole right to the available water but shall use the water solely for watering greens and tees and not for any other use until the water level rises to above four feet below full capacity. Full capacity for the Main Lake shall be when the water level is at the top of the Main Lake spillway.

4. In the event the water level in the Main Lake falls to eight inches or more below full capacity, the wells will be turned on until such time as the Main Lake returns to a water level of eight inches or less below full capacity. It shall be GC Owner's responsibility to promptly turn on (and off) the wells whether located on the Golf Course Property or the Association Property in the situation described above.

5. In the event the water level in the Main Lake falls to four feet or more below full capacity, either party may take the steps necessary to connect the Main Lake to city water and the parties shall share the infrastructure costs necessary for such connection, with the Association paying 36% of the costs and the GC Owner paying 64% of the costs. The cost of the city water shall be shared based on the percentage of water used by the respective parties during any time city water is used to fill the Main Lake.

6. GC Owner agrees to maintain and operate the wells wherever located at the same level as is required for the Maintenance Property and the cost of maintenance and operation of such wells shall be paid, in part, by the Association. Costs shall be allocated between the Association and GC Owner in direct proportion to their relative usage of water from the Main Lake.

7. In the event of default hereunder, the non-defaulting party or parties shall be entitled to (i) specific performance of the defaulting party's obligations hereunder and injunctive relief, as applicable under the laws of North Carolina as well as (ii) demand payments of all amounts due and costs, damages, expenses and reasonable attorney's fees.

8. This Agreement and any documents executed in connection therewith shall not be assigned by Developer, Association or GC Owner without the prior written consent of the other party, which shall not be unreasonably withheld, and any assignment

without such prior written consent shall be null and void. Notwithstanding the foregoing, this Agreement may be assigned without the other party's consent (i) to Affiliates of Developer or GC Owner (provided that the Affiliate is the fee owner of the Golf Course or the Development Property, as applicable), (ii) by GC Owner to a subsequent purchaser of the Golf Course Property or the GC Owner's lender pursuant to a collateral security agreement, and (iii) by Developer to a permitted transferee pursuant to Paragraph 2.1.3 of the Development Agreement dated December 29, 2000 between GC Owner and Developer (collectively, the "Permitted Transfers"). Upon the closing of a Permitted Transfer and the assumption by the assignee of the obligations hereunder, the assignor shall have no further obligation under the terms of this Agreement from said date.

9. This Agreement has been executed and delivered in the State of North Carolina and shall be construed in accordance with the laws of the State of North Carolina. Any action brought to enforce or interpret this Agreement by either party or their successors or assigns shall be brought in the court of appropriate jurisdiction in Mecklenburg County, North Carolina, agree and waive any rights to contest said venue for the proceedings. Should any provision of this Agreement require judicial interpretation, it is agreed that the court interpreting or considering same shall not apply the presumption that the terms hereof shall be more strictly construed against a party by reason of the rule or conclusion that a document should be construed more strictly against the party who itself or through its agent prepared the same; it being agreed that all parties hereto have participated in the preparation of this Agreement and that legal counsel was consulted by each responsible party before the execution of this Agreement.

10. Nothing contained herein shall be deemed or construed by the parties hereto or by any third party as creating the relationship of (i) principal and agent, (ii) a partnership, or (iii) a joint venture between the parties hereto; it being understood and agreed that neither any provisions contained herein nor any acts of the parties hereto shall be deemed to create any relationship between the parties hereto.

11. The parties acknowledge that no other party shall be entitled to enforce and/or receive any benefits set forth herein other than assignees through Permitted Transfers, pursuant to the terms, conditions and restrictions recited herein. Additionally, no lot owner within the Development Property shall have the right to enforce any specific right granted to the Developer in this Agreement.

12. This Agreement and the terms and provisions hereof shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns, as permitted herein, whenever the context so requires or permits.

13. TIME IS OF THE ESSENCE IN THIS AGREEMENT AND EACH AND ALL OF ITS PROVISIONS. Any extension of time granted for the performance of any duty under this Agreement shall not be considered an extension of time for the performance of any other obligation under this Agreement.

14. To the fullest extent permitted by law, Developer, Association and Golf Course Owner hereby forever waive the right to trial by jury in the event of any suit,

action or proceeding arising out of or relating to this Agreement or any of the instruments delivered in connection therewith, and agree that any such suit, action, or proceeding shall be tried by the court.

IN WITNESS WHEREOF, the parties have executed this instrument the date first written above.

[SIGNATURES ON FOLLOWING PAGES]

GC Owner:

HIGHLAND CREEK GOLF CLUB LLC,
a Delaware limited liability company

By: IRI Golf Management, L.P.,
a Delaware limited partnership,
its Manager

By: GolfMark Corporation,
a Delaware corporation,
its general partner

By: _____
Name: Jeffrey M. Silverstein
Title: President

Developer:

WESTBROOK HIGHLAND CREEK, L.L.C.
a Delaware limited liability company

By: _____

Title: _____

Association:

HIGHLAND CREEK COMMUNITY
ASSOCIATION, INC.
a North Carolina non-profit corporation

By: _____

Title: _____

GC Owner:

HIGHLAND CREEK GOLF CLUB LLC,
a Delaware limited liability company

By: IRI Golf Management, L.P.,
a Delaware limited partnership,
its Manager

By: GolfMark Corporation,
a Delaware corporation,
its general partner

By: _____
Name: Jeffrey M. Silverstein
Title: President

Developer:

WESTBROOK HIGHLAND CREEK, L.L.C.
a Delaware limited liability company

By: Patrick A. Lee
Title: Vice President

Association:

HIGHLAND CREEK COMMUNITY
ASSOCIATION, INC.
a North Carolina non-profit corporation

By: Pamela Schamberg
Title: President

GC Owner:

HIGHLAND CREEK GOLF CLUB LLC,
a Delaware limited liability company

By: IRI Golf Management, L.P.,
a Delaware limited partnership,
its Manager

By: GolfMark Corporation,
a Delaware corporation,
its general partner

By: _____
Name: Jeffrey M. Silverstein
Title: President

Developer:

WESTBROOK HIGHLAND CREEK, L.L.C.
a Delaware limited liability company

By: Patrick A. Gruber
Title: Vice President

Association:

HIGHLAND CREEK COMMUNITY
ASSOCIATION, INC.
a North Carolina non-profit corporation

By: Pamela Schamberg
Title: President

Prepared by and return to: Sellers, Hinshaw, Ayers, Dortch & Lyons, P.A. (Box 91)

SUPPLEMENTAL DECLARATION FOR ANNEXATION OF PARKWAY OAKS INTO HIGHLAND CREEK

This **SUPPLEMENTAL DECLARATION FOR ANNEXATION OF PARKWAY OAKS INTO HIGHLAND CREEK** is made and recorded pursuant to Article VIII, Section 2, of the Declaration of Covenants, Conditions, and Restrictions for Highland Creek recorded originally in Book 6730 at Page 17 of the Mecklenburg County Public Registry and in Book 3410 at Page 153 of the Cabarrus County Public Registry, and as the same have been amended and supplemented by instruments recorded thereafter ("Declaration"), and is effective upon recordation of this instrument in the Mecklenburg County Public Registry.

Statement of Purpose

The Declaration provides in Article VIII, Section 2, for annexation by the Highland Creek Community Association, Inc. ("Association") of property other than that described in Exhibit "B" to the Declaration or of property described in Exhibit "B" after the expiration of the Declarant's right of annexation as set forth in Article VIII, Section 1. GMAC Model Home Finance, Inc., Goheen Properties, Inc. and K Hovnanian Homes of North Carolina, Inc. ("Owners") are all of the owners of property more particularly shown on the Map recorded in Map Book 45 at Page 255 and described in the deed recorded in Deed Book 17050 at Page 566, which are incorporated by reference herein ("Parkway Oaks"). The plan and layout for Parkway Oaks is depicted on the Technical Data Sheet (Sheet C1) and the Illustrative Site Plan (Sheet C2), both of which are attached hereto and incorporated by reference herein. The annexation of Parkway Oaks has been approved by the affirmative vote of Voting Members or alternates representing two-thirds of the Class "A" votes of the Association and by Westbrook Highland Creek, L.L.C., a Delaware Limited Liability Company, the Declarant, upon the terms and conditions specifically set forth below.

The purpose of this instrument is to memorialize the approval of the Association and the consent of the Owner as required by Article VIII, Section 2 of the Declaration and to specifically set forth the terms and conditions upon which Parkway Oaks will be annexed into and become part of Highland Creek, which annexation shall be effective with the recordation of this Supplemental Declaration.

NOW, THEREFORE, pursuant to the affirmative vote of the Voting Members or alternates representing two-thirds of the Class "A" votes of the Association, which approval is certified by the signatures of the President and the Secretary of the Association below, and with the approval and consent

of the Declarant and the Owner, as evidenced by the signatures of their duly authorized representatives below, Parkway Oaks is hereby annexed into and shall become a part of Highland Creek and shall be subject to all of the terms and provisions of the Declaration and to the jurisdiction of the Association, its bylaws, rules, and regulations.

1. In addition, Association, Declarant, and Owner agree that Parkway Oaks and its annexation shall be subject to the following additional terms, conditions, restrictions, and provisions:

(a) The streets and roadways within Parkway Oaks shall be constructed in accordance with the specifications and requirements of the City of Charlotte and shall be dedicated to public use. The owner of Parkway Oaks and its successors and/or assigns shall be responsible for the maintenance of all streets and roadways within Parkway Oaks until such time as maintenance responsibilities are officially accepted and assumed by the City of Charlotte.

(b) Parkway Oaks will be constructed and developed in substantial compliance with the design and configuration appearing on Sheet No. C2. The plat or plats recorded depicting all or any portion of Parkway Oaks shall not differ materially from the design and configuration shown and depicted on Sheet No. C2. Any material change or deviation from the design and configuration shown and set forth on Sheet No. C2 shall be approved in advance by the Board of Directors of the Association.

(c) All areas designated as "Common Open Space" (a/k/a "C.O.S.") shall be deeded by the owner to the Association; provided, however, that the Association shall have no obligation to accept the conveyance of all or any portion of the Common Open Space until the construction and improvement of the area proposed for transfer, including all improvements and landscaping thereon, is fully completed. All deeds conveying all or any part of the Common Open Space shall contain a statement signed by the President of the Association confirming the completion of development and construction as required herein and expressly accepting delivery of the deed and transfer of the tract described therein. Pending conveyance and transfer of Common Open Space to the Association as provided herein, all areas designated Common Open Space shall be continuously maintained by the owner of Parkway Oaks, its successors and assigns, in accordance with the provisions of the Declaration and the Community-Wide Standards.

(d) Parkway Oaks shall constitute a separate "Neighborhood," as defined in Article I, Section 20, and for purposes of Article III, Section 3 of the Declaration.

(e) The right-of-way of Highland Creek Parkway, as well as all Common Open Space adjoining Highland Creek Parkway shall be developed, improved, and landscaped so as to be consistent with the development, improvements and landscaping of other villages adjoining Highland Creek Parkway. Without limiting the generality of the foregoing, all signage for Parkway Oaks shall be constructed of red or brown brick and black granite slab sign

face with engraved, gold lettering so as to match signage in place at the entrances of all other villages along Highland Creek Parkway. All improvements and landscaping previously removed by Goheen Development Company shall be replaced and all affected areas returned to their original condition. The final design and configuration of improvements, landscaping, and signage along Highland Creek Parkway shall be approved by the Board of Directors of the Association.

(f) Construction of infrastructure and development improvements for Parkway Oaks shall be complete not later than June 30, 2007.

(g) Assessments shall commence as to the 39 lots in Parkway Oaks on the first day of the month following the recordation of the Supplemental Declaration memorializing its annexation.

2. Owner warrants and represents that it owns, in fee simple, the entire tract of land comprising Parkway Oaks and that the same is free of liens and encumbrances, save and except the owners and holders of Deeds of Trust, Mortgages, and other encumbrances, whose consents are attached hereto and recorded herewith.

3. This Supplemental Declaration and the annexation of Parkway Oaks as provided herein shall be effective upon the recordation of this Supplemental Declaration in the Mecklenburg County Public Registry.

IN WITNESS WHEREOF, the Association, the Declarant, and the Owner have executed this **SUPPLEMENTAL DECLARATION FOR ANNEXATION OF PARKWAY OAKS INTO HIGHLAND CREEK** upon authority duly given and through their authorized representatives whose signatures appear below.

"ASSOCIATION"

HIGHLAND CREEK COMMUNITY ASSOCIATION, INC.

Name: _____
President

Name: _____
Secretary

"DECLARANT"

WESTBROOK HIGHLAND CREEK, L.L.C.,
a Delaware Limited Liability Company

_____
D. Brian Hodgin
Assistant Vice President

"OWNERS"

GOHEEN PROPERTIES, INC.

_____
Michael A. Goheen, President

K HOVNANIAN HOMES OF NORTH CAROLINA, INC.

_____
Name: Ricky Beauchamp, Vice President

State of North Carolina

County of Mecklenburg

The undersigned, a notary public for the county and state aforesaid, do hereby certify that Joseph Ormsby and Daniel Bone, either personally known to me or proven by satisfactory evidence, appeared before me this day and acknowledged that they are the President and Secretary, respectively, of the HIGHLAND CREEK COMMUNITY ASSOCIATION, INC., a North Carolina non-profit corporation, and that they, as President and Secretary, being authorized to do so, executed the foregoing on behalf of the Association.

WITNESS my hand and official stamp or seal this the 19 day of June, 2006.

_____
Notary Public
Name: Kimberly Brackett

My Commission Expires: June 11, 2011

Notary Stamp/Seal

State of North Carolina

County of _____

The undersigned, a notary public for the county and state aforesaid, do hereby certify that D. Brian Hodgin, either personally known to me or proven by satisfactory evidence, appeared before me this day, and after being first duly sworn, acknowledged that he is the Assistant Vice President of WESTBROOK HIGHLAND CREEK, LLC, a Delaware Limited Liability Company, and that said writing was signed by him on behalf of WESTBROOK HIGHLAND CREEK, LLC, and that the said Assistant Vice-President acknowledged this writing to be the act and deed of the limited liability company.

WITNESS my hand and official stamp or seal this the ____ day of June, 2006.

_____
Notary Public
Name: _____

My Commission Expires: _____.

Notary Stamp/Seal

State of North Carolina

County of Mecklenburg

The undersigned, a notary public for the county and state aforesaid, do hereby certify that Michael A. Goheen, either personally known to me or proven by satisfactory evidence, appeared before me this day and acknowledged that he is the President of the GOHEEN PROPERTIES, INC., a North Carolina non-profit corporation, and that he, as President and being authorized to do so, executed the foregoing on behalf of the corporation.

WITNESS my hand and official stamp or seal this the 20 day of June, 2006.

Stephanie L Cox
Notary Public
Name: Stephanie L. Cox

STEPHANIE L COX NOTARY PUBLIC LINCOLN COUNTY NC

My Commission Expires: 10-30-08.

Notary Stamp/Seal

State of North Carolina

County of Mecklenburg

The undersigned, a notary public for the county and state aforesaid, do hereby certify that Ricky Beauchamp, either personally known to me or proven by satisfactory evidence, personally appeared before me this day and acknowledged that he is the Vice President of the K HOVNANIAN HOMES OF NORTH CAROLINA, INC., a North Carolina non-profit corporation, and that he, as Vice President and being authorized to do so, executed the foregoing on behalf of the corporation.

WITNESS my hand and official stamp or seal this the 29 day of June, 2006.

Martha C. Jefferis

Notary Public

Name: MARTHA C. Jefferis

My Commission Expires: 8/10/07.

Notary Stamp/Seal

OFFICIAL SEAL
MARTHA C. JEFFERIS
NOTARY PUBLIC
MECKLENBURG COUNTY, NC
My Comm. Expires August 10, 2007

CONSENT AND SUBORDINATION OF SUNTRUST BANK

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the undersigned, **SUNTRUST BANK**, successor by merger to Central Carolina Bank, a division of National Bank of Commerce ("Bank"), does hereby consent and agree to the annexation of the property known as Parkway Oaks subdivision, as shown on the map recorded in Map Book 45 at Page 55, into the Highland Creek subdivision in accordance with the terms, provisions, and conditions set forth in the Supplemental Declaration for Annexation of Parkway Oaks into Highland Creek ("Supplement") to which this Consent and Subordination is attached and agrees that from and after the recordation of the Settlement, Parkway Oaks shall be subject to all of the terms and provisions of the Declaration as defined in the Supplement and to the jurisdiction of the Highland Creek Community Association, Inc., its bylaws, rules, and regulations. Bank further agrees to subordinate all liens, encumbrances, security interests and deeds of trust, including, without limitation, the deeds of trust recorded in Book 17050 at Page 570 and Book 20118 at Page 725 ("Liens") with respect to Parkway Oaks, or any portion thereof. Bank agrees that the Declaration shall not be affected by the Bank's exercise or enforcement of its rights or remedies under the terms of the Liens, but shall remain an encumbrance upon and enforceable against Parkway Oaks and the owners of property within Parkway Oaks.

SUNTRUST BANK

By: Alan J. Sulek

Alan J. Sulek, Vice President

State of North Carolina

County of Cabarrus

I, Kristen B Evans, a notary public for the county and state aforesaid, do hereby certify that Alan J. Sulek, either personally known to me or proven by satisfactory evidence, came before me this day and acknowledged that he is the Vice President of **SUNTRUST BANK**, a North Carolina corporation, and that he, as Vice President, being authorized to do so, voluntarily executed the foregoing on behalf of the corporation for the purposes therein stated.

WITNESS my hand and official stamp or seal this the 16 day of June, 2006.

Kristen B. Evans
Notary Public
Name: KRISTEN B. EVANS

My Commission Expires: 07-31-2006

Notary Stamp/Seal:

S:\CLIENTS\Associations\HIGHLAND\annexations\suppdec.annex.wpd

"EXECUTION BY GMAC MODEL HOME FINANCE, INC."

GMAC MODEL HOME FINANCE, ~~INC.~~ LLC, a Delaware limited liability company as successor by statutory conversion to GMAC Model Home Finance, Inc., a Virginia corporation

By: _____
Name: Julie C. Riley
Vice President Assistant Vice President

State of Virginia

County of Henrico

The undersigned, a notary public for the county and state aforesaid, do hereby certify that Julie Riley, either personally known to me or proven by satisfactory evidence, appeared before me this day and acknowledged that he/she is a Vice President of the GMAC MODEL HOME FINANCE, INC., a Virginia corporation, and that he/she, as Vice President and being authorized to do so, executed the foregoing on behalf of the corporation.

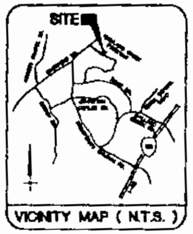
WITNESS my hand and official stamp or seal this the 29 day of June, 2006.

A. Korenman
Notary Public
Name: Alla Korenman

My Commission Expires: May 31, 2010.

Notary Stamp/Seal

S:\CLIENTS\Associations\HIGHLAND\annexations\supp.dec.annex.wpd



⚠ GENERAL NOTES FOR R-8 (CD)

STATEMENT OF INTENT

GENERAL PROVISIONS

PERMITTED USES

HEIGHT RESTRICTIONS

SETBACKS

ACCESS POINTS AND SIDEWALKS

SIGNS

FIRE PROTECTION

STORMWATER MANAGEMENT

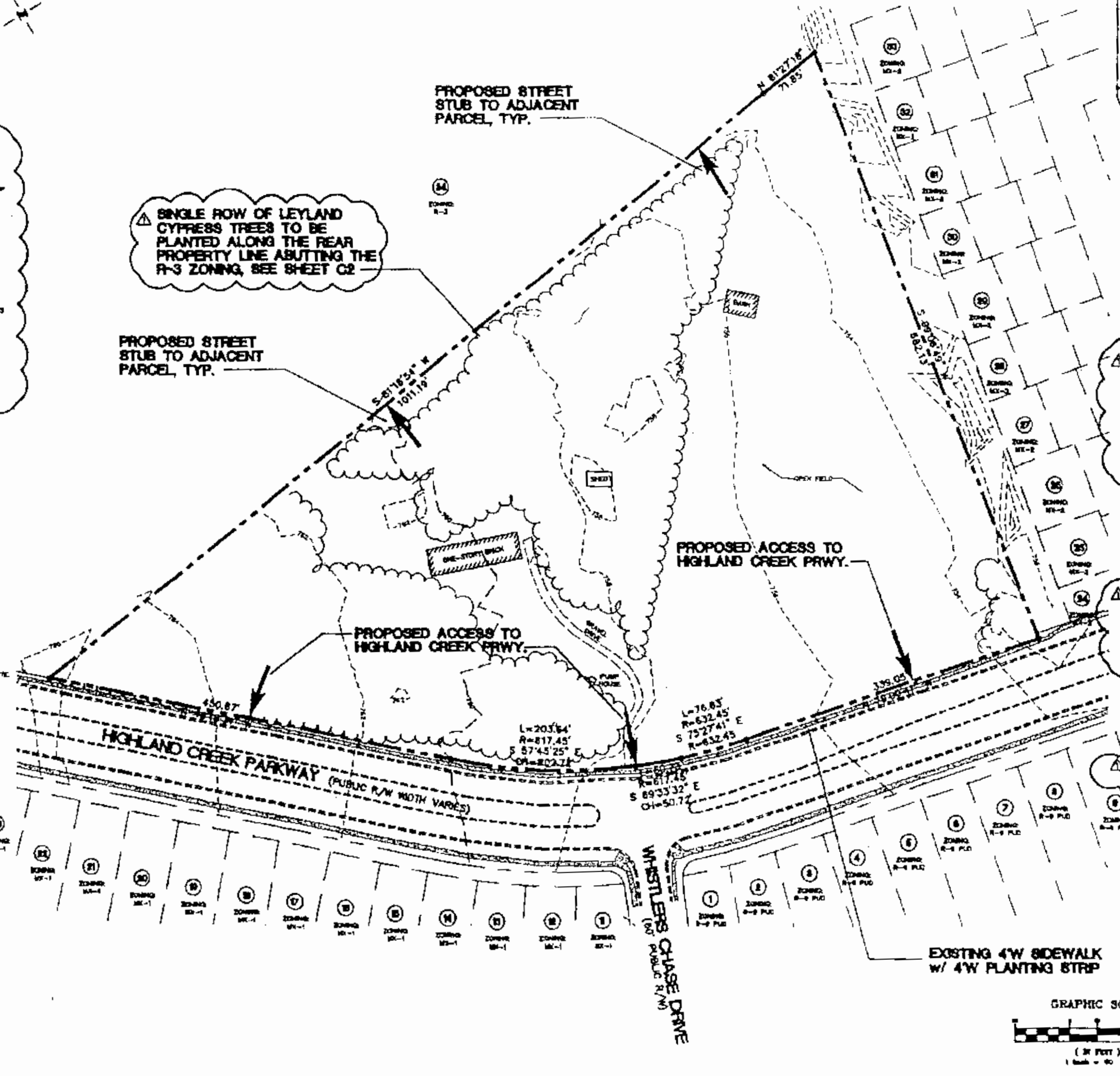
HOME OWNERS ASSOCIATION

AMENDMENTS TO REZONING PLAN

ADJOINING PROPERTY OWNERS

STREET STUBS

COMMON OPEN SPACE IMPROVEMENTS



LEGEND OF SYMBOLS

PROJECT CONTACT DATA

⚠ DEVELOPMENT DATA

⚠ DEVELOPMENT STANDARDS

ZONING R-8(CD) CLUSTER

⚠ NOTE: FRONT AND REAR YARDS MAY NOT BE REDUCED BEYOND 30 FEET.

REVISIONS	DATE
⚠ CMRC REVIEW COMMENTS	4/18/05

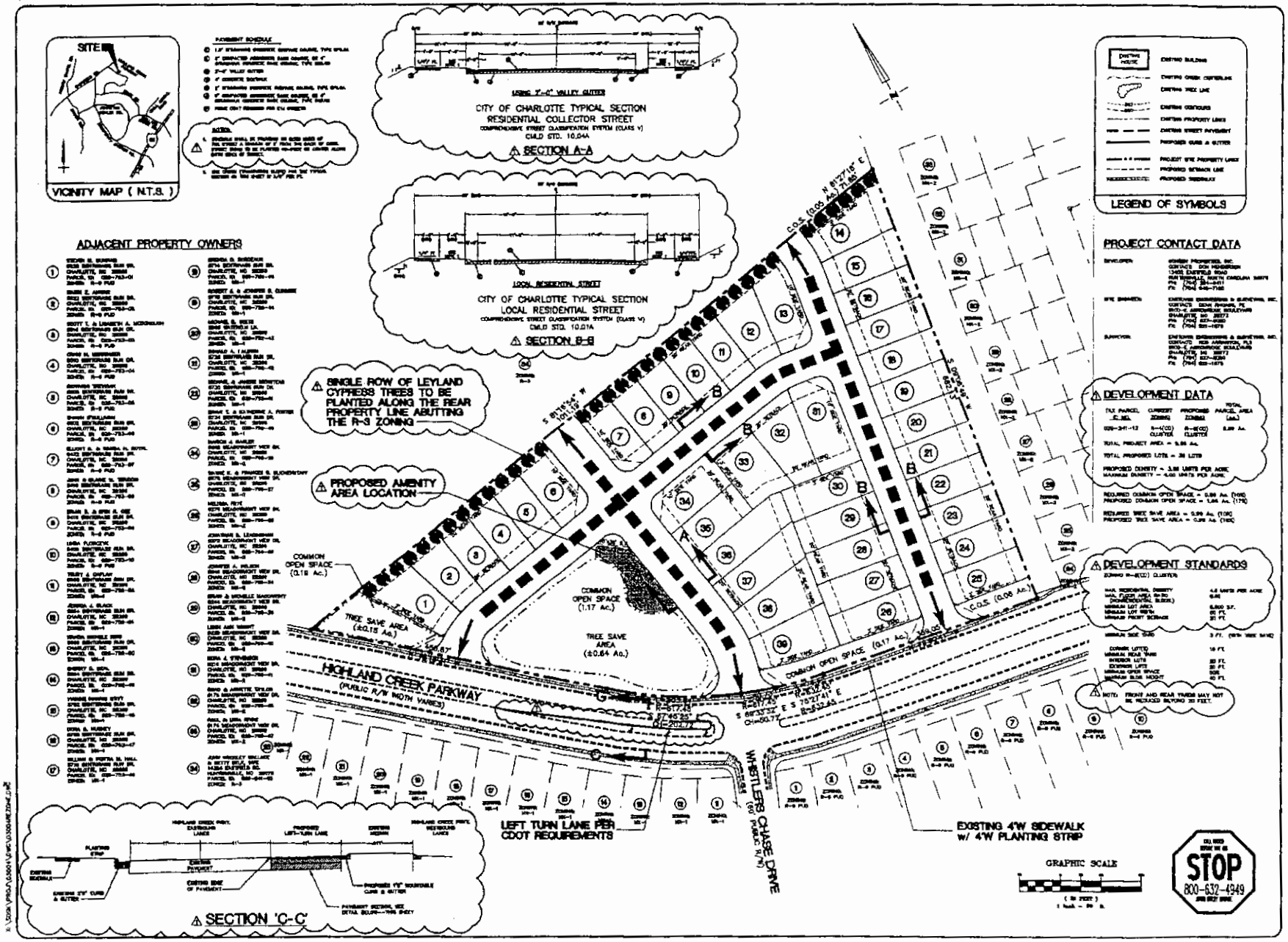
EASTOVER
Engineering & Surveying, Inc.
Engineers - Surveyors - Planners
2100-C Arrowridge Boulevard
Charlotte, North Carolina 28273
Ph: (704) 927-8080
Fx: (704) 521-1079

TECHNICAL DATA SHEET

PARKWAY OAKS SUBDIVISION PETITION #2005-120 FOR PUBLIC HEARING

CITY OF CHARLOTTE, MECKLENBURG COUNTY, N.C.

DRAWN BY:	DMR
REVIEWED BY:	DMR
DATE:	6/16/05
SCALE:	1"=40'
JOB NO.:	03004
SHEET NO.	C1 of C2 SHEETS



REVISIONS	DATE
⚠ ADDED MONEY COMMENTS	6/16/05

EASTOVER
Engineering & Surveying, Inc.
Engineers • Surveyors • Planners
8120-E Arrowridge Boulevard
Charlotte, North Carolina 28273
Ph (704) 527-1660
Fx (704) 527-1678

ILLUSTRATIVE SITE PLAN

PARKWAY OAKS SUBDIVISION
PETITION #2005-120
FOR PUBLIC HEARING
CITY OF CHARLOTTE, MECKLENBURG COUNTY, N.C.

DRAWN BY:	DMR
REVIEWED BY:	DMR
DATE:	3/18/05
SCALE:	1"=80'
JOB NO.:	03004

SHEET NO.
C2
OF C2 SHEETS

BOOK 3581 PAGE 14 038697

CABARRUS COUNTY NC
FILED
12/20/2001 4:01 PM
LINDA F. MCABEE
Register Of Deeds
By. CF Deputy/Asst.
EXCISE TAX $0.00

AGREEMENT AND COVENANT TO ANNEX

THIS AGREEMENT AND COVENANT TO ANNEX ("Agreement") is made this 20th day of December 2001, between **HIGHLAND CREEK COMMUNITY ASSOCIATION, INC.**, a North Carolina nonprofit corporation on behalf of itself, its successors and assigns ("ASSOCIATION"), and **ROBERT C. RHEIN INTERESTS, INC.**, a North Carolina corporation, on behalf of itself, its successors, successors-in-title and assigns ("OWNER").

BACKGROUND STATEMENT

Association is a mandatory membership owners association whose membership is comprised of the owners of real property subject to the Declaration of Covenants, Conditions and Restrictions for Highland Creek dated December 10, 1991, and recorded in Book 6730, Page 17, et seq. in the office of the Register of Deeds of Mecklenburg County, North Carolina ("Mecklenburg Registry"), and recorded in Book 3410, Page 153 et seq. in the Office of the Register of Deeds of Cabarrus County, North Carolina ("Cabarrus Registry"), as such Declaration may be amended ("Declaration"). Association owns and operates various recreational facilities, amenities and other common areas ("Common Areas") within the Highland Creek subdivision in Mecklenburg County and Cabarrus County, North Carolina ("Highland Creek") for the benefit of its members.

Owner is the owner of certain real property described on Exhibit A attached hereto for all purposes (the "Property"). Owner anticipates development of the Property, by itself or others, as a residential community which will be part of Highland Creek. The Property is not presently subject to the Declaration.

Westbrook Highland Creek, L.L.C. as successor to the rights of Owner under the Declaration has transferred and assigned its rights to annex the Property to Owner.

Owner desires to obtain for the residents of the Property rights of access to and use and enjoyment in the recreational facilities and amenities within the Common Area. The Association desires to ensure that certain maintenance and architectural standards are maintained with respect to the Property in a manner consistent with the Community-Wide Standard of Highland Creek established pursuant to the Declaration. Accordingly, Owner has agreed to commit to annex the Property to be part of the Declaration as each plat is filed which affects any portion of the Property.

Exhibit B entitled "Land Subject to Annexation" attached to the Declaration describes certain real property which may be subjected unilaterally by the Declarant under the Declaration of the provisions of the Declaration and the jurisdiction of the Association. A portion of the Property was not included in the Exhibit B real property subject to such unilateral action by Declarant; however, pursuant to those two (2) special meetings of the Highland Creek Community Association, dated August 10, 1999 and February 28, 2001, the Association duly authorized the inclusion of that portion of the Property which was not originally described in the aforesaid Exhibit B into that property which may be made subject to the Declaration.

Article VIII Section 2. requires that the Association, together with the Owner, execute a Supplemental Declaration to effect the annexation of such property as provided in the preceding paragraph. Association has agreed that it shall execute such Supplemental Declaration upon the request of Owner.

STATEMENT OF AGREEMENT

In consideration of the foregoing recitals, the mutual benefits and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Owner and Association hereby agree as follows:

1. AGREEMENT TO ANNEX.

Owner agrees that simultaneously with the filing of each subdivision plat affecting and reflecting any portion of the Property in either or both of the Mecklenburg Registry or Cabarrus Registry, Owner shall subject and submit that portion of the Property described in the plat to the terms of the Declaration by filing a Supplemental Declaration in the form attached hereto as Exhibit B or Exhibit B-1, as the case may be. Association agrees that it shall cause the aforesaid Supplemental Declaration to be executed pursuant to the provisions of Article VIII Section 2. of the Declaration as soon as possible after Owner has furnished Association such Supplemental Declaration.

With respect to that portion of the Property which requires the Association to execute a Supplemental Declaration, either because such portion was not originally included in Exhibit B to the Declaration or because the property will be annexed after December 31, 2007, in the event Association fails or refuses to execute a Supplemental Declaration annexing such additional property, Owner's obligation hereunder to annex such additional property shall terminate.

2. OBLIGATION FOR ASSESSMENTS.

(a) Creation of Obligation for Assessments-, Lien Right . Owner hereby covenants and agrees to pay assessments to the Association for each Unit on the Property for which a certificate of occupancy has been issued, whether or not actually occupied, for the same purposes and in the same amount as the Base Assessment and Special Assessments which the Association levies from time to time against all Units subject to full assessment under Article X of the Declaration. The obligation to pay these assessments for each Unit shall commence upon issuance of a certificate of occupancy for such Unit on the Property.

All assessments, late charges and interest as authorized herein, and costs of collection, including reasonable attorneys' fees, shall be the personal obligation of the Owner and shall be secured by a continuing lien in favor of the Association against the Property, which lien shall be prior and superior to all other liens except (a) the lien of all taxes, bonds, assessments and other governmental levies which by law would be superior; and (b) the lien of any deed of trust recorded prior to the date of this Agreement or any other deed of trust made in good faith and for value which has first priority over all other deeds of trust; PROVIDED, HOWEVER, that

foreclosure of any such deed of trust shall not operate to relieve the purchaser of the obligation to pay any such assessments, late charges or interest accruing from and after the date on which such purchaser acquires title to the Property. In the event of a transfer of title to the Property, the grantor and grantee shall be jointly and severally liable for any unpaid assessment or installments thereof due and payable as of the date of conveyance, except that no holder of any first deed of trust on the Property who obtains title to the Property pursuant to the remedies provided in such deed of trust shall be liable for unpaid assessments which accrued prior to such acquisition of title. The sale or transfer of the Property shall not otherwise affect the Association's lien nor relieve the Property from the lien for assessments thereafter coming due.

Owner may not exempt itself or the Property from the obligation to pay assessments hereunder by non-use of the Common Area or abandonment of the Property. Such obligation shall be a separate and independent covenant, and no diminution or abatement of the assessment or setoff shall be claimed or allowed by reason of any alleged failure of the Association to adequately perform its responsibilities hereunder or under the Declaration, the sole remedy of Owner for the Association's failure to perform being suit at law or in equity.

(b) Payment of Assessments. Delinquencies. Owner shall pay all assessments in such manner and on such dates as the Association's board may specify, except that if the Association permits its members to pay such assessments in installments, Owner shall be afforded the same privilege, subject to the same conditions as apply to the Association's members. Owner acknowledges that the regular Base Assessment levied by Association is an annual assessment due and payable in advance on the first day of each fiscal year of the Association, unless the Association's board otherwise permits payment in installments. If Owner is delinquent in paying any installment of an assessment, the Association may revoke the privilege of paying in installments and declare the unpaid balance of all assessments levied against the Property to be due in full and payable immediately.

Any assessment or installment thereof which is delinquent for a period of 15 days or more shall incur a late charge in the same amount as the Association may charge its members from time to time. In addition, the Association may charge interest on the principal amount due (at such rate as the Association's board of directors may establish from time to time, not to exceed the lesser of 16% or the highest rate permitted by North Carolina law) as computed from the date the delinquency first occurs. All payments shall be applied first to costs of collection, then to late charges, then to interest, and then to delinquent assessments.

In the event of a delinquency in payment of any assessment hereunder which is not cured within 30 days after written notice from the Association, the Association may enforce its lien by suit, judgment and foreclosure in the same manner as the lien of a deed of trust may be foreclosed under North Carolina law. The Association may file suit on Owner's personal obligation to recover a money judgment without foreclosing or waiving its lien hereunder. In any action for recovery of assessments the Association shall be entitled to recover its reasonable attorney's fees incurred in connection with such action from Owner.

(c) Intent of this Section 2. Owner and Association acknowledge and agree that the Obligation for Assessments set forth in this Section 2 shall be an enforceable obligation of

its successors and assigns even if Owner fails to annex the Property as is required by Section 1 herein. The provisions of this Section 2 are intended to protect Association by requiring the payment of Assessments by Owner even if the annexation does not occur. For all portions of the Property properly annexed into the Declaration by Owner, Article X of the Declaration regarding assessments shall apply rather than this Section 2.

3. **GENERAL**

(a) Notice. Any notice provided for in this Agreement shall be served personally or shall be mailed by registered or certified mail to the president or secretary of the Association or to the Owner, as applicable, at the addresses of their respective registered agents as reflected in the records of the Secretary of State of the State of North Carolina, unless a different address is provided by either party to the other by written notice pursuant to this paragraph, in which case such other address shall be used. All such notices shall, for all purposes, be deemed delivered (i) upon personal delivery to the party or address specified above; or (ii) on the third day after mailing when mailed by registered or certified mail, postage prepaid, and properly addressed. Inability to deliver notice due to a change of address of which no prior notice was given shall be deemed receipt on the third day after the date postmarked.

(b) Recordkeeping. The Association shall maintain or cause to be maintained full and accurate books of account and shall make the same available for inspection and copying by Owner or its representatives or agents upon request, during normal business hours or under other reasonable circumstances, for any purpose reasonably related to its obligation to pay assessments hereunder. Copying charges shall be paid by Owner. If Owner desires to have the records audited, it may do so at its expense, and the Association shall cooperate by making available to the party performing the audit the records, including all supporting materials (e.g., check copies, invoices, etc.) for the year then ended.

(c) Amendment. This Agreement may be amended by agreement in writing executed by Owner and by the Association, acting through its Board of Directors.

(d) Covenant Running With Title. The parties agree that from and after the recording of this Agreement in the Mecklenburg Registry and Cabarrus Registry, the Property shall be held, used, leased and conveyed subject to the terms of this Agreement, which shall run with the title to the Property and shall bind all parties having any right, title, or interest in the Property or any part thereof, their heirs, successors, successors-in-title, and assigns, subject to subparagraph (e) below.

(e) Term and Termination. This Agreement and the covenants set forth herein shall have a term of 40 years, and thereafter shall automatically renew for successive periods of 20 years each. Notwithstanding the above, if any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until 21 years after the death of the last survivor of the now living descendants of Elizabeth 11, Queen of England.

(f) Interpretation. This Agreement shall be governed by and construed under the

laws of the State of North Carolina.

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

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first above written.

ASSOCIATION:

HIGHLAND CREEK COMMUNITY ASSOCIATION, INC.,
a North Carolina nonprofit corporation

By: Ronelle D. Scharnberg
Name: Ronelle D. Scharnberg
Its: President

[CORPORATE SEAL]

Attest: D. Brian Hodgin
Name: D. BRIAN HODGIN
Its: SECRETARY

STATE OF NORTH CAROLINA

COUNTY OF Mecklenburg

I, a Notary Public of the County and State aforesaid, certify that Ronelle D. Scharnberg personally came before me this day, who, being by me duly sworn, acknowledged that she is the duly authorized PRESIDENT of HIGHLAND CREEK COMMUNITY ASSOCIATION, INC., a North Carolina nonprofit corporation, and that the seal affixed to the foregoing instrument in writing is the seal of such corporation, and that said writing was signed and sealed by him, on behalf of such corporation by its authority duly given, as the act and deed of such corporation.

Witness my hand and official stamp or seal, this 19th day of December, 2001.

Grayson MacDonald
Notary Public, State of North Carolina

My commission expires: 10-09-05
(SEAL-STAMP)

OFFICIAL SEAL
GRAYSON MacDONALD
Notary Public - North Carolina
MECKLENBURG COUNTY
My Commission Expires
10/9/2005

E:\chapman\highland creek\rhein\exhibit c v3

OWNER:

RHEIN HIGHLAND CREEK, LLC, a North Carolina limited liability company

By: Rhein Interests of Charlotte, LLC, a North Carolina limited liability company, Manager

By: _____
James Medall
[redacted] President

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

I, the undersigned Notary Public of the State and County aforesaid, certify that James Medall, [redacted] President of Rhein Interests of Charlotte, LLC, a North Carolina limited liability company, itself the Manager of RHEIN HIGHLAND CREEK, LLC, a North Carolina limited liability company, personally came before me this day and acknowledged that he executed the foregoing document as [redacted] President of Rhein Interests of Charlotte, LLC, itself the Manager of RHEIN HIGHLAND CREEK, LLC, a North Carolina limited liability company.

Witness my hand and official seal or stamp, this the 20th day of December, 2001.

_____
Notary Public

My Commission Expires:
11-16-04

RUTH DROMGOOLE NOTARY PUBLIC MECKLENBURG COUNTY, N.C.

NORTH CAROLINA – CABARRUS COUNTY

The foregoing (or annexed) certificate(s) of _____
Grayson MacDonald and Ruth Dromgoole each, a notary public,
is (are) certified to be correct. This the 20th day of December, 2001

LINDA F. McABEE, REGISTER OF DEEDS

_____

BOOK 5500 PAGE 14

27742

FILE COPY	
FILED FOR REGISTRATION	DOC. #
DATE 8-31-04	TIME 10:36 AM
BOOK 17689	PAGE 175
STAMPS	FEE
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COPY
Ruth

CABARRUS COUNTY
FILED
08/17/2004 1:57 PM
LINDA F. MCABEE
Register Of Deeds
By. _____ Deputy/Asst.
EXCISE TAX $0.00

Drawn by and mail to:
Wallace, Pittman & Webb, PLLC
2101 Rexford Road, Suite 100E
Charlotte, NC 28211 (BWP)

STATE OF NORTH CAROLINA

PARTIAL RELEASE OF AGREEMENT
AND COVENANT TO ANNEX

COUNTY OF CABARRUS

THIS PARTIAL RELEASE OF AGREEMENT AND COVENANT TO ANNEX (herein designated the "Release") is made and entered into this 13th day of August, 2004 by WESTBROOK HIGHLAND CREEK, LLC, a Delaware limited liability company (herein designated "Westbrook"), HIGHLAND CREEK COMMUNITY ASSOCIATION, INC., a North Carolina nonprofit corporation (herein designated "Association") and RHEIN HIGHLAND CREEK, LLC, a North Carolina limited liability company (herein designated "Rhein").

STATEMENT OF PURPOSE

Association and Rhein entered into that certain Agreement and Covenant to Annex, dated December 20, 2001, recorded in Book 3581 at Page 14 in the Office of the Register of Deeds for Cabarrus County and Book 13054 at Page 727 in the Office of the Register of Deeds for Mecklenburg County (herein designated the "Annexation Agreement"), in which agreement Association and Rhein agreed to subject the property described therein (the "Property") to the Declaration of Covenants, Conditions and Restrictions for Highland Creek recorded in Book 3410 at Page 153 in the aforesaid Cabarrus County Registry and Book 6730 at Page 17 in the aforesaid Mecklenburg County Registry (the "Declaration"), as said Declaration has been amended and supplemented from time to time. In addition, Association and Rhein agreed that the Assessments, as said term is defined in the Annexation Agreement and the Declaration, would be imposed upon the owner(s) of the Property regardless of whether such Property was legally annexed into the regime created by the Declaration as required by the Annexation Agreement.

Westbrook and Association now desire to release Rhein from its obligation to annex the property herein described on Exhibit A (herein designated the "Released Property") into the regime created by the Declaration.

The parties hereto now desire to release the Released Property from the agreement to annex and the obligation for Assessments as set forth in the Annexation Agreement.

NOW, THEREFORE, in consideration of the matters set forth in the Statement of Purpose and other valuable consideration, the receipt and adequacy is hereby acknowledged, the parties hereto agree as follows:

1. Westbrook and Association hereby release Rhein from its obligation to annex the Released Property into the regime created by the Declaration and further release Rhein and any subsequent owners of the Released Property from any obligation to pay the Assessments created under the Annexation Agreement and the Declaration, to the end that the Released Property shall be held and owned free and clear of the Annexation Agreement and the Declaration and the current and any future owners of the Released Property shall have no obligation to pay the assessments as set forth in the Annexation Agreement and the Declaration..

2. Except as to the Released Property, the parties hereto ratify and reconfirm the terms, conditions and agreements set forth in the Annexation Agreement.

3. This Release shall be binding upon and inure to the benefit of the parties hereto, their respective assigns, successors and successors in title to the Released Property.

IN WITNESS WHEREOF the parties have executed this Release the day and year first above appearing.

WESTBROOK HIGHLAND CREEK, LLC,
a Delaware limited liability company

By: D. Brian Hodgin
Name: D. BRIAN HODGIN
Title: ASSISTANT VICE PRESIDENT

RHEIN HIGHLAND CREEK, LLC, a North Carolina limited liability company

By: Rhein Interests of Charlotte, LLC
Its Manager

By: _____
President

HIGHLAND CREEK COMMUNITY ASSOCIATION, INC.
a North Carolina non-profit corporation

By: D. Brian Hodgin
President

By: Kelly Ouschel
Secretary

STATE OF NORTH CAROLINA
COUNTY OF Mecklenburg

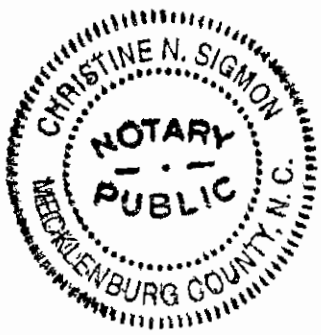
I, the undersigned Notary Public of the State and County aforesaid, certify that D. Brian Hodgin and Kelly Ouschel personally appeared before me this day and acknowledged that they are President and Secretary, respectively, of HIGHLAND CREEK COMMUNITY ASSOCIATION, INC., a North Carolina non-profit corporation, and that they, as President and Secretary being authorized to do so, executed the foregoing on behalf of the corporation.

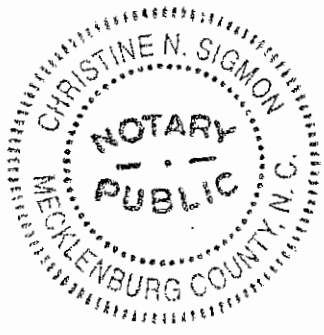
Witness my hand and official seal or stamp, this the 9 day August, 2004.

Christine N. Sigmon
Notary Public

My Commission Expires:
11-21-2004

[NOTARIAL SEAL]





STATE OF North Carolina
COUNTY OF Lincoln

I, a Notary Public of the County and State aforesaid, certify that D. Brian Hodgin, personally came before me this day and acknowledged that he/she is the Assistant VP President of Westbrook Highland Creek, LLC, a Delaware limited liability company, and that said writing was signed by him/her, and that he/she as such Assistant Vice President, being authorized to do so, executed the foregoing document on behalf of Westbrook Highland Creek, LLC.

Witness my hand and official stamp or seal this 10th day of August, 2004.

Kelly D. Duschel
Notary Public

My Commission Expires:
2/12/08

[NOTARIAL SEAL]

Kelly D. Duschel
Notary Public
Lincoln County, NC

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

I, the undersigned Notary Public of the State and County aforesaid, certify that James M. Medall personally appeared before me and acknowledged that he is _____ President of Rhein Interests of Charlotte, LLC, a North Carolina limited liability company, itself the Member/Manager of RHEIN HIGHLAND CREEK, LLC, a North Carolina limited liability company, and that he, as such _____ President, being authorized to do so, executed the foregoing document on behalf of Rhein Interests of Charlotte, LLC, itself the Member/Manager of RHEIN HIGHLAND CREEK, LLC, a North Carolina limited liability company.

Witness my hand and official seal or stamp, this the 13th day August, 2004.

Joanne G. West
Notary Public

My Commission Expires:
May 15, 2005

[NOTARIAL SEAL]

Official Seal
Notary Public, State of North Carolina
No. 20001300188
County of Mecklenburg
Joanne G. West
My Commission Expires: May 15, 2005

EXHIBIT A
Released Property

BEGINNING at an 1" pipe found at the northwest corner of the Kenneth Lee Christenbury and Grace Wiggins Christenbury (now or formerly) and the northeast corner of that certain 3.952 acre tract of land labeled "COS" (Common Open Space) as shown on map of Dominion Crossing at Highland Creek, Phase 1, Map 3 recorded in Map Book 42 at Page 104 in the Cabarrus County Public Registry, and running thence with a portion of the northerly property line of the Common Open Space as shown on the aforesaid Map Book 42 at Page 104 S 85-19-23 W 244.54 feet to a point in the centerline of a creek; thence with the centerline of the creek seventeen (17) calls and distances as follows: (1) N 50-11-35 E 49.71 feet to a point; (2) N 27-45-11 E 38.34 feet to a point; (3) N 22-22-18 E 32.82 feet to a point; (4) N 23-11-26 E 27.19 feet to a point; (5) N 33-41-14 E 19.31 feet to a point; (6) N 00-01-35 W 8.93 feet to a point; (7) N 30-34-30 E 45.63 feet to a point; (8) N 40-01-44 E 58.31 feet to a point; (9) N 51-57-04 E 52.17 feet to a point; (10) N 62-35-12 E 54.33 feet to a point; (11) N 56-45-54 E 61.93 feet to a point; (12) N 46-44-05 E 41.69 feet to a point; (13) N 65-13-04 E 179.05 feet to a point; (14) N 60-08-48 E 41.69 feet to a point; (15) N 49-18-11 E 45.87 feet to a point; (16) N 58-33-59 E 14.67 feet to a point; and (17) N 70-53-45 E 476.50 feet to a point; thence leaving the centerline of said creek and with a new line, S 08-45-49 E 364.35 feet to a #4 rebar found by stone; thence with the westerly and northerly property lines of the property of Christenbury Farms, Inc. (now or formerly) as the same is described in Deed recorded in Book 2787 at Page 336 in the aforesaid Public Registry, three (3) calls and distances as follows: (1) S 07-09-35 E 17.70 feet to a 1" pipe found; (2) S 12-05-40 E 626.01 feet to a #4 rebar found; and (3) S 83-49-49 W 335.88 feet to an axle found marking a common corner of the aforesaid Chrstenbury Farms, Inc. property and the property of Kenneth Lee Christenbury and Grace Wiggins Christenbury (now or formerly); thence with the easterly and northerly property lines of the said Kenneth Lee Christenbury and Grace Wiggins Christenbury (now or formerly) property, two (2) calls and distances as follows: (1) N 17-00-38 W 395.40 feet to an axle found; and (2) N 86-48-25 W 514.74 feet to the point and place of Beginning; containing 13.319 Acres, and labeled Phase 15 Tract 15 on survey prepared by Joseph E. Whaley, Jr., NCPLS, dated June 11, 2004, reference to which survey is hereby made.

NORTH CAROLINA – CABARRUS COUNTY

The foregoing (or annexed) certificate(s) of Christine N. Sigmon, Kelly D. Duschel, and Joanne G. West, each, a notary public, ~~is~~ (are) certified to be correct. This the 17 day of August, 2004.

LINDA F. McABEE, REGISTER OF DEEDS

by: _____ Asst./Deputy

BK: 06902 PG: 0584/0621 #:0310 80.00

REGISTERED JUN/05/1992 04:27PM ANNE A. POWERS REGISTER OF DEEDS MECK. CO. N.C.

Cross-Reference to Declaration:
Book 6730
Page 0017

After recording, mail to:

William T. Graves, Esq.
Robinson, Bradshaw & Hinson, P.A.
1900 Independence Center
101 North Tryon Street
Charlotte, NC 28246

This instrument was prepared by:

Hyatt & Rhoads, P.C.
1200 Peachtree Center South Tower
225 Peachtree Street, N.E.
Atlanta, Georgia 30303

FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HIGHLAND CREEK

This Amendment is adopted by Highland Creek Community Association, Inc. (the "Association") as of the date set forth below.

WHEREAS, American Newland Associates, a California general partnership (the "Declarant"), executed that certain Declaration of Covenants, Conditions and Restrictions for Highland Creek which was recorded on January 6, 1992, in Book 6730, Page 17, et seq., in the Office of the Register of Deeds of Mecklenburg County, North Carolina ("Declaration"); and

WHEREAS, pursuant to Article XVI, Section 2, of the Declaration, the Declaration may be amended upon the affirmative vote or written consent of Voting Members representing 75% of the total Class "A" votes in the Association and the consent of the Class "B" Member; and

WHEREAS, the Declarant, as the sole Class "B" Member, and Members entitled to cast at least 75% of the total Class "A" votes in the Association have consented to and approved of this Amendment;

NOW, THEREFORE, the Declaration is hereby amended as follows:

1.

Article XII, Section 2(b), is amended by striking the first sentence of that subsection and inserting the following in its place:

(b) Prohibited Vehicles. Commercial vehicles (defined as trucks or vans with commercial writing on their exteriors or primarily used or designed for commercial purposes), vehicles with advertising signage attached thereto (but excluding passenger cars with identifying decals not exceeding one square foot in size and official vehicles owned by governmental or quasi-governmental bodies), tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, and boat trailers shall be parked only in enclosed garages or areas, if any, designated by the Board or by the

Neighborhood Association, if any, having jurisdiction over parking areas within a particular Neighborhood.

2.

Article XII, Section 8, is amended by deleting the first sentence of that section, which reads:

> No basketball hoops, backboards or similar sports equipment, and no clotheslines shall be erected or installed on the exterior portion of any Unit.

and substituting in its place the following:

> No basketball hoops, backboards, skateboard ramps, climbing walls or similar sports equipment shall be erected or installed on any Unit unless specifically authorized in the Design Guidelines, and then only upon approval of the appropriate committee as required by Article XI hereof. No clotheslines shall be erected or installed on the exterior portions of any Unit.

3.

Article XIII, Section 5, is amended by deleting the last sentence of that Section and substituting the following:

> Under no circumstances shall the Declarant, the Association, any home builder constructing homes within the Properties, or the owner or operator of the golf course be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement.

4.

Article XIII, Section 7, is amended by deleting that section in its entirety and substituting the following in its place:

> Section 7. Landscape Easements. There are hereby reserved to Declarant (so long as the Declarant owns any property described on Exhibits "A" or "B" to this Declaration), the Association and the designees of each, non-exclusive easements for access, installation, pruning and other maintenance, removal and replacement of street trees and landscaping over those portions of the Properties lying adjacent to public road rights-of-way and consisting of a strip of land 10 feet in width and running the entire length of, and on both sides of, each public road right-of-way within the Properties ("Landscape Easement"), and over such other portions of the Properties as are designated "Landscape and Access Easement" on the recorded plats of the Properties. Such easements shall include the right to disturb existing landscaping within the easement area, to dig holes and to temporarily pile dirt and

plant material upon the easement area, provided the area is restored to a neat and attractive condition to the extent practical, as soon as reasonably possible after completion of the activities authorized hereunder. Nothing herein shall obligate the Declarant or the Association to undertake any of the activities which such easement authorizes. Except as may otherwise be provided in any written agreement executed by the Declarant, the Declarant and the Association may, but shall not be obligated to, install trees and landscaping within such public rights-of-way and/or these easement areas at its option, at such times and in such numbers and locations as it may deem appropriate in its sole discretion. Notwithstanding anything to the contrary in Article IV, Section 1, of this Declaration, neither the Declarant nor the Association shall have any responsibility for maintenance of landscaping within the easement areas except to the extent that such responsibility is expressly assumed pursuant to the easements reserved herein.

5.

Article XIII, Section 2, is amended by adding to the end of the first sentence of that section the words ", specifically including those drainage and utility easements designated 'PDE' and 'PUE', respectively, on the recorded plats", such that the sentence now reads as follows:

> Section 2. Easements for Utilities, Etc. There are hereby reserved unto Declarant, so long as the Declarant owns any property described on Exhibit "A" or "B," of this Declaration, the Association, and the designees of each (which may include, without limitation, Mecklenburg County or Cabarrus County, North Carolina and any utility) access and maintenance easements upon, across, over, and under all of the Properties to the extent reasonably necessary for the purpose of replacing, repairing, and maintaining cable television systems, master television antenna systems, security and similar systems, roads, walkways, bicycle pathways, lakes, ponds, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, gas, and electricity, and for the purpose of installing any of the foregoing on property which it owns or within easements designated for such purposes on recorded plats of the Properties, specifically including those drainage and utility easements designated as "PDE" and "PUE", respectively, on the recorded plats.

6.

The Declaration is further amended by striking Exhibit "D", entitled Declaration of Easements and Covenants Relating to Highland Creek Golf Course, in its entirety, and substituting the attached instrument labeled Exhibit "D" in its place.

[CONTINUED ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned officers of Highland Creek Community Association, Inc. hereby certify that the foregoing Amendment was duly approved by the affirmative vote or written consent of the Members as of the 5th day of JUNE, 1992.

HIGHLAND CREEK COMMUNITY ASSOCIATION, INC.,
a North carolina corporation [SEAL]

BY: David B. Wright
Name: DAVID B. WRIGHT
Title: PRESIDENT

ATTEST: Janice W. Baratta
Name: Janice W. Baratta
Title: Asst. Secretary

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, a Notary Public of the County and State aforesaid, certify that DAVID B. WRIGHT personally came before me this day and acknowledged that he is the _____ President of Highland Creek Community Association, Inc., a North Carolina corporation, and that the seal affixed to the foregoing instrument in writing is the corporate seal of the corporation, and that said writing was signed and sealed by him, on behalf of the corporation, by its authority duly given. And the said _____ President acknowledged the said writing to be the act and deed of said corporation.

WITNESS my hand and official seal this 5th day of June, 1992.

Roseelle D. Scharnberg
Notary Public

My commission expires: August 28, 1996

[CONTINUED ON NEXT PAGE]

CONSENT OF CLASS "B" MEMBER

The undersigned, being the sole Class "B" Member of Highland Creek Community Association, Inc., does hereby consent to and approve of the foregoing First Amendment to the Declaration of Covenants, Conditions and Restrictions for Highland Creek this 9th day of March, 1992.

DECLARANT: AMERICAN NEWLAND ASSOCIATES, a California general partnership [SEAL]

[Corporate Seal]

BY: AMERICAN GENERAL REALTY INVESTMENT CORPORATION (formerly Atlas Realty Company), a Texas corporation, General Partner

By: _____
Name: Donald H. Nicholas
Title: Vice President

Attest: _____
Name: John Moberg
Title: Assistant Secretary

[Corporate Seal]

BY: THE NEWLAND GROUP, INC., a California corporation, General Partner

By: _____
Name: Stephen B. Cooley
Title: Vice President

Attest: _____
Name: LAURA C. WENDING
Title: Assistant Secretary

[Corporate Seal]

BY: THE NEWLAND GROUP, INC., a California corporation, General Partner

By: _____
Name: James M. Delhamer
Title: VP & Asst. Secretary

Attest: _____
Name: LAURA C. WENDING
Title: Assistant Secretary

[CONTINUED ON NEXT PAGE]

APPROVED
AS TO CONTRACT COMPLIANCE
PER SEC. NO. 12
[illegible]

STATE OF TEXAS

COUNTY OF Harris

I, Debbie Moers, a Notary Public, certify that ~~Donald H. Dickson~~ John Loberg personally came before me this day and acknowledged the ~~he~~ she is Vice President and Asst. Sec. of American General Realty Investment Corporation, a Texas corporation, a general partner of American Newland Associates, a California general partnership, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President, sealed with its corporate seal and attested by John Loberg, as its Assistant Secretary, as an act of, and for and on behalf of, said partnership.

WITNESS my hand and Notarial Stamp/Seal this the 14th day of April, 1992.

Debbie Moers
Notary Public in and for the State of Texas

Debbie Moers
Printed Name of Notary:

My commission expires:
10/27/94

DEBBIE MOERS
NOTARY PUBLIC, STATE OF TEXAS
MY COMMISSION EXPIRES
DECEMBER 27, 1994

STATE OF CALIFORNIA

COUNTY OF San Diego

On March 27, 1992, before me, Teresa G. Johns, a Notary Public, personally appeared James M. Dickman, ~~Donald H. Dickson~~ Vice President and Asst. Sec. of The Newland Group, Inc., a California corporation, a general partner of American Newland Associates, a California general partnership, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that by his

FILED
CABARRUS COUNTY NC
WAYNE NIXON
REGISTER OF DEEDS

FILED	Jul 22, 2014
AT	09:33 am
BOOK	11042
START PAGE	0098
END PAGE	0099
INSTRUMENT #	15222
EXCISE TAX	$0.00

KAO

Prepared by and return to: Sellers, Hinshaw, Ayers, Dortch & Lyons, P.A.
301 S. McDowell Street, Suite 410
Charlotte, NC 28204

CERTIFICATION OF SECOND AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HIGHLAND CREEK

This **CERTIFICATION OF SECOND AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HIGHLAND CREEK** is made pursuant to Article XVI, Section 2 of the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HIGHLAND CREEK recorded in the Mecklenburg County Public Registry in Book 6730 at Page 17 and in the Cabarrus County Public Registry in Book 3410 at Page 304, as amended and supplemented ("Declaration"), and is effective upon recordation in the Cabarrus County Public Registry.

Statement of Purpose

Article XVI, Section 2 of the Declaration provides that the Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Members representing seventy-five percent (75%) of the total Class "A" votes in the Association. In accordance with the requirements of the Declaration as well as the provisions set forth in N.C.G.S. § 55A-7-08, consent and approval was obtained from the requisite percentage of Voting Members. Accordingly, this Amendment to the Declaration as set forth herein is hereby certified by the President and Secretary of the Highland Creek Community Association, Inc. ("Association") for recordation in the Cabarrus County Public Registry.

NOW, THEREFORE, with the affirmative vote of Voting Members representing at least seventy-five percent (75%) of the total Class "A" votes in the Association, the Declaration is hereby amended as follows:

The first sentence of the fourth paragraph of Article X, Section 1, subsection (a) of the Declaration is deleted in its entirety and the following sentence substituted in lieu thereof:

> Any assessment or installment thereof which is delinquent for a period of fifteen (15) days shall incur a late charge as permitted under N.C.G.S. § 47F-3-102(11).

The undersigned, as President and Secretary of the Association, do hereby certify that approval of this Amendment was obtained as required by the Declaration and in accordance with North Carolina law and that this Amendment to the Declaration has been duly adopted to be effective upon the recordation thereof.

2/20

HIGHLAND CREEK COMMUNITY ASSOCIATION, INC.,

By: _____
Name: Terri B. Edmiston
President of the Association

By: _____
Name: Charles Lechner
Secretary of the Association

STATE OF NORTH CAROLINA
COUNTY OF Mecklenburg

I, Amber L Baldwin, a Notary Public of the aforesaid County and State, do hereby certify that Terri B Edmiston personally appeared before me this day and acknowledged that s/he is the **President** of the **Highland Creek Community Association, Inc.,** a North Carolina corporation, and that s/he, as **President,** being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official stamp or seal, this the 9th day of July, 2014

_____
Notary Public
Print Name: Amber L Baldwin
My commission expires: Oct. 14, 2017

NOTARY SEAL

AMBER L BALDWIN
NOTARY
PUBLIC
MECKLENBURG COUNTY, NC

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

I, Dexter Hill, a Notary Public of the aforesaid County and State, do hereby certify that CHARLES A LECHNER personally appeared before me this day and acknowledged that s/he is the **Secretary** of the **Highland Creek Community Association, Inc.,** a North Carolina corporation, and that s/he, as **Secretary,** being authorized to do so, executed the foregoing on behalf of the corporation.

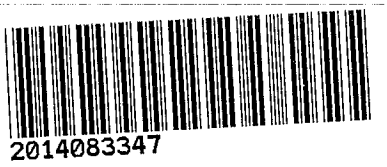
Witness my hand and official stamp or seal, this the 10 day of JULY, 2014

DEXTER HILL
Notary Public
Cabarrus Co., North Carolina
My Commission Expires May 3, 2019

_____
Notary Public
Print Name: Dexter Hill
My commission expires: May 3, 2019

NOTARY SEAL

FOR REGISTRATION
J. David Granberry
REGISTER OF DEEDS
Mecklenburg County, NC
2014 JUL 22 03:11:21 PM
BK:29326 PG:892-893
FEE:$26.00
INSTRUMENT # 2014083347
PHETSL



Prepared by and return to: Sellers, Hinshaw, Ayers, Dortch & Lyons, P.A.
301 S. McDowell Street, Suite 410
Charlotte, NC 28204

CERTIFICATION OF SECOND AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HIGHLAND CREEK

This **CERTIFICATION OF SECOND AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HIGHLAND CREEK** is made pursuant to Article XVI, Section 2 of the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HIGHLAND CREEK recorded in the Mecklenburg County Public Registry in Book 6730 at Page 17 and in the Cabarrus County Public Registry in Book 3410 at Page 304, as amended and supplemented ("Declaration"), and is effective upon recordation in the Mecklenburg County Public Registry.

Statement of Purpose

Article XVI, Section 2 of the Declaration provides that the Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Members representing seventy-five percent (75%) of the total Class "A" votes in the Association. In accordance with the requirements of the Declaration as well as the provisions set forth in N.C.G.S. § 55A-7-08, consent and approval was obtained from the requisite percentage of Voting Members. Accordingly, this Amendment to the Declaration as set forth herein is hereby certified by the President and Secretary of the Highland Creek Community Association, Inc. ("Association") for recordation in the Mecklenburg County Public Registry.

NOW, THEREFORE, with the affirmative vote of Voting Members representing at least seventy-five percent (75%) of the total Class "A" votes in the Association, the Declaration is hereby amended as follows:

The first sentence of the fourth paragraph of Article X, Section 1, subsection (a) of the Declaration is deleted in its entirety and the following sentence substituted in lieu thereof:

> Any assessment or installment thereof which is delinquent for a period of fifteen (15) days shall incur a late charge as permitted under N.C.G.S. § 47F-3-102(11).

The undersigned, as President and Secretary of the Association, do hereby certify that approval of this Amendment was obtained as required by the Declaration and in accordance with North Carolina law and that this Amendment to the Declaration has been duly adopted to be effective upon the recordation thereof.

HIGHLAND CREEK COMMUNITY ASSOCIATION, INC.,

By: _____
Name: Terri B Edmiston
President of the Association

By: _____
Name: Charles Lechner
Secretary of the Association

STATE OF NORTH CAROLINA
COUNTY OF Mecklenburg

I, Amber L Baldwin, a Notary Public of the aforesaid County and State, do hereby certify that Terri B Edmiston personally appeared before me this day and acknowledged that s/he is the **President** of the **Highland Creek Community Association, Inc.,** a North Carolina corporation, and that s/he, as **President,** being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official stamp or seal, this the 9th day of July, 2014

_____
Notary Public
Print Name: Amber L Baldwin
My commission expires: Oct. 14, 2017

NOTARY SEAL

AMBER L. BALDWIN NOTARY PUBLIC MECKLENBURG COUNTY, NC

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

I, DEXTER HILL, a Notary Public of the aforesaid County and State, do hereby certify that CHARLES A LECHNER personally appeared before me this day and acknowledged that s/he is the **Secretary** of the **Highland Creek Community Association, Inc.,** a North Carolina corporation, and that s/he, as **Secretary,** being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official stamp or seal, this the 10 day of JULY, 2014

DEXTER HILL
Notary Public
Cabarrus Co., North Carolina
My Commission Expires May 3, 2019

_____
Notary Public
Print Name: DEXTER HILL
My commission expires: MAY 3, 2019

NOTARY SEAL