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NORTH CAROLINA

WAKE COUNTY

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PARK PLACE TOWNHOMES

THIS DECLARATION is made this 30th day of October, 1995, by STEVE DICKSON BUILDER, INC., a North Carolina corporation with an office and place of business in Wake County, North Carolina, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property (the "Properties") in the Town of Cary, County of Wake, State of North Carolina, which is more particularly described as follows:

> Being all of Park Place Townhomes, Section 1, Parkway P.U.D., according to a plat prepared by Aiken & Yelle Associates, P.A., Professional Engineers & Land Surveyors, and recorded in Book of Maps 1995, Page 1702 Wake County Registry, N.C.; and

WHEREAS, it is the intent of the Declarant hereby to cause the Properties to be subjected to this Declaration of Covenants, Conditions and Restrictions to create Park Place Townhomes.

NOW, THEREFORE, Declarant hereby declares that the Properties and every Lot (as hereinafter defined) which is a part of the Properties shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with such real property and shall be binding on all parties having any right, title or interest in the above-described property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

Park Place Townhomes is a part of Parkway P.U.D. ("Parkway"), a planned residential community with a mix of housing types, and is subject to the Master Declaration of Covenants and Restrictions of the Parkway Community Association, Inc. ("Master Declaration"), which is recorded in Book 4158, Page 268, and amended in Book 4166, Page 275, Book 4681, Page 562 and Book 5236, Page 609, of the Wake County Registry. The Master Declaration provides, among other things, that:

1. Every Owner of a Lot is a member of the Parkway Community Association, Inc. (the "Community Association"). This membership in the Community Association is in

addition to the membership in the Association provided for in this Declaration for Park Place Townhomes.

2. All Lots are subject to assessments and a lien for assessments in favor of the Community Association. This assessment and the lien are in addition to the assessment and lien provided for in this Declaration for Park Place Townhomes.

ARTICLE I

DEFINITIONS

SECTION 1. "Association" shall mean and refer to Park Place Owners Association, Inc., its successors and assigns.

SECTION 2. "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions affecting real property now within the jurisdiction of the Association and such additions thereto as hereafter may be annexed and brought within the jurisdiction of the Association.

SECTION 3. "Common Areas" shall mean all real property owned by the Association for the common use and enjoyment of the Owners and Members of the Association. Common Areas shall also mean the facilities constructed, erected or installed on the real property which is part of the Common Areas for the use, benefit and enjoyment of the Owners, including without limitation, the following:

(a) All central appurtenant installations for services such as electricity, gas, telephone and cable television;

(b) All water lines and mains, sewer pipes and sewer systems outside of city street rights-of-way, but not within the area of a Lot;

(c) Private streets, drives, parking areas, medians, traffic and landscape islands, subdivision signs and entrances on the Properties or serving the Properties, including but not limited to the entrance to Laura Duncan Road over adjacent land, but excluding driveways serving individual Lots;

(d) All facilities and amenities for the use and enjoyment of the Members, such as clubhouses, swimming pools, other recreation areas, open spaces and greenways; and

(e) All of the parts of the Properties and facilities and amenities existing in or upon the Properties for common use which is necessary or convenient to the existence, enjoyment, use, maintenance or safety of the Properties.

SECTION 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties (provided said map has been approved by Declarant or the Association), with the exception of the Common Areas.

SECTION 5. "Member" shall mean and refer to every person or entity who holds membership in the Association.

SECTION 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple interest (or undivided fee simple interest) in any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 7. "Declarant" shall mean and refer to Steve Dickson Builder, Inc, and its successors and assigns to whom the rights of Declarant have been specifically transferred.

SECTION 8. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions for Park Place Townhomes and amendments thereto applicable to the Properties recorded in the Office of the Register of Deeds of Wake County, North Carolina.

SECTION 9. "Board of Directors" or "Board" means those persons elected or appointed and acting collectively as the Directors of the Association.

SECTION 10. "Common Expenses" shall mean and include:

(a) All sums lawfully assessed by the Association against its Members;

(b) Expenses for exterior maintenance of the townhomes as provided in the Declaration;

(c) Expenses of administration, maintenance, repair, or replacement of the Common Areas;

(d) Expenses declared to be Common Expenses by the provisions of the Declaration or these ByLaws;

(e) Hazard, liability, or such other insurance premiums as the Declaration or these ByLaws may require the Association to purchase;

(f) Ad valorem taxes and public assessment charges lawfully levied against the Common Areas;

(g) The expense of the maintenance of private drainage and utility easements and facilities located therein which are within the boundaries of the Properties, which cross Common Areas and which serve both the Properties and lands adjacent thereto;

(h) Expenses agreed by the Members to be Common Expenses of the Association; and

(i) Unpaid assessments resulting from the purchase of a townhome at a foreclosure sale (such assessment shall be collectible from all Members of the Association, including the purchaser at the foreclosure sale, his successors and assigns).

SECTION 11. "townhome" or "townhouse" shall mean and refer to a single family dwelling or place of residence constructed upon a Lot within the Properties and constituting a part of a building.

SECTION 12. "Community Association" shall mean and refer to Parkway Community Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

SECTION 13. "Community Declaration" shall mean and refer to the Master Declaration of Covenants and Restrictions of the Parkway Community Association, Inc., as amended and/or recorded.

SECTION 14. "FHA" shall mean and refer to the Federal Housing Administration of the Department of Housing and Urban Development and "VA" shall mean and refer to the Veterans Administration.

ARTICLE II

PROPERTY RIGHTS

SECTION 1. OWNER'S EASEMENTS OF ENJOYMENT. Every Owner shall have a right and easement of enjoyment in and to the Common Areas which includes the right of ingress and egress over the Common Areas and such right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to regulate the use of and to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Areas;

(b) the right of the Board to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid and, for a period not to exceed sixty (60) days, for each infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members; provided, however, that no conveyance of Common Areas shall deprive any Member of the full use thereof. No such dedication or transfer shall be effective unless an instrument signed by at least two-thirds (2/3) of each class of Members, agreeing to such dedication or transfer, has been recorded;

(d) the right of the Board to impose rules and regulations for the use and enjoyment of the Common Areas and improvements thereon, which rules and regulations may further restrict the use of the Common Areas and specifically including without limitation, the right to make permanent and temporary assignments of parking spaces and to establish regulations concerning the use thereof;

(e) the right of the Association, in accordance with its Articles and Bylaws and with the consent of Members entitled to case two-thirds (2/3) of the votes of the entire Class A membership and two-thirds (2/3) of the entire Class B membership, if any, to borrow money for the purpose of improving the Common Areas and improvements thereon, and in aid thereof to mortgage said Common Areas and improvements unless prohibited by law, and the rights of such mortgagee in the Common Areas and improvements shall be subordinate to the rights of the Owners hereunder;

(f) subject to the prior written consent of FHA or VA, in the event VA or FHA insured loans have been obtained secured by Lots, the right of the Association to exchange portions of Common Areas with the Declarant for substantially equal areas of the Properties for the purpose of eliminating unintentional encroachments of townhomes or other improvements onto portions of the Common Areas and unintentional encroachments of portions of the Common Areas onto Lots or other portions of the Properties;

(g) the right of the individual Owners to the exclusive use of parking spaces as provided in this Declaration;

(h) the right and easement of individual Owners for driveways and walkways as provided in this Declaration;

(i) the right of the Association to limit the number of guests, if any, that Members may allow to use the Common Areas; and

(j) the right of the Board to formulate, publish and enforce rules and regulations as provided in this Declaration.

SECTION 2. DELEGATION OF USE. Any Owner may delegate, in accordance with the Bylaws, his rights of enjoyment of the Common Areas and improvements thereon to the members of his immediate family, his tenants or contract purchasers who reside on the Lot of such Owner.

SECTION 3. TITLE TO THE COMMON AREAS. The Declarant hereby covenants for itself, its heirs and assigns, that it will convey fee simple title to the Common Areas shown on the aforementioned map of the Properties, to the Association, free and clear of all encumbrances and liens, except utility and drainage easements and easements to governmental authorities, prior to the conveyance of the first Lot. Similarly, the Declarant will convey to the Association Common Areas which are part of lands subsequently annexed to the Properties.

SECTION 4. PARKING RIGHTS. Ownership of each Lot shall entitle the Owner thereof to the use of at least two (2) automobile parking spaces, which shall be as near and convenient to said Lot as reasonably possible, together with the right of ingress and egress in, to and over said parking areas. The Board may permanently assign one (1) of such automobile parking spaces for each Lot, such space to be as near to the Lot to which it is assigned as is reasonably possible. If a Lot is improved with a garage and/or is served by a driveway for which an easement is provided under Article IX, Section 5 of this Declaration, then each of the following areas shall constitute an assigned parking space for such Lot: the garage, the driveway and the space in the common parking areas, if any, in front of such driveway. The Board may regulate all parking on the Common Areas including but not limited to the parking of boats, trailers, and other such items on the Common Areas. No boats and other watercraft, trailers, campers, tractors, trucks other than pickup trucks rated at 3/4 tons or less, and motor vehicles other than passenger motor vehicles for 7 or fewer passengers shall be parked within the right of way of any public street within the Properties, nor shall any of these be regularly parked on the Properties except in an enclosed garage or in areas on the Properties designated by the Board. No automobiles shall be regularly stored on the Properties. The Board may from time to time adopt appropriate rules for the temporary parking of any of these items on the Properties.

SECTION 5. TAXES ON COMMON AREAS. The Association shall be responsible for and shall cause to be paid out of annual assessments any ad valorem taxes and public improvement assessments levied against the Common Areas.

SECTION 6. LEASES OF LOTS. Any Lease Agreement between an Owner and a lessee for the lease of such Owner's Lot shall provide that the terms of the Lease shall be subject in all respects to the provisions of this Declaration of Covenants, Conditions and Restrictions, the Articles of Incorporation and the Bylaws of the Association and that any failure by the lessee to comply with the terms of such document shall be a default under the terms of the Lease. All leases of Lots shall be in writing.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

SECTION 1. MEMBERSHIP. Every Owner of a Lot which is subject to a lien for assessments shall be a Member of the Association. Membership shall be appurtenant to and

may not be separated from ownership of any Lot which is subject to assessment. Ownership of such Lot shall be the sole qualification for membership. The Board of Directors may make reasonable rules relating to proof of ownership of a Lot.

SECTION 2. MEMBERSHIP CLASSES. The Association shall have two classes of voting membership:

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

Class B. The Class B Member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and shall be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, but provided that the Class B membership shall be reinstated if thereafter and before the time stated in Subparagraph (b) below, such additional lands are annexed to the Properties by the Declarant without the assent of Class A Members as provided for in this Declaration; or

(b) on December 31, 1999.

SECTION 3. SUSPENSION OF RIGHTS. During any period in which a Member shall be in default in the payment of any annual or special assessment levied by the Association, the voting rights and right to use of the Common Areas (or portions thereof) of such Member may be suspended by the Board of Directors until such assessment has been paid. Such rights of a Member may also be suspended, after notice and hearing, for a period not to exceed 60 days, for violation of any rules and regulations established by the Board of Directors governing the use of the Common Areas. Notwithstanding the foregoing, the Board of Directors may not suspend an Owner's right of ingress and egress over the Common Areas and right to the use of parking spaces as provided in this Declaration.

ARTICLE IV

COVENANT FOR MAINTENANCE AND ASSESSMENTS

SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner 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 Association: (1) annual assessments or charges for common expenses; (2) special assessments for capital improvements; (3) special assessments for the purchase and reconstruction of townhomes; and (4) to the appropriate governmental taxing authority: (a) a pro rata share of ad valorem taxes levied against the Common Areas, and (b) a pro rata share of assessments for public improvements to or for the benefit of the Common Areas if the Association shall default in the payment of either or both for a period of six (6) months, all as hereinafter provided. Such assessments shall be fixed, established and collected, from time to time, as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the Lot and shall be a continuing lien upon the Lot 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 Lot at the time when the assessment fell due. The personal obligation for the delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

SECTION 2. PURPOSE OF ASSESSMENTS.

(a) The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties, to enforce these covenants and the rules and regulations of the Association, to pay common expenses, and in particular for the acquisition, improvement and maintenance of properties, services and facilities devoted to these purposes and related to the use and enjoyment of the Common Areas, including but not limited to, the costs of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes assessed and public assessments levied against the Common Areas, the cost of exterior maintenance of townhomes as provided in this Declaration, the cost to purchase and reconstruct townhomes as provided in this Declaration, the maintenance of water and sewer mains and systems in and upon the Common Areas, the maintenance of streets (whether dedicated or not), drives, entrances, and parking areas within or serving the Properties, the procurement and maintenance of insurance in accordance with this Declaration and the Bylaws, the payment of charges for garbage collection and municipal water and sewer services furnished to the Common Areas, the employment of attorneys, accountants and other professionals on behalf of the Association when necessary, the provision of adequate reserves for the replacement of capital improvements including, without limiting the generality of the foregoing, paving, roofing, and any other major expense for which the Association is responsible, and such other needs as may arise.

(b) The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Areas and those other portions of the Properties or townhomes which the Association may be obligated to maintain. Such reserve fund is to be established and maintained out of regular assessments as a common expense, but if the reserve fund is inadequate, a special assessment may be made.

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

SECTION 3. MAXIMUM ANNUAL ASSESSMENT. Until December 31 of the year of the conveyance of the first Lot to an Owner, the maximum annual assessment shall be One Thousand Five Hundred Dollars ($1,500.00) per Lot, and may be collected in monthly installments of One Hundred Twenty-Five Dollars ($125.00) per Lot.

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

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

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum, subject to the provisions of Section 7 of this Article.

SECTION 4. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS. In addition to the annual assessments authorized above, the Association may levy, in any calendar year, a special assessment for the purpose of defraying in whole or in part the costs of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto, or the costs of exterior maintenance of townhomes under Article VII of this Declaration if there is an inadequate reserve fund for such exterior maintenance. Before any special assessment shall be effective, such assessment shall have the assent of two-thirds (2/3) of the votes of each class of

Members who are voting in person or by proxy at a meeting duly called for this purpose. All special assessments may be collected on a monthly, quarterly, semi-annual or annual basis.

SECTION 5. SPECIAL ASSESSMENTS FOR THE PURCHASE AND RECONSTRUCTION OF TOWNHOMES. In the event that any townhome located on any Lot is substantially destroyed by fire or other hazard, the Owner shall give written notice to the Association within thirty (30) days following such destruction of whether he intends to repair or reconstruct the townhome. If the Owner fails to give such notice to the Association, it shall be conclusively considered, for purposes of this Section, as notice that the Owner does not intend to repair or reconstruct the townhome. For purposes of this Section, "substantially destroyed" shall mean that the costs of replacement or repair equals at least fifty percent (50%) of the appraised value of the townhome on the Lot before it was damaged. If the Owner elects not to repair or reconstruct the townhome, the Association shall have the first right and option to purchase such townhome and the Lot on which it is located in the manner hereinafter provided. The purchase option shall be effective for a period of ninety (90) days following notice of the Owner's election not to repair or reconstruct.

(a) Exercise of Option. Upon notice of an Owner's election not to repair or reconstruct, the Board of Directors shall appoint a committee, or shall designate an existing committee of the Association, to determine whether failure to reconstruct the substantially destroyed townhome will result in substantial pecuniary injury to the Association or diminution in value of the remaining Lots and Properties. The committee may employee such persons, including, but not limited to, real estate appraisers, realtors, architects, and engineers, as are reasonably necessary to make its determination, and shall report its conclusions, with supporting data, in writing to the Board within fifteen (15) days. The report shall set forth such matters as the Board and committee deem pertinent, but shall contain estimates of the pecuniary injury and diminution in value along with an estimate of the cost of purchase and reconstruction of the townhome.

If the Board of Directors determines that it would be advantageous to the Association and/or to the remaining Properties to purchase and reconstruct the townhome, it shall call a special meeting by giving written notice thereof, setting forth the purpose of the meeting, to all Members within seven (7) days following submission of the committee report. The special meeting of Members shall be held not less than seven (7) days nor more than fifteen (15) days following notice to Members. Upon an affirmative vote of at least sixty-six and two-thirds percent (66-2/3%) of each class of membership present and voting, the Board will be authorized to purchase and reconstruct the townhome and the Lot on which it is located and to assess all Lots equally for all costs and expenses arising out of the purchase and repair or reconstruction of such townhome and Lot. The Board may require that the assessment be paid in a lump sum, in installments during an assessment year, or over a period of two (2) or more assessment years, as the Board, in its discretion, shall determine to be appropriate.

Such an assessment shall be in addition to, and not in lieu of, the annual assessments provided for in Section 3 and the special assessments provided for in Section 4 of this Article.

(b) Determination of Value. The Owner of the substantially destroyed townhome and Lot on which it is located shall convey marketable fee simple title thereto to the Association upon payment to the Owner by the Association of the fair market value of the Lot and townhome in its damaged condition. Fair market value shall be determined in any manner agreed upon by the Association and the Owner. If they cannot otherwise agree on a fair market value or method of determining fair market value, each shall appoint an appraiser and those two appraisers shall appoint a third appraiser. The fair market value as determined by any two of these three appraisers shall be final and binding on all parties. In the event no two appraisers agree upon a fair market value, the fair market value shall be the average of the values determined by the appraisers. Each party shall pay the fee of the appraiser selected by it or him, and each party shall pay one-half (1/2) of the fee of the third appraiser. If the Board and the Owner agree upon a single appraiser, each shall pay one-half (1/2) of the cost of the appraisal.

(c) Application of Insurance Proceeds. The Owner of the substantially destroyed townhome, prior to conveyance to the Association, shall apply or cause to be applied so much of the proceeds of any hazard insurance paid by reason of the damage or destruction of the townhome as shall be necessary to pay all liens, mortgages, deeds of trust, taxes and encumbrances upon the Lot so that the marketable fee simple title thereto may be conveyed free and clear of all liens and encumbrances. If the insurance proceeds are not sufficient to pay all liens, encumbrances, and obligations upon the Lot, the purchase price may be reduced by an amount adequate to pay any such deficiency or the deficiency may be paid out of the purchase price.

(d) Failure to Exercise Option. If the Association does not exercise the purchase option herein provided for, the Owner may retain the Lot or may transfer or convey it, upon such terms and conditions as he may elect, to any person, to be used solely as a site of an attached, singly-family townhome. The reconstructed or repaired townhome shall be substantially identical to the destroyed townhome, unless a change shall be approved by the Board, and shall be constructed in conformity with plans submitted to and approved by the Board prior to construction.

(e) Retention by Owner. If a townhome is not habitable by reason of damage or destruction, and the Association does not exercise the purchase option provided for herein, the obligation of the Owner to pay annual and special assessments shall not be reduced, delayed, abated or suspended. In the event a townhome is damaged or destroyed, and the Owner does not begin repair or reconstruction within thirty (30) days following the damage or destruction, the Owner 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 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, unless the Lot is thereafter purchased by the Association under this Section.

(f) Reconstruction by the Association. Upon the acquisition of title to the Lot and the substantially destroyed townhome located thereon, the Association is authorized to arrange such financing and to execute such notes, mortgages, deeds of trust, and other instruments, to enter into such contracts, and to do and perform such other matters and things as are necessary to accomplish the reconstruction of such townhome; provided, however, that only that townhome which is to be reconstructed and the Lot on which it is located shall stand as security for any liens, mortgages, or obligations arising out of the purchase or reconstruction of such Lot and townhome, and no other portion of the Properties, including the Common Areas, shall be pledged, hypothecated, mortgaged, deeded in trust, or otherwise given as security for any obligations arising out of said purchase or reconstruction, and no Member shall be required to become personally obligated therefore.

(g) Sale or Lease. The Association shall hold title to the Lot and townhome for the benefit of all Members. The Board may lease or sell the Lot and townhome upon such terms and conditions as it, in its discretion, deems most advantageous to the Members. The lease rental shall be applied in the following order of priority: (1) to the payment of taxes, assessments, liens, encumbrances, and obligations on or secured by the Lot; (2) to the maintenance, upkeep, and repair of the Lot and townhome; (3) to payment or repayment to the Members, pro rata, of the special assessment, if any, for purchase and reconstruction of the Lot and townhome; and (4) to the general expenses of the Association. In the event the Lot is sold, the purchase price shall be applied in the following order of priority: (1) to the payment of taxes, assessments, liens, encumbrances, and obligations on or secured by the Lot; (2) to payment or repayment to the Members, pro rata, of the special assessment, if any, for purchase and reconstruction of the Lot and townhome; and (3) to the general expenses of the Association. Any payment or repayment to Members of the special assessment may be in cash or may be applied to any annual or special assessments due or to become due.

(h) Application of Declaration and Bylaws. Any townhome (including the Lot on which it was constructed) which is destroyed and not subsequently restored or reconstructed and any townhome which has been destroyed in whole or in part, by fire or other casualty, and is subsequently restored or reconstructed, at all times shall be subject to the provisions of this Declaration and to the Articles of Incorporation and the Bylaws of the Association.

SECTION 6. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTION 3, 4 AND 5. Except as specifically provided in Section 5, written notice of any meeting called for the purpose of taking any action authorized under Section 3, 4 and 5 shall be sent to all Members not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, 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. UNIFORM RATE OF ASSESSMENTS. Both annual and special assessments must be fixed at a uniform rate for all Lots; provided that so long as the townhome on any Lot owned by the Declarant is not occupied as a residence, the amount of any assessment for each such Lot shall be an amount equal to twenty-five percent (25%) of the amount of the assessment applicable to other Lots.

Dwellings with a variety of exteriors will be constructed and whatever exteriors are constructed will be for the purpose of achieving harmony of design and textures while at the same time avoiding monotony. In such event, some dwellings may entail more expense for exterior maintenance than others. However, the construction of a variety of exteriors will be for the enhancement of property values of all Lots. Therefore, no difference is made in the amount of annual assessment on account of any disparity in the cost of exterior maintenance or replacement of roofs on account of the different types of construction.

SECTION 8. DATE AND COMMENCEMENT OF ANNUAL ASSESSMENTS: DUE DATES. The annual assessments provided for herein shall commence as to a Lot on the first day of the month following the issuance of a certificate of occupancy or similar certificate for that Lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. At least thirty (30) days in advance of each annual assessment period, the Board of Directors shall fix the amount of the annual assessment to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

SECTION 9. EFFECT OF NONPAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION. Any assessment, or portion thereof, which is not paid when due shall be delinquent. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten percent (10%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same and may foreclose the lien created herein against the Owner's Lot in the same manner as prescribed by the laws of the State of North Carolina for the foreclosures of deeds of trust, and interest, costs and reasonable attorney's fees for representation of the Association in such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for any assessment provided for herein by non-use of the Common Areas or abandonment of his Lot, nor shall damage to or destruction of any improvements on any Lot by fire or other casualty result in any reduction, delay, abatement or suspension of any assessments provided for herein.

SECTION 10. EFFECT OF DEFAULT IN PAYMENT OF AD VALOREM TAXES OR ASSESSMENTS FOR PUBLIC IMPROVEMENTS BY ASSOCIATION. Upon default by the Association in the payment to the governmental authority entitled thereto of any ad valorem taxes levied against the Common Areas or assessments for public improvements levied against the Common Areas, which default shall continue for a period of six (6) months, each Owner of a Lot shall become personally obligated to pay to the taxing or assessing

governmental authority a portion of such unpaid taxes or assessments in an amount determined by dividing the total taxes and/or assessments due the governmental authority by the total number of Lots. If such sum is not paid by the Owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the Lot of the Owner, his heirs, devisees, personal representatives and assigns, and the taxing or assessing governmental authority may bring an action at law or may elect to foreclose the lien against the Lot of the Owner.

SECTION 11. SUBORDINATION OF THE LIEN TO MORTGAGES. The liens provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. The sale or transfer of any Lot shall not affect the assessment lien or liens provided for in this Declaration. However, the sale or transfer of any Lot which is subject to any such first mortgage or deed of trust, pursuant to a foreclosure thereof or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments 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 assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first mortgage or deed of trust. No mortgagee or beneficiary of a deed of trust is required to collect assessments from its mortgagor or borrower. Failure to pay assessments does not constitute a default under a mortgage or deed of trust insured by the FHA or the VA.

SECTION 12. 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.

SECTION 13. ONE MONTH OF ASSESSMENTS TO BE COLLECTED AT CLOSING. At the closing of the sale of each Lot by the Declarant, an initial assessment shall be collected from the buyer of such Lot equal to one (1) month's annual assessment and such sum shall be contributed to the general operating fund of the Association for the purpose of insuring that the Association will have sufficient funds to meet unforeseen expenditures. This initial assessment shall be in addition to any other assessments provided in this Declaration.

ARTICLE V

ARCHITECTURAL CONTROL

SECTION 1. IMPROVEMENTS. No building, fence, wall or other structure, planting, or landscaping shall be commenced, erected, installed, planted, repaired, replaced or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein, including, without limitation, any plantings or landscaping, be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location

in relation to surrounding structures and topography by the Declarant. Upon termination of the Class B membership, the right and authority to approve plans and specifications shall pass automatically to the Board of Directors of the Association, or an architectural control committee composed of three (3) or more representatives appointed by the Board. In the event the Declarant, or the 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. Nothing herein contained shall be construed to permit interference with the development of the Properties by the Declarant so long as said development follows the general plan of development of the Properties previously approved by FHA and/or VA or by the Town of Cary.

SECTION 2. CONDITIONS. As a condition to the granting of approval of any request made under this Article, the Declarant or the Board or the architectural control committee, as the case may be, may require that the Owner requesting such change be liable for any cost of maintaining or repairing the approved project. If such condition is imposed, the Owner shall evidence his consent thereto by a written document in recordable form satisfactory to the Declarant or the Board, as the case may be. Thereafter, the Owner, and any subsequent Owner of the Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree that any cost of maintenance and repair of such improvement shall be added to and become a part of the annual assessment or charge applicable to such Lot, and subject to the lien rights provided in this Declaration.

ARTICLE VI

PARTY WALLS

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

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

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

SECTION 4. WEATHERPROOFING. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act or omission causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements and repairing all damage resulting from such exposure.

SECTION 5. RIGHT TO CONTRIBUTION RUNS WITH LAND. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to Owner's successors in title. Upon request, an Owner shall furnish a written, signed statement as to whether that Owner claims any rights of contribution from any other Owner or Owners.

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

SECTION 7. ARBITRATION. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, such dispute shall be settled by arbitration as provided under the laws of the State of North Carolina as they now are or are hereafter amended.

ARTICLE VII

EXTERIOR MAINTENANCE

SECTION 1. MAINTENANCE BY ASSOCIATION. In addition to the operation and maintenance of the Common Areas, the Association shall provide exterior maintenance upon each townhome on a Lot which is subject to assessment hereunder, as follows: Stain and/or paint the exterior surfaces of townhomes; replace roofs; and normal and routine repair, replacement and care for gutters, downspouts, garage doors, doors, windows, porches, decks, walks, water and sewer lines lying outside the foundations of townhomes, trees, shrubs, grass and other such exterior improvements. Such exterior maintenance shall not include any glass panes, screens, driveways serving a single Lot, nor failure of glass surfaces. The Owner shall promptly notify the Association of the need for exterior maintenance.

SECTION 2. OWNER'S OBLIGATIONS. The Owner of a Lot improved with a garage and/or served by a driveway shall repair and maintain the garage door and driveway in good order, condition and appearance and shall repair and correct any unsafe condition thereon. Each Owner shall be responsible for all repair and maintenance of his townhome other than that performed by the Association. Any Owner who fences or encloses or screens

by plants or structures the rear portion of his Lot (which fence, enclosure and screen shall require the prior written architectural approval under Article V), may plant trees, shrubs, flowers, and grass in the fenced or enclosed portion at his own expense, provided that such enclosure, planting and maintenance does not hinder the Association in performing its maintenance duties as to the townhome, the remaining yard spaces, or the Common Areas. No such maintenance by an Owner shall reduce any assessment payable by him to the Association. If, in the opinion of the Association, any such Owner fails to maintain his rear yard in a neat and orderly manner, the Association may revoke the Owner's maintenance rights for a period not to exceed one (1) year. The Association may perform maintenance during the revocation period and any other repair or maintenance not performed by an Owner as required in this Declaration. Any additional maintenance costs incurred by the Association as a result of an Owner's failure to maintain or repair as provided in this Declaration shall be added to and become a part of the assessment to which such Owner's Lot is subject. The Owner shall not plant any vegetation (specifically including, but not limited to flowers, shrubs, trees, vegetables, vines and moss) in front of his townhome except with the prior written approval of the Association.

SECTION 3. NEGLIGENCE, FIRE, ETC. In the event that the need for maintenance or repair of a Lot or the improvements thereon is caused through the willful or negligent acts or omissions of its Owner, or his family, tenants, contract purchasers, guests, or invitees, or is caused by fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles, or smoke, as the foregoing are defined and explained in North Carolina standard fire and extended coverage insurance policies, or for the purpose of correcting, repairing or alleviating any emergency condition (but only if such would normally be an expense of the Owner), the cost of such maintenance, replacement, or repairs shall be added to and become a part of the assessment to which such Lot is subject.

ARTICLE VIII

USE RESTRICTIONS

SECTION 1. LAND USE AND BUILDING TYPE. Each Lot shall be used only for single family residential dwelling purposes, except for temporary uses thereof by Declarant for Declarant's sales offices and/or models. No garage shall be converted to a bedroom or other living space nor shall the number of bedrooms in a townhome be increased without the approval of the Association and the Town of Cary.

SECTION 2. DWELLING SPECIFICATIONS. A townhome constructed on any Lot shall have an enclosed floor area of the main structure, exclusive of garages, open and screened-in porches, decks, terraces, and patios of not less than 1,050 square feet for a one-story townhome and 1,250 square feet for a townhome in excess of one story. Provided, however, the Declarant (or the Board after the Class B membership terminates) shall have the right at any time, and from time to time, to allow or require variances from, and the right to waive

violations of, the floor area requirement up to ten percent (10%) of such requirement. All such variances or waivers shall be in writing.

SECTION 3. NUISANCE. No noxious or offensive activity shall be conducted upon any Lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the Properties.

SECTION 4. ANIMALS. No animals, livestock or poultry of any kind shall be kept or maintained on any Lot or in any townhome thereon except that dogs, cats or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes and further provided that they are kept and maintained in compliance with: (i) all laws and ordinances of the State of North Carolina, Wake County and the Town of Cary, if applicable, relating thereto; and (ii) such rules and regulations pertaining thereto as the Board of Directors may adopt from time to time.

SECTION 5. RULES AND REGULATIONS. The Board of Directors shall have the power to formulate, adopt, amend, publish, and enforce reasonable rules and regulations concerning the use and enjoyment of all yard spaces of each Lot and the Common Areas. All 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 reasonable inspection during normal business hours.

SECTION 6. BUSINESSES. No industry, business, trade, occupation, or profession of any kind, whether commercial or otherwise, shall be conducted, maintained, or permitted on any Lot or other part of the Properties, except that any Owner may lease the townhome located on his Lot for residential purposes. Provided, however, Declarant or its agents and builders may use any Lot or Lots and any townhomes thereon for office, sales or display purposes.

SECTION 7. SIGNS. No Owner shall display, or cause or allow to be displayed, to public view on his Lot any sign, placard, poster, billboard, or identifying name or number on any townhome or any portion of a Lot or the Common Areas, except as permitted in this Declaration and as required by the Town of Cary. Notwithstanding the foregoing, the Declarant, Owners, builders, realtors and any mortgagee who may become the owner of any townhome, or their respective agents, may place a single "For Sale" or "For Rent" sign on any Lot or townhome. During the development of the Properties and the marketing of townhomes, the Declarant, builders and realtors may maintain an office and may erect and display such signs as the Declarant deems appropriate as aids to such development and marketing, provided that such signs do not violate any applicable laws. No Owner, other that the Declarant, shall display, or cause or allow to be displayed, to public view on his Lot any "For Sale" or "For Rent" sign which exceeds 24 inches in width or 24 inches in height. The Board of Directors may adopt Rules and Regulations concerning the color and placement of

signs by Owners other than the Declarant. The restrictions of this Section are in addition to any restrictions in the Community Declaration.

SECTION 8. OUTSIDE ANTENNAS. No outside radio or television antennas or discs shall be erected on any Lot or townhome within the Properties unless and until permission for the same has been granted by the Declarant or the Board of Directors or its architectural control committee as provided in Article V.

SECTION 9. INSURANCE RISKS. Nothing shall be kept and no activity shall be carried on in any townhome, Lot or on the Common Areas, nor shall any Owner do or keep anything, nor cause or allow anything to be done or kept on his Lot, or in his townhome or on the Common Areas, which will increase the rate of insurance, applicable to residential use, for the Properties or the contents thereof or which will result in the cancellation of insurance on any portion of the Properties, or the contents thereof, or which will be in violation of any law, ordinance, or regulation. No waste shall be committed on any portion of the Common Areas.

SECTION 10. COMPLIANCE WITH LAWS. No immoral, improper, offensive, or unlawful use shall be made of the Properties, or any part thereof, and all valid laws, ordinances, and regulations of all governmental agencies having jurisdiction thereof shall be observed. All laws, order, rules, regulations or requirements of any governmental agency having jurisdiction thereof, relating to any portion of the Properties, shall be complied with, by and at the sole expense or the Owner or the Association, whichever shall have the obligation to maintain or repair such portion of the Properties.

SECTION 11. STRUCTURAL INTEGRITY. Nothing shall be done in or to any townhome or in, to, or upon any of the Common Areas which will impair the structural integrity of any building, townhome, or portion of the Common Areas or which would impair or alter the exterior of any building or portion thereof, except in the manner provided in this Declaration.

SECTION 12. NUMBER OF OCCUPANTS. No Lot shall be rented to or occupied by a greater number of unrelated individuals than the original number of bedrooms in the townhome on such Lot. In no event shall a Lot be rented to or occupied by a number of individuals, whether or not unrelated, which exceeds twice the original number of bedrooms in the townhome on such Lot. For purposes of this restriction, "unrelated individuals" means individuals who are neither within the same immediate natural or adopted family (grandparents, parents, children, grandchildren) nor who are legal guardian and ward; provided, however, siblings shall be considered unrelated individuals unless a parent also occupies the same Lot as his or her principal residence.

ARTICLE IX

EASEMENTS

SECTION 1. UTILITIES. Easements for the installation and maintenance of utilities (including, but not limited to, cable television service) and drainage facilities are reserved as indicated on the recorded plats of the Properties. Within these easements no structures, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the drainage easements, or which may obstruct or retard the flow of water through drainage channels in the easements. An easement is hereby established for the benefit of the Town of Cary (and any other person or firm providing services to the Properties under agreement with or at the direction of the Association) over all Common Areas as may be reasonably necessary for the setting, removal and reading of water meters, and the maintenance and replacement of water, sewer and drainage facilities and for the fighting of fires and collection of garbage. The Association shall have the power and authority to grant and establish upon, over and across the Common Areas such additional easements as are necessary or desirable for the providing of service or utilities to the Common Areas or Lots.

SECTION 2. ENCROACHMENTS. In the event that any improvements on a Lot shall encroach upon any Common Areas or upon any other Lot as a result of the initial improvements constructed by Declarant or for any reason not caused by the purposeful or negligent act of the Owner or agents of such Owner, then an easement appurtenant to such Lot shall exist for the continuance of such encroachment upon the Common Areas or other Lot for so long as such encroachment shall naturally exist; and, in the event that any portion of the Common Areas shall encroach upon any Lot, then an easement shall exist for the continuance of such encroachment of the Common Areas into any such Lot for so long as such encroachment shall naturally exist.

SECTION 3. STRUCTURAL SUPPORT. Every portion of a townhome on a Lot which contributes to the structural support of the building shall be burdened with an easement of structural support for the benefit of all other townhomes within the building.

SECTION 4. EASEMENT FOR GOVERNMENTAL AGENCIES. An easement is hereby established over the Common Areas for the benefit of applicable governmental agencies, public utility companies and public service agencies as necessary for setting, removing and reading of meters, replacing and maintaining water, sewer and drainage facilities, electrical, telephone, gas and cable antenna lines, fire fighting, garbage collection, postal delivery, emergency and rescue activities and law enforcement activities.

SECTION 5. 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, cable television lines, and other public utilities as shall

be established prior to subjecting the Properties to this Declaration by the Declarant, and 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. If a Lot is served by a driveway as indicated on a recorded plat of the Properties (provided such plat was approved by the Declarant or the Association), there is created an appurtenant easement over the Common Areas in favor of such Lot for the construction, reconstruction, repair and maintenance of such driveway and for the exclusive use of such driveway for ingress, egress, regress and parking purposes. Such driveway easement is subject to water, sewer and utility lines lying under such driveway and the repair and maintenance of such lines. The Association and the other Owners shall not obstruct or interfere with the use of such driveway except as is incident to the repair and maintenance of Common Areas and water, sewer and utility lines. If the Association obstructs or interferes with the permitted uses of such driveway, the Association shall make reasonable efforts to provide alternative parking for such Lot during the period of obstruction or interference.

SECTION 6. EASEMENTS APPURTENANT TO LOTS. All private streets and driveway areas in the Common Areas shall be subject to an easement in favor of every Lot to which they are adjacent or which they are intended to serve and shall be deemed appurtenant to each such Lot, whereby the Owner of each such Lot shall be entitled to use them as a means of ingress, egress and regress and such other uses as shall have been designated. Such easement shall be superior to the lien of every mortgage or deed of trust.

SECTION 7. EMERGENCIES. Every Lot and townhome shall be subject to an easement for entry by the Association for the purpose of correcting, repairing, or alleviating any emergency condition which arises upon any Lot or within any townhome on any Lot and that endangers any Lot or portion of the Common Areas.

ARTICLE X

SANITARY DISPOSAL SYSTEM

The Properties are served by a wastewater collection system (the "Disposal System") which may include pumps, wastewater treatment works and/or disposal facilities to provide sanitary sewage disposal in accordance with the Operational Agreement (the "Operational Agreement") between Declarant and the North Carolina Environmental Management Commission (the "Commission"), dated March 9, 1995, a copy of which is attached and incorporated by reference as Exhibit A.

The Declarant shall construct the Disposal System in accordance with the permit and plans and specifications hereafter issued and approved by the Commission.

The Declarant shall not transfer ownership and/or control of the Disposal System to the Association until construction has been completed in accordance with the permit and

approved plans, and the staff of the Division of Environmental Management has inspected and approved of the Disposal System.

The Declarant shall not transfer, convey, assign or otherwise relinquish or release its responsibility of the operation and maintenance of its Disposal System until a permit has been reissued to the Association.

Upon transfer or conveyance from the Declarant, the Disposal System and all appurtenances, shall be a part of the Common Areas and the Association shall properly maintain and operate the Disposal System in conformity with law and the permit for the Disposal System. All costs and expenses for operating and maintaining (including repairs, replacement, reconstruction and improvement and additions thereto) the Disposal System shall be a common expense of the Association which will receive the highest priority for expenditures by the Association except for Federal, State and local taxes and insurance coverage under this Declaration or the Bylaws of the Association. As part of its annual budget, the Association shall provide a reasonable reserve fund for operation and maintenance beyond routine operation and maintenance expenses. **Notwithstanding any other provision herein to the contrary, in the event the budget allocation and reserve fund are not adequate for the operation and maintenance of the Disposal System in accordance with law and the permit for the Disposal System, the Directors of the Association shall make a special assessment at any time to cover the expense of such operation and maintenance as necessary without the requirement for the vote approval of the membership.**

If a wastewater collection system and/or wastewater treatment and/or disposal facility provided by any city, town, village, county, water and sewer authorities, or other unit of government shall hereinafter become further available on the Properties, the Declarant and/or Association shall take such action as is necessary to cause the existing and future wastewater of the Properties to be accepted and discharged into said governmental system; and shall convey or transfer as much of the Disposal System and such necessary easements as the governmental unit may require as condition of accepting the Properties' wastewater.

ARTICLE XI

ANNEXATION OF ADDITIONAL PROPERTIES

SECTION 1. BY DECLARANT. If on or before December 31, 1995, the Declarant should develop additional lands within the boundaries of the tract described in attached Exhibit B, such additional lands may be annexed by the Declarant to said Properties without the assent of the Class A membership.

SECTION 2. BY ASSOCIATION. Except as provided in Section 1 above, any other annexation of additional land shall require the assent of two-thirds (2/3) of the Class A membership and two-thirds (2/3) of the Class B membership, if any.

SECTION 3. PROCEDURE. Annexation of additional land shall be accomplished by recording in the Wake County Registry a Declaration of Annexation, duly executed by the Declarant, if the Declarant has the right to annex pursuant to Section 1 above, and by the Association if pursuant to Section 2 above, describing the lands annexed and incorporating the provisions of this Declaration, either by reference or by fully setting out said provisions of this Declaration. The additional lands shall be deemed annexed to the Properties on the date of recordation of the Declaration of Annexation, and in the case of an annexation by the Declarant under Section 1 above, no action or consent on the part of the Association or any other person or entity shall be necessary to accomplish the annexation except the Town of Cary, if required by its ordinances.

SECTION 4. COMMON AREAS. Subsequent to recordation of the Declaration of Annexation by the Declarant, the Declarant shall deliver to the Association one or more deeds conveying any Common Areas within the lands annexed as such Common Areas is developed, as set forth in Article II, Section 3 of this Declaration.

ARTICLE XII

RIGHTS RESERVED UNTO INSTITUTIONAL LENDERS

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

SECTION 2. OBLIGATION OF ASSOCIATION TO INSTITUTIONAL LENDERS. So long as any Institutional Lender shall hold any first lien upon any Lot, or shall be the Owner of any Lot, such Institutional Lender shall have the following rights:

(a) To inspect the books and records of the Association during normal business hours and to be furnished with at least one (1) copy of the annual financial statement and report of the Association prepared by an accountant designated by the Board of Directors of the Association, such financial statement or report to be furnished by May 15th of each calendar year;

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

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

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

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

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

SECTION 3. REQUIREMENTS OF INSTITUTIONAL LENDER. Whenever any Institutional Lender desires to avail itself of the provisions of this Article, it shall furnish written notice thereof to the Association by certified mail at the address of the Association's registered agent identifying the Lot or Lots upon which any such Institutional Lender holds any first mortgage together with sufficient pertinent facts to identify such mortgage, or identifying any Lot or Lots owned by such Institutional Lender and such notice shall designate the place to which notices, reports or information are to be given by the Association to such Institutional Lender.

ARTICLE XIII

GENERAL PROVISIONS

SECTION 1. ENFORCEMENT. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Declaration, the Articles of Incorporation or Bylaws of the Association. Failure by the 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 request that law enforcement, public safety and animal control officers come on the properties to facilitate the enforcement of the laws, codes and ordinances of any governmental authority.

SECTION 2. INSURANCE. Every Owner shall maintain in full force and effect at all times fire and hazard insurance in an amount equal to the full insurable value of his townhome except that the amount shall not be required to exceed the replacement cost of the townhome. An Owner shall exhibit to the Board, upon demand, evidence that such insurance is in effect. If any Owner shall fail to maintain such insurance, the Board is authorized to obtain such insurance in the name of the Owner from an insurer selected by the Board, and the cost of such insurance shall be added to and become a part of the annual assessment of the Owner and shall constitute a lien against such Owner's Lot until paid.

In the event the Association becomes the Owner of any buildings, or other improvements, or personal property, located within the Common Areas or such other areas that the Association is responsible for, the Board of Directors shall obtain hazard insurance (if available) in an amount equal to the maximum insurable replacement value as determined annually by the Board of Directors with the assistance of the insurance company providing such coverage. Such coverage shall provide protection against loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and such other risks as from time to time shall be customarily covered with respect to buildings and properties similar in construction, location and use.

The Board of Directors shall also procure and maintain public liability and property damage insurance, insuring: each member of the Board of Directors; the manager, if any; and the Association against any liability to the public or to the Owners (and their invitees, agents, and employees) arising out of or incident to the ownership and/or use of the Common Areas, or such other areas for which the Association is responsible. The insurance shall be issued on a comprehensive liability basis and shall contain a cross liability endorsement under which the rights of each named insured under the policy shall not be prejudiced with respect to his action against another named insured. The amount of such public liability insurance shall be determined by the Board of Directors, but in no event shall it be less than $1 million per occurrence with regard to the Association and each individual director.

There shall also be obtained such other insurance coverage as the Board of Directors shall determine from time to time to be desirable and necessary. Premiums upon insurance policies purchased by the Board of Directors shall be paid by the Board of Directors as a common expense of the Association.

(Recommendation to Owners - If a townhome is damaged by fire or other casualty, and if such damage results in damage to an adjacent townhome, there may be prolonged disputes between the insurance carriers of the adjacent damaged townhomes (which may, in turn, delay the settlement of claims) unless the insurance protection on both townhomes is provided by the same carrier. It is therefore recommended that the owners of all townhomes located within each building purchase their fire and casualty insurance from the same insurance carrier.)

SECTION 3. SEVERABILITY. Invalidation of any one of the covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

SECTION 4. AMENDMENT. The covenants and restrictions of this Declaration shall run with and bind the land for a term of thirty (30) 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 by an instrument signed by not less than sixty-six and 2/3rds percent (66 2/3%) of the Lot Owners. Any amendment must be properly recorded in the Wake County Registry.

SECTION 5. AMENDMENT OF DECLARATION WITHOUT APPROVAL OF OWNERS. The Declarant, without the consent or approval of the Association or of any other Owner, shall have the right to amend this Declaration to conform to the requirements of any law or governmental agency having legal jurisdiction over the Properties or to qualify the Properties or any Lots and improvements thereon for mortgage or improvement loans made, insured or guaranteed by a governmental agency or to comply with the requirements of law or regulations of any corporation or agency belonging to, sponsored by, or under the substantial control of, the United States Government or the State of North Carolina, regarding the purchase or sale of such Lots and improvements, or mortgage interests therein, as well as any other law or regulation relating to the controls, construction standards, aesthetics, and matters affecting the public health, safety and general welfare. A letter from an official of any such corporation or agency, including, without limitation, the Veterans Administration, the U. S. Department of Housing and Urban Development, the Federal Housing Administration, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Corporation, or the Federal National Mortgage Association, requesting or suggesting an amendment necessary to comply with the requirements of such corporation or agency shall be sufficient evidence of the approval of such corporation or agency, provided that the changes made substantially conform to such request or suggestion.

No amendment made pursuant to this Section shall be effective until duly recorded in the Register of Deeds of Wake County.

SECTION 6. AMENDMENT TO ACHIEVE TAX-EXEMPT STATUS. The Declarant, for so long as it shall retain control of the Association, and thereafter, the Board of Directors, may amend this Declaration as shall be necessary, in its opinion, and without the consent of any Owner, to qualify the Association or the Properties, or any portion thereof, for tax-exempt status. Such amendment shall become effective upon the date of its recordation in the Wake County Registry.

SECTION 7. FHA/VA APPROVAL. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration ("FHA") or the Veterans Administration ("VA") provided that FHA or VA loans have been obtained to purchase Lots: annexation of properties except as provided in Article XI, Section 1 above; dedication of Common Areas; amendment of this Declaration of Covenants, Conditions and Restrictions; mergers and consolidations with other associations; mortgaging of Common Areas; dissolution of the Association; amendment of Articles of Incorporation of the Association; and amendment of the Bylaws of the Association.

SECTION 8. CERTIFICATION OF AMENDMENTS. If any amendment to this Declaration requiring the approval of the Owners is executed, each such amendment shall be delivered to the Board of Directors of this Association. Thereupon, the Board of Directors, shall, within thirty (30) days do the following:

(a) Reasonably assure itself that the amendment has been executed by the Owners of the required number of Lots. (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. The following form of certification is suggested:

CERTIFICATION OF VALIDITY OF AMENDMENT TO COVENANTS, CONDITIONS AND RESTRICTIONS OF PARK PLACE TOWNHOMES

By authority of its Board of Directors, Park Place Owners Association, Inc., hereby certifies that the foregoing instrument has been duly executed by the Owners of _____ percent of the Lots of Park Place Townhomes and is, therefore, a valid amendment to the existing Declaration of Covenants, Conditions and Restrictions of Park Place Townhomes.

PARK PLACE OWNERS ASSOCIATION, INC.

ATTEST: By:_____
President

_____
Secretary

(c) Immediately, and within the thirty (30) day period aforesaid, cause the amendment to be recorded in Wake County Registry.

All amendments shall be effective from the date of recordation in the Wake County Registry, provided, however, that no such amendment shall be valid until it has been indexed in the name of this Association. When any instrument purporting to amend this Declaration 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 all persons thereafter purchasing any Lots which are subject to this Declaration.

SECTION 9. FIDELITY BONDS. The Association shall maintain blanket fidelity bonds for all officers, directors, trustees and employees of the Association and for all other persons handling or responsible for funds of or administered by the Association. Where the Association has delegated some or all of the responsibility for the handling of funds to a management agent, fidelity bonds shall be required for such management agent's officers,

employees and agents handling or responsible for funds of, or administered on behalf of, the Association.

The total amount of fidelity bond coverage shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond. However, in no event shall the aggregate amount of such fidelity bonds be less than a sum equal to three months' aggregate assessments on all Lots plus reserve funds.

Fidelity bonds required herein shall:

1. name the Association as an obligee;

2. contain waivers by the issuers of the fidelity bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions;

3. provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least 10 days prior written notice to the Association, to any such agent as the Association shall designate to negotiate settlement of insurance claims on behalf of the Association, and to any institutional lender servicing on behalf of the Federal National Mortgage Association any loan secured by any Lot.

The premiums on all such fidelity bonds for the Association (except for premiums on fidelity bonds maintained by a management agent for its officers, employees and agents) shall be paid by the Association as a common expense.

SECTION 10. PROHIBITION AGAINST ASSOCIATION ENTERING INTO LONG TERM CONTRACT WHILE DECLARANT IN CONTROL OF BOARD OF DIRECTORS. Until such time as the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership, or December 31, 1999, whichever occurs first, the Association is not bound either directly or indirectly to contracts or leases (including a management contract) unless there is a right of termination of any such contract or lease, without cause, which is exercisable without penalty at any time after the occurrence of one of the above events, upon not more than 90 days notice to the other party.

SECTION 11. SUBORDINATION. Central Carolina Bank and Trust Company and Southland Associates, Inc., Trustee, hereby subordinate the lien arising from the Deed of Trust recorded in Book 3685, Page 776, Wake County Registry, N.C., as amended or modified, to the covenants, conditions and restrictions of this Declaration. Except as specifically subordinated hereby, the lien of such Deed of Trust shall continue in full force and effect.

IN WITNESS WHEREOF, the undersigned, have caused this instrument to be duly executed under seal as of the 30th day of October, 1995.

DECLARANT:

STEVE DICKSON, BUILDER, INC., a North Carolina corporation

By: Steve Dickson (SEAL)
President

(CORPORATE SEAL)

ATTEST:

Joyce L. White
Secretary

CENTRAL CAROLINA BANK AND TRUST COMPANY, a North Carolina banking association

By:
Senior Vice President

(CORPORATE SEAL)

ATTEST:

Secretary

SOUTHLAND ASSOCIATES, INC., Trustee, a North Carolina corporation

By:
Vice President

(CORPORATE SEAL)

ATTEST:

Michael Mauer
Asst. Secretary

NORTH CAROLINA

Wake COUNTY

I, the undersigned Notary Public of the County and State aforesaid, do hereby certify that Joyce L. White personally appeared before me this day and acknowledged that he/she is the _____ Secretary of STEVE DICKSON BUILDER, INC., a North Carolina corporation, and that by authority duly given, and as the act of the corporation, the foregoing instrument was signed in its name by its _____ President, sealed with its corporate seal, and attested by him/her as its _____ Secretary.

WITNESS my hand and official seal this 30th day of October, 1995.

(Seal-Stamp)

Julie L. Long
Notary Public

My Commission Expires: My Commission Expires 4-25-2000

NORTH CAROLINA

Wake COUNTY

I, the undersigned Notary Public of the County and State aforesaid, do hereby certify that Rick Merrill personally appeared before me this day and acknowledged that he/she is the ASSISTANT Secretary of CENTRAL CAROLINA BANK AND TRUST COMPANY, a North Carolina banking association, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its VICE President, sealed with its corporate seal, and attested by him/her as its ASSISTANT Secretary.

WITNESS my hand and official seal this 27th day of October, 1995.

(Seal-Stamp)

Jean Tilley
Notary Public

My Commission Expires: 12-21-97

NORTH CAROLINA

Wake COUNTY

I, the undersigned Notary Public of the County and State aforesaid, do hereby certify that Michael DAVIS personally appeared before me this day and acknowledged that he/she is the ASSISTANT Secretary of SOUTHLAND ASSOCIATES, INC., Trustee, a North Carolina corporation, and that by authority duly given, and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President, sealed with its corporate seal, and attested by him/her as its ASSISTANT Secretary.

WITNESS my hand and official seal this 27th day of October, 1995.

(Seal-Stamp)

Notary Public

My Commission Expires: 12-21-97

BK6727PG0728

STATE OF NORTH CAROLINA
COUNTY OF Wake

Permit No. _____

OPERATIONAL AGREEMENT

This AGREEMENT made pursuant to G.S. 143-215.1 (d1) and entered into this 9 day of March, 19 95, by and between the North Carolina Environmental Management Commission, an agency of the State of North Carolina, hereinafter known as the COMMISSION; and Steve Dickson Builder Inc, a corporation/general partnership registered/licensed to do business in the State of North Carolina, hereinafter known as the DEVELOPER.

WITNESSETH:

1. The DEVELOPER is the owner of the certain lands lying in Wake County, upon which it is erecting and will erect dwelling units and other improvements, said development to be known as Park Place Townhomes (hereinafter the Development).

2. The DEVELOPER desires, to construct a wastewater collection system with pumps, wastewater treatment works and/or disposal facilities (hereinafter Disposal System) to provide sanitary sewage disposal to serve the Development on said lands.

3. The DEVELOPER has applied to the COMMISSION for the issuance of a permit pursuant to G.S. 143-215.1 to construct, maintain, and operate the Disposal System.

4. The DEVELOPER has created or shall create unit ownership in said dwellings units, other improvements and lands through filing of a Declaration of Unit Ownership (hereinafter Declaration), pursuant to Chapter 47C of the North Carolina General Statutes.

5. The DEVELOPER has caused to be formed or will cause to be formed at the time of filing of the Declaration the (Unit Owners Association) Park Place Townhomes Homeowners Association, (hereinafter Association) a non-profit corporation organized and existing under and by the virtue of the laws of the State of North Carolina, for the purpose, among others, of handling the property, affairs and business of the Development; of operating, maintaining, re-constructing and repairing the common elements of the lands and improvements subject to unit ownership, including the Disposal System; and of collecting dues and assessments to provide funds for such operation, maintenance, re-construction and repair.

6. The COMMISSION desires to assure that the Disposal System of the Development is properly constructed maintained and operated in accordance with law and permit provisions in order to protect the quality of the waters of the State and the public interest therein.

NOW, THEREFORE, in consideration of the promises and the benefits to be derived by each of the parties hereto, the COMMISSION and DEVELOPER do hereby mutually agree as follows:

1. The DEVELOPER shall construct the Disposal System in accordance with the permit and plans and specifications hereafter issued and approved by the COMMISSION; and shall thereafter properly operate and maintain such systems and facilities in accordance with applicable permit provisions and law.

2. The DEVELOPER shall not transfer ownership and/or control of the Disposal System to the Association until construction has been completed in accordance with the permit and approved plans, and the staff of the Division of Environmental Management has inspected and approved of the facilities. In order to change the name of the permit holder, the DEVELOPER must request that the permit be reissued to the Association. The request must include a copy of the Association Bylaws and Declaration.

3. The DEVELOPER shall not transfer, convey, assign or otherwise relinquish or release its responsibility for the operation and maintenance of its Disposal System until a permit has been reissued to the DEVELOPER successor.

EXHIBIT A

4. The DEVELOPER shall provide in the Declaration and Association Bylaws that the Disposal system and appurtenances thereto are part of the common elements and shall thereafter be properly maintained and operated in conformity with law and the provisions of the permit for construction, operation, repair, and maintenance of the system and facilities. The Declaration and Bylaws shall identify the entire wastewater treatment, collection and disposal system as a common element which will receive the highest priority for expenditures by the Association except for Federal, State and local taxes, and insurance.

5. The DEVELOPER shall provide in the Declaration and Association Bylaws that the Disposal System will be maintained out of the common expenses. In order to assure that there shall be funds readily available to repair, maintain or construct the Disposal System, beyond the routine operation and maintenance expenses, the Declaration and Association Bylaws shall provide that a fund be created out of the common expenses. Such fund shall be separate from the routine maintenance allocated for the facility and shall be part of the yearly budget.

6. In the event the common expense allocation and separate fund are not adequate for the construction, repair, and maintenance of the Disposal System, the Declaration and Association Bylaws shall provide for special assessments to cover such necessary costs. There shall be no limit on the amount of such assessments, and the Declaration and Bylaws shall provide that such special assessments can be made as necessary at any time.

7. If a wastewater collection system and wastewater treatment and/or disposal facility provided by any city, town, village, county, water and sewer authorities, or other unit of government shall hereinafter become available to serve the Development, the DEVELOPER shall take such action as is necessary to cause the existing and future wastewater of the Development to be accepted and discharged into said governmental system; and shall convey or transfer as much of the Disposal System, and such necessary easements as the governmental unit may require as condition of accepting the Development's wastewater.

8. Recognizing that it would be contrary to the public interest and to the public health, safety and welfare for the Association to enter into voluntary dissolution without having made adequate provision for the continued proper maintenance, repair and operation of its Disposal System, the DEVELOPER shall provide in the Association Bylaws that the Association shall not enter into voluntary dissolution without first having transferred its said system and facilities to some person, corporation or other entity acceptable to and approved by the COMMISSION by the issuance of a permit.

9. The agreements set forth in numbered paragraphs 1, 2, 3, 4, 5, 6, 7, and 8 above shall be conditions of any permit issued by the COMMISSION to the DEVELOPER for the construction, maintenance, repair and operation of the Disposal System.

10. A copy of this agreement shall be filed at the Register of Deeds in the County(ics) where the Declaration is filed and in the offices of the Secretary of State of North Carolina with the Articles of Incorporation of the Association.

IN WITNESS WHEREOF, this agreement was executed in duplicate originals by the duly authorized representative of the parties hereto on the day and year written as indicated by each of the parties named below:

FOR THE ENVIRONMENTAL MANAGEMENT COMMISSION

A. Preston Howard, Jr., P.E., Director
Division of Environmental Management

(Date)

Steve Dickson Builder Inc.
Name of Developer/Company

By: Steve Dickson Pres.
Signature

Steve Dickson Pres.
Print Name and Title

3/9/95
(Date)

EXHIBIT B

DESCRIPTION OF PROPERTY SUBJECT TO ANNEXATION BY DECLARANT

All of that certain tract or parcel of land situate in or near the Town of Cary, Wake County, North Carolina, and lying south of Cary Parkway near its intersection with Laura Duncan Road, and more particularly described as follows:

BEING all of Tract 1, containing 14.91 acres, more or less, according to a plat entitled "Subdivision Plat of Tract MR-1, Parkway P.U.D.", dated October 14, 1994, prepared by Aiken & Yelle Associates, P.A., and recorded in Book of Maps 1994, Page 1849, Wake County Registry, North Carolina, to which reference is made for a more particular description.