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JEFF L. THIGPEN

REGISTER OF DEEDS  
BY: SHEIKA WASHINGTON  
DEPUTY-GB

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Restated  
Declaration of Covenants,  
Conditions and Restrictions For  
The Gates

**HIGGINS BENJAMIN  
PICK UP**

30 SW

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**NORTH CAROLINA  
GUILFORD COUNTY**

**RESTATED  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
THE GATES**

THIS DECLARATION is made on the date hereinafter set forth by D. Stone Builders, Inc., a North Carolina corporation, hereinafter referred to as "Declarant."

**WITNESSETH:**

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

All of that certain parcel of land (herein after referred to as the "Properties") shown on the plat entitled "The Gates, Section 1, Brassfield Station." as per plat thereof recorded in the Office of the Register of Deeds of Guilford County, North Carolina, in Plat Book 179, Page18 (herein after referred to as the "Plat"); and

WHEREAS, Declarant desires to enhance the value of the Properties by providing a unified development as more specifically provided herein; and

WHEREAS, Declarant recorded the Declaration of Covenants, Conditions and Restrictions for the Gates in Book 7136, Page 1614 of the Guilford County Registry and now desires to restate that instrument as provided herein after;

NOW, THEREFORE, Declarant hereby revokes the Declaration of Covenants, Conditions and Restrictions for the Gates as recorded in Book 7136, Page 1614 of the Guilford County Registry and restates said instrument as provided herein after. Pursuant thereto Declarant hereby declares that all of the Properties and any property that may be annexed thereto and subjected to the terms of this Declaration shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, that are for the purpose of protecting the value and desirability of, and that shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall insure to the benefit of each owner thereof.

**ARTICLE I**

Definitions

**SECTION 1.** "Association" shall mean and refer to The Gates Association, Inc, its successors and assigns.

SECTION 2. “Authorized Users” shall mean and refer to the following: (i) Members of the Owner’s immediate family or members of the immediate family of the Owner’s spouse. For purposes of this Declaration “immediate family” shall mean lineal ancestors and their spouses or descendants of the Owner or the Owner’s spouse and their spouses; (ii) a tenant of an Owner holding a leasehold estate of at least one (1) year under a written lease agreement; (iii) such other occupancies as may be approved from time to time by the Board of Directors upon prior written application therefore by the Owner. Such application shall set forth the type, nature and duration of the proposed occupancy arrangement, the name and relationship of the proposed occupant and such other pertinent information as the Board may require; (iv) other temporary users of a Lot or Lots (but not occupants), for purposes of sale of that Lot or construction of a residence.

SECTION 3. “Common Elements” shall mean all real property and interests in real property owned by the Association, together with any easements and rights of way related thereto, for the common use and enjoyment of the Owners. The Common Elements at the time of the conveyance of the first Lot are described as all of the portion of the Properties identified as “Common Elements” on the plat recorded in the Guilford County Registry in the Plat together with any additional property conveyed to the Association by the Declarant.

Declarant reserves the right, in its sole discretion, to convey from time to time and without the consent of the Association or its Members additional property to the Association which property may include all or any portion of the Properties, including any additional land annexed by Declarant pursuant to **Article IX, Section 4** hereof and the Association shall accept any such conveyance of additional property and thereafter such additional property shall be held and maintained by the Association as Common Elements. Improvements, which may include, but shall not be limited to, retention or detention ponds or erosion control devices, may be located on such additional common elements. Except as otherwise provided in Section 47F-3-113 of the Planned Community Act, the Association shall be required to promptly repair and replace any portion of the Common Elements for which the Association is required to maintain casualty insurance pursuant to the Bylaws of the Association which is damaged or destroyed.

SECTION 4. “Declarant” shall mean and refer to D. Stone Builders, Inc., or its assigns designated as such of record in the Guilford County Registry.

SECTION 5. “Declarant’s Development Period” shall mean and refer to the period of time commencing on the date of this Declaration is recorded in the Office of the Register of Deeds, Guilford County, North Carolina, and continuing for so long as Declarant shall have the legal right to annex any portion of the Additional Property pursuant to the provisions of **Article X, Section 4** hereof.

SECTION 6. “Lot” shall mean and refer to any numbered parcel or plot of land shown upon any recorded subdivision map of the Properties, including additions thereto pursuant to **Article X, Section 4** hereinafter, with the exception of Common Elements. However, such definition shall exclude any such lot on a recorded plat that is subsequently re-platted in shall be deemed to be a

“Lot” or “Lots.” Declarant hereby reserves the right to reconfigure, from time to time and without the consent of the Owners or the Members of the Association, the boundaries of any Lot or Lots owned by Declarant and to thereby create additional Lots, eliminate existing Lots or create additional Common Elements; provided, however, in no event shall the Properties contain a greater number of Lots than the number from time to time permitted by, nor shall any lot within the Properties contain fewer square feet than the minimum number of square feet from time to time required by the appropriate local governmental authority. If Declarant elects to exercise its right to revise the boundaries of one or more Lots owned by Declarant, Declarant shall record a revised plat, each lot shown on the previously recorded plat or plats, the boundaries of which are revised by the revised plat, shall cease to be a “Lot” as defined in this Declaration and each newly configured lot shown on the revised plat shall be a “Lot” as defined in this Declaration.

SECTION 7. “Member” shall mean and refer to every person or entity who holds membership with voting rights in the Association.

SECTION 8. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is part of the Properties, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 9. “Period of Declarant Control” shall mean and refer to the period of time commencing on the date this Declaration is recorded in the Office of the Register of Deeds, Guilford County, North Carolina, and continuing until the earlier of: (i) December 31, 2020, or (ii) such time as at least seventy-five percent (75%) of the lots shown on the Master Plan have been conveyed by Declarant or an affiliate of Declarant to an owner other than Declarant or an affiliate of Declarant or an assignee of Declarant’s development rights. Such period of time shall be reinstated and shall continue until the earlier of (i) December 31 2020; or (ii) such time as seventy five percent (75%) of the lots shown on the Master Plan have been conveyed by Declarant or an affiliate of Declarant to an owner other than Declarant or an affiliate of Declarant or an assignee of Declarant’s development rights.

SECTION 10. “Planned Community Act” shall mean and refer to the provisions of Chapter 47F of the North Carolina General Statutes as amended from time to time.

SECTION 11. “Properties” shall mean and refer to that certain real property herein above described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association. Such real property may also be referred to as “Northern Point”

## ARTICLE II

### Property Rights

SECTION 1. Owners’ Easement of Enjoyment. Every owner shall have a right and easement in and

to the Common Elements which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to suspend the voting rights of an Owner for any period during which any assessment or fine against his lot remains unpaid; and, for a period not to exceed sixty (60) consecutive days for any infraction of its published rules and regulations;

(b) The right of the Association to permit the use of and charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Elements;

(c) The right of the Association, pursuant to Section 47F-3-112 of the Planned Community Act (as such statute is amended from time to time) and with the consent of the Members entitled to cast at least eighty percent (80%) of the votes in the Association, to dedicate or transfer non-exclusive easements on, over and upon all or any part of the Common Elements for such purposes and subject to each conditions as may be agreed to by the Associations' Board of Directors; provided, however, no such dedication or transfer shall be effective unless an instrument executed on behalf of the Association by its duly authorized officers, agreeing to such dedication on transfer, has been recorded; provided further, prior to December 31, 2015, Declarant (or its assigns as Declarant, if they then exist), must also consent to such action and, further provided that no such dedication or transfer shall interfere with or obstruct utility service to, or ingress, egress and regress to or from, the lots or any remaining Common Elements or cause any Lot of any remaining Common Elements to fail to comply with applicable laws, regulations or ordinances;

(d) The right of the Association, pursuant to Section 47F-3-112 of the Planned Community Act (as such statute is amended from time to time) and with the consent of the Members entitled to cast at least eighty percent (80%) of the votes in the Association, to dedicate to any public agency, authority, or utility, or to transfer to any other party, fee conditions as may be agreed to by the Members consenting to such dedication or transfer; provided, however no such dedication or transfer shall interfere with utility service, or ingress, egress and regress with the Lots or any remaining Common Elements or cause any Lot or any remaining Common Elements to fail comply with applicable laws, regulations or ordinances and further provided prior to December 31, 2015 Declarant (or its assigns as Declarant, if they then exist), must also consent to such action;

(e) The right of the Association to impose rules and regulations for the use and enjoyment of the Common Elements and improvements thereon, which regulations may further restrict the use of the Common Elements, and specifically including the right to establish rules and regulations concerning parking and vehicular traffic flow on and along which rules and regulations may restrict or prohibit on-street parking and may be enforced by towing at the expense of the vehicle's owner, by reasonable fine levied against the vehicle's owner and/or any Owner of a lot to which such violation reasonably may be attributed, or by any other reasonable method of enforcement established by the Board of Directors;

(f) The right of the Association to borrow money for the purpose of improving the



Common Elements and facilities thereon and, with the assent of the Members entitles to cast at least eighty percent (80%) of the votes of the Association, mortgage, pledge, subject to deed of trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred (any such encumbrance shall be effective if it is executed on behalf of the association by its duly authorized officers and recites that the requisite consent of members has been obtained and documented in the corporate minute book of the Association) provided, however, no mortgage, encumbrance or hypothecation or foreclosure of the lien thereby created, shall interfere with or obstruct utility service or ingress, egress and regress with the Lots or any remaining Common Elements or cause any Lot or any remaining Common Elements or cause any Lot or any remaining Common Elements to fail to comply with applicable laws, regulations or ordinance; provided further prior to December 31, 2015, Declarant must also consent to such action;

(g) The right of the Association to exchange portions of Common Elements with the Declarant for substantially equal areas of the Properties for the purpose of eliminating unintentional conveyances of Common Elements or unintentional encroachments or improvements onto portions of the common elements or for the purpose of enhancing the utility of the Common Elements to be retained by the Association.

SECTION 2. DELEGATION OF USE. Any owner may delegate his right of enjoyment to the Common Elements to his guests and to his Authorized Users, subject to such rules and the Association may establish regulations as from time to time.

SECTION 3. Leases of Lots. Any Lease Agreement between an owner and a lessee for the lease of such Owner's Lot shall provide that the terms of the Lease shall be subject in all respects to the provisions of this Declaration of Covenants, Conditions and Restrictions, the Articles of Incorporation and Bylaws of the Association, and that any failure by the lessee to comply with the terms of such documents shall be a default under the terms of the lease. All leases of Lots shall be in writing. Other than the foregoing there is no restriction on the right of Declarant or any Owner to lease his Lot.

Violations of this Section shall constitute a nuisance, and in addition to all other remedies available to it at law and in equity, the Association shall have the right to the following:

(a) To assess fines against an Owner for violations by such Owner and by Authorized Users of the Lot; and

(b) To remove offending vehicles (including construction traffic) from the Common Elements upon the commission of a second offense by an Owner or the Authorized Users and their respective guests, invitees or licenses of the Lot. The cost of such removal and any storage fees shall be the responsibility of the Owner and the Authorized User.

The fines described in paragraph (a) and the costs and fees described in paragraph (b) above shall be deemed to be assessments as set forth in **Article IV** of this Declaration and if not paid

within thirty (30) days after notice and demand therefore, the Association shall be entitled to the remedies set forth in **Article IV, Section 9**.

### ARTICLE III

#### Membership and Voting Rights

SECTION 1. Membership. Every Owner of a Lot which is subject to a lien for assessments shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. The foregoing is not intended to include persons or entities who hold an interest in a Lot merely as security for the performance of an obligation. Such membership shall be appurtenant to and may not be separated from ownership of any Lot with is subject to assessment by the Association. On all matters which the Membership shall be entitles to vote, the Member(s) owning each lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

SECTION 2. Classes of Membership. The Association shall have two (2) classes of voting membership designated as follows:

Class A. Class A Members shall be all Owners other than the Declarant. Class A Members shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote or votes for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. The Class B Member shall be the Declarant and it shall be entitles to three (3) votes for each Lot owned and/or shown on the Master Plan as developed or to be developed as a part of The Gates Development and that has not been conveyed by Declarant or any affiliated entity to a Class A Member. The Class B membership shall cease and be converted to Class A membership, as the case may be after a Period of Declarant Control. Notwithstanding the preceding, in the event Declarant conveys every Lot owned by it but the acquires additional Lots through subsequent development of the Properties thereby returning to the Period of Declarant Control Declarant shall be deemed to be a Class B Member with regard to such additional Lots.

SECTION 3. Right of Declarant to Appoint Board of Directors of The Association. During Declarant's Development Period, Declarant shall have the right to designate and select the Board of Directors of the Association. Whenever Declarant shall be entitles to designate and select any person or persons to serve on the Board of Directors of the Association, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or Bylaws of the Association. Declarant shall have the right to remove any person or persons selected by it to act and serve on said Board of Directors and to replace such person or persons with another person or other to act and serve in the place of any Director or Directors so removed for the remainder of the unexpired term of any Director or Directors so removed. Any Director designated

and selected by Declarant need not be the Owner of a Lot. However, Declarant shall be responsible, pursuant to the provisions of **Article IV**, for the payment of assessments, which may be levied by the Association against any Lot or Lots owned by Declarant, and for complying with the remaining terms and provisions hereof in the same manner as any other owner. Any representative of Declarant serving on the Board of Directors of Association shall not be required to disqualify himself from any vote upon any contract or matter between Declarant and the Association where Declarant may have a pecuniary or other interest. Similarly, Declarant as a Member of the Association shall not be required to disqualify itself upon any contract or matter between Declarant and the Association where Declarant may have a pecuniary or other interest.

## ARTIVLE IV

### Covenant for Maintenance and Assesments

SECTION 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner for any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association (a) annual assessments or charges and (b) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. Such parties also agree to pay to the appropriate governmental taxing authority: (1) a "pro rata share" of ad valorem taxes levied against the Common Elements; and (2) a "pro rata share" of assessments for public improvements to or for the benefit of the Common Elements if the Association shall default in the payment of either or both for a period of six (6) months. The term "pro rata share" shall be deemed to a fraction, the numerator of which shall be one, and the denominator of which shall be the total number of Lots within the Properties. The annual and special assessments (and any construction feed, penalties and fines) together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be continuing lien upon the Lot against which each such assessment or charge is made. Each such assessment and charge, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment or charge fell due. The personal obligation for the delinquenty assessments or charges shall not pass to his succession in title unless expressly assumed by them, but any unpaid assessment or charge shall remain as a lien on the respective Lot.

### SECTION 2. Purpose of Assessments.

(a) The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners in connection with their ownership of the Lots and in particular for the acquisition, improvement and maintenance of properties, services and facilities devoted to these purposes, related to the maintenance, use and enjoyment of the Common Elements, including but not limited to related to the procurement and maintenance of liability insurance in accordance with the Bylaws; to those improvements outside of the Common Elements but which benefit the Properties, including but not limited to, privacy walls, sidewalks, street lights,

landscaping and lighting of Common Elements, road medians, islands and entrance ways (such improvements may be hereinafter collectively referred to as "Other Maintained Improvements"). Expenditures may include, but are not limited to, the costs of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the extension and provision of utility services to the Common Elements, the payment of taxes assessed against the Common Elements, the procurement and maintenance of insurance, the employment of attorneys to represent the Association when necessary, and such other needs may arise. In addition, the Association shall utilize a portion of such assessments to provide adequate reserves for the replacement of capital improvements to the Common Elements and such other needs as more generally referenced in the foregoing portions of this paragraph. Such reserves shall be maintained in a separate account from the funds used for general operating expenses.

In addition, the Association shall have the affirmative responsibility to maintain the completed permanent wet detention/retention pond(s) as directed by the governmental office having jurisdiction for watershed protection. In the event the Association should be dissolved or cease to exist, then in such event all of the Owners of record at the time of required maintenance shall be jointly and severally liable for any and all costs attendant thereto.

The Association shall further have the affirmative Responsibility to maintain public liability insurance in connection with Common Elements in such amounts as the Board of Directors deem to be reasonable; to pay assessments in connection with improvements made to or for the Common Elements as provided by any governmental body or public utility having authority therefore; to maintain reserves for the maintenance and replacement of major improvements to the Common Elements, to maintain the private driveways and utilities within the Properties.

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

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the year of conveyance of the first Lot to an Owner, the maximum annual assessment as to each Lot shall be:

One Hundred Fifty and No/100 Dollars (\$150.00) per year.

The maximum annual assessment for the calendar year immediately following the year in which conveyance of the first Lot to an Owner is made and for each calendar year thereafter shall be established by the Board of Directors. The maximum annual assessment for all Lots may be increased by the Board of Directors without approval by the membership by an amount not to exceed ten percent (10%) of the maximum annual assessment of the previous year.

(a) The maximum annual assessment for the calendar year immediately following the year in which conveyance of the first Lot to an Owner is made and for each calendar year thereafter may be increased without limit by a vote to two-thirds (2/3) of each class of Members who is voting in person or by proxy, at a meeting duly called for this purpose.

(b) At least thirty (30) days in advance of each annual assessment period, the Board of Directors shall establish an annual budget and fix the amount of the annual assessments in advance for the following year. At least thirty (30) days prior to the adoption of any proposed budget, the Board of Directors shall provide to all of the Owners a summary of the budget and a notice of the meeting to consider ratification of the budget, including a statement that the budget may be ratified without a quorum of the Membership. In establishing such annual budget, and in fixing the amount of such annual assessments, the Board of Directors, in its discretion, may consider other sources of funds available to the Association, including, without limitation, any subsidy offered by the Declarant, which subsidy, in the sole discretion of Declarant, may be in the form of a contribution, an advance against future assessments due, or a loan, with or without interest at market rates. Any such subsidy or contribution in the nature thereof shall be disclosed as a line item in the budget. The payment of any such subsidy in any year shall under no circumstances obligate Declarant to continue payment of such subsidy in future years. The Board of Directors shall set a date for a meeting of the Owners to consider ratification of the budget, such meeting to be held not less than 10 nor more than 60 days after mailing of the summary and notice. There shall be no requirement that a quorum be present at the meeting. Subject to the terms of this **Section 3** which terms shall be deemed controlling herein, the budget is ratified unless at that meeting the Owners of a majority of the Lots reject the budget. In the event the proposed budget is rejected, the then most currently ratified budget by the Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board of Directors.

SECTION 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any calendar year, a special assessment for the purpose of defraying in whole or in part the costs of any construction, reconstruction, repair or replacement of (i) capital improvements upon the Common Elements, or (ii) Other Maintained Improvements, including fixtures and personal property related thereto, provided that any such

assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for such purpose. In addition, during Declarant's Development Period any such assessment must be approved by the Declarant. All such special assessments shall be fixed at a uniform rate for all Lots. Such special assessments may be collected on a monthly, quarterly or annual basis.

SECTION 5. Notice and Quorum for Any Action Authorized under Sections 3 and 4.

Written notice of any meeting called for the purpose of taking any action authorized under **Sections 3 or 5** shall be sent to all Members not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast twenty percent (20%) of all votes of each class of Membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be held not more than sixty (60) days following the preceding meeting.

SECTION 6. Rate of Annual Assessment

(a) Both annual and special assessments must be fixed at rates in the same ratio as provided for Members after the termination of the Class B Membership; provided, however, that so long as any Lot is owned by Declarant or assignee of Declarant's development rights, Declarant or its assignee may pay, in lieu of such assessment, a subsidy with respect to such Lots as provided in **Section 3** of this Article.

(b) The Declarant shall pay annual assessments on Lots owned by it as provided in the next succeeding **Section 7** herein.

SECTION 7. Date of Commencement of Annual Assessment: Due Dates. The annual assessments provided for herein shall be collected on an annual or semi-annual basis as determined by the Association's Board of Directors, in advance, and shall commence as to each Lot on the day that such Lot is conveyed to an Owner other than (i) the Declarant; or (ii) an assignee of Declarant's development rights. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year after such date(s) for the commencement of assessments has been established and shall be paid in full at the closing of the sale and transfer of the fee simple title to such Lot.

The due dates shall be established by the Board of Directors. The Association shall, upon demand by an Owner, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on such Owner's Lot have been paid, and if not paid, the amount then due any owing to the Association.

SECTION 8. Effect of Nonpayment of Assessments: Remedies of the Association.

Assessments authorized by this Declaration shall be due and payable on the dates established by the Board of Directors from time to time. Fees, fines and penalties authorized by this Declaration shall

be due and payable thirty (30) days after written notice thereof from the Association to the Owner. Any assessment, fee, fine or penalty not paid within thirty (30) days after the due dates shall bear a late payment penalty of \$100.00, which amount may be increased prospectively by a majority vote of the Members in attendance (in person or by proxy) at their annual meeting (so long as such late payment penalty does not exceed the limitations of the Planned Community Act as amended from time to time). The Association may bring an action at law against the Owner personally obligated to pay any past due assessment fee, fine or penalty or may foreclose the lien created herein against the property in the same manner as prescribed by the laws of the State of North Carolina for foreclosures. The expenses incurred by the Association in pursuing such collection efforts, including but not limited to reasonable attorney's fees, shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the Common Elements or abandonment of his Lot. The Association may suspend privileges or services provided by the Association (except rights of access to Lots) during any period that assessments or other amounts due and owing to the Association remain unpaid for a period of thirty (30) days or longer, which suspension may continue without further hearing until the delinquency is cured.

SECTION 9. Effect of Default in Payment of Ad Valorem Taxes or Assessments for Public Improvements by Association. Upon default by the Association in the payment to the governmental authority entitled thereto of any ad valorem taxes levied against the Common Elements or assessments for public improvements to the Common Elements, which default shall continue for a period of six (6) months, each Owner of a Lot shall become personally obligated to pay to the taxing or assessing governmental authority a portion of such unpaid taxes or assessments in an amount determined by dividing the total taxes and/or assessments due to the governmental authority by the total number of Lots within the Properties as then constituted. If such sum is not paid by the Owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the Lot of such Owner, his heirs, devisees, personal representatives or assigns, and the taxing or assessing governmental authority may either bring an action at law or may elect to foreclose the lien against the Lot of the Owner.

SECTION 10. Subordination of the Lien to Mortgages. The liens provided for herein shall be subordinate to the lien of any first mortgage or deed of trust to an "Institutional Lender" (as that term is defined in **Section 1 of Article VIII** hereinafter). The sale or transfer of any Lot shall not affect the lien or liens provided for in the preceding sections. However, the sale or transfer of any Lot which is subject to any such first mortgage or deed of trust, pursuant to a foreclosure thereof or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments, fees, fines or penalties as to the payment thereof which shall have become due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments, fees, fines or penalties thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first mortgage or deed of trust to an Institutional Lender. In the event of any such foreclosure, the assessments as provided in the preceding Sections of this Article shall begin to accrue anew as to such Lot at the earlier of (i) thirty (30) days after the sale at foreclosure which sale shall not have been upset or appealed; or (ii) upon the recording of the deed conveying the fee simple title to such Lot.

SECTION 11. Exempt Property. No land or improvements within the Properties shall be exempt from the assessments established by this **Article IV**.

## ARTICLE V

### Architectural Control and Maintenance

SECTION 1. The Architectural Control Committee. An Architectural Control Committee consisting of three (3) or more persons shall be appointed (including their replacements) by the Declarant during the Period of Declarant Control or until Declarant assigns such responsibility to the Board of Directors of the Association.

SECTION 2. Purpose. The Architectural Control Committee shall regulate the external design, appearance, use and location of the improvements thereon in such a manner so as to preserve and enhance values and to maintain a harmonious relationship within the Properties among structures and the natural vegetation and topography.

SECTION 3. Conditions. No improvements, alterations, repairs, excavations, or changes in grade, planting, landscaping or other work which in any way alters the exterior of any improvements located thereon from its natural or improved state existing on the date such Lot was first conveyed in fee by the Declarant to an Owner shall be made or done without the prior written approval of the Architectural Control Committee. No building, fence, wall or other structure shall be commenced, erected, improved, altered, removed, or made without the prior written approval of the Architectural Control Committee. The Architectural Control Committee shall approve the location of all improvements on the Lot which are visible or could be expected to become visible from any location within the Properties other than the Lot in question. The Architectural Control Committee shall also exercise its duties pursuant to **Articles VI and VIII**. Furthermore, nothing herein contained shall prevent or interfere with the right of Declarant to improve and develop the Properties, including the Lots, as Declarant chooses, so long as said development follows the general plan of development of the properties previously approved by the appropriate local governmental authority. Accordingly, Declarant need not seek or obtain the approval of the Architectural Control Committee for improvements erected on the Properties by or at the direction of Declarant. In addition, prior to December 31, 2015, Declarant may approve any plans and specifications rejected by the Architectural Control Committee or the Board of Directors for the construction or alteration of improvements on any Lot provided the construction or alteration approved by Declarant comport with the general scheme of development approved by Guilford County or other appropriate local governmental authority. Such approval by Declarant shall operate and have the same effect as approval by the Architectural Control Committee or the Board of Directors. Notwithstanding the foregoing, landscaping improvements consisting of plant materials native to this area and/or commonly used in residential landscaping that do not interfere with the sight lines of motorists at intersections of the streets and/or driveways located within the properties shall not require approval of the Architectural Control Committee.



**SECTION 4. Procedures.** Any person desiring to make any improvement, alteration or change described in **Section 3** of this **Article V** above shall submit to the Architectural Control Committee to the plans and specifications therefore, showing the nature, kind, shape, height, materials, and location on the site of the improvement. The Architectural Control Committee shall evaluate such plans and specifications in light on the purpose of this Article as set forth in **Section 2** above. In the event the Committee fails to approve, modify or disapprove in writing an application within twenty-one (21) days after accurate plans and specification have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. The applicant may appeal an adverse decision by the Architectural Control Committee to the Board of Directors of the Association. The decision of the Architectural Control Committee may be reversed or amended by a two-thirds (2/3) vote of the full Board of Directors.

Upon approval by the Architectural Control Committee of any plans and specification submitted pursuant to this Declaration, a copy of such plans and specifications, as approved, shall be deposited for permanent record with the Architectural Control Committee and a copy of such plans and a specific action bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval for use in connection with any Lot of any plans and specifications shall not be deemed a waiver of the Architectural Control Committee's right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specification or any of the features or elements are subsequently submitted for use in connection with any other Lot. Approval of any such plans and specifications relating to any Lot, however, shall be final as to that Lot and such approval may not be reviewed or rescinded thereafter, provided that there has been adherence to and compliance with, such plans and specifications, as approved. In connection with any request made under this Article, the Association may require that the Owner(s) requesting such change be liable for any cost of maintaining, repairing and insuring the approved alteration. If such condition is imposed, the Owner(s) shall evidence consent thereto by a written document in recordable form satisfactory to the Association. Thereafter, the Owner(s), and any subsequent Owner(s) of the Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, shall be deemed to covenant and agree that the cost of maintaining, repairing and insuring such alteration shall be a part of the annual assessment or charge set forth herein, and subject to the lien rights described herein.

Neither Declarant, nor any other member of the Association's Board of Directors or Architectural Control Committee, shall be responsible or liable in any way for any defects in any plans or specifications approved by them, nor for any structural defects in any work performed in connection with such plans and specifications. Furthermore, neither Declarant, nor any member of the Association's Board of Directors or Architectural Control Committee, shall be liable for damages to anyone by reason of mistake in judgment, negligence, misfeasance, malfeasance or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specification or the exercise of any other power or right provided for in this Declaration. Every person who submits plans or specifications for approval agrees that he or she will not bring any action or suit against Declarant, or any member of the Board of

Directors or Architectural Control Committee, to recover for any such damage.

SECTION 5. Maintenance. The Association shall maintain the Common Elements. Each Owner shall be responsible for the exterior maintenance of his or her dwelling and Lot, as follows: painting, replacement and care of roofs, gutters, down spouts, exterior building improvements. In the event that the Owner neglects or fails to maintain his or her improved Lot and/or the exterior of his or her dwelling in a manner consistent with other improved Lots and dwellings within the Properties or fails to maintain his or her improved Lot in a safe condition and free of debris, the Association may provide such exterior maintenance. Provided, however, that the Association shall first give written notice to the Owner of the specific items of exterior maintenance or repair the Association intends to perform and the Owner shall have twenty (20) days from the date of mailing of said notice within which to perform such exterior maintenance himself or herself. The determination as to whether an Owner has neglected or failed to maintain his or her Lot and/or dwelling in a manner consistent with other Lots and dwellings within Properties shall be made by the Board of Directors, in its sole discretion. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each Lot at all reasonable times to perform maintenance as provided in this **Article VI, Section 5**. In the event the Association performs such exterior maintenance, repair or replacement, the cost of such maintenance, replacement or repairs shall be added to and become a part of the assessment to which such Lot is subject. Notwithstanding the preceding, during construction of improvements on the Lots, the general contractor responsible for any such Lot shall maintain that Lot to a reasonable degree of orderliness and shall not litter the streets or portions of the Common Elements nor spread dirt and debris thereon.

SECTION 6. Maintenance of Retaining Walls. One or more retaining walls may be located upon a portion of the Properties. The Association shall maintain, repair or replace all such retaining walls located either (i) within Common Elements; or (ii) on a Lot, provided such retaining wall is located on such Lot as of the date the Lot is conveyed to an Owner other than Declarant or an assignee of Declarant's development rights as provided herein. The Association shall be responsible for the cost of such maintenance, repair or replacement unless the maintenance, repair or replacement is required due to an Owner's negligence or intentional misconduct, in which event the responsible Owner shall reimburse the Association for all such costs as additional assessments. Declarant hereby grants the Association an easement for ingress, egress and regress over the Lots for the purpose of performing the maintenance provided for in this paragraph.

## ARTICLE VI

### Use Restrictions

SECTION 1. Land Use and Building Type. No Lot shall be used except for single-family residential, street or park purposes. No building or other structure shall be erected, altered, placed, or permitted to remain on any Lot other than one detached single family dwelling not to exceed two and one-half stories in height (excluding any basement), a private garage for not more than three cars

and one (1) accessory building erected on a permanent foundation which is incidental to the residential use of the Lot and is constructed of materials comparable to or compatible with the dwelling located on such Lot, all as approved by the Architectural Control Committee. Notwithstanding the foregoing, Declarant shall have the right to maintain (i) one or more sales offices and one or more model homes in dwellings located on Lots owned or leased by Declarant for the promotion and sale of Lots and dwellings within the Properties, and (ii) one or more temporary trailers and other temporary structures on any Lot owned by the Declarant or on the Common Elements to facilitate the construction of improvements within the Properties.

SECTION 2. Dwelling Specifications. No dwelling shall be erected or allowed to remain on a Lot if the heated area of the main structure, exclusive of open porches, decks and garages, shall be less than sixteen hundred (1600) square feet, and no dwelling shall be erected or allowed to remain on a Lot if the roof pitch is less than 7/12.

SECTION 3. Building Setbacks. No such building shall be located on any Lot nearer to the front or rear Lot line, or any side street or Lot line, than shall be provided for such Lot on any plat recorded in the Guilford County Registry by the Declarant (or assignee of Declarant's development rights hereunder) or than shall be permitted under applicable local ordinances in effect at the time such building is to be constructed or as permitted by appropriate local governmental authority pursuant to a variance of such ordinances.

SECTION 4. Exterior Materials. Artificial stucco, concrete, and composite siding are not typically appropriate exterior materials. However, cement based board siding and certain types of aluminum and vinyl siding will be considered by the Architectural Control Committee depending upon the quality of such material as reasonably judged by such committee, and use of high quality, adequately detailed vinyl and aluminum trim components will be considered by the Architectural Control Committee for soffits and comparable areas of the exterior.

SECTION 5. Nuisance. No noxious or offensive activity shall be conducted upon a Lot or the Common Elements, nor shall anything be done thereon which may be or may become an annoyance or nuisance in the neighborhood. In addition, no activity deemed noxious or offensive by the Architectural Control Committee shall be carried on upon any Lot or within the Common Elements, nor shall anything be done thereon which may be or may become a material annoyance or nuisance to the neighborhood as reasonably determined by the Architectural Control Committee. Examples of such offensive activities shall include, but not be limited to, the origination or emission of any loud or disturbing noise or vibrations, the maintenance of an auto repair site, the maintenance of unsightly outdoor storage of personal property (including toys, motorcycles or other motor vehicles, tricycles, bicycles, wood piles or other miscellaneous items) on porches, patios, terraces or yards, or similar unsightly activity not in keeping with the aesthetic character and high level of appearance of the community. The Architectural Control Committee, with the approval of the Board of Directors of the Association, may establish reasonable rules and regulations for enforcing the provisions of this Section.

**SECTION 6. Signs.** Except for signs erected by Declarant or the Association within any Common Elements and signs erected by Declarant on Lots owned or leased by Declarant advertising the sale, lease or other promotion of Lots and dwellings constructed thereon within the Properties, no sign, permanent flag or flag pole shall be placed or allowed to remain on any Lot except for one (1) "For Sale" or "For Lease" sign, or one other temporary sign to advertise the name of a contractor performing services at the time of such display, a yard sale or other temporary activity on the Lot, and such other temporary sign shall not be permitted to remain on any Lot for more than seventy-two (72) consecutive hours. No sign deemed by Declarant or the Association to be a nuisance or a detriment to the properties shall be permitted or allowed to remain on any Lot within the Properties. No sign shall not be greater than six (6) square feet in surface area.

**SECTION 7. Outside Antennas.** Except for "dish" and antennas designed to receive direct broadcast satellite service, including direct-to-home satellite service, one meter (39") or less in diameter, antennas designed to receive video programming services via MMDS (wireless cable) and antennas designed to receive television broadcast signals, no outside antennas or satellite dishes and no free standing transmission or receiving towers shall be erected on any Lot within the Properties that would be visible from any portion of the Properties exclusive of the Lot upon which it is to be located without the prior written permission of the Architectural Control Committee. Except with the prior written permission of the Architectural Control Committee, any antenna or satellite dish erected on any Lot within the Properties (i) shall be of a color which blends with its surroundings, (ii) shall have a mast only as high as reasonably necessary to receive the intended signal; (iii) shall not be visible from any street or abutting neighbor's Lot; and (iv) shall not be erected on a Lot between the dwelling and the street on which the Lot fronts.

**SECTION 8. Resubdivision of Lot, Streets, Fences and Walls.** Except with the express written consent of Declarant during Declarant's Development Period and except with the express written consent of the Architectural Control Committee thereafter, no Lot shall be re-subdivided into a lot smaller than or different from the Lot as shown on the recorded plat and no street shall be laid out or opened across or through any Lot. Notwithstanding the preceding, however, conveyances of the fee title of minor strips of land no more than three (3) feet in width may be conveyed to an abutting Lot to eliminate or to preclude encroachments onto the property of the grantor(s) thereof. Except for fences erected by Declarant or the Association, no fence, wall or other enclosure shall be erected or allowed to remain on any Lot unless the height, materials and location of the same have been approved by the Architectural Control Committee as provided in **Article V** of this Declaration. No fence or wall on any Lot shall be permitted to extend nearer to any street abutting the front of any Lot than the front building line of the residence located on that Lot without the express written consent of the Architectural Control Committee. The finished side of all fences shall face towards adjoining streets and Lots. Chain link fences and split rail fences with wire hacking are prohibited except with the written approval the Architectural Control Committee. In addition, chain link fencing may be erected without restriction by the Declarant or the Association on the Common Elements or anywhere within the Properties as reasonably required for purposes of safety or to meet governmentally imposed requirements.

SECTION 9. Metal Storage Buildings, Mobile Homes, Manufactured Homes, Temporary Structures, Etc. No metal storage building of a temporary or permanent character shall be permitted on any Lot. No mobile home, manufactured home, trailer, or other like structure shall be permitted on any Lot. No structure of a temporary character, recreational or other vehicle, trailer, tent, shack, garage, barn or other out building shall be used on any Lot at any time as a residence either temporarily or permanently. Notwithstanding anything herein to the contrary, Declarant, its agents, employees and contractors, may maintain trailers and other temporary structures to facilitate the construction of improvements within the Properties.

SECTION 10. Animals. No animals, livestock or poultry of any kind shall be raised or kept on any Lot., except that dogs, cats or other household pets may be kept on Lots, provided that said animals are kept in compliance with applicable local ordinances and are not kept for commercial purposes, and further provided that they are kept and maintained in compliance with (i) all laws and ordinances of the State of North Carolina, the City of Greensboro and Guilford County relating thereto; and (ii) such rules and regulations pertaining thereto as the Board of Directors may adopt from time to time. Each Owner owning or having possession, charge, care, custody or control of any dog shall keep such dog exclusively upon his or her Lot; provided, however, that such dog may be off the Lot if it is under the control of a competent person and restrained by a chain, leash or other means of adequate physical control. The Owner will be responsible for cleaning up any and all waste deposited by any dog upon any Lot or Common Elements.

SECTION 11. Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish, and all trash, garbage or other waste shall be stored in sanitary containers in accordance with the rules and regulations of any health or public safety authority having jurisdiction over the property. All incinerators or other equipment shall be kept in clean and sanitary condition. No trash, garbage or other waste may be placed within the Common Elements, except in containers approved by the Board of Directors of the Association or any Executive Board established by it.

SECTION 12. Waiver of Minor Violations. Both the Declarant and the Board of Directors shall each have the right to waive minor violations of, and allow minor variances from the restrictions contained in **Sections 2, 3, and 7** of this **Article**, where the same are not materially harmful to the Properties. Any such waiver granted shall be in writing, and any matter so waived shall no longer be deemed a violation of these covenants.

SECTION 13. Lanes and Ponds. The use of any lake or pond which is a part of the Common Elements is subject to rules and regulations from time to time promulgated by the Association, which rules and regulations, in the sole discretion of the Board of Directors of the Association, may prohibit or limit the use of boats, fishing and swimming. In addition, such rules and regulations may provide for access to any such lake or pond only through designated portions of the Common Elements.

SECTION 14. Sale, Leasing and Marketing. No activities will be engaged in by any Owner and no sign shall be erected or displayed within the Properties that would negatively impact the sale, leasing and marketing of Properties by the Declarant.

SECTION 15. Seasonal Decorations. Temporary seasonal exterior decorations shall not require the prior approval of the Board of Directors or the Architectural Control Committee, but if any such decorations are determined, in the sole discretion of the Board of Directors or the Architectural Control Committee, to be distasteful or otherwise disruptive of the aesthetics or visual harmony of the community, the Board of Directors or the Architectural Control Committee may require that such decorations promptly and permanently be removed. In the event that an Owner neglects or fails to remove any such decorations at the direction of the Board of Directors or the Architectural Control Committee, the Association may provide for and conduct such removal. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association that right to unobstructed access over and upon each Lot at all reasonable times for such purpose and the cost of such removal shall be added to and become a part of the assessment to which such Lot is subject. In no event shall seasonal decorations remain upon a Lot more than two (2) weeks following the holiday or event with which such decorations are associated.

## ARTICLE VII

### Easements

SECTION 1. Utilities. Easements for installation and maintenance of utilities (including cable television /broadband and similar electronic services and drainage facilities) are reserved as shown on the recorded. plats (including plats to be recorded in the future) of the Properties. In addition, Declarant reserves, for itself and on behalf of the Association, additional easements and rights of way for the installation and maintenance of utilities (including cable television/broadband and similar electronic services and drainage facilities) over the rear fifteen (15) feet and within five (5) feet of any sideline of any Lot. Within these easements, to the extent they are located on any Lot, no structures, other than driveways, paths or walkways, planting or other material shall be placed or permitted to remain that interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easement, or which may unreasonably obstruct or retard the flow of water through drainage channels in the easements. An easement is hereby established for the benefit of the appropriate governmental entity (and any other party providing services to the Properties under agreement with or at the direction of the Association) over all Common Elements as may be reasonably necessary for the setting, removal and reading of water meters, the maintenance and replacement of water, sewer and drainage facilities, for affording police protection, and for the fighting of fires and collection of garbage. The Association shall have the power and the authority to grant and establish upon, over and across the Common Elements, such additional easements as are necessary or desirable for the providing of service or utilities to the Common Elements or Lots.

Declarant hereby grants to the Association any rights it has in the improvements located on the Common Elements. The Association shall be responsible for the repair, maintenance and upkeep of all improvements located on the Common Elements, except such permitted improvements placed on the Common Elements by any Owner.

SECTION 2. Sign Easements. Declarant and the Association shall each have the right to erect within the Common Elements subdivision signs and landscaping and lighting surrounding same. In addition, easements for the maintenance of subdivision signs and landscaping lighting surrounding same are reserved as indicated on recorded plats. Declarant hereby reserves unto itself and grants, gives and conveys to the Association, a perpetual, non-exclusive easement over the portions of Lots designated as "sign easements" on the plats of the Properties, now or hereafter recorded, to place, maintain, repair and replace subdivision signs and the lighting fixtures and landscaping surrounding the same. The Association shall be responsible for maintaining, repairing and replacing any such signs, landscaping and lighting and the costs of such maintenance, repair and replacement shall be part of the common expenses of the Association, payable by the Owners as set out in **Article IV** hereof. In addition, Declarant, until December 31, 2020, for so long as Declarant owns any Lot shall have the right to erect and maintain signs advertising and promoting the sale and/or leasing of Lots and dwellings within the Properties within the Common Elements and on those portions of any Lot designated "sign easement" as shown on the plat recorded for such Lot in the Guilford County Registry. As to the easements reserved and granted above with respect to those portions of Lots designated "sign easement," Declarant hereby reserves unto itself and gives, grants and conveys to the Association the right of ingress, egress and regress over other portions of such Lots as shall be reasonably necessary to effect the purposes stated above. The easements hereby granted shall run with the land in perpetuity and be binding upon and inure to the benefit of all persons and entities now owning or subsequently acquiring a part of the Properties.

SECTION 3. Easements Reserved by Declarant. Declarant hereby reserves such easement's on, across and over the Common Elements as shall be reasonably necessary for (i) the exercise by Declarant of any right herein reserved, including, without limitation, Declarant's right, should Declarant elect, to annex additional Properties and (ii) the development by Declarant, its successors or assigns, of the additional Properties, should Declarant elect not to annex the additional Properties, including, without limitation, easements for ingress, egress and regress over private roads and streets now or hereafter erected on the Properties and easements for the use of utility lines, fixtures and/or their connections located within the Common Elements for the purpose of providing water, light, power, telephone, sewage and sanitary service to the Properties.

SECTION 4. Additional Drainage Easements. In order to implement effective and adequate erosion control, the Association shall have the right: to enter upon any portion of the Properties before and after improvements have been constructed thereon for the purpose of performing any grading or constructing and maintaining erosion prevention devices; provided, however, no such activities shall interfere with any permanent improvements constructed on the Properties.

SECTION 5. Unintentional Encroachments. In the event that any improvements on a Lot shall encroach upon any Common Elements for any reason not caused by the purposeful or negligent act of the Owner or agents of such Owner, an easement appurtenant to such Lot shall exist, for the continuance of such encroachment over the Common Elements for so long as such encroachment upon the Common Elements shall naturally exist; and, in the event that any portion of the Common Elements shall encroach upon any Lot, then an easement shall exist for the continuance of such encroachment of the Common Elements into any such Lot for so long as such encroachment shall naturally exist.

## ARTICLE VIII

### Rights Reserved unto Institutional Lenders

SECTION 1. Entities Constituting Institutional Lenders. "Institutional Lender" as the term is used herein shall mean and refer to banks, savings and loan associations, insurance companies or other firms or entities customarily providing loans secured by first liens on residences, as well as eligible insurers and governmental guarantors.

SECTION 2. Obligation of Association to Institutional Lenders. So long as any Institutional Leader shall hold any first lien upon any Lot, or shall be the Owner of any Lot, such Institutional Lender shall have the following rights:

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

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

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

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

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



(f) to be given notice of any delinquency in the payment of any assessment or charge (which delinquency remains uncured for a period of sixty (60) days by any Owner owning a Lot encumbered by a mortgage held by the Institutional Leader, such notice to be given in writing and to be sent to the principal office of such Institutional Leader, or to the place which it may designate in writing.

SECTION 3. Requirements of Institutional Lender. Whenever any Institutional Lender desires to avail itself of the provisions of this Article, it shall furnish written notice thereof to the Association by certified mail at the address of the Association's registered office as provided at the Office of the North Carolina Secretary of State. Such notice shall identify the Lot or Lots upon which any such Institutional Leader holds any first lien or identifying any Lot or Lots owned by such Institutional Lender and such notice shall designate the place to which notices, reports or information are to be given by the Association to such Institutional Lender.

## ARTICLE IX

### General Provisions

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

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

(b) The Association, after notice to the Owner and a reasonable opportunity to be heard, shall have the right to assess reasonable fines against any Owner for violations of this Declaration, the Bylaws of the Association or the Association's published rules and regulations by such Owner or such Owner's family, guests, invitees and lessees in an amount not to exceed \$150.00 for each violation (which maximum fine may be increased prospectively at the annual meeting of the Members by the approval of the majority of Members in each class of membership in attendance at such meeting either in person or by proxy but which fine shall not exceed any limitations of the then

current version of the Planned Community Act), and without further hearing, for each day after the decision that the violation occurs. Such times shall be deemed to be assessments as set forth in **Article IV** of the Declaration and, if not paid within thirty (30) days after notice and demand therefor, the Association shall be entitled to the remedies set forth in the Declaration for the enforcement and collection of delinquent assessments.

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

(d) If an Owner is legally responsible for damage inflicted on any Common Elements, the Association may direct such Owner to repair such damage, or the Association may itself cause the repairs to be made and recover damages from the responsible Owner. If damage is inflicted on any Lot by any agent of the Association in the scope of the agent's activities as such agent, the Association shall repair such damages or reimburse the Owner for the cost of repairing such damages. The Association shall also be liable for any losses to the Owner. When any such claim for damages against an Owner or the Association is less than or equal to the jurisdictional amount established for small claims by North Carolina General Statutes 7A-210, any aggrieved party may request that a hearing be held before an adjudicatory panel appointed by the Board of Directors to determine if an Owner is responsible for damages to any Common Elements or if the Association is responsible for damages to any Lot. If the Board of Directors fails to appoint an adjudicatory panel to hear such matters, such hearings shall be held before the Board of Directors. Such panel shall afford to the party charged with causing damages notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. This panel may assess liability for each damage incident against each Owner charged or against the Association not in excess of the jurisdictional amount established for small claims by North Carolina General Statutes M-210. When such claim exceeds the jurisdictional amount established for small claims by North Carolina General Statutes 7A-210, liability of any Owner charged or of the Association shall be determined as otherwise provided by law and (as with the Owner) shall result in being treated as assessments secured by lien under Section 47F-3-16 of the Planned Community Act. Liabilities of the Association determined by adjudicatory hearing or as otherwise provided by law may be offset by the Owner against sums owing to the Association, and, if so, may be offset to reduce the amount of any lien of the Association against the Lot at issue.

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

(f) The failure of the Association or any Owner to enforce any right, provision, covenant or condition which may be granted by this Declaration or the other above mentioned documents

shall not constitute a waiver of the right of the Association or of the Owner to enforce such right, provision, covenant or condition in the future.

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

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

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

SECTION 3. Amendment and Termination. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration shall be terminated if during the 20th year of such initial period or during the 10th year of any successive automatic extension period, at least eighty percent (80%) of the total membership votes pursuant to a properly convened meeting agree to terminate the Declaration. Notice of such termination must be signed by both the then current President, attested to by the Secretary of the Association, and properly recorded in the Guilford County Registry. The Declaration may be amended during the first ten (10) year period by an instrument signed by Lot Owners representing at least sixty-seven percent (67%) of the votes of all Owners, together with the Declarant or the assignee of Declarant's development rights hereunder (if Declarant or such assignee is in existence at such time), provided that no amendment shall alter any obligation to pay ad valorem taxes or assessments for public improvements, as herein provided, or affect any lien for the payment thereof as established herein. Notwithstanding the preceding, as additional real estate is annexed and becomes part of the Properties, pursuant to **Article X, Section 4(b)** of this Declaration, the amendment effecting such annexation may include use restrictions governing such portion of the Properties that may vary slightly from those prescribed in **Article VI** herein above. Under such circumstances the restrictions governing the then existing portions of the Properties shall remain in full force and effect as to those existing portions. However, the use restrictions then being imposed on the portions of the Property being annexed may not be substantially less restrictive than those encumbering the then existing portions of the Properties. Amendments to this Declaration, the Bylaws or the Articles of Incorporation of the Association relating to the maintenance and ownership of any permanent wet detention pond shall not be permitted without review and approval by the governmental authority having jurisdiction for watershed protection on the Properties. Any

amendment must be properly recorded in the Guilford County Registry to be effective, and enforceable.

SECTION 4. Annexation.

(a) Additional property and Common Elements may be annexed to the Properties by an instrument recorded un the Guilford County Registry and signed by Lot Owners representing at least sixty-seven percent (67%) of the votes of all Owners, together with the Declarant or the assignee of Declarant's development rights hereunder (if Declarant or such assignee is in existence at such time).

(b) Through December 31, 2020 portions of all of the land described in **Exhibit A** attached hereto and incorporated herein by reference or that would be immediately adjacent to the Properties (including additions thereto pursuant to this instrument) may be annexed by the Declarant or its successors and assigns as the Declarant without the consent of Members provided that, in the event the Federal Housing Administration ("FHA") or the Department of Veterans' Affairs ("VA") insured loans have been obtained to purchase Lots and such loans are then in existence, such federal agencies respectively must determine that such annexation is in accord with the general plan of development of the Properties as approved by them. Any such expansion of this Declaration will subject the Owners of any Lots located on such tract to be annexed to all the covenants, conditions and restrictions contained herein above in this Declaration and by accepting the deed to such Lots such Owners shall agree to pay any assessments levied pursuant thereto. Any such annexation of additional properties or dedication of additional Common Elements to this Declaration shall be effected in a manner as to be compatible with the existing portions of the then existing portions of the Properties.

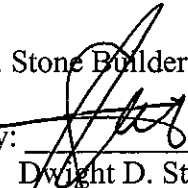
For the purpose of determining whether property is adjacent to the Properties, the rights-of-way of public roads and utility easements, as well as rivers and streams, shall be deemed not to separate otherwise adjacent property. Declarant shall have no obligation of any kind to annex any or all of the additional Properties and, should Declarant elect to annex all or any portion of the additional Properties, Declarant shall have no obligation of any kind to annex additional Properties in any particular sequential order. In the event Declarant elects to annex all or any portion of additional Properties and to subject such property to the terms and conditions of this Declaration, Declarant reserves the right, with regard to all or any part of the additional Properties annexed by Declarant, to make such complimentary additions and/or modifications of the covenants and restrictions contained in this Declaration (including, without limitation, those contained in **Section 2 of Article VII** hereof) as Declarant may deem necessary or convenient; provided, however, such additions and/or modifications shall not modify this Declaration with respect to the Properties previously subjected thereto, and, in the event the FHA or the VA insured loans have been obtained to purchase Lots, such federal entities must determine that any such complimentary additions and/or modifications are in accord with the general plan from time to time approved by them. With regard to any portion of the property described in **Exhibit A** attached hereto and not annexed as a part of the Properties, Declarant makes no representations with regard to the use of such property or the

exterior appearance, design, size or intended purpose of any improvements now or hereafter erected on such property.

SECTION 5 Amplification. The Provisions of this Declaration are amplified by the Articles of Incorporation and Bylaws of the Association, but no such amplification shall alter or amend any of the rights or obligations of the Owners set forth in this Declaration. Declarant intends that the provisions of this Declaration on the one hand, and the Articles of Incorporation and Bylaws of the Association on the other, be interpreted, construed, and applied to avoid inconsistencies or conflicting results. If any such conflict occurs, however, the provisions of this Declaration shall be deemed to be controlling.

In witness whereof this instrument has been duly executed as of the 1st day of July, 2010 by the Declarant.

D. Stone Builders, Inc.

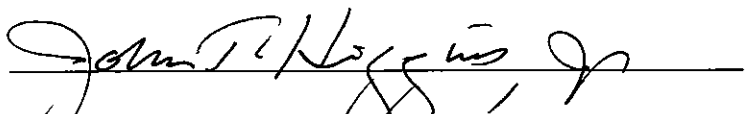
By:   
\_\_\_\_\_  
Dwight D. Stone, President

STATE OF NORTH CAROLINA  
COUNTY OF GUILFORD

I, the undersigned Notary Public for said County and State, do hereby certify that Dwight D. Stone, President of D. Stone Builders, Inc., a North Carolina corporation, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the corporation.

Witness my hand and official stamp or seal, this 1st day of July 2010.

[Seal]

  
\_\_\_\_\_  
John T. Higgins, Jr., Notary Public  
[Print name of Notary]

My Commission Expires: 06/11/12

\*\*\*\*\*  
NOTARY PUBLIC  
JOHN T. HIGGINS, JR.  
GUILFORD COUNTY, NC  
My Commission Expires June 11, 2012  
\*\*\*\*\*

## Exhibit A

Lying and being located in Morehead Township, Guilford County, North Carolina, and being more particularly described as follows:

Beginning at an existing iron pipe marking the northeast corner of City of Greensboro Flood Plain & Open Space as shown on the plat of Friendly Acres North, Map 2, recorded on Plat Book 97, Page 88 of the Guilford County Registry; and from said beginning point running thence along the eastern boundary of said City of Greensboro Flood Plain & Open Space South 01° 07' 50" East 193.56 feet to a new iron pipe located at the northwestern corner of the Drainageway & Open Space of the City of Greensboro as shown on Plat Book 173, Page 101 of the Guilford County Registry; thence continuing South 77° 41' 05" East 161.91 feet to a new iron pipe; thence continuing South 28° 42' 24" East 156.08 feet to a new iron pipe; thence continuing North 89° 28' 37" East 81.41 feet to an existing iron pipe; thence continuing North 89° 28' 37" East 187.22 feet to an existing iron pipe; thence continuing North 89° 28' 37" West 30.05 feet to an existing iron pipe; thence continuing North 00° 24' 17" West 253.14 feet to an existing iron pipe; thence continuing North 00° 28' 26" East 720.14 feet to an existing iron pipe; thence continuing North 00° 02' 52" West 33.51 feet to an existing iron pipe located at the southeastern corner of the tract of Joseph F. Balzano et ux Lisa D. Balzano; thence continuing South 89° 12' 09" West 264.60 feet to an existing iron pipe; thence continuing North 01° 10' 04" West 150.11 feet to an existing iron pipe; thence continuing North 89° 14' 49" East 267.02 feet to an existing iron pipe located at the northeastern corner of the said Balzano tract; thence continuing North 00° 31' 40" West 149.21 feet to an existing iron pipe; thence continuing North 00° 30' 08" West 149.66 feet to an existing iron pipe located on the southern boundary of the tract of J. Grant Robertson, Mark Robertson and Robertson Realty; thence continuing North 83° 29' 49" West 289.60 feet to a point at the southeastern corner of Phase I of the Brassfield Professional Center as recorded in Condominium Plat Book 7, Page 92 of the Guilford County Registry; thence running North 85° 50' 32" West 64.99 feet to the northeastern corner of that tract conveyed to the Grantee in Book 6839, Page 1372 of the Guilford County Registry ("Grantee's Western Parcel"); thence running with the eastern boundary of the Grantee's Western Parcel the following courses and distances: running South 18° 49' 32" West 53.48 feet to a point; thence along a curve to the left having a radius of 55.00 feet and a chord bearing and distance of South 27° 08' 14" West 108.84 feet to a point; thence continuing South 35° 26' 57" West 63.37 feet to a point; thence continuing South 11° 35' 25" East 65.49 feet to a point; thence continuing South 52° 25' 40" East 20.73 feet to a point; thence continuing South 15° 27' 32" East 22.96 feet to a point; thence continuing South 75° 26' 31" East 11.25 feet to a point; thence continuing South 14° 38' 46" East 37.02 feet to a point; thence continuing South 87° 11' 27" East 86.06 feet to a point; thence continuing South 01° 10' 04" East 117.62 feet to a point; thence continuing South 88° 49' 56" West 105.00 feet to a point; thence continuing South 24° 38' 08" West 91.50 feet to a point; thence continuing South 07° 53' 09" West 22.17 feet to a point; thence continuing South 07° 53' 09" West 113.86 feet to a point; thence along a curve to the right having a radius of 675.00 feet and a chord bearing and distance of North 86° 33' 26" West 72.16 feet to a point; thence along a curve to the right having a radius of 675.00 feet and a chord bearing and distance of North 79° 33' 51" West 92.50 feet to a point; thence continuing South 14° 21' 53" West 50.00 feet to a point; thence continuing South 14° 21' 53" West 13.27 feet to a point; thence continuing South 07° 13' 43" East 41.73 feet to a point; thence continuing South 22° 15' 12" West 41.07 feet to a point; thence continuing South 53° 18' 06" West 21.57 feet to a point; thence continuing South 11° 20' 39" West 68.63 feet to a point; thence continuing South 27° 47' 32" East 36.37 feet to a point; thence continuing North 89° 31' 34" East 38.08 feet to a point; thence continuing South 14° 04' 40" East 217.86 feet to a point in the boundary of the City of Greensboro Flood Plain & Open Space as shown on the plat of Friendly Acres North, Map 2, recorded on Plat Book 97, Page 88 of the Guilford County Registry; thence leaving the eastern boundary of the Grantee's Western Parcel and running with the northern boundary of the said City of Greensboro Flood Plain & Open Space South 81° 19' 47" East 61.61 feet to the point and place of BEGINNING, the same containing 15.910 acres, more or less, as shown on the survey prepared by Hugh Creed Associates, Inc. P.A. dated March 26, 2008.