

NORTH CAROLINA
MECKLENBURG COUNTY

DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS OF
WOODSIDE FALLS SUBDIVISION

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS made this the 29th day of August, 1986, by FIRSTMARK DEVELOPMENT CORPORATION, a South Carolina corporation authorized to transact business in North Carolina, hereinafter referred to as "Declarant";

WHEREAS, Declarant is the owner of the real property shown on a map of WOODSIDE FALLS SUBDIVISION, which map is recorded in Map Book 21, Page 422, in the Mecklenburg Public Registry, which property is more particularly described in Section 1 of Article II hereof, and desires to create thereon an exclusive residential community of single-family homes to be named WOODSIDE FALLS SUBDIVISION;

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

WHEREAS, Declarant has deemed it desirable, for the efficient preservation, protection, and enhancement of the values and amenities in said subdivision and to insure the residents enjoyment of the specific rights, privileges and easements in the Common Area, as hereinafter defined, and to provide for the maintenance and upkeep of the Common Area, to create an organization to which will be delegated and assigned the powers of owning, maintaining, and administering the Common Area and administering, enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter created; and

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

NOW, THEREFORE, Declarant, by this Declaration of Covenants, Conditions, and Restrictions, does declare that all of the property shown on the aforesaid map of WOODSIDE FALLS SUBDIVISION,

and such additions thereto as may be hereafter made, pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, conditions, restrictions, easements, charges, and liens set forth in this Declaration which shall run with the real property and be binding on all parties owning any right, title, or interest in said real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Homeowners' Association" shall mean and refer to WOODSIDE FALLS HOMEOWNERS' ASSOCIATION, INC., a North Carolina non-profit corporation, its successors and assigns.

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

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

Section 4. "Common Area" shall mean all real property owned by the Homeowners' Association for the common use and enjoyment of the owners. Common Areas, with respect to the property subject to this Declaration, shall be shown on the various plats of WOODSIDE FALLS SUBDIVISION, recorded or to be recorded in the Mecklenburg Public Registry and designated thereon as "Common Areas", but shall exclude all lots as hereinafter defined and all public streets shown thereof. "Common Area" shall include all private streets shown on said plats as now recorded or shall be hereafter recorded in the Mecklenburg Public Registry. The Common Area to be owned by the Association at the time of the conveyance of the first lot is more particularly shown on the plat of the Properties recorded in Map Book 21, at Page 422 in the Mecklenburg Public Registry.

Section 5. "Lot" shall mean and refer to any numbered plot of land, with delineated boundary lines, appearing on any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to FIRSTMARK DEVELOPMENT CORPORATION and shall also mean and refer to any person, firm, or corporation which shall hereafter become vested,

at any given time, with title to two or more undeveloped Lots for the purpose of causing residence building(s) to be constructed thereon, and any such successor in title to FIRSTMARK DEVELOPMENT CORPORATION shall be a Declarant during such period of time as said property is vested with title to two or more such Lots (whether undeveloped or developed and unconveyed), but no longer.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Homeowners' Association.

Section 8. "Residence" shall mean and refer to a dwelling or place of residence, which shall be a single family detached dwelling constructed upon a Lot within the Properties.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION AND WITHIN THE JURISDICTION OF WOODSIDE FALLS HOMEOWNERS' ASSOCIATION, INC.

Section 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration, and within the jurisdiction of the Homeowners' Association is located in Charlotte Township, Mecklenburg County, North Carolina, described as follows:

Being all of the property shown on map recorded in Map Book 21 at Page 422 in the Mecklenburg Public Registry.

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

(a) Additional land within the area described in the metes and bounds description attached hereto as SCHEDULE A and incorporated herein by reference may be annexed to the existing property by Declarant, in future stages of development, without the consent of the Homeowners' Association or its Members, provided that said annexations must occur within six (6) years after the date of this instrument. Declarant may remove all or any property from the Schedule A description prior to its annexation by filing a written declaration of removal in the Mecklenburg Public Registry;

(b) The additions authorized under Subsection (a) above shall be made by filing of record Supplementary Declarations of Covenants, Conditions, and Restrictions with respect to the additional properties which shall extend the scheme of this Declaration and the jurisdiction of the Homeowners' Association to such properties and thereby subject such additions to the

benefits, agreements, restrictions, and obligations set forth herein, including, but not limited to, assessments as herein determined, to pay for the Homeowners' Association's expenses.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

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

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

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

(b) Class B Lots. Class B Lots shall be all Lots owned by Declarant which have not been converted to Class A Lots as provided in (1) or (2) below. The Declarant shall be entitled to three (3) votes for each Class B Lot owned by it. The Class B Lots shall cease to exist and shall be converted to Class A Lots:

(1) When the total number of votes appurtenant to the Class A Lots equal the total number of votes appurtenant to the Class B Lots, or

(2) On December 31, 1989, whichever is earlier.

ARTICLE IV

PROPERTY RIGHTS

Section 1. Owner's Easement of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and pass with the title to every Lot, subject to the following provisions:

(a) The right of the Homeowners' Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purpose and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless the Members

entitled to at least two-thirds (2/3) of the votes appurtenant to each Class of Lots (Class A and Class B) agree to such dedication or transfer and signify their agreement by a signed and recorded written instrument, provided that this subsection shall not preclude the Board of Directors of the Homeowners' Association from granting easements to public authorities or others for the installation and maintenance of sewage, utilities, and drainage facilities upon, over, under, and across the Common Area without the assent of the membership when, in the sole opinion of such Board, such easements do not interfere with the use and enjoyment of the Properties or are necessary for the convenient use and enjoyment of the Properties;

(b) The rights of Owners to the exclusive use of parking spaces as provided in Section 3 of this Article IV;

(c) The right of the Homeowners' Association, with the written assent of Members entitled to at least two-thirds (2/3) of the votes appurtenant to each Class of Lots (Class A and Class B), to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

Section 2. Delegation of Use.

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

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

(c) Guests. The right and easement of enjoyment granted to every Owner in Section 1 of this Article IV may be delegated to guests of Owners, tenants, or contract purchasers subject to the rules and regulations of the Homeowners' Association, as may be established by its Board of Directors, governing use of the Common Area by guests.

Section 3. Parking Rights. The owners of each Lot shall park their automobiles(s) on their Lot in their garage, carport or parking area designated therefor. Limited parking may be provided for recreation areas located on the Properties. No vehicles of any type or recreational equipment may be driven on, across or parked within the Common Area, except in spaces reserved for parking, subject to Homeowners' Association regulations. The

Homeowner's Association through its Board of Directors may issue regulations from time to time restricting or prohibiting the parking of boats, trailers, campers, R.V.'s or motorcycles which would be in public view.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

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

Section 2. Purposes of Assessments. The assessments levied by the Homeowners' Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents of the Properties in connection with their use and occupancy of the Properties and in particular for the acquisition, improvement, and maintenance of Properties, service, and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, including, but not limited to, the cost of repair, replacement and additions thereto, the cost of labor, equipment, materials, management, and supervision thereof, the payment of taxes assessed against the Common Area, the procurement and maintenance of insurance in accordance with the Bylaws, the employment of attorneys to represent the Homeowners' Association when necessary, the payment of charges for common television antenna or cable service to the residences situated upon the Lots and such other needs as may arise.

Section 3. Maximum Monthly Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum monthly assessment shall be \$20.00 per Class A Lot and \$5.00 per Class B Lot. ✓

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum monthly assessments above established may be increased, effective January 1 of each year, without a vote of the membership, but

subject to the limitation that any such increase shall not exceed the percentage increase, if any, in the Consumer Price Index (published by the Department of Labor, Washington, D.C.) for all Cities over the immediately preceding twelve (12) month period which ended on the previous October 1.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, said maximum assessments may be increased without limitation, if such increase is approved by Members entitled to no less than two-thirds (2/3) of the votes (appurtenant to each Class of Lots) represented in person or by proxy at a meeting duly called for this purpose.

(c) The Board of Directors may fix the monthly assessments at amounts not in excess of the maximum, but the ratio of the assessment established for each Class A Lot to the assessment established for each Class B Lot shall always be 4 to 1.

Section 4. Special Assessments for Capital Improvements. In addition to the monthly assessments authorized above, the Homeowners' Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Homeowners' Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the same assent of the Members as provided in Section 3(b) of this Article.

Section 5. Assessment Rate. Both monthly and special assessments must be fixed at a uniform rate for all Lots within each class and may be collected on a monthly basis.

Section 6. Notice and Quorum for Any Action Authorized Under Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty (60%) percent of the votes appurtenant to each Class of Lots (Class A and Class B) shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Date of Commencement of Monthly Assessments; Due Dates; Certificate of Payment. The monthly assessments provided for herein shall commence as to all Lots on the first day of the

month following the conveyance to the Homeowners' Association of the Common Area.

At least thirty (30) days before January 1 of each year, the Board of Directors shall fix the amount of the monthly assessments against each Lot for the next year and at least fifteen (15) days before January 1 shall send written notice of such fixed assessment to every Owner subject thereto. The due dates for the payment of monthly and special assessments shall be established by the Board of Directors. The Homeowners' Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Homeowners' Association setting forth whether the assessments on a specified Lot have been paid.

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

Section 9. Subordination of the Lien to Mortgages. The liens provided for herein shall be subordinate to the lien of any first mortgage, mortgages, first deed of trust, or deeds of trust on a Lot. Sale or transfer of any Lot shall not affect any assessment lien. However, the sale or transfer of any Lot which is subject to any mortgage or deed of trust, pursuant to a foreclosure thereof or any proceeding in lieu of foreclosure thereof shall extinguish the lien of such assessments as to the payment thereof which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any mortgage, mortgages, deed of trust, or deeds of trust.

Section 10. Exempt Property. All property dedicated to, and accepted by, a local public authority and all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VI

ARCHITECTURAL CONTROL

No building, fence, wall, or other structure shall be commenced or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made, including the erection of antennas, aerials, awnings, the placement of reflective or other material in the windows of a residence situated upon any Lot or other exterior attachment, until the plans and specifications showing the nature, kind, shape, heights, materials, exterior colors or finishes, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Homeowners' Association, or by an architectural control committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required, and this Article will be deemed to have been fully complied with. The Homeowners' Association shall have the right to charge a reasonable fee for receiving such application in an amount not to exceed \$25.00. Neither the Board of Directors nor the architectural control committee shall approve any alterations, decorations, or modifications which would jeopardize or impair the soundness, safety, or appearance of any Lot or the Common Area. Provided that nothing herein contained shall be construed to permit interference with the development of the Properties by the Declarant in accordance with its general plan of development.

ARTICLE VII

GENERAL MAINTENANCE

Section 1. Association's Responsibility. The Homeowner's Association shall be responsible for improving, maintaining, repairing, cleaning and operating the Common Area including applicable parking areas, recreational facilities, utilities and other property owned by the Homeowners' Association for the benefit of its Members. It may care for vacant and untended land, if any, within the subdivision, removing grass and weeds therefrom and doing any other thing necessary or desirable in the opinion of the Board of Directors of the Homeowners' Association for the general benefit of its Members. To carry out these responsibilities the Homeowners' Association may hire such persons and pay such expenses and costs as it deems necessary and desirable.

Section 2. Easement. The agents or employees of the Homeowners' Association are authorized to enter upon any Lot or

property in the subdivision at reasonable times, without damage to the Lots or property, for the purpose of carrying out any of its responsibilities.

Section 3. Owners' Responsibilities. Owners of Lots shall be responsible for providing exterior maintenance upon their residences, including staining and/or painting of the exterior of their residence, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, decks, and all other exterior improvements. The owner shall also maintain all enclosed portions of his Lot including fences, trees, shrubs, flowers, grass and other improvements in the fenced, walled or enclosed portions.

Section 4. Rights of Homeowners' Association. If, in the opinion of a majority of the Board of Directors of the Homeowners' Association any Owner fails to properly maintain his residence or yard in a neat and orderly manner, or any part thereof, the Homeowners' Association shall have the right but not the duty to perform maintenance that the Board of Directors deems necessary and the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject.

ARTICLE VIII

USE RESTRICTIONS

Section 1. Land Use and Building Type. All Lots shall be known and described as residential lots and shall be used for residential purposes only. No 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 and a private garage or carport for not more than three (3) cars and other accessory buildings and structures incidental to the residential use of the Lots.

Section 2. Building Setback Lines. No building, fence, or wall shall be erected on any Lot nearer to any front street right-of-way or side street right-of-way line than minimum building setback lines shown on the recorded plat. No building shall be located nearer than ten (10) feet to an interior side lot line except that any garage, carport, or other accessory building and structure incidental to the residential use of the Lots which are erected to the rear of the main residential structure, may be erected as close as five (5) feet to any interior side lot line other than a side street right-of-way line. For purposes of determining compliance or noncompliance with the foregoing building line requirements, porches, terraces, eaves, wing-walls, and steps extended beyond the outside wall of a structure shall not be considered as part of the structure; provided, however, that this provision shall not be construed to authorize or permit encroachment of any structure upon any easement shown on the recorded plat or reserved herein or upon any other Lot.

Section 3. Unintentional Violation. In the event of the unintentional violation of any building setback line requirements as set forth above, the Homeowners' Association shall have the right, by and with the written consent of the Owner or Owners for the time being of such Lot, to change the building setback line requirements set forth in this instrument; provided, however, that no such change shall exceed ten percent (10%) of the marginal requirements of such building setback line requirements.

Section 4. Lot Area and Width. No residential structure shall be erected or placed on any Lot having an area or a width at the front building setback line of less than that required by applicable zoning ordinances.

Section 5. Temporary Structures and Off-Street Parking. No tent, shack, trailer, bus, camper or motor home or temporary structure of any kind shall be erected, kept, had or allowed at any time on any Lot or parked on the street or road adjacent thereto; provided, however, that a camper or motor home may be parked in an enclosed garage where such recreational vehicle is not visible from the street, or adjoining homes, and also provided such garage meets all requirements for buildings and improvements contained in these restrictions. All garage doors shall remain closed except for ingress and egress.

Section 6. Dwelling Size. The finished and unfinished living area of any dwelling constructed on any Lot, exclusive of garages, carports, and porches, shall not be less than 1100 square feet.

Section 7. Nuisances. No noxious, offensive or illegal activity shall be carried on upon any Lot nor shall anything be done on any Lot which may be or may become an annoyance or nuisance to the neighborhood. No Lot shall be used, in whole or in part, for storage of rubbish of any character whatsoever; nor shall any substance, thing or material be kept upon any Lot which will emit foul or noxious odors, or that will cause any noise that will or might disturb the peace and quiet of the occupants of surrounding property. No trash, rubbish, stored materials, wrecked or inoperable vehicles or similar unsightly items shall be allowed to remain on any Lot outside an enclosed structure. However, the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish and other debris for pickup by garbage and trash removal service units. The provisions of this paragraph shall not apply to Lots upon which houses are under construction.

Section 8. Animals. No animals, livestock, or poultry of any kind shall be kept or maintained on any Lot or in any dwelling except that dogs, cats, or other household pets may be kept or maintained, provided they are not kept or maintained for commercial purposes.

Section 9. Recutting Lots. No Lot shall be recut so as to face in any direction other than as is shown on the recorded plat nor shall it be recut so as to make any building site smaller than is provided for herein. This provision is not intended to prevent cutting off a small portion or portions of any Lot for the purpose of conveying the same to an adjoining property owner or straightening a boundary line. However, the remaining portion of the Lot must not violate the minimum size requirements of any zoning regulations.

Section 10. Attractive Premises. Garbage containers, trash cans, wood piles, dog houses, pet yards or cages, and clothes drying areas must be so located that they will not be visible from the front street. The yards of each Lot shall be maintained so as to be neat and clean at all times.

Section 11. Use of Common Area. The Common Area shall not be used in any manner except as shall be approved or specifically permitted by the Homeowners' Association.

Section 12. Access to Lot. The Homeowners' Association, its agents or employees shall have access to all Lots from time to time during reasonable working hours, upon oral or written notice to the Owner, as may be necessary for the maintenance, repair, or replacement of any portion of the Common Area. The Association or its agent shall also have access to each Lot at all times without notice as may be necessary to make emergency repairs to prevent damage to the Common Area.

Section 13. Fencing. Any fencing placed upon any Lot shall be constructed of wood and shall be no more than five (5) feet in height.

Section 14. Satellite Dishes or Antennas. No radio or television transmission or reception towers, antennas, or discs shall be erected on a Lot other than customary antenna which shall not extend more than ten (10) feet above the top roof line ridge of the house. In no event shall free-standing transmission or receiving towers or discs or dishes be permitted.

Section 15. Signs. No sign of any kind shall be displayed to the public view on any Lot except one (1) professional sign of not more than one (1) square foot, and one (1) sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during construction and sales period. During the initial period of construction on the vacant Lots, no sign shall be placed on any Lot unless the style and design thereof shall have been approved in writing by the Developer, its successors or assigns.

Section 16. Regulations. Reasonable regulations governing the use of the Common Area may be made and amended from time to

time by the Board of Directors of the Homeowners' Association; provided, however, that all such regulations and amendments thereto shall be approved by a majority vote of the Owners before the same shall become effective. Copies of such regulations and amendments thereto shall be furnished to each Member by the Homeowners' Association upon request.

ARTICLE IX

EASEMENTS

Easements for the installation and maintenance of driveway, walkway, parking area, water line, gas line, telephone, electric power line, sanitary sewer and storm drainage facilities and for other utility installations are reserved as shown on the recorded plat and over the rear ten (10) feet and each side five (5) feet of each Lot. The Homeowners' Association may reserve and grant easements for the installation and maintenance of sewerage, utility, and drainage facilities over the Properties as provided in Article IV, Section 1(a) of this instrument. Within any such easement above provided for, no structure, planting, or other material shall be placed or permitted to remain which may interfere with the installation of sewerage disposal facilities and utilities, or which may change the direction of flow or drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements. In addition, the Homeowners' Association shall have the continuing right and easement to maintain all sewer and water lines located on the Lots. The easement area of each Lot shall be maintained continuously by the Owner thereof, except where a public authority or utility company is responsible for such maintenance.

Declarant, its successors and assigns, hereby reserves and shall have temporary easements for itself, its agents and employees over all Common Areas for the purpose of constructing improvements thereon, and completing development of the properties.

ARTICLE X

INSURANCE

Section 1. Authority to Purchase Insurance. Insurance policies upon the Common Area (except title insurance) shall be purchased by the Homeowners' Association in the name of the Board of Directors of the Homeowners' Association, and if the companies writing such policies will agree, the policies shall provide that the insurer waives its rights of subrogation as to claims against Homeowners' Association, and their respective servants, agents, and guests.

Section 2. Insurance Coverage to be Maintained - Use and Distribution of Insurance Proceeds.

(a) The following insurance coverage shall be maintained in full force and effect by the Homeowners' Association covering the operation and management of the Common Area:

(1) Casualty insurance covering the buildings and all improvements upon the Common Area and all personal property located thereon except such personal property as may be owned by others, shall be procured in an amount equal to 100% of the insurance replacement value thereof (exclusive of excavation, foundations, streets and parking facilities) with a replacement cost endorsement as determined annually. If coverage is provided by an insurance policy in which there is a co-insurance clause applying, every effort will be made to obtain an agreed amount endorsement or its equivalent. Such coverage shall afford protection against: (a) loss or damage by fire or other hazards covered by the standard extended coverage endorsement; (b) such other risks as from time to time customarily shall be covered with respect to buildings similar in construction, location, and use, including vandalism and malicious mischief.

(2) Bodily Injury Liability and Property Damage Liability insurance in such amounts and in such forms as shall be required by the Homeowners' Association, covering all premises and operations necessary or incidental to the conduct of the business of the Homeowners' Association, including hired automobile and non-owned automobile bodily injury and property damage liability coverages.

(3) All liability policies shall contain a severability of interest (cross-liability) endorsement. The insurance afforded under the liability section of the policy applies separately to each insurance against whom claim is made or suit is brought, except with respect to this company's limit of liability.

(4) Fidelity coverage protecting against dishonest acts by Association officers, directors, trustees, and employees and all others who are responsible for handling funds of the Association in the amount of one year's operating budget and projected reserve balances during the budget year. If professional management is obtained by the Association and it has this coverage and it handles the funds, then this requirement will be satisfied.

(b) Premiums upon insurance policies purchased by the Homeowners' Association shall be paid by the Homeowners' Association as common expenses to be assessed and collected from all of the Owners.

(c) All insurance policies purchased by the Homeowners' Association shall be for the benefit of the Homeowners' Association, and shall provide that all proceeds payable as a result of casualty losses shall be paid to the Homeowners' Association. Proceeds payable on account of damage to the Common Area shall be held by the Homeowners' Association to repair or rebuild the Common Area. If the property is not rebuilt, then the funds shall be held by the Homeowners' Association and applied to its general expenses.

(d) Immediately after the casualty causing damage to property, the Homeowners' Association shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board deems appropriate.

(e) Any such reconstruction or repair shall be substantially in accordance with the original plans and specifications.

(f) Each Owner, at his expense, shall keep in force fire and extended coverage insurance insuring his residence against loss for a reasonable amount of insurance.

(g) In the event of a hazard loss, each Owner shall repair or rebuild his residence, if advisable. The reconstructed or repaired residence shall be substantially identical to the destroyed residence, unless a change shall be approved by the Homeowners' Association, and shall be constructed in conformity with plans submitted to and approved by the Homeowners' Association prior to construction. In the event a dwelling is damaged or destroyed, and the owner does not begin repair or reconstruction within thirty (30) days following the damage or destruction, he shall remove or cause to be removed, at his expense, all debris from the lot, so that it shall be placed in a neat, clean and safe condition; and if he fails to do so, the Homeowners' Association may cause the debris to be removed, and the cost of removal shall constitute a lien upon the Lot until paid by the Owner.

(h) Each Owner, at his expense, shall keep in force comprehensive personal liability insurance covering liability for damages to person or property of others located within such Owner's Lot in such amounts as the Board of Directors shall, from time to time, determine, but in no case less than \$100,000.00 for each occurrence. Each Owner, at his expense, may obtain such additional insurance coverage on his Lot, personal property, and personal liability and any additional insurance shall contain waive of subrogation clause.

ARTICLE XI

FINANCING PROVISIONS

Section 1. Approval of Owners and Holders of First Deeds of Trust. Unless at least seventy-five (75%) percent of the Owners and holders of first deeds of trust on Lots located within the Properties have given their prior written approval, the Homeowners' Association shall not:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer any real estate or improvements thereon which are owned, directly or indirectly, by the Homeowners' Association. The granting of easements for utilities or other purposes shall not be deemed a transfer within the meaning of this clause.

(b) change the method of determining the obligations, assessments, dues, or other charges which may be levied against a Lot Owner.

(c) by act or omission change, waive, or abandon any plan of regulation, or enforcement thereof, pertaining to the architectural design of residences located on Lots.

(d) fail to maintain fire and extended coverage insurance on improvements in the Common Area on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value.

(e) use the proceeds of any hazard insurance policy covering losses to any part of the Common Area for other than the repair, replacement, or reconstruction of the damaged improvements.

Section 2. Books and Records. Any Owner and holder of a first deed of trust on any Lot will have the right to examine the books and records of the Homeowners' Association during any reasonable business hours.

Section 3. Payment of Taxes and Insurance Premiums. The Owners and holders of first deeds of trust on Lots may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge or lien against any of the Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage upon the lapse of a policy for property owned by the Homeowners' Association and the persons, firms, or corporations making such payments shall be owed immediate reimbursement therefor from the Association.

ARTICLE XII

GENERAL PROVISIONS

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

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

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

Section 4. FHA/VA Approval. In the event the Declarant has arranged for and provided purchasers of Lots with FHA/VA insured mortgage loans, then as long as any Class B Lot exists, as provided in Article III hereof, the following action will require the prior approval of the Federal Housing Administrator or the Veterans Administration: Annexation of additional properties, other than as provided in Article II, Section 2, hereof, and amendment of this Declaration of Covenants, Conditions, and Restrictions.