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FORSYTH CO, NC FEE \$26.00

PRESENTED &amp; RECORDED:

04-15-2015 03:27:46 PM

C. NORMAN HOLLEMAN

REGISTER OF DEEDS

BY: S L POINDEXTER

DPT

BK: RE 3225

PG: 2984-2985

Prepared by/return to: Brant Godfrey (Box 90)

STATE OF NORTH CAROLINA )  
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 COUNTY OF FORSYTH )

**REVISED**  
**FIRST AMENDMENT TO**  
**DECLARATION OF COVENANTS,**  
**CONDITIONS AND RESTRICTIONS**  
**FOR THE ESTATES AT LISSARA**  
**(Book 2959, Page 1927)**

**THIS FIRST AMENDMENT** to Declaration of Covenants, Conditions and Restrictions for The Estates at Lissara (this "Amendment") made this 11 day of March, 2015, by WESTVIEW DEVELOPMENT COMPANY (the "Declarant"):

**RECITALS:**

**WHEREAS**, Declarant executed and recorded that certain Declaration of Covenants, Conditions and Restrictions for The Estates at Lissara recorded in Book 2959 at Pages 1927-1945, Forsyth County Registry (The "Declaration") with respect to certain real property collectively referred to as The Estates at Lissara, and being described more specifically in Article II of the Declaration; and

**WHEREAS**, Declarant is desirous of transferring all Declarant's rights under the provisions of the Declaration, and by executing this document the date hereinbelow, does hereby transfer all Declarant rights to Estates at Lissara, LLC., a North Carolina Limited Liability Company.

**NOW THEREFORE**, in consideration of good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Declarant Westview Development Company amends the Declaration as follows:

1. All references in the Declaration to Declarant shall mean Estates at Lissara, LLC, until such time as Estates at Lissara, LLC, assigns its rights as Declarant or the Declarant rights expire or terminate per the terms of the Declaration.
2. Transferee of Declarant rights herein, Estates at Lissara, LLC, joins in the execution of this document for the purpose of acknowledging and agreeing to this Amendment and transfer of Declarant rights.

3. Except as expressly set forth in this Amendment, the Declaration shall remain in full force and effect and unaffected hereby.

IN WITNESS WHEREOF, the Declarant and Estates at Lissara, LLC, have executed this Amendment the day and year first written above.

**WESTVIEW DEVELOPMENT COMPANY,**  
Declarant

**ESTATES AT LISSARA, LLC**  
By HUBCO, LLC, Its Manager

By: *Brant H. Godfrey*  
Brant H. Godfrey, Its President

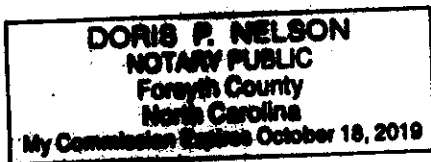
By: *Bruce R. Hubbard* (SEAL)  
Bruce R. Hubbard, Manager

NORTH CAROLINA - FORSYTH COUNTY

I certify that the following person personally appeared before me this day, that I have personal knowledge (or have received satisfactory evidence) of the identity of said person, and that he acknowledged to me that he signed the foregoing document: Brant H. Godfrey, President, WESTVIEW DEVELOPMENT COMPANY, Declarant

Date: March 11, 2015.

[Stamp or Seal]



*Doris P. Nelson*  
Signature of Notary

Doris P. Nelson  
Typed or Printed Name of Notary

My Commission expires: 10/18/19.

NORTH CAROLINA - FORSYTH COUNTY

I certify that the following person personally appeared before me this day, that I have personal knowledge (or have received satisfactory evidence) of the identity of said person, and that he acknowledged to me that he signed the foregoing document: Bruce R. Hubbard, Manager, HUBCO, LLC, Manager, Estates at Lissara, LLC

Date: March 11, 2015

[Stamp or Seal]



*Angela Miles*  
Signature of Notary

ANGELA MILES  
Typed or Printed Name of Notary

My Commission expires: 11-26-2017



2010030729 00045

FORSYTH CO, NC FEE \$68.00  
PRESENTED & RECORDED:

08-17-2010 10:25:00 AM

C. NORMAN HOLLEMAN

REGISTER OF DEEDS

BY: PATSY RUTH DAVIS

DPT

BK: RE 2959

PG: 1927-1945

STATE OF NORTH CAROLINA )  
 )  
COUNTY OF FORSYTH )

**DECLARATION OF COVENANTS  
CONDITIONS AND RESTRICTIONS FOR  
THE ESTATES AT LISSARA**

*Goodfrey*  
*Box 90*

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made and published this 16 day of AUGUST, 2010, by and between WESTVIEW DEVELOPMENT COMPANY, a North Carolina Corporation, having its principal place of business in Forsyth County, North Carolina (hereinafter called "Declarant"), and any and all persons, firms or corporations hereafter acquiring any of the within described property.

**WITNESSETH:**

**WHEREAS**, Declarant is the owner of certain real property as described in Book 2722, Pages 2281 and 2282, and Book 2722, Pages 2283 through 2300, and Book 2959, Page 1914, all in Forsyth County Registry. The Declarant will subdivide a portion of the said property into lots for a subdivision known as The Estates at Lissara (hereinafter called The Estates) to be recorded by metes and bounds descriptions or by plat in the Forsyth County Registry. Declarant intends to form a homeowners association to maintain certain amenities, which may include, but Declarant is not required to include, private streets, an entranceway, decorative street lighting, walking trails and such other common areas and amenities of the subdivision as the Declarant or the homeowners association may provide for the general welfare and recreation of the owners; and

**WHEREAS**, it is in the best interest of the Declarant, as well as to the benefit, interest and advantage of each and every person or other entity hereafter acquiring any of the said lots, that certain covenants, conditions, easements, assessments, liens and restrictions governing and regulating the use and occupancy of the same be established, fixed and set forth and declared to be covenants running with the land; and

**WHEREAS**, Declarant desires to provide for the preservation of values and amenities, and the desirability and attractiveness of the real property in the development; and for the continued maintenance and operation of private streets, the entranceway, decorative street lighting, walking trails and other common areas as may be provided therein;

**NOW, THEREFORE**, in consideration of the premises, the Declarant agrees with any and all persons, firms, corporations or other entities hereafter acquiring any lots within the property, which is a part of the development, that the same shall be and is hereby subject to the following restrictions, covenants, conditions,

easements, assessments and liens (all hereinafter collectively referred to as "Restrictions") relating to the use and occupancy thereof, said Restrictions to be construed as covenants running with the land which shall be binding on all parties having or acquiring any right, title or interest in the said property or any part thereof, and which shall inure to the benefit of each owner thereof. Every person or other party hereafter acquiring any of the said property made subject to this Declaration, by acceptance of a deed or contract for deed or other conveyance of any interest in or to said property, whether or not it shall be so expressed in any such deed, contract for deed or other conveyance, and regardless of whether the same shall be signed by such person and whether or not such person shall otherwise consent in writing, shall take such property interest subject to this Declaration and to the terms and conditions hereof and shall be deemed to have assented to same.

## **ARTICLE I - Definitions**

The following words when used in this Declaration or any supplemental declaration hereto (unless the context shall prohibit) shall have the following meaning:

Section 1. "Amenities" shall mean the facilities constructed, erected, installed or set aside on the Common Area for the use, benefit and enjoyment of members.

Section 2. "Association" shall mean and refer to The Estates at Lissara HOA, Inc., a nonprofit corporation organized and existing under the laws of the State of North Carolina, its successors and assigns.

Section 3. "Committee" shall mean and refer to the Architectural Committee.

Section 4. "Common Area(s)" shall mean and refer to any and all real property subject to this Declaration which is defined and bounded by properly referenced and recorded plat(s) designated thereon as "Common Areas(s) or "Open Space." Common Area(s) shall include all real property and easement interests owned by the Association for the common use and enjoyment of all members or designated classes of members of the Association, which may include, but is not limited to, private streets, entranceway, and walking trails. (It is understood that this list of possible amenities is only for descriptive purposes and the Declarant is not obligated to construct any of said amenities.)

Section 5. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions applicable to The Estates and which is recorded in the Forsyth County Registry.

Section 6. "Declarant" shall mean and refer to WESTVIEW DEVELOPMENT COMPANY, a North Carolina Corporation, its successors and assigns.

Section 7. "Lot" or "Lots" shall mean and refer to any plot of land within The Estates, whether or not improvements are constructed thereon, which constitutes or will constitute, after the construction of improvements, a single dwelling site as delineated by a metes and bounds description or by plat within The Estates recorded in the Forsyth County Registry. "Lot" shall also mean other single dwelling sites as may hereafter be annexed and brought within the jurisdiction of the Association.

Section 8. "Member" shall mean and refer to any person or other entity who holds membership in the Association.

Section 9. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee interest in any Lot in the development, excluding however, those parties having such interest merely as a security interest for the performance of an obligation.

Section 10. "Person" shall mean and refer to a natural person, as well as a corporation, partnership, firm, association, limited liability company, trust or other legal entity. The use of the masculine pronoun shall include the neuter and feminine, and the use of the singular shall include the plural where the context so requires.

Section 11. "Property" shall mean that property described in the deeds to WESTVIEW DEVELOPMENT COMPANY, as recorded in Book 2722, Pages 2281 and 2282; Book 2722, Pages 2283 to 2300; and Book 2959, Pages 1914 - 1916, inclusive, all in Forsyth County Registry.

## **ARTICLE II - Properties Subject to This Declaration**

The property which is, and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration is located in Lewisville Township, Forsyth County, North Carolina, and is more particularly described as The Estates at Lissara Subdivision as bounded by the recorded deeds referenced hereinabove. Declarant reserves the right to subject other real property to the Restrictions set forth here as provided below.

Without further assent or permit, Declarant hereby reserves the right, exercisable from time to time, to subject other real property to the Restrictions set forth herein, in order to extend the scheme of this Declaration to other property to be developed and thereby to bring such additional properties within the jurisdiction of the Association. Additional property outside the boundaries of the Property may be annexed by Declarant so long as the annexation occurs within twenty (20) years of the date of incorporation of the Association.

The additions herein authorized shall be made by the filing of record of one or more supplementary declarations in respect to the properties to be then subject to this Declaration and which shall extend the jurisdiction of the Association to such property and thereby subject such addition to assessment for its just share of the Association's expense. Any such supplemental declaration or any such other declaration shall not revoke or otherwise amend the provisions of this Declaration as this Declaration pertains to the properties subject hereto and any such supplemental declaration shall be substantially similar in form and content to this Declaration.

Without further assent or permit, Declarant hereby reserves the right, exercisable from time to time, for the filing of record of one or more supplementary declarations as to additional requirements for Lots, including square footage, materials, etc. Any such supplemental declaration or any such other declaration shall not revoke any privileges previously granted in writing to any existing Lot owner for a previously existing condition.

## **ARTICLE III - Association Membership and Voting Rights**

### Section 1. Membership.

(a) Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject to this Declaration shall be a member of the Association, subject to and bound by the Association's Articles of Incorporation, Bylaws, Rules and Regulations. The foregoing is not intended to include persons or entities who hold an interest in any Lot merely as security for the performance of an obligation. Ownership of record of such Lot shall be the sole qualification for membership unless otherwise designated in the Bylaws of the Association. When any Lot is owned of record in tenancy by the entireties, joint tenancy, or tenancy in common or by some other legal form of multiple ownership, the membership (including the voting power arising therefrom) shall be exercised only as stipulated in Section 2 herein below.

(b) During any period in which a member shall be in default in the payment of any annual, special or other periodic assessments levied by the Association, the voting rights and right to the use of the

Common Areas or any other facilities which the Association may provide may be suspended by the Board of Directors of the Association until such assessment is paid. In the event of violation by a member of any rules or regulations established by the Board of Directors of the Association, such member's voting and use rights may be suspended by the Board of Directors of the Association after a hearing at which the general requirements of due process shall be observed. Such hearing shall only be held by the Board of Directors of the Association (or committee thereof) after giving the member ten (10) days prior written notice specifying each alleged violation and setting the time, place and date of the hearing. Determination of violation shall be made by a majority vote of the Board of Directors of the Association or a committee thereof.

(c) No membership fee shall be charged, nor shall Members be required to pay at any time any amount to carry on the business of the Association except to pay when due the charges, assessments and special assessments levied upon each Member's Lot as specified in the Declaration or as the Members of the Association may from time to time hereafter adopt.

## Section 2. Voting and Voting Rights.

(a) The voting rights of the membership shall be appurtenant to the ownership of Lots. The ownership of each Lot by a person other than Declarant shall entitle its owner to one vote. The Association shall have two classes of voting membership:

(1) Class A. Class A members shall be all Owners, other than Declarant; however, Declarant shall be a Class A member to the extent provided in (2) hereinafter. Class A Members shall be entitled to one vote for each Lot owned.

(2) Class B. The Class B member shall be the Declarant. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (i) At such time as the Declarant shall release its rights under the Period of Declarant Control; or
- (ii) On June 30, 2017; or
- (iii) According to the termination process, if any, set out in the Homeowners By-Laws or Charter.

**Notwithstanding anything in this Section 2 to the contrary, the Declarant shall retain all voting rights for all lots in the Association for a period of 7 years from the date of closing of the first sale of a Lot in The Estates to a third-party owner (hereinafter, the "Period of Declarant Control"), unless earlier released. It is the intent of this paragraph that the Declarant will retain the voting rights for all Lots in the Association during the Period of Declarant Control in all Association matters and shall retain all other management responsibilities including, but not limited to, electing Directors and appointing or populating any committees of the Association.**

(b) When two or more persons hold an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised by one of such persons as proxy and nominee for all persons holding an interest in a Lot and in no event shall more than one (1) vote

be cast with respect to any Lot (except with respect to Lots owned by Declarant), nor shall any fractional vote be cast.

(c) Any member who is delinquent in the payment of any charges duly levied by the Association against a Lot owned by such Member shall not be entitled to vote until all such charges, together with such reasonable penalties as the Board of Directors of the Association may impose, have been paid.

(d) Members shall vote in person or by proxy executed in writing by the member. No proxy shall be valid after eleven (11) months from the date of its execution or upon conveyance by the Member of his Lot. A corporate Member's vote shall be cast by the President of the member corporation or by any other officer or proxy appointed by the President or designated by the Board of Directors of such corporation, which designation must, if requested by the association, be in writing.

(e) Voting on all matters except the election of directors shall be by voice or by show of hands unless a majority of the Members present at the meeting shall, prior to voting on any matter, demand a ballot vote on that particular matter. Where directors or officers are to be elected by the members, the solicitation of proxies for such elections may be conducted by mail.

#### **ARTICLE IV - Common Area Property Rights**

**Section 1. Use of Common Area.** Every Owner (by virtue of membership in the Association) shall have a nonexclusive right and easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title for every Lot subject to the provisions of this Declaration, the Charter and the Bylaws of the Association, and the encumbrances referred to in Section 3 hereof, and the following:

(a) The right of the Association to limit the use of the Common Areas to Owners, their families and guests.

(b) The right of the Association to suspend the voting and enjoyment rights of an Owner for any period during which any assessment against his Lot remains unpaid, or for any infraction of the Association's published rules and regulations.

(c) The right of the Association to mortgage, to dedicate or to transfer any part of the Common Areas to any public agency, authority, utility or other entity for such purposes and subject to such conditions as may be agreed to by the Members of this Association as applicable in accordance with the terms and provisions of this Declaration. No such mortgage, dedication or transfer shall be effective unless approved by Members entitled to cast eighty percent (80%) of the votes of the Class A membership and eighty percent (80%) of the votes of the Class B membership, if any, and unless written notice of the proposed action is sent to every Member not less than thirty (30) days nor more than sixty (60) days in advance of the vote. The instrument effecting such dedication, transfer or conveyance shall be sufficient if it is executed by appropriate officers of the Association and contains a recital of the approval of the Members.

(d) The right of the Association to formulate, publish and enforce rules and regulations as provided in Article VII, and to formulate, publish and enforce rules and regulations governing the use and activities permitted on, around recreational amenities located on or designated as Common Area.

**Section 2. Delegation of Use.** The right and easement of enjoyment granted to every Owner in Section 1 of this Article may be exercised by members of the Owner's family who occupy the residence and an Owner may

delegate his rights of enjoyment in the Common Areas to his tenants or contract purchasers who occupy the residence of the Owner within the Property.

**Section 3. Title to the Common Areas.** The Declarant hereby covenants that it will convey fee simple title to the Common Areas shown on the aforementioned recorded plat to the Association, free and clear of all encumbrances and liens, except utility, and drainage easements and easements to governmental authorities. Similarly, Declarant will convey to the Association Common Areas which are parts of this development as those portions are annexed in the future.

## **ARTICLE V - Covenants for Maintenance Assessments**

**Section 1. Annual Assessment of Maintenance Fund.** For each Lot owned within The Estates at Lissara, the Owner covenants and agrees, and each subsequent Owner of any such Lot covenants and agrees, that by acceptance of a deed therefore, whether or not it is so expressed in such deed, they will pay to the Association the assessments and charges provided for in this Declaration.

(a) Annual assessments or charges in the amount hereinafter set forth.

(b) Special assessments as approved by the Association to be established and collected as hereinafter provided.

The annual assessment provided for herein for the Association shall be payable in advance on an annual basis by every Owner of each Lot, unless the Association decides by a majority vote to have the assessment payable monthly or quarterly. The annual assessment shall be due on January 1 of each year except for the first year of ownership by an Owner. At the closing of the purchase of a Lot by an Owner, the assessment shall begin to accrue and the Owner shall pay to the Association the Owner's pro rata share of the annual assessment for the remainder of the year.

**Section 2. Purpose of Assessments.** The assessments levied by the Association shall be used to provide funds for such purposes and common expenses as are for the benefit of the Owners of Lots within the areas overseen and administered by the Association which purposes may include maintenance, replacement, repair, insurance, landscaping and beautification of the Common Areas, which shall specifically include the installation, repair, maintenance, replacement and payment of electric bills for decorative street lighting whether or not such lighting is installed in the Common Area. Funds may also be used to provide other services to promote the health, safety and welfare of the residents of the community and in particular for the acquisition, improvement and maintenance of the properties, services and facilities related to the use and enjoyment of the Common Areas, 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 all Common Areas; the procurement and maintenance of insurance; the employment of attorneys, accountants and other professionals to represent the Association when necessary or useful; the employment of security personnel to provide any service which is not readily available from any governmental authority; the maintenance, replacement and/or repair of private sewer lines, tanks, pumps etc. installed (or necessary to be installed) within private street rights-of-way, private drainage easements, and extending to the exterior wall of each residence; the maintenance, replacement and/or repair of private drainage facilities installed (or necessary to be installed) within private street rights-of-way and private drainage easements; Association management in general; and such other needs as may arise. Any additional uses and purposes for assessments may be adopted by an amendment to this Declaration, as provided in Article X herein.



Section 3. Creation of the Lien and Personal Obligation of Assessment. In accordance with the terms and provisions hereof, and in order to secure payment at and after the due date, as each assessment becomes due, there shall arise a continuing lien and charge against each Lot, the amount of which shall include costs and reasonable attorneys' fees to the extent permissible by law. Each such assessment, together with such interest, cost and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due.

Section 4. Exempt Property. The assessments, charges and liens created under this Article V shall not apply to the Common Areas, nor shall they apply to any Lot the title to which is vested either in any first mortgagee subsequent to foreclosure or in the Secretary of Housing and Urban Development or the Administrator of Veterans' Affairs or any other state or federal governmental agency which acquires title by reason of such agency's guarantee or insurance of a foreclosed mortgage loan; provided, however, that upon the resale of such Lot by such first mortgagee or such governmental agency, the assessment herein provided shall again commence and accrue and shall be fully applicable to such Lot upon the conveyance to any subsequent Owner. Any Lot which Declarant may hereafter designate for common use as part of the Common Areas or otherwise shall be exempt from the assessments and charges created herein. In addition, other than land and improvements devoted to dwelling use, all property dedicated to and accepted by a local public authority and all properties owned by a charitable or nonprofit organization exempt from taxation under the laws of the State of North Carolina shall be exempt from the assessments, charges and liens created hereby.

Section 5. Annual Maintenance Assessments and Maximums.

(a) The annual maintenance assessment imposed by the Association shall be set each year by the Association as set forth herein.

(b) In establishing the annual assessment for any year, the Board of Directors shall consider all current costs and expenses of the Association, any accrued debts, and reserves for future needs.

(c) Notwithstanding anything in this Article V to the contrary, Declarant shall at no time be required to pay any dues or assessments.

(d) Until December 31 of the year of conveyance of the first Lot to an Owner, the maximum annual assessment shall be **One Thousand Seven Hundred Fifty and No/100 Dollars (\$1,750.00)** per Lot. 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 and may be increased by the Board without approval by the Membership by an amount not to exceed ten percent (10%) of the maximum annual assessment of the previous year.

(e) Notwithstanding anything else set out in this Article V, so long as Declarant is still in its Control Period, any deficiencies or shortfalls in the maintenance and operation budget for the common elements and amenities shall be the responsibility of the Declarant.

Section 6. Special Assessments.

In addition to the annual assessment imposed by the Association set forth above, the Association may levy, in any assessment year, a special assessment applicable to that year only. Any such assessment must have the consent of fifty-one percent (51 %) of the votes of all Owners of Lots not owned by the Declarant as cast at a

meeting duly called for this purpose in accordance with the provisions of the By-Laws. Any such Special Assessment passed shall not apply to the Declarant.

Section 7. Date of Commencement of Annual Assessment Due Dates; Certificate of Payment.

(a) The annual assessments provided for herein for the Association shall be payable on January 1 of each year. The assessment shall begin to accrue as to all Lots at the time of closing and conveyance of a Lot to an Owner other than the Declarant. At least thirty (30) days before January 1 of each year, the Board of Directors of the Association shall establish the amount of the annual assessment imposed by the Association against each Lot and in the event the Board of Directors of the Association elects not to fix such assessment rate as herein provided, the amount of the prior year's annual assessment shall be the fixed amount. Written notice of any changed assessment rate shall be sent to every Owner by the Association.

(b) The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments (whether annual or special or imposed by the Association) on a specified Lot have been paid to date.

Section 8. Working Capital Assessments.

In addition to the annual assessments authorized above, at the time of the closing of the sale of any Lot to a purchaser other than Declarant, the purchaser(s) thereof shall pay to the Association an amount of **Two Hundred Fifty and No/100 Dollars (\$250.00)**. Such funds shall be used by the Association to establish a Working Capital Fund, the purpose of which is to help ensure that the Association will have sufficient monies available to meet its initial operational needs, unforeseen expenditures or long-term capital improvements and repairs to the Common Elements. No such payments made into the Working Capital Fund shall be considered advance or current payment of regular assessments. All monies paid into the Working Capital Fund shall be held and administered by the Association in accordance with the terms of the Declaration and the Bylaws.

Notwithstanding anything else set out in this Article V, so long as Declarant is still in its Control Period, any deficiencies or shortfalls in the maintenance and operation budget for the common elements and amenities shall be the responsibility of the Declarant. In order to calculate the amount of deficiencies or shortfalls that Declarant may have to cover for any given budget period, accumulated working capital in the Working Capital Fund may first be used to go against the shortfalls and deficiencies so long as there always remains in the Working Capital Fund an amount equal to \$100.00 per completed and/or occupied home in the subdivision. However, until the Working Capital Fund reaches a total sum of \$2,000.00, none of it can be used to cover shortfalls or deficiencies. In all events, the amount in the Working Capital Fund shall never be reduced to less than \$1,000.00.

Section 9. Effect of Nonpayment of Assessment/Remedies of the Association.

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the maximum legal rate and to the extent allowed by law. The Association, or its agents or representatives, may bring an action at Law against the Owner personally obligated to pay the same or foreclose the lien against the Lot to which the assessment relates, and interest, costs and reasonable attorneys' fees for such action or foreclosure shall be added to the amount of such assessment to the extent allowed by law. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of any of the Common Areas or abandonment of his Lot.

Section 10. Subordination of the Lien to Mortgages. The liens provided for herein shall be subordinate to the lien of any first lien deed of trust (sometimes hereinafter called "mortgage" or "first mortgage" and the holder

thereof being sometimes hereinafter referred to as a "first mortgagee") on any Lot if, but only if, all such assessments with respect to such Lot having a due date on or prior to the date such mortgage is filed of record have been paid. The lien and permanent charge hereby subordinated is only a lien and charge as relates to assessments authorized hereunder having a due date subsequent to the date such mortgage is filed of record and prior to the satisfaction, cancellation or foreclosure of such mortgage or the sale or transfer of the mortgaged property pursuant to any proceeding in lieu of foreclosure or the sale or transfer of the mortgaged property pursuant to a sale under power contained in such mortgage. 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 pursuant to a foreclosure thereof or under a power of sale or any proceeding in lieu of foreclosure thereof shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer, but the Association shall have a lien upon the proceeds from foreclosure or sale, junior only to the said foreclosed first mortgage and the equity of redemption of the mortgagor or trustor. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof, except as provided in Section 4 of this Article V.

Section 11. Collection of Assessments. The Association shall promptly collect all assessments due from Owners pursuant to the terms and provisions hereof.

## **ARTICLE VI - Sewer**

It is anticipated that Declarant, a subsidiary entity, or a third party entity may provide private or quasi-public utilities service, particularly sewer service. Declarant reserves the right to reasonably amend and add to these restrictive covenants so as to provide for utility service including sewer service to the lots in a reasonable manner, provided, however, any subsequent easement shall be subordinate to the first lien as provided by a lending institution for the purpose of purchasing or otherwise refinancing the purchase of any lot or any improvements to said lot.

All sewage treatment equipment including any sewage treatment plant, pipes, manholes, or other sewer lines and all sewage treatment and removal equipment lying within a private street right-of-way or private utilities easement shall remain personalty and title shall not pass with the land nor shall title pass with the dedication of any streets, roads or other public utility easements unless title to said items are specifically described in the document purporting to transfer title. That is to say that, all sewage treatment equipment, pipes, lines, manholes, or other sewage treatment, transfer, and removal lines lying within a private street right-of-way or private utilities easement shall not become fixtures and title shall not flow with the title to the land, but rather shall remain the personal property of the Declarant. Declarant may transfer title to said equipment by any document specifically describing the equipment to third parties at its discretion.

Any such equipment, pumps, tanks, pipes, lines, or other sewage treatment, transfer and removal lines lying within the boundaries of an individual residential lot shall be the property of the Owner thereof; however, after providing for the initial installation of same from the street, the Owner's responsibility for maintenance, repair, and replacement of same shall be discharged through payment of dues to the homeowner's association. The association shall determine the installer and the maintenance and repair firm, and these providers must be utilized by all Owners.

Declarant, its successors, and assigns, including a third party entity hereafter created for the purpose of providing sewage treatment service, whether it be public, private, or quasi-public entity shall be entitled to charge each lot a reasonable fee subject to any applicable governmental regulations including those promulgated by the North Carolina Utilities Commission and any other applicable state or federal agency, if applicable, for sewage treatment.

## **ARTICLE VII - Architectural Control, Inspection, and Use Restrictions**

Declarant shall have the responsibility of enforcing the restrictions set forth in this Article prior to the formation of the Architectural Committee, which, upon election by the Membership, shall assume and be responsible for enforcement. References in this Article to "Committee" shall mean Declarant until the Committee is appointed and references to Declarant shall include the Committee once it is appointed. The following architectural restrictions shall apply to each and every Lot now or hereafter subject to this Declaration.

### Section 1. Approval of Plans: Architectural Committee.

(a) No site preparation or initial construction, erection, or installation of any improvements including, but not limited to, residences, outbuildings, landscaping, fences, walls, signs, antennas, ditchlines within road rights-of-way, and other structures, shall be undertaken upon the Lots unless the plans and specifications therefore showing the nature, kind, shape, height, materials, and location of the proposed improvements on the Lot including but not limited to, the house, garage, driveway, parking areas, plants, shrubs, trees, and any other permanent structures, shall have been submitted to the Architectural Committee and expressly approved in writing. No subsequent alteration or modification which will result in an exterior structural change to the residence, outbuilding, or significant changes to the landscaping may be undertaken on any of the Lots without the prior review and express written approval of the Architectural Committee.

(b) In the event that either Committee fails to approve or disapprove the site or design of any proposed improvements within sixty (60) days after plans and specifications therefore have been submitted and received, express approval will not be required, and the requirements of this Article will be deemed to have been fully met; provided, that the plans and specifications required to be submitted shall not be deemed to have been received by the Committee if they contain erroneous data or fail to present adequate information upon which the Committee can arrive at a decision.

(c) The Committee shall have the right, at its election, to enter upon any of the Lots during site preparation or construction, erection or installation of improvements, to inspect the work being undertaken and to determine that such work is being performed in conformity with the approved plans and specifications and in a good and workmanlike manner, utilizing approved methods and good quality materials.

(d) The approval of any such plans, specifications or other items submitted to the Committee pursuant to this Article VII shall not impose any liability or responsibility on the Committee or the Association with respect to either the compliance or noncompliance of any such plans, specifications or other items (including any improvements or structures erected in accordance therewith) with applicable zoning ordinances, building codes or other governmental or quasi-governmental laws, ordinances, rules and regulations or defects in or arising from such plans, specifications or other items (including, without limitation, defects relating to engineering matters, structural and design matters and the quality or suitability of materials).

(e) Until such time as Declarant divests itself of all Lots within the Property, or until such time as the Declarant notifies the Board of Directors of its desire to have the Association to elect the members of the Committee, Declarant shall appoint from time to time the members of the Committee to consist of not less than two (2) nor more than three (3) members which shall exercise authority to approve plans and other matters set forth in this Article. After Declarant divests itself of all Lots within the Property, or so notifies the Association, members of the Committee shall be elected by a majority of the votes of the Members, cast in person or by proxy, at a meeting duly called for this purpose, but provided that the members of the Committee originally appointed may serve until their successors are so elected.

Section 2. Rules and Regulations. The Board of Directors of the Association shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the Common Areas. Such rules and regulations, along with all policy resolutions and policy actions taken by the Board of Directors, shall be recorded in a Book of Resolutions, which shall be maintained in a place convenient to the Owners and available to them for inspection during normal business hours.

Section 3. Use Restrictions.

(a) All structures must be built to comply substantially with the plans and specifications as approved by the Committee and before any house may be occupied, it must be completely finished and a certificate of completion must have been issued by the local or state authority empowered to do so. Construction shall be diligently and continuously pursued and shall be completed within eighteen (18) months from the date of commencement of construction.

(b) No building shall be erected, altered, placed or permitted to remain on any Lot, other than a detached, single family dwelling. Garages, outbuildings, pool houses, gazebos, horse barns, guest houses, and garden or potting sheds may be approved on a case-by-case basis in the sole discretion of the Architectural Committee.

(c) Building square footages must be approved, in writing, by the Architectural Committee prior to any construction. As provided in Article II, the Declarant may file supplemental declarations as to additional requirements for Lots, including minimum square footages and required materials.

(d) No permanent structures shall be erected having exposed exterior walls of concrete blocks.

(e) The Lots which are subject to this Declaration shall not be subdivided, except that two (2) Lot Owners may subdivide a Lot between them, but only one residence shall be built on the combined original Lot and subdivided portion of any Lot. All current and future dues and assessments will remain payable on any subdivided lot and will be prorated according to ownership interests.

(f) No Lot shall be used as a street or other type of access for any adjoining property.

(g) Setback requirements shall be governed by applicable zoning.

(h) No business, profession, professional clinic or other trade or business activity shall be carried on upon any Lot or in any building erected thereon except a Lot Owner may use one room of the residence as a home office provided there is nothing visible from outside the residence to indicate a room is being used as an office, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. Nothing herein shall prevent the Declarant (or builders approved by Declarant) from constructing or using a residence as a sales model or sales office.

(i) No trailer, recreational vehicle, basement, tent, shack, garage, barn or other outbuilding erected on the Lots shall be used at any time as a residence temporarily or permanently, nor shall any structure of any temporary character be used as a residence, except this restriction shall not apply to a finished room or rooms which are a part of a garage or basement. Camping trailers may be parked on a Lot for storage, but not occupancy, if the camping trailer is owned by the homeowner and screened as required by Subsection (z) below. This restriction shall not apply to construction trailers or vehicles used during the construction of improvements on the Lot.

(j) No property in the subdivision shall be used for the sale of any items, including yard or garage sales, or automobiles, nor shall junk automobiles or other junk, trash or storage items be allowed to accumulate on any Lot of the subdivision.

(k) Declarant reserves an easement for, and the right at any time in the future to grant, rights-of-way for the installation and maintenance of public or private utilities across, on or under any Lot along the front, rear and side property lines, but such rights-of-way must be used so as to interfere as little as possible with the use of the Lot by its Owner. Further, there is reserved on behalf of Declarant, Duke Energy, Windstream, Piedmont Natural Gas, Time Warner, City of Winston-Salem, Forsyth County and their successors and assigns and any other standard utility company which has been approved by the Committee, an easement to enter upon the premises to maintain, repair, or modify existing or future underground facilities, and the Owners, or their successors in title to said Lots, shall in no way interfere with said facilities, or dig up, cut or tamper with said facilities except at their own peril and in violation of the rights of said telephone, power companies, and utility companies. No public utility company or governmental entity or agency shall obtain any right in the easement reserved herein without an express written and recorded grant thereof by Declarant. In the event the Property subject to this Declaration is served by any underground public utility facilities, the service to structures erected thereon shall be connected to the underground facility at the pedestals provided for this purpose.

(l) Decorative fencing of good quality may be erected, but the quality, style and location of said fencing must be approved by the Committee. Fencing to contain horses must be approved by the Committee. Fencing must be maintained in a good state of repair.

(m) No communications or television receiving disc, antenna or similar item may be erected or placed on any Lot, or on any building on any Lot, except a satellite disc less than one (1) meter in diameter, which may not be visible from the street, without express approval of the Committee.

(n) Incinerators for garbage, trash or other refuse shall not be used or permitted to be erected or placed on any Lot. Any and all equipment, coolers, woodpiles, garbage cans, refuse or storage piles placed on a Lot (whether temporary or permanent) shall be screened to conceal same from the view of neighboring lots, roads, streets, or open areas. Plans for all screens, walls and enclosures must be approved by the Committee prior to construction.

(o) No leaves, trash, garbage or other similar debris shall be burned except as permitted by the appropriate governmental authority. No garbage, trash, construction debris or other unsightly or offensive materials shall be placed upon any portion of the Lot, except as is temporary and incidental to the bona fide improvement of any portion of the Lot.

(p) No lumber, brick, stone, cinder block, concrete or other building materials, scaffolding, mechanical devices or any other thing used for building purposes shall be stored on any Lot except for the purpose of construction on such Lot and shall not be stored on any lot for longer than the length of time reasonably necessary for the construction to completion of the improvement in which same is to be used.

(q) No exposed aboveground tanks will be permitted for storage of fuel or water or any other substance.

(r) No outside radio transmission tower or receiving antenna shall be erected by an Owner and no outdoor television antenna may be erected or installed if cable television reception is available to a Lot.

(s) No Owner shall excavate or extract earth from any of the Lots subject to the Declaration for any business or commercial purpose. No elevation changes shall be permitted which materially affect surface grade of surrounding Lots. No elevation changes shall be permitted which materially affect or increase the flow of surface water onto or from surrounding Lots or street rights-of-way.

(t) No outside toilet facility may be constructed or maintained on any Lot except during construction of improvements on any Lot.

(u) Declarant must approve the initial mailbox for each Lot and all future mailboxes must be of the same design, construction and color and in the same location unless the changes in design or location are approved by the Committee.

(v) No sign of any kind whatsoever shall be erected upon or displayed or otherwise exposed to view on any Lot or any improvement thereon outside the unit, except for the Declarant's signs and the initial builder's sign of no more than 9 square feet of surface space for the first time sales and thereafter, customary "for sale" signs, without the prior written consent of the Committee. No subcontractor signs shall be allowed without the prior consent of the Committee.

(w) No house trailer, boat trailer, camper, or other such vehicle or trailer, whether commercial or recreational, shall be permitted on any Lot unless screened from the view of adjoining Lots, streets and Common Areas. It is the intention of this restriction to prevent the parking of any vehicle (other than automobiles, pickup trucks or motorcycles) within the view of other residents or from the street.

(x) All motorized vehicles operating within the Property must have proper mufflers so as to eliminate noise which might be offensive to others. Minibikes and similar two, three, or four-wheeled recreational vehicles are prohibited from being used or operated on or within the Property, unless the prior written consent of the Committee is first secured.

(y) No temporary structure shall be permitted on any Lot unless screened from view of adjoining Lots, streets and Common Areas, provided, however, temporary buildings and other structures shall be permitted during the construction period of the dwellings or as a temporary real estate sales office for the sale of Lots. No garage, outbuilding or other appurtenant structure shall be used for residential purposes, either temporary or permanently, except for a finished room or rooms which are a part of the garage, without the written consent of the Committee.

(z) The use restrictions set forth in this Section 4 listing those items which may not be maintained on a Lot shall not apply to Lots during the period of construction of the dwelling unit upon the Lots. As soon as a dwelling unit has been completed on a Lot, these use restrictions shall immediately apply to the Lot.

**Section 4. Residential Use.** Except for Lots designated as Common Areas or Private Open Space, and unless otherwise designated by Declarant on a recorded plat, each Lot shown on said plat subject to this Declaration shall be used only for private, single-family residential purposes and for no other purpose whatsoever. Subject to Committee approval, guest houses and horse barns may be allowed on lots of sufficient size to accommodate them.

**Section 5. Hobbies and Activities.** The pursuit of hobbies or other inherently dangerous or unsightly activities including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly or unkempt conditions; the shooting of firearms, fireworks or pyrotechnic devices of any type or size; and such other activities shall not be

pursued or undertaken on any part of any Lot or the Common Areas without the consent of Declarant and the Board of Directors of the Association.

**Section 6. Nuisances and Unsightly Materials.** No house or other structure on any Lot shall be used for commercial or business purposes. Each Owner shall refrain from any act or use of his Lot which could reasonably cause embarrassment, discomfort, annoyance or nuisance to the neighborhood. No noxious, offensive or illegal activity shall be carried on upon any Lot. 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, covered 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. In the event any Owner of any Lot fails or refuses to keep such property free from any of the foregoing unsightly items, weeds or underbrush, the Association may, at its option, ten (10) days after posting a notice thereon or mailing a notice to said Owner at his property address requesting Owner to comply with the requirements of this Section, enter and remove all such unsightly items and growth at said Owner's expense, and Owner shall be personally liable to the Association for the costs of removal, and the costs, until paid, shall be a permanent charge and lien upon such Lot enforceable to the same extent and collectible as provided for in Article V, entitled "Covenants for Maintenance Assessments." By acquiring property subject to these restrictions, each and every Owner agrees to pay such costs promptly upon demand by the Association, its agents, assigns, or representatives. No such entry as provided in this Section shall be deemed a trespass. The provisions of this Section shall not apply to Lots upon which houses are under construction.

**Section 7. Governmental Regulations.** Each Owner shall observe all governmental building codes, health regulations, zoning restrictions and other regulations applicable to his Lot. In the event of any conflict between any provision of any such governmental code, regulation or restriction and any provision of this Declaration, the more restrictive provision shall apply.

**Section 8. Other Prohibitions or Requirements.**

- (a) No vent or other pipes or appendages may extend from the front of any residence, unless screened from the public view by a screening material or shrubbery approved by the Committee.
- (b) Any exterior air-conditioning or heating equipment must be screened from public view by a screening material or shrubbery approved by the Committee.
- (c) Downspouts and gutters must be so constructed so as not to promote the erosion of the soil of any Lot.
- (d) Any tennis courts, swimming pools, or other outdoor recreational facilities located on any Lot must be screened from public view by a screening material approved by the Committee; moreover, any outdoor lighting must be shielded so as to cast no direct light upon adjacent Lots.
- (e) The Association reserves the right to impose reasonable rules and regulations that pertain to the treatment of wildlife within the Common Area.

**Section 9. Unintentional Violation of Restrictions, Variances.** In the event of an unintentional or minor violation of any of the foregoing restrictions with respect to any Lot or structures or improvements thereon, the Declarant or its successors and assigns reserves the right, in its sole discretion but with the mutual written consent



of the Owner or Owners of such Lot, to vary, waive, change, amend, or release any of the foregoing restrictions as the same may apply to that particular Lot and its particular circumstances. Variances from the foregoing restrictions may be granted by the Declarant, its successors and assigns, in its sole discretion so long as the results of granting said variance do not adversely affect the surrounding Lots nor negatively affect the overall plan for development. Variances shall be in written form and recorded in the Register of Deeds for all to be made aware of same.

## **ARTICLE VIII - Easements**

**Section 1. Walks, Drives, Parking Areas, and Utilities.** All of the properties, including Lots and Common Areas, shall be subject to such easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines, television antenna lines, and other public utilities as shall be established prior to subjecting the properties to this Declaration by the Declarant or its predecessors in title. The Association shall have the power and authority to grant and to establish in, over, upon, and across the Common Areas conveyed to it such further easements as are requisite for the convenient use and enjoyment of the properties.

**Section 2. Preservation Buffer.** The Declarant has placed on-site and off-site preservation buffers adjacent to streams. Detailed restrictions and use are in effect for these locations in the Common Area and are specified in restrictive covenants in Deed Book 2959, Pages 1904 - 1907, Forsyth County Registry.

**Section 3. Utilities and drainage.** All utility lines of every type including, but not limited to, water, electricity, natural gas, telephone, sewage and television cables, running from the main trunk line or service locations must be underground. The Developer reserves unto itself, its successors and assigns, a perpetual, alienable and releasable easement and right on, across, over and under the ground to erect, maintain, replace and use water, sewer, electric and telephone system, wires, cables, and conduits for the purpose of bringing public services to the Lots and Common Areas, said easement to be within (i) twenty (20) feet of each lot line fronting on a street, (ii) ten (10) feet along the side lines of each lot, (iii) twenty (20) feet along the rear line of each lot, (iv) the rights of way of any street or road shown on any recorded plat(s) of the Property, and (v) such other areas as are shown on any recorded plat(s) of the Property; provided further, that the Declarant or Association may cut, at its own expense, drainways for surface water wherever and whenever such action is required by applicable health and sanitation authorities in order to maintain reasonable standards of health, safety and appearance. In the event of any additions to the Property, as provided in Article II, by the Declarant or others with the consent of the Declarant, the easements created hereby shall exist on the Lots in such additions to the Property. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, take or add any soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation or to maintain reasonable standards of health, safety and appearance.

**Section 4. Emergency.** There is hereby reserved without further assent or permit, a general easement to all policemen and security guards employed by Declarant or the Association, firemen, ambulance personnel and all similar persons to enter upon the Property, or any property or portion thereof which is now or hereafter made subject to this Declaration, in the performance of their respective duties.

## **ARTICLE IX - Insurance**

**Section 1. Fidelity Insurance Coverage.** The Association may provide for fidelity coverage against dishonest acts on the part of the officers, directors, management, contractor, employees or volunteers responsible for handling funds belonging to or administered by the Association at the discretion of the Board of Directors of the Association. The fidelity bond or insurance must name the Association as the named insured and shall be written

in an amount set by the Association. In connection with such coverage, an appropriate endorsement to the policy to cover any person or persons who serve without compensation shall be added if the policy would not otherwise cover volunteers. If requested by an Owner or first mortgagee, such policies shall additionally provide that the policies cannot be canceled by either the insured or the insurance company until after ten (10) days prior written notice to all who have requested such notice.

Section 2. Other Insurance. The Board of Directors of the Association may purchase and maintain in force as a common expense, liability insurance, building replacement or fire insurance, debris removal insurance, plate or other glass insurance, fidelity bonds and other insurance or bonds that it deems necessary. The Board of Directors of the Association shall purchase and maintain workmen's compensation insurance to the extent that the same shall be required by law respecting employees of the Association.

## **ARTICLE X - Rights of Institutional Lenders**

Section 1. Amendments. The prior written approval of each institutional holder of a first deed of trust on Lots will be required for any material amendment to the Declaration or to the Bylaws of the Association which affects the rights of such holders.

Section 2. Professional Management. Declarant reserves the right to select professional management of the Association for the period during which Declarant maintains voting control of the Association. Declarant is not required to engage professional management, but may, if Declarant so desires. Following the transfer of voting control to the Owners pursuant to Article III, the Owners may vote either to engage professional management for the Association or to self manage the Association. Any contract for professional management shall provide that the Association may terminate said contract on the giving of not less than ninety (90) days notice or shorter if for cause.

Section 3. Inspection and Notice. Upon written request, any institutional holder of a first lien on a lot will be entitled to:

- (a) inspect the books and records of the Association during normal business hours; and
- (b) receive an annual financial statement of the Association within ninety (90) days following the end of any fiscal year; and
- (c) written notice of all meetings of the Association and shall be permitted to designate a representative to attend all such meetings; and
- (d) written notice of a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and
- (e) written notice of any proposed action that requires the consent of a specified percentage of mortgage holders; and
- (f) written notice of any sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of any Lot on which it holds the mortgage.

Section 4. Condemnation or Default.

- (a) If any Lot or portion thereof or the Common Area or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a

condemning authority, then the institutional holder of any first mortgage on a Lot will be entitled to timely written notice of any such proceeding or proposed acquisition.

(b) The holder of a first mortgage on any Lot shall be given prompt written notice of any default in the mortgagor's obligations hereunder which are not cured within thirty (30) days of said default, provided that the holder shall have given written notice to the Association that it is a holder as to the Lot of such mortgagor and shall have requested the notice of default as herein set forth.

## **ARTICLE XI - General Provisions**

**Section 1. Duration.** The foregoing restrictions shall be construed to be covenants running with the land and shall be binding and effective for thirty (30) years from the date of recording, at which time they shall be automatically extended for successive periods of ten (10) years each unless it is agreed by the vote of a majority in interest of the then Owners of the above-described property to change, amend or revoke the restrictions in whole or in part. Every purchaser, owner or subsequent grantee of any interest in any property now or hereafter made subject to this Declaration, by acceptance of a deed or other conveyance therefore, thereby agrees that the covenants and restrictions of this Declaration may be extended as provided in this Article.

**Section 2. Amendment.** This Declaration may be amended unilaterally at any time and from time to time by Declarant (i) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (ii) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (iii) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots subject to this Declaration; or (iv) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Owner's Lot unless any such Lot Owner shall consent thereto in writing. Further, so long as Declarant has the right unilaterally to subject additional property to this Declaration as provided in Article II hereof, Declarant may unilaterally amend this Declaration for any other purpose so long as said amendment is not inconsistent with the common plan or scheme of development; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Lot Owner hereunder, nor shall it adversely affect title to any Lot without the consent of the affected Lot Owner.

In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of at least sixty-seven percent (67%) of the Owners during the first twenty (20) year period and of at least sixty-seven percent (67%) of the Owners thereafter, and with the consent of the Declarant, so long as Declarant owns a Lot in the Property.

Every purchaser or subsequent grantee of any interest in any property now hereafter made subject to this Declaration by acceptance of a deed or other conveyance therefore, hereby agrees that the covenants and restrictions of this Declaration may be amended as provided in this Article. Amendments as used in this Article X shall not mean the addition of properties as provided in Article II nor the Supplemental Declarations as provided in Article II.

**Section 3. Procedure for Certification and Recordation of Amendment.** Any instrument amending these covenants, conditions, and restrictions (other than a permitted unilateral amendment by the Declarant, or an amendment by the Board of Directors to correct an error or inconsistency in drafting, typing or reproduction) shall be delivered, following approval by the Owners, to the Board of Directors of this Association. Thereupon, the Board of Directors shall, within thirty (30) days after delivery, do the following:

(a) Reasonably assure itself that the amendment has been approved by the Owners of the required number of Lots as provided in Section 2 of this Article. (For this purpose, the Board may rely on its roster of members and shall not be required to cause any title to any Lot to be examined.)

(b) Attach to the amendment a certification as to its validity, which certification shall be executed by the Association in the same manner that deeds are executed.

(c) Immediately, and within the thirty (30) day period aforesaid, cause the amendment to be executed by the Association's officers in the same manner that deeds are executed and recorded in the Forsyth County Registry.

All amendments shall be effective from the date of recordation in the Forsyth County Registry unless a later effective date is specified therein. When any instrument purporting to amend the covenants, conditions and restrictions has been certified by the Board of Directors, recorded and indexed as provided by this Section, it shall be conclusively presumed that such instrument constitutes a valid amendment as to the Owners of all Lots in this development.

Section 4. Enforcement. If any person, firm or corporation shall violate or attempt to violate any of these Restrictions, it shall be lawful for the Association or for any other person, firm or corporation owning any property to bring an action against the violating party at law or in equity for any claim which these restrictions may create in such other Owner or interested party either to prevent said person, firm or corporation from so doing such acts or to recover damages for such violation. The violating party shall be responsible for all costs and attorneys' fees incurred by the Association or such other Owner in such action. Any failure by the Association or any Owner to enforce any of said covenants and restrictions or other provisions shall in no event be deemed a waiver of the right to do so thereafter. Invalidation of anyone or more of these Restrictions by judgment or court order shall neither affect any of the provisions not expressly held to be void nor the provisions so voided in circumstances or application other than those expressly invalidated, and all such remaining provisions shall remain in full force and effect together with the provisions ruled upon as they apply to circumstances other than those expressly invalidated.

Section 5. Delegation and Assignability. Declarant shall at all times and from time to time have the right to delegate any and all functions herein reserved to Declarant. Further, notwithstanding any other provision contained herein to the contrary, Declarant shall have the right at all times and from time to time to fully transfer, convey and assign all or any part of its right, title and interest (whether real or personal) in and to Common Areas; provided, however, that any transferee, grantee or assignee shall be deemed to have assumed the same, in the event of any such sale, transfer or conveyance. Declarant shall not, however, be liable to any person for any injury or loss resulting from failure of performance or negligent performance of Declarant's obligations under these covenants arising after such sale, transfer or conveyance.

Section 6. FHA/VA Approval. This paragraph shall apply only in the event Declarant desires FHA or VA approval for any development, phase or portion thereof in The Estates at Lissara. As long as there is a Class B membership, the following actions will require the prior written approval of the Federal Housing Administration or the Department of Veterans Affairs: annexation of additional properties, dedication of common areas, and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 7. Conflicts. In the event of any irreconcilable conflict between the Declaration and the Bylaws of the Association, the provisions of this Declaration shall control. In the event of any irreconcilable conflict between this Declaration or the Bylaws of the Association and the Articles of Incorporation of the Association, the provisions of the Articles of Incorporation shall control.

Section 8. Headings and Binding Effect. Headings are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying the particular sections to which they refer. The covenants, agreements and rights set forth herein shall be binding upon and inure to the benefit of the respective heirs, executors, successors and assigns of the Declarant and all persons claiming by, through and or under Declarant.

Section 9. Unintentional Violation of Restrictions. In the event of an unintentional or minor violation of any of the foregoing restrictions with respect to any Lot, the Declarant or its successors reserves the right (by and with the mutual written consent of the Owner or Owners of such Lot) to vary, waive, change, amend, or release any of the foregoing restrictions as the same may apply to that particular Lot and its particular circumstance.

## **ARTICLE XII - Dissolution or Insolvency of the Association**

In the event that the Association becomes insolvent or for any reason whatsoever loses the ownership of any of the private streets, if any, or Common Areas, the Owners of Lots having an interest in such Common Areas may, at their election as determined by majority vote of those affected, form a nonprofit corporation as provided in the Articles and Bylaws of the Association and assign to it the duty and authority to assess on a per Lot basis all Lots having an interest in such Common Areas whereupon such corporation shall maintain such Common Areas in the same manner that the Association is empowered to do by this instrument with the same right of lien for assessments provided for herein.

IN WITNESS WHEREOF, the Declarant has caused this Declaration of Covenants, Conditions and Restrictions to be duly signed this 16 day of AUGUST, 2010.

WESTVIEW DEVELOPMENT COMPANY  
A North Carolina Corporation

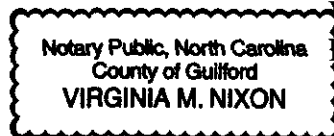
By: Brant H. Godfrey  
Brant H. Godfrey, President

NORTH CAROLINA - FORSYTH COUNTY

I certify that the following person personally appeared before me this day, that I have personal knowledge of the identity of said person, and that he acknowledged to me that he signed the foregoing document: Brant H. Godfrey, President of Westview Development Company, Declarant.

Date: 8/16/10

[Stamp or Seal]



Virginia M. Nixon  
Virginia M. Nixon, Notary Public  
My Commission expires: 6/28/2012

August 16, 2010