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Iredell County, NC
Brenda D. Bell Register of Deeds

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**DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
*Anniston***

32

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STATE OF NORTH CAROLINA
COUNTY OF IREDELL

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR ANNISTON

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this
"Declaration") is made this 25th day of
January, 2005 by *Anniston, LLC*, a North Carolina limited liability company (the "Declarant").

WITNESSETH:

Declarant is the owner of that certain real property located in Iredell County, North Carolina, and more particularly described on Exhibit "A" attached hereto and incorporated hereby by reference (the "Property"), which Property is being developed by Declarant (and one or more affiliates of Declarant) as a residential community known as *Anniston*.

Declarant desires to provide for the preservation of the property values, amenities and opportunities in the Property and for the maintenance of the Property and Improvements thereon, and to this end desires to subject the Property to the easements, covenants, conditions, restrictions, charges and liens hereinafter set forth and/or described.

Declarant desires to impose pursuant hereto easements, covenants, conditions and restrictions upon all of the Property, with the understanding that, at the option of Declarant, additional restrictions may be imposed with regard to the various phases or sections of the Property. Developer further desires to create an organization to which will be delegated and assigned the powers of owning, maintaining and administering the Common Area, administering and enforcing the covenants and restrictions contained herein, and collecting and disbursing the assessments and charges hereafter created, in order to sufficiently preserve, protect and enhance the values in the Property, to ensure the residents' enjoyment of the specific rights, privileges and easements in the Common Area, and to provide for the maintenance and upkeep of the Common Areas. To that end, Declarant has or will cause to be incorporated under North Carolina law, pursuant to Articles of Incorporation, *Anniston Homeowners Association, Inc.*, as a nonprofit corporation for the purpose of exercising and performing the aforesaid functions, said corporation to be governed by the bylaws adopted by the corporation.

NOW, THEREFORE, Declarant hereby subjects the Property to the easements, covenants, conditions, restrictions, charges and liens hereinafter set forth and hereby declares that (subject to certain rights of amendment, as hereinafter described) all of the Property shall be held, sold and conveyed subject to such easements, covenants, conditions, restrictions, charges and liens, all of which are for the purpose of protecting the value, desirability and attractiveness of the Property. Subject to the above-described rights of Declarant, such easements, covenants, conditions, restrictions, charges and liens shall run with the Property and be binding on all parties having or acquiring any right, title or interest in the Property, or any part thereof and shall inure to the benefit of each owner of the Property or any part thereof.

ARTICLE I

DEFINITIONS

All capitalized terms used herein shall have the meanings set forth in Article I or elsewhere in this Declaration.

Section 1. "Additional Property" shall mean additional real estate other than the submitted property which may be subject to the terms of this declaration in accordance with the provisions of Article II.2 of this declaration.

Section 2. "Annual Assessments" shall mean the assessments established pursuant to Article 5 of the Declaration.

Section 3. "Architectural Control Committee" shall mean and refer to the committee appointed by the Board to oversee the development enforcement of architectural control standards and restrictions with respect to the Property and to perform certain other functions described in the Declaration.

Section 4. "Architectural and Landscape Guidelines" shall mean those rules, regulations and guidelines promulgated from time to time by the Architectural Review Committee pursuant to the power set forth in Article VII, Section 3. All Architectural and Landscape Guidelines, whenever promulgated shall have the same force and effect as if they were originally set forth in this Declaration as restrictions.

Section 5. "Articles of Incorporation" shall mean and refer to the Articles of Incorporation for the Association hereto and incorporated herein by reference.

Section 6. "Association" shall mean and refer to *Anniston Homeowners Association, Inc.*, a North Carolina non-profit corporation, its successors and assigns.

Section 7. "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Association, which shall be elected and shall serve pursuant to the Bylaws.

Section 8. "Bylaws" shall mean and refer to the Bylaws for the Association which are incorporated herein by reference.

Section 9. "Common Area" or "Common Areas" shall mean and refer to all real property specifically shown and designated on any Plat as "Common Area" "Common Open Area," "Common Open Space," "Open Space," or "COS." The Common Areas shall be owned by the Association (except as otherwise provided herein) for the common use, benefit, and the Declarant reserves the right, but not the obligation, to provide additional Common Areas within the Property.

Section 10. "Declarant" shall mean and refer to *Anniston, LLC*, a North Carolina limited liability company or its assigns.

Section 11. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions as same may be amended and/or supplemented from time to time as herein provided.

Section 12. "Guidelines" shall mean and refer to the Architectural and Landscape Guidelines.

Section 13. "Lot" shall mean and refer to any numbered or lettered tract of land for the purpose of building and maintaining a single family residence (excluding any Common Area) shown on any Plat which is a part of the Property and which shall be restricted for such uses as are consistent with this Declaration and any other restrictions covering the area wherein the tract of land is located. No tract of land shall become a "Lot" as that word is used herein until a Plat of the area in which the same is located is recorded in the Office of the Register of Deeds of Iredell County, North Carolina.

Section 14. "Member" shall mean and refer to every person or entity that holds membership in the Association.

Section 15. "Planned Community Act" shall mean and refer to The North Carolina Planned Community Act, North Carolina General Statutes Chapter 47E, as amended hereafter, and any successor Statute which is enacted to amend or replace Chapter 47E.

Section 16. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot or other portion of the Property, but excluding those having such interest merely as security for the performance of an obligation.

Section 17. "Plat" shall mean and refer to any plat of the Property or any part of it which is recorded from time to time in the Office of the Register of Deeds or Iredell County, North Carolina.

Section 18. "Property" shall mean and refer to that certain real property located in Iredell County, North Carolina, and more particularly described on Exhibit "A" attached hereto and incorporated herein by reference, as well as such additional property as may be made subject to the provisions of this Declaration pursuant to the provisions of Article II hereof.

Section 19. "Roadways" shall mean and refer to the roads, streets, and cul-de-sacs in the Property, as shown on the Plats, and any other roads, streets, and cul-de-sacs on the Property, all to be maintained by the Declarant until accepted for maintenance by the North Carolina Department of Transportation or other governmental entity, as set forth herein.

Section 20. "Septic Field Easement" or "SFE" shall mean and refer to the septic easement or septic easements reserved over the Common Areas for the benefit of certain Lot Owners, described on the plat(s) as SFE or other similar designation.

Section 21. "Septic Supply Pressure Line Easement" shall mean and refer to an easement for the purpose of locating one or more individual septic pressure lines to allow for a Lot Owner to transport his septic flow from his lot to a Septic Field Easement "SFE."

Section 22. "Septic System" shall mean and refer to all pipes, tanks, lines, supply pressure line, including all drainage fields and equipment and apparatus installed on the lot or within the Septic Field Easements. The Septic System also includes any Septic Supply Pressure Line that runs from the lot to an off-site Septic Field Easement through a Septic Supply Pressure Line Easement or roadway.

Section 23. "Street Lights" shall mean and refer to those certain street lights leased by Declarant and installed upon, along and/or over the rights-of-way of the Roadways and Common Areas.

Section 24. "Supplemental Declaration" shall mean and refer to any Supplemental Declaration of Covenants, Conditions and Restrictions filed in the office of the Register of Deeds of Iredell County, North Carolina, to bring additional property within the coverage of this Declaration and the jurisdiction of the Association, as more particularly described in Article II hereof.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Property Made Subject to this Declaration. The Property is hereby made subject to this Declaration and the Property shall be owned, held, leased, transferred, sold, mortgaged and/or conveyed by Declarant, the Association, each Owner and each party owning record title to any of the Property subject to this Declaration and the controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens set forth in this Declaration. By acceptance of any deed conveying title to a portion of the Property, execution of a contract of purchase or acceptance of a lease or license concerning any portion of the Property or by taking possession of any portion of the Property; whether from Declarant or a subsequent owner or lessee, any future owner, lessee, licensee or occupant shall accept such deed, contract, lease, license or possession upon and subject to each and all of the covenants, conditions, restrictions, reservations and easements set forth herein. Each person or entity who hereafter owns or acquires any right, title or interest in or to any portion of the Property shall be conclusively deemed to have consented and agreed to the covenants, conditions, restrictions, reservations and easements set forth herein, and in all future supplementary or amended Declarations, whether or not any reference thereto is contained in the instrument by which such person or entity acquires an interest in the Property.

Section 2. Additions to the Property.

(a) Declarant or assigns may cause Additional Property (including Common Areas) to be made subject to the terms and scheme of this Declaration by filing one or more Supplemental Declarations in the Office of the Iredell County Register of Deeds, containing a description of the Additional Property and a statement by the Declarant or assigns of its intent to extend the operation and effect of this Declaration to the Additional Property. Notwithstanding the foregoing, the covenants and restrictions established herein as applied to, or imposed upon, the additional Property may be altered or modified by the filing of one or more Supplemental Declarations as provided in Subparagraph (b) below.

(b) Any Supplemental Declaration may contain complementary additions to the covenants and restrictions contained herein as may be necessary in the judgment of the Declarant to reflect the different character of the Additional Property. In no event, however, shall any Supplemental Declaration revoke, modify or add to the covenants and restrictions contained herein with respect to the Property, nor revoke, modify, change or add to the covenants and restrictions established by previously filed Supplemental Declarations, without meeting the requirements for amendment set forth in this Declaration.

(c) Notwithstanding anything contained herein to the contrary, it is expressly understood and agreed that, so long as Declarant owns any part of the Property, the prior written consent of Declarant shall be required for any parties to modify, change and/or amend, in whole or in part, the terms and provisions of this Declaration, any Supplemental Declaration or to impose new or additional covenants, conditions, restrictions or easements on any part of the Property.

ARTICLE III

COMMON AREA

Section 1. Ownership of Common Areas. Except as otherwise provided herein, Declarant shall convey to the Association the Common Areas to be owned and maintained by the Association; provided, with respect to any part of the Common Areas leased by Declarant (e.g., Street Lights), Declarant shall assign its rights under such lease to the Association. The Declarant reserves the right (but shall not be obligated) to construct within the Common Areas, among other things, (i) the Street Lights (which will be leased from a third party) and other lighting, signage and irrigation facilities; (ii) the trails, drainage facilities and other Improvements; and (iii) certain additional recreational amenities and facilities, for the use and enjoyment of the Owners who are entitled to the use of such Common Areas as provided in this Declaration. Notwithstanding the recordation of any Plat or any other action by Declarant or the Association, all Common Areas shall remain private property and shall not be considered as dedicated to the use and enjoyment of the public.

Section 2. Owners' Rights to Use and Enjoy Common Areas. Each Owner shall have the non-exclusive easement and right to use and enjoy the Common Areas, and such right shall be appurtenant to and conveyed with title to such Owner's Lot, subject to the following:

(a) the right of the Association and the Board to promulgate and enforce reasonable regulations governing the use of the Common Areas to ensure the availability of the right to use the Common Areas to the Owners and the safety of all Owners within the Common Areas;

(b) the right of the Association to suspend the voting rights of an Owner in the Association and the right of the Association to suspend the right to use certain or all of the Common Areas by an Owner for any period during which any assessment or charge against said Owner's Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) the right of the Declarant or the Association to grant or reserve utility, drainage and other easements across the Common Areas, including Septic Field Easements and Septic Supply Pressure Line Easements; and

(d) any and all other applicable provisions of this Declaration, including, without limitation, the right of the Declarant or the Association to restrict the use of certain Common Areas to specific designated Owners as described in this Declaration, including, but not limited to, granting exclusive Septic Field Easements "SFE" or Septic Supply Pressure Line Easements.

Section 3. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his or her right of enjoyment to the Common Areas and facilities, if any, located thereon to the members of his or her family, his or her guests, invitees, or his or her tenants.

Section 4. Prohibited Activities. Common Area shall not be used for off-road motorized vehicles including motorcycles, "four-wheelers", ATV's, golf carts, or the like. No hunting or trapping of any wild life, including, but not limited to, ducks, geese, other birds, small game, or deer shall be permitted within the Common Area.

ARTICLE IV

THE ASSOCIATION

Section 1. Membership. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot, and shall be governed by the Bylaws. In addition, as long as Declarant owns any part of the Property, Declarant shall be a member of the Association.

Section 2. Voting and Voting Rights. The Association shall have two (2) classes of voting membership:

(a) **Class I.** The Class I Association Members shall be all Association Members with the exception of Declarant. Class I Association Members shall be entitled to one (1) vote for each Lot owned by such Association Member. When more than one Person owns an interest (other than a leasehold or security interest) in any Lot, all such Persons shall be members and the voting rights appurtenant to said Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

(b) **Class II.** The Class II Association member shall be Declarant. The Class II Association member shall be entitled to five (5) votes for each Lot owned by Declarant.

Notwithstanding anything contained herein to the contrary, the Class II Association membership shall cease and be converted to the Class I Association membership upon the earliest to occur of (a) the date on which Declarant no longer owns any part of the Property; (b) the date Declarant shall elect, in its sole discretion, that the Class II membership cease and be converted to the Class I membership (which election may be made, if at all, upon Declarant giving written notice of its election to the Board); or (c) December 31, 2030.

For a period ending not earlier than two (2) years following the recordation of this Declaration and for so long as the Declarant owns at least two (2) Lots in the Subdivision, the Declarant shall have the exclusive authority to designate, appoint and remove all members of the Association's Board of Directors and Officers. To the fullest extent permitted by the Planned Community Act, no Director or Officer appointed by the Declarant shall be removed by the Members or Board of Directors.

Section 3. Availability of Documents. The Association shall maintain current copies of the Declarations, the Bylaws and other rules concerning the Property as well its own books, records, and financial statements as are necessary for its management and oversight functions or as required by the Planned Community Act. All such documents shall be available upon reasonable notice and during normal business hours for inspection by all Owners, mortgagees and insurers and guarantors of mortgages that are

secured by Lots. In addition, any mortgagee may, at its own expense, have an audited statement prepared with respect to the finances of the Association.

Section 4. Management Contracts. The Association is authorized and empowered to engage the services of any person, firm or corporation to act as managing agent of the Association at a compensation level to be established by the Board and to perform all of the powers and duties of the Association. Provided, however, that the term of any such agreement with a managing agent shall not exceed one (1) year and shall only be renewed by agreement of the parties for successive one (1) year terms. Any such contract shall be terminable by the Association with or without cause upon ninety (90) days prior written notice to the manager without payment of a termination fee.

Section 5. Insurance. The Association shall be required to obtain and maintain to the extent obtainable, public liability insurance and officers' and directors' liability insurance in such limits as the Board of Directors may, from time to time, determine to be customary for projects similar in construction, location and use to the development, covering each member of the Board of Directors, the Managing Agent, if any, and each Owner with respect to his liability arising out of the ownership, maintenance or repair of the Common Areas; provided, however, that in no event shall the amounts of such public liability insurance ever be less than a million dollars per occurrence against liability for bodily injury, including death resulting therefrom, and damage to property, including loss of use thereof, occurring upon, in or about, or arising from or relating to, the property or any portion thereof. Such insurance shall include endorsements covering cross-liability claims of one insured against another, including the liability of the Owners as a single group to a single Owner. The Board of Directors shall review such limits annually. Until the first meeting of the Board of Directors following the initial meeting of the Owners, such public liability insurance shall be in amounts of not less than one million dollars per occurrence for claims for bodily injury and property damage. The Board shall obtain such other coverages as the Board shall determine from time to time desirable.

Section 6. Liability Limitations. Neither Declarant, nor any Association Member, nor the Board, nor any officers, directors, agents or employees of any of them shall be personally liable for debts contracted for or otherwise incurred by the Association or for a tort of another Association Member, whether or not such other Association Member was acting on behalf of the Association or otherwise. Neither Declarant, nor the Association, nor their directors, officers, agents or employees shall be liable for any incidental or consequential damages for failure to inspect any premises, Improvements or portions thereof or for failure to repair or maintain the same. Declarant, the Association or any other person, firm or association making such repairs or maintenance shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any premises, Improvements or portions thereof. The Association shall, to the extent permitted by applicable law, indemnify and defend all members of the Board from and against any and all loss, cost, expense, damage, liability, claim, action or cause of action arising from or relating to the performance by the Board of its duties and obligations, except for any such loss, cost, expense, damage, liability, claim, action or cause of action resulting from the gross negligence or willful misconduct of the person(s) to be indemnified.

ARTICLE V

COVENANT FOR ANNUAL AND SPECIAL ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Annual, Supplemental Annual, Special, Special Individual Assessments and Special Septic Inspection Assessments. Each Owner of any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance document, is deemed to covenant and agrees to pay to the Association Annual Assessments, Supplemental Annual Assessment, Special Assessments, Special Individual Assessments and Special Septic Inspection Assessments (collectively, the "Assessments"), as hereinafter defined, established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs, and reasonable attorneys' fees, shall be a charge and a continuing lien upon the Lot, as the case may be, against which each such assessment or charge is made. Each such assessment or charge, together with interest,

costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner, at the time when the assessment fell due, of the Lot, as the case may be, against which such assessment or charge is made. The personal obligation for delinquent assessments or charges shall not pass to an Owner's successors in title unless expressly assumed by them, provided such assessments or charges, together with interest, costs, and reasonable attorneys' fees, shall, as set forth above, be a continuing lien upon the Lot, as the case may be, against which such assessments or charges are made.

Section 2. Purpose of Annual Assessments.

(a) Maintenance of the entryways to the Property shall include maintenance, repair and reconstruction, when necessary, of the entrance monuments, signage, irrigation, planters and lighting located thereon and providing and paying for landscaping, utility charges for irrigation and lighting of the entrance monuments and signage located thereon;

(b) To the extent not maintained by the North Carolina Department of Transportation or other governmental entity, as the case may be, the Association shall maintain or cause to be maintained the swales and medians and associated landscaping and related Improvements along and within the public roadways adjoining Common Open Space.

(c) Maintenance of any Improvement within the Common Area (including, without limitation, any fencing, parking area, trails, pool or other recreational amenity or facility located therein) shall include, not be limited to, any and all interior and exterior maintenance (including, where necessary, repair and/or reconstruction), landscaping and payment of all utility charges related to any such Improvement.

(d) to pay all costs associated with the lease and operation of the Street Lights, including, but not limited to, monthly lease payments and utility costs;

(e) to pay all ad valorem taxes levied against the Common Areas and any other property owned by the Association;

(f) to pay the premiums on all insurance carried by the Association pursuant hereto or pursuant to the Bylaws;

(g) to pay all legal, accounting and other professional fees incurred by the Association in carrying out its duties as set forth herein or in the Bylaws;

(h) to carry out all other purposes and duties of the Association, the Board of Directors and the Architectural Control Committee as stated in the Articles, the Bylaws and in this Declaration; and

(i) to maintain a contingency reserve fund for the purposes set forth in this declaration hereof in amounts as determined by the Board of Directors.

The expenses of the Association for the foregoing are sometimes referred to herein as "common expenses."

Section 3. Payment of Annual Assessments; Due Dates. Each Owner of a Lot shall pay to the Association Annual Assessments as hereinafter set forth.

Annual Assessments provided for herein shall commence as to all Lots shown on a Plat of any phase of the Property as of the date of the conveyance of the first Lot on such plat by Declarant to an Owner (other than Declarant) of such Lot. The Annual Assessment for the first year in which a Lot is subject thereto shall be prorated based upon the number of days remaining in the applicable billing period from the date of such conveyance. The Annual Assessment amount for the calendar year beginning January 1, 2005 shall be Six Hundred and No/00 Dollars (\$600.00) per Lot. The Annual Assessment amount for each and every year thereafter shall be in an amount as set by the Board of Directors, in accordance with the terms of

this Article V. Annual Assessments shall be due and payable in advance in equal installments on a semi-annual basis commencing on January 1 and July 1 of each calendar year. The Board of Directors shall fix the amount of the Annual Assessment as to each Lot for any calendar year at least thirty (30) days prior to January 1 of such calendar year, and the Association shall send written notice of the amount of the Annual Assessment, as well as the amount of the payment due, to each Owner on or before January 5 of such calendar year. To the extent required by North Carolina General Statutes 47F-3-103(c) or other applicable law, such notice shall include notice of a meeting of the members to consider ratification of the budget, including a statement that the budget may be ratified without a quorum. If such a meeting is required by N.C. General Statutes 47F-3-103(c), or other applicable law, the Board of Directors shall set a date for a meeting of the members to consider ratification of the budget to be held not less than ten (10) nor more than sixty (60) days after mailing of the summary and notice. If such meeting is required as set forth above, there shall be no requirement that a quorum be present at the meeting. If the proposed budget to be voted on at any such meeting exceeds the maximum increase limits set forth in Section 4(a), the budget is ratified unless at such meeting members exercising a majority vote in the Association reject the budget. The failure of the Association to send, or of a member to receive, such notice shall not relieve any member of the Obligation to pay Annual Assessments.

The Annual Assessment for any lot owned by Declarant shall be liable for Annual Assessments at a rate which is one-third (1/3) of the rate otherwise payable.

Section 4 Maximum Annual Assessment

(a) For calendar year 2005 and thereafter, the Board of Directors, by a vote in accordance with the Bylaws, without a vote of the members (unless required under the Planned Community Act) or other applicable law, in which case the procedures set forth in Section 3 above shall apply), may increase the Annual Assessment applicable to each Lot by a maximum amount equal to the previous year's Annual Assessment times the greater of (i) ten percent (10%) or (ii) the annual percentage increase in the Consumer Price Index, All urban Consumers, United States, All Items (1982-84 = 100) (hereinafter "CPI") issued by the U.S. Bureau of Labor Statistics for the most recent 12-month period for which the CPI is available. If the CPI is discontinued, then the index most similar to the CPI (published by the United States Government indicating changes in the cost of living) shall be used. If the Annual Assessments are not increased by the maximum amount permitted under the terms of this provision, the difference between any actual increase which is made and the maximum increase permitted for that year shall be computed and the Annual Assessments may be increased by that amount in a future year, in addition to the maximum increase permitted under the terms of the preceding sentence for such future year, by a vote of the Board of Directors, without a vote of the members, unless required under the Planned Community Act or other applicable law, in which case the procedures set forth in Section 3 above shall apply.

(b) For calendar year 2006 and thereafter, the maximum annual assessment applicable to each Lot may be increased above the maximum amount set forth in subparagraph (a) of this Section 4 by a vote of a majority of the votes appurtenant to the Lots which are then subject to this Declaration, plus the written consent of Declarant (so long as Declarant owns any part of the Property), subject to the procedures set forth in Section 3 above if applicable.

(c) The Board of Directors may fix the Annual Assessment applicable to each Lot at an amount not in excess of the maximum set forth in Subparagraph (a) of this Section 4 (the "Maximum Annual Assessment"). If the Board of Directors shall levy less than the Maximum Annual Assessment for any calendar year and thereafter, during such calendar year, determine that the important and essential functions of the Association cannot be funded by such lesser assessment, the Board may, by vote in accordance with the Bylaws, levy a supplemental Annual Assessment ("Supplemental Annual Assessment"), subject to the procedures set forth in Section 3 above, if applicable. In no event shall the sum of the Annual and Supplemental Annual Assessments for any year exceed the applicable Maximum Annual Assessment for such year other than as set forth herein.

(d) With respect to any Lot conveyed by Declarant, the purchaser of such Lot shall pay to the Association at closing the amount of the Annual Assessment for the installment period in which the closing

occurs on such Lot, prorated based upon the number of days remaining in such installment period. With respect to any Lot conveyed by any Owner other than Declarant, the amount of the Annual Assessment applicable to such Lot for the installment period in which such closing occurs shall be prorated between the buyer and seller thereof as of the date of closing of such conveyance.

(e) The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of all or a portion of the Common Areas and in order to fund unanticipated expenses of the Association or to acquire equipment or services deemed necessary or desirable by the Board of Directors. Such reserve fund shall be collected and maintained out of the Annual Assessments, as hereinafter defined. Assessments collected as reserves shall not be considered to be advance payments of Annual Assessments.

Section 5. Special Assessments. In addition to the Annual Assessment authorized above, the Association may levy, in any assessment year, a special assessment ("Special Assessment") applicable to that year only for the purpose of defraying, in whole or in part, the cost of (i) the construction of any Common Area Improvements which are not originally constructed by Declarant or (ii) the reconstruction, repair or replacement of the Common Areas, including any Improvements located thereon. Provided, however, (a) Declarant shall not be obligated to pay any Special Assessments on Lots owned by Declarant except with Declarant's prior written approval, and (b) any Special Assessment must be approved by Declarant (so long as Declarant owns any part of the Property) and by a vote of a majority of the votes appurtenant to the Lots which are then subject to this Declaration.

Section 6. Special Individual Assessments. In addition to the Annual Assessments and Special Assessments authorized above, the Board of Directors shall have the power to levy a special assessment applicable to any particular Lot Owner ("Special Individual Assessment") (i) for the purpose of paying for the cost of any construction, reconstruction, repair or replacement of any damaged component of the Common Areas, including any Improvements located thereon, whether occasioned by any act or omission of such Lot Owner(s), members of such Lot Owner's family or such Lot Owner's agents, guests, employees, tenants or invitees and not the result of ordinary wear and tear; or (ii) for the purpose of maintaining, repairing or replacing the septic system; or (iii) for payment of fines, penalties or other charges imposed against any particular Lot Owner's relative to such Lot Owner's failure to comply with the terms and provisions of this Declaration, the Bylaws or any rules or regulations promulgated by the Association or the Declarant pursuant to this Declaration or the Bylaws. Provided, however, Declarant shall not be obligated to pay any Special Individual Assessment except with Declarant's prior written approval. The due date of any Special Individual Assessment levied pursuant to this Section 6 shall be fixed in the Board of Directors resolution authorizing such Special Individual Assessment. Upon the establishment of a Special Individual Assessment, the Board shall send written notice of the amount and due date of such Special Individual Assessment to the affected Lot Owner(s) at least thirty (30) days prior to the date such Special Individual Assessment is due.

Section 7. Special Septic Inspection Assessments. The cost of the Septic Inspections required under Section 25 of Article VI for each Lot for which a septic system has been installed shall be levied as a Special Septic Inspection Assessment on that Lot. The due date of the Special Septic Inspection Assessments shall be established by the Board of Directors.

Section 8. Collection Agent. At the option of the Board of Directors, any person or entity designated by the Board of Directors may act as collection agent for any and all assessments imposed by the Association and/or the Board against the Owners.

Section 9. Certificate Regarding Assessments. 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. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 10. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment (or installment thereof) not paid by its due date as set forth herein shall bear interest from such

due date at the rate of eighteen percent (18%) per annum or the highest rate then permitted by law, whichever is less. In addition to such interest charge, the delinquent Lot Owner shall also pay such late charge as may have been theretofore established by the Board of Directors to defray the costs arising because of late payment. The Association may bring an action at law against the delinquent Lot Owner (or foreclose the lien against the applicable portion of the Property), and interest, late payment charges, costs and reasonable attorney's fees related to such action or foreclosure shall be added to the amount of such assessment and assessment lien. No Lot Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of his or her property or the Common Areas or otherwise.

Section 11. Subordination of the Lien to Mortgages. The lien of the assessments provided for in Article V and in Article VII of this Declaration shall be subordinate to the lien of any first mortgage on a Lot or any mortgage or deed of trust to Anniston, LLC or any affiliated entity. Sale or transfer of any Lot shall not affect the assessment lien. The sale or transfer of any Lot pursuant to a mortgage foreclosure under any first Mortgage on a Lot or any mortgage or deed of trust to Anniston, LLC or any affiliated entity, or any proceeding in lieu thereof, however, shall extinguish the lien (but not the personal obligation of the mortgagor or any prior Lot Owner) of such assessments as to payments which became due prior to such sale or transfer; provided, however, that the Board of Directors may in its sole discretion determine such unpaid assessments to be an Annual, Special or Special Individual Assessment or a Special Septic System Assessment (as the case may be), as applicable, collectable pro rata from all Lot Owners, including the foreclosure sale purchaser. Such pro rata portions are payable by all Lot Owners notwithstanding the fact that such pro rata portions may cause the Annual Assessment to be in excess of the Maximum Annual Assessment permitted hereunder. No sale or transfer shall relieve the purchaser of such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the lien provided for herein shall continue to be subordinate to the lien of any first Mortgage on a Lot.

Section 12. Right to Borrow: The Association shall have the right and authority to borrow funds, evidenced by one or more promissory notes, for [i] payment of Common Area maintenance subsequent to January 1, 2005, but prior to the time that assessments will cover the reasonable cost of such, and [ii] to pay the costs incurred in adding to recreational facilities or Amenities. Such loans shall be at such interest rates and upon such repayment terms as the Board of Directors (see the Association Bylaws) approves, provided the Association at a called meeting may grant authorization that limits the authority of the Board in these matters. The Board is specifically authorized to borrow from the Declarant for payment of Common Area maintenance.

Section 13. Contribution by Declarant: Declarant agrees to contribute to the Association such funds as may be required to maintain the Common Area, to the extent that the maximum Annual Assessments are insufficient to pay the cost thereof, through the calendar year 2006.

ARTICLE VI

RESTRICTIONS

Section 1. Residential Restrictions. Each Lot shall be used exclusively for single-family, non-transient residential purposes; provided, however, Declarant or assigns shall have the right to use the Lots designated from time to time by Declarant for the purpose of construction and operation of construction offices and sales/marketing offices (and for related uses) for the Property. No trade, business or business activity of any kind shall be conducted upon a Lot or any part thereof except by Declarant as described hereinabove or except with the written approval of the Board. Provided, however, the Board may permit a business or business activity to be conducted on a Lot so long as such business, in the sole discretion of the Board, does not otherwise violate the provisions of this Declaration, does not create a disturbance and does not unduly increase traffic flow or parking congestion on the Property. The Board may issue rules regarding permitted business activities. Leasing of a residence on a Lot shall not be considered a business or business activity.

Except those to be utilized by Declarant as described hereinabove, no structure shall be erected, placed, altered, used or permitted to remain on any Lot other than one attached or detached single-family

private dwelling unit and one private garage for not less than two (2) vehicles and only such other accessory structures as are approved in advance in writing by the Architectural Control Committee pursuant to the Guidelines. No Lot and no Improvements may be used for hotel or other transient residential purposes. Each lease relating to any Lot or any Improvements thereon (or any part of either thereof) must be for a term of at least six (6) months, must be in writing, and must provide that the tenant is obligated to observe and perform all of the terms and provisions hereof applicable to such Lot and/or Improvements.

Section 2. Dwelling Unit Size. The square footage requirements set forth below are for enclosed heated floor area, are measured from the ground level up (said ground level being the first level of any dwelling unit as viewed from the Roadway fronting same) and are exclusive of the areas in heated or unheated basements, vaulted ceiling areas and attics, unheated porches of any type, attached or detached garages, porte-cocheres and unheated storage areas, decks and patios.

Any dwelling unit erected upon any Lot shall contain not less than 2,400 square feet heated floor area.

Notwithstanding the foregoing requirements, the Architectural Control Committee shall have the right (but not the obligation), because of restrictive topography, lot shape, dimensions or unusual site related conditions or other reasons, to allow variances from such minimum square footage requirements of up to ten percent (10%) of such minimum square footage requirements by granting a specific written variance.

No dwelling unit erected upon a Lot shall contain more than two and one-half (2 ½) stories above ground level (said ground level being the first level of any dwelling unit as viewed from the Roadway fronting same). Notwithstanding the foregoing, the Architectural Control Committee shall have the right (but not the obligation), because of steep topography, unique Lot configuration or dimensions, unusual site related conditions or other similar reasons, to allow dwelling unit heights greater than two and one-half (2 ½) stories as viewed from rear and side elevations.

Section 3. HVAC Equipment. No air conditioning or heating equipment or apparatus shall be installed on the ground in front of, or attached to any front wall of, any dwelling unit on a Lot. Additionally, air conditioning and heating equipment and apparatus shall be screened from view from Roadways by landscape Improvements, as more particularly provided in the Guidelines.

Section 4. Exterior Lighting. Exterior lighting on Lots shall be subject to the applicable requirements and limitations in the Guidelines. Night lighting of tennis courts on individual Lots is not permitted. Lighting located in the Common Area and at Builder's model homes shall be exempt of this requirement.

Section 5. Fences and Walls. In addition to the restrictions contained elsewhere in this Declaration and except as expressly provided below, no fence or wall (including densely planted hedges, rows or similar landscape barriers) (i) shall be erected, placed, maintained or altered on any Lot nearer to any Roadway fronting such Lot than the front building corner of the main dwelling unit constructed on such Lot (unless otherwise approved by the Architectural Control Committee) and (ii) shall not exceed six (6) feet in height, except fences enclosing approved tennis courts may be up to ten (10) feet in height if located at least twenty-five (25) feet from all Lot boundary lines. Provided, however, and notwithstanding the foregoing, in order to accentuate certain architectural styles within the Property, Declarant and/or the Architectural Control Committee, in their sole and absolute discretion, may allow the construction and use of fencing along or near the front, side and/or rear boundary lines of certain designated Lots within the Property. All fences and walls shall be maintained in a structurally sound and attractive manner. No fence or wall shall be erected on any Lot until the Architectural Control Committee has given its prior written approval of the color, size, design, materials and location for such fence or wall. The restrictions set forth shall not pertain to any fencing erected within the Common Area Open Space.

Section 6. Animals. No animals, bees, livestock or poultry shall be raised, bred or kept on any portion of the Property except that dogs, cats or other household pets may be kept, but not for any commercial purposes, provided that they do not create a nuisance (in the judgment of the Board) such as, but without limitation, by noise, odor, damage or destruction of property or refuse. Any excrement deposited by an animal on any portion of the Property shall be promptly removed and appropriately disposed of by the owner of such animal. The number of household pets kept or maintained outside the dwelling unit on a Lot shall not exceed three (3) in number, except for newborn offspring of such household pets which are all under nine (9) months in age. Dogs shall at all times, whenever they are outside of a dwelling unit, be on a leash or otherwise confined in a manner acceptable to the Board. Animal control authorities shall be permitted to enter the Property to patrol and remove pets and wild animals. All pets shall be registered, licensed and inoculated as required by law. No fenced dog enclosure or other structure for pets may be constructed or maintained on a Lot unless the same has been approved in writing by the Architectural Control Committee. No chained pets are permitted on any property, including the Lot Owner's property or any Common Area.

Section 7. Signs. No sign of any kind shall be displayed to the public view on any lot except one sign of not more than five (5) square feet advertising the property for sale or rent, or a sign used by the Builder or Declarant to advertise the property during the construction and sales period. Declarant shall have the right to place permanent signs for *Anniston* within the development.

Section 8. Temporary Structures; Structure Materials. No residence or building of a temporary nature, including a construction trailer, shall be erected or allowed to remain on any Lot, and no metal, fiberglass, plastic or canvas tent, barn, carport, garage, utility building, storage building or other metal, fiberglass, plastic or canvas structure shall be erected on any Lot or attached to any residence. Provided, however, nothing herein shall prohibit Declarant from approving erecting or moving temporary buildings onto Lots owned by Declarant to be used for storage, or for construction or sales offices.

Section 9. Sight Line Limitations. To the extent that governmental requirements shall not impose a stricter standard, no fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above roadways shall be placed or permitted to remain on any corner Lot within the triangular area as shown on the Plat as "Sight Triangle." The same sight line limitations shall apply on any Lot within the triangular area formed by (i) the line that runs from the point of intersection of (a) the edge of a roadway's pavement and (b) the edge of the pavement of the driveway on such Lot for a distance of ten (10) feet along such roadway pavement away from such driveway pavement, (ii) the line that runs from said point of intersection for a distance of ten (10) feet along such driveway pavement away from such Roadway pavement, and (iii) the straight line that connects the ending points of the lines described in the foregoing clauses (i) and (ii). No tree shall be permitted to remain within such triangular areas unless the foliage line is maintained at an appropriate height to prevent obstruction of sight lines.

Section 10. Utilities. All utilities and utility connections shall be located underground, including electrical, telephone and cable television lines. Electric, gas or other meters of any type, or other apparatus shall be located at the rear of the buildings constructed on Lots or, if approved by the Architectural Control Committee in writing, located elsewhere on the Lot provided they are adequately screened as required by the Architectural Control Committee in accordance with the provisions of this Declaration.

Section 11. Radio and Television Antennas. No freestanding radio or television transmission or reception towers, antennas, dishes or discs shall be erected on a lot. Only one radio and/or one television antenna attached to the residence not exceeding five (5) feet in height above the roofline of the residence and only one (1) dish attached to the house not exceeding three (3) feet in diameter.

Section 12. Sediment Control. Sufficient sediment control measures, including, but not limited to, installation and maintenance of silt fences, straw bale fences, storm water inlet protection and temporary seeding, to the extent deemed reasonably necessary by Declarant or the Architectural Control Committee, shall be taken by the Owner or Owner's builder to ensure that all sediment resulting from any

land disturbance or construction operation is retained on the Lot in question. All sediment control measures must be maintained until such Lot has been permanently stabilized with respect to soil erosion.

Section 13. Building Envelope. No building or other Improvement on any Lot (including any stoops or porches, patios, decks, terraces, etc.) shall be erected or permitted to remain outside of the "Building Envelope" for that particular Lot as established by the Architectural Control Committee (as to each Lot, the "Building Envelope"). The Building Envelope approved for any Lot will be available from the Architectural Control Committee on an unrecorded map. Provided, however, and notwithstanding the foregoing to the contrary, (i) exterior steps at the front and rear of a Dwelling unit may Project into the setback area established by the Building Envelope up to a distance of five (5) feet, and (ii) fireplace chimney structures Project from the side of a Dwelling unit may encroach no more than eighteen (18) inches into the side yard setback established by the Building Envelope. The Architectural Control Committee shall have the right in its sole discretion to make exceptions to any Building Envelope to recognize any special topography, vegetation, Lot shape or dimensions, or other site-related conditions. In the event any zoning or subdivision ordinance, floodway regulation or other ordinance, law or regulation applicable to a Lot shall prescribe greater setbacks, then all buildings erected during the pendency of such requirements shall conform thereto.

Section 14. Driveways. Any driveway or any vehicle parking area constructed on any lot in the property shall have either an asphalt, brick or concrete surface which shall be kept and maintained in good condition and repair.

Section 15. Mailboxes. No brick or stone mailboxes shall be erected or allowed to remain within the right-of-way of any street located within the Submitted Property. The Architectural Control Committee may adopt more restrictive requirements including the requirement for the use of a uniform mailbox design for *Anniston*. All mailboxes shall comply with the requirements of North Carolina Department of Transportation (NCDOT).

Section 16. Garbage Cans. Except for the scheduled day of pickup, all garbage receptacles shall be kept in an enclosed structure or screened by adequate planting or fencing as to conceal same from the view of neighboring owners and roadways. On the day of pickup, any garbage receptacle shall promptly be removed from the street.

Section 17. Combination or Subdivision of Lots. Should the Owner of a Lot own an adjacent Lot(s) and desire that two (2) or more such Lots be considered as one Lot, then such Lots shall (except as provided herein) be considered as one Lot for the purposes of this Article VI upon the recordation in the Office of the Register of Deeds of Iredell County, North Carolina, of an instrument by such Owner expressing such intent (such instrument to refer specifically to this section in this Declaration and to identify the Lots to be considered as one Lot for purposes of this Article VI, and a copy of such recorded instrument shall be promptly delivered by such Owner to the Architectural Control Committee); and in each such case, Building Envelopes, setback lines, and easements reserved in this Declaration shall be adjusted accordingly by the Architectural Control Committee. The Owner of any Lot which combines with all or a portion of a contiguous Lot shall be solely responsible for any costs which may result from such combination, including the costs of relating any existing easements. With respect to combined Lots, Declarant reserves the right to designate said combined Lots as one (1) Lot or multiple Lots, in Declarant's sole and absolute discretion, for purposes of payment of assessments. No Lot shall be subdivided by sale, lease or otherwise without the prior written consent of Declarant. Provided, however, Declarant reserves the right to change the size, boundaries or dimensions of any Lot owned by Declarant for any reason.

Section 18. Restricted Activities in Common Areas and Maintenance Areas. No cutting of vegetation, dumping, digging, filling, destruction or other waste shall be committed on the Common Areas. There shall be no obstruction of the Common Areas, nor shall anything be kept or stored in the Common Areas, nor shall anything be altered, or constructed or planted in, or removed from, the Common Areas, without the prior written consent of the Declarant and the Association. Each Owner shall be liable to the Association and/or Declarant for any damage to any Common Area caused by the negligence or willful misconduct of the Owner or his family, tenants, guests, agents, employees, or invitees. Provided,

however, the provisions in this paragraph shall not apply to Declarant in connection with Declarant's construction activities on the Property.

Section 19. Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any Lot, other than in enclosed garages.

Section 20. Seasonal Decorations. Seasonal house and yard decorations shall be removed within thirty (30) days following the holiday period.

Section 21. Rules of the Board. All Owners of any Lot shall abide by all rules and regulations adopted by the Board from time to time. The Board shall have the power to enforce compliance with said rules and regulations by all appropriate legal and equitable remedies, and an Owner determined by judicial action to have violated said rules and regulations shall be liable to the Association and/or Declarant for all damages and costs, including attorneys' fees.

Section 22. Recreational and Other Equipment

(a) No recreational equipment (including, but not limited to, basketball backboards and hoops, trampolines, swing sets, tree houses, children's climbing or play apparatus and other equipment associated with either adult or juvenile leisure or recreation) shall be attached to the exterior of any dwelling unit or otherwise placed or kept on any Lot, except in accordance with the requirements as set forth in the Guidelines.

(b) No such recreational equipment shall be located in such a manner as to constitute a nuisance or unsightly condition to adjoining Owners.

(c) Children's play toys and other moveable equipment of any type (such as lawn mowers, garden tools, etc.) shall not remain repeatedly overnight within any front yard of any Lot, or within the side yards of any Lot located on a roadway corner, in such number or for such a long period of time as to create a continuing, unsightly condition.

Section 23. Parking; Storage

(a) No vehicles, trucks, vans, cars, trailers, construction equipment, etc. may be parked overnight on any Roadway within the Property.

(b) Commercial-use vehicles and trucks not involved with construction activity on the Property and having a carrying capacity and/or size designation greater than or equal to three-fourths (3/4th) ton shall not be permitted to park overnight on the roadways, driveways or otherwise within the Property, unless stored in an enclosed garage. No vehicle of any size which transports inflammatory or explosive cargo may be kept within the Property at any time. No vehicles that are not in a condition to be normally operated or that do not have a current registration tag may be stored or situated on any Lot unless stored in an enclosed garage.

(c) The Owner of each Lot will be responsible for providing on such Owner's Lot a sufficient paved parking area for all vehicles normally parked and/or situated on or in regard to such Lot.

(d) No recreational vehicles or related equipment, including any boat, houseboat, trailer, motor home or "camper" vehicle may be maintained, stored or kept on any portion of the Property, except in an enclosed garage or in an enclosure specifically approved for such maintenance or storage by the Architectural Control Committee.

(e) No construction office trailers may be placed, erected or allowed to remain on any Lots during construction, except as approved in writing by the Architectural Control Committee. Provided,

however, nothing herein shall prohibit Declarant from erecting or moving temporary buildings onto Lots owned by Declarant to be used as construction or sales offices. Other construction vehicles (trucks, vans, cars, construction equipment, equipment trailers, etc.) may be left overnight on the Property (including any Lot or Roadway) only in accordance with such rules as may be established by the Architectural Control Committee.

- (f) The discharge of firearms is strictly prohibited within the property.

Section 24. Sewage Disposal; Including Wells and Septic Easements. Every dwelling unit erected on any Lot shall be served by an approved septic system for the disposal of sewage, or connected to a private or public sewage disposal system. All well water and all septic systems or other private sewage disposal systems shall be approved by, and constructed and maintained in accordance with, all the regulations and requirements of all governmental authorities and regulatory agencies having jurisdiction. Owners shall construct a well only at a site approved in writing by the Declarant, or by the Association when Declarant no longer owns a lot within the Property. Deviations on the permitted location of well sites may only be made with the written consent of Declarant or Association as the case may be because the location of a well on one Lot affects the permissible location of septic fields on that Lot and other Lots. All Owners, by purchasing property subject to this Declaration, acknowledge that any governmental permit or approval allowing for the construction and operation of a septic system or other private sewage disposal system may be limited in duration in accordance with the terms thereof, and neither Declarant, nor the Association, nor the officers, directors, members, employees, agents or affiliates of any of them, shall have any liability arising directly or indirectly out of the inability of an Owner to obtain any such permit or approval following the initial expiration thereof.

Non-exclusive Septic Field Easements are hereby established, declared and reserved by Declarant, its successors and assigns, over those portions of the Common Areas labeled "SFE" or "Septic Field Easements" on plats of the Property recorded, or to be recorded, in the Iredell County Public Registry. The Septic Field Easements are for the purpose of providing septic service, for the installation and maintenance of septic systems and for use as drainage fields over, across and under those portions of the Common Areas so labeled to and for the benefit of the Owners and the Association as is more particularly described herein. Each of the Septic Field Easements shall be an appurtenance to and run with the title to the Lot it services and for which it is reserved. The Lots which have been platted as of the recording of this Declaration and the Septic Field Easements which are an appurtenance to such Lots are set forth on Exhibit B attached hereto. Any Deed, Deed of Trust, mortgage, transfer or other conveyance of any of said Lots shall also convey the Septic Field Easement appurtenant to such Lot, even if not expressly included therein. The Owner of the Lot to which such Septic Field Easement is appurtenant may use such Easement to construct, install, excavate, dig, build, maintain, operate and remove and reinstall a septic system and related lines, equipment and apparatus in and upon the area over which such Septic Field Easement is reserved, and to clear (and to continue to clear as necessary) all trees, brush, and other plants and to remove all rocks if necessary for the proper construction, installation and maintenance of said septic system and related lines, equipment and apparatus.

In addition, Declarant for itself and Owners reserves an easement over those areas designated as Septic Supply Pressure Line Easements ("Pressure Line Easements") shown on Plats for the purpose of locating, installing, repairing and maintaining sewer lines to carry sewage to the Septic Field Easements areas from the individual Lots and for the purposes set forth herein. The sewage lines within the Pressure Line Easements shall be installed and maintained as provided in this Declaration. The Pressure Line Easements shall be appurtenant to the Lots.

Each Lot Owner shall maintain, in accordance with all rules, regulations and requirements, all portions of any septic system or other sewage disposal system located on such Lot, Septic Field Easement, Septic Supply Pressure Line Easement and Roadway: (i) in an orderly condition, clean and free from debris, including any upkeep, repair, removal and replacement of any Improvements located thereon, and (ii) in a good operating condition in compliance with any requirements imposed by the Declarant, the Association, or any governmental authority. If any septic system or other sewage disposal system located on a Lot or Septic Field Easement and any Septic Supply Pressure Line is not maintained by the applicable

Lot Owner as set forth herein, the Declarant or the Association, in its sole discretion, may enter such Lot to perform such maintenance and may levy a Special Individual Assessment upon the Lot Owner for the purpose of maintaining, repairing or replacing the Septic System or other sewage disposal system serving such Lot. In addition to the foregoing, the Association (or its designee) shall have the right to enter any Lot, Septic Field Easement or Septic Supply Pressure Line Easement from time to time for purposes of inspecting and/or maintaining any septic system or other sewage disposal system and may levy Special Septic Inspection Assessments to pay for any costs incurred in connection with any such maintenance, as more particularly described in Section 25 of this Article VI. In this regard, each Owner of a Lot (other than Declarant) by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (in addition to other assessments provided for herein) Special Individual Assessments as levied in the discretion of the Association. Any such assessment or charge, together with interest, costs, and reasonable attorneys' fees, shall be a charge and a continuing lien upon the Lot against which each such assessment or charge is made. Each such assessment or charge, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot effective at the time when the assessment fell due.

Declarant hereby reserves unto itself, its successors and assigns, and grants to the Association, a non-exclusive easement burdening each Lot to which a Septic Field Easement is appurtenant for the purpose of connecting any residence(s) upon such Lot(s) to any public or private sewer line providing service accessible to such Lot, including access across such Lot and the right to install any pipes and apparatus as may be necessary to connect any such residences) to such sewer line (the "Septic Supply Pressure Line Easement"). By reserving the Septic Supply Pressure Line Easement, Declarant has not obligated itself, its successors or assigns, or the Association, to connect any public or private sewer line to the above-described Lots and the exercise of such rights under the Septic Supply Pressure Line Easement shall be at the sole discretion of Declarant, its successors or assigns, or the Association, as the case may be.

Section 25. Septic System Inspection and Septic Inspection and Repair Easement. The Association shall cause all private Septic Systems located within the Property to be inspected no less than every six (6) months. Such inspections shall be conducted in order to confirm that each such system is properly functioning and is generally in compliance with any applicable laws, ordinances or governmental regulations. If an inspection reveals that a Septic System is not functioning properly, or is otherwise not in compliance with any applicable law, ordinance or regulations, the inspector shall notify the Owner, the Association and any other party or agency as required by law. The Owner shall be responsible for immediately repairing the Septic System at such Owner's sole cost and expense and providing the Association, within thirty (30) days, with proof of such repair. The Association shall be authorized to notify any applicable governmental or regulatory agencies or officials of the malfunctioning or noncompliance of any Septic System located within the Property.

The foregoing notwithstanding, neither Declarant, the Association, nor its directors, officers, agents or employees shall be responsible for damages or otherwise to anyone by reason of mistake of judgment, omission, negligence or nonfeasance arising out of the inspection services performed pursuant to this Declaration including, without limitation, any damages to any Lot or property by reason of the failure to inspect or the failure of such inspections to detect any malfunction, damage or noncompliance with law.

Declarant hereby reserves a non-exclusive perpetual easement over all property within the Property for the purposes of conducting the Septic System inspections and repairing and/or replacing the Septic System if an Owner fails to repair or replace the Septic System within thirty (30) days of notification by the Association. The Board of Directors shall have the right to levy a Special Individual Assessment against such Lot Owner pursuant to Section 6 of Article V hereof to recover the costs and expenses incurred by the Association in maintaining, repairing or replacing the Lot Owner's Septic System.

Section 26. Encroachment Agreement with the North Carolina Department of Transportation. The pipes, which are a part of the Septic System, transporting the sewage from the Lots to the Septic Field Easements will be or have been constructed within the rights-of-way of the Roadways which will be dedicated for public maintenance by the North Carolina Department of Transportation or

other governmental entity. Prior to such acceptance for public maintenance, the North Carolina Department of Transportation will require all Lot Owners to execute an Encroachment Agreement to allow the Association, Declarant and/or a Lot Owner to have the right to construct, install, excavate, dig, building, maintain, operate, remove and reinstall septic lines, pipes and related equipment and apparatus within and upon the road rights-of-way adjacent to the Lots. Upon the request of the Association or Declarant, each Lot Owner, by acceptance of a deed of a Lot in the Property, agrees to execute any such Encroachment Agreement required by the North Carolina Department of Transportation or other governmental entity. In the event a Lot Owner does not execute the requested Encroachment Agreement, the North Carolina Department of Transportation will not accept the Roadways for dedication and will not maintain the Roadways as public roads and therefore, the Declarant will be required to continue to maintain the Roadways. Provided, however, that the Association shall have the power and right to levy a Special Individual Assessment as provided in Section 6 of Article V against any Lot Owner(s) who has failed to execute an Encroachment Agreement, thereby resulting in the failure of the North Carolina Department of Transportation to accept the Roadways for maintenance, in the amount of any required expenditures incurred by the Declarant in maintaining the Roadways. The failure of the North Carolina Department of Transportation to accept the Roadways for maintenance may also prevent school buses from using the Roadways.

Section 27. **Nuisances.** It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on such Owner's property. No Lot shall be used, in whole or in part, for the deposit, storage or burial of any property or thing that will cause such property to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on within any Lot, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within the Property. There shall not be maintained on any Lot any plants or animals or device or thing of any sort whose activity or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Property. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any dwelling unit or any unimproved Lot unless required by law.

Section 28. **Diligent Construction.** All construction, landscaping or other work which has been commenced on any Lot must be continued with reasonable diligence to completion and no partially completed dwelling units or other Improvements shall be permitted to exist on any Lot, except during such reasonable time period as is necessary for completion. All construction must be completed within one (1) year after the date upon which it commenced, unless a longer time is approved by the Architectural Control Committee. Any damage to the Roadways, curbs or any part of any Common Area, or any utility system caused by an Owner or Owner's builder or such builder's subcontractors on any portion of the Property shall be diligently repaired by the Lot Owner. The Lot Owner shall keep such portion of the Property free of unsightly construction debris, and shall similarly keep contiguous public and private areas free from any dirt, mud, garbage, trash, or other debris which is occasioned by construction of Improvements. The Board may levy a Special Individual Assessment against an Owner's property in the Property to pay for the cost of repairing any damage to Roadways, curbs or any part of any Roadway, Common Area, or utility system, to pay for the cost of cleaning public and private areas, including the Roadways in the Property, and to pay for the cost of the removal of garbage, trash or other debris, which are occasioned by the activities of an Owner or Owner's builder or such builder's subcontractors during the construction of Improvements.

Section 29. **Governmental Requirements.** Nothing herein contained shall be deemed to constitute a waiver of any governmental requirements applicable to any Lot and all applicable governmental requirements or restrictions relative to the construction of Improvements on and/or use and utilization of any Lot shall continue to be applicable and shall be complied with in regard to the Lots. Each Owner shall comply with all laws, regulations, ordinances and other governmental rules and restrictions in regard to the Lot(s) or other portion of the Property owned by such Owner (including, without limitation, applicable zoning laws, rules, regulations and ordinances).

Section 30. Compliance with Wetland and Buffer Regulations. A portion of this Property has been determined to meet the requirements for designation as a wetland, stream or protected stream buffer. Any subsequent fill or alteration of this area shall conform to the requirements of the state rules adopted by the State of North Carolina in force at the time of the proposed alteration. The intent of this provision is to prevent additional wetland, stream or buffer filling or draining, so the Association or Lot Owner should not assume that a future application for filling or draining would be approved. The Association or Lot Owner shall report the name of the subdivision in any application pertaining to said rules. This covenant is intended to ensure continued compliance with all rules adopted by the State of North Carolina and therefore the State of North Carolina and therefore the State of North Carolina may enforce benefits. This covenant is to run with the land and shall be binding on all Parties and all persons claiming under them.

Section 31. Occupants Bound. All provisions of this Declaration, any Additional or Supplemental Declaration and the Bylaws and any and all rules and regulations, use restrictions or Architectural and Landscape Guidelines promulgated pursuant hereto or thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Occupants even though Occupants are not specifically mentioned.

ARTICLE VII

ARCHITECTURAL AND LANDSCAPING CONTROL

Section 1. General. Notwithstanding anything contained in this Declaration to the contrary, no Improvements, including, without limitations, site preparation on any Lot, change in grade or slope any Lot, or erection of buildings or exterior additions or alterations to any building situated upon the Property, erection of or changes or additions in fences, hedges, walls and other structures, any landscaping, or any cutting of trees on any Lot as defined in Section 3 of this Article VII, shall be commenced, erected or maintained on any portion of the Property, subject to the provisions of Article VII, Section 7 hereof, until the Architectural Control Committee has approved the plans and specifications therefore and the location of such Improvements and has given it's written approval for commencement of construction all in accordance with the terms and requirements in the Architectural and Landscape Guidelines (b) the fees set forth in or contemplated in this Article VII have been paid; and (c) the contracts identified in this Article VII have been executed. In addition to any standards established pursuant to the Declaration, Declarant may establish, by Additional Declarations, architectural and landscaping control standards, guidelines and restrictions in regard to various Phases or sections of the Property. Except as otherwise expressly provided herein, the provisions of Article VII shall not apply to the construction of any Improvements commenced, erected or maintained by Declarant on any Lot or upon any of the Common Areas.

The Board may delegate to the Architectural Control Committee any powers or authority reserved or granted to the Board under this Article VII.

Section 2. Membership of Architectural Control Committee. So long as Declarant owns any Lot or other portion of the Property, the members of the Architectural Control Committee shall be appointed by Declarant. At such time as Declarant no longer owns any Lot or other portion of the Property or at such earlier date as Declarant releases its right to appoint the members of the Architectural Control Committee, the members of the Architectural Control Committee shall thereafter be appointed by the Board. The members of the Architectural Control Committee shall be appointed annually and will be composed of at three (3) members. The members of the Architectural Control Committee need not be Owners of property in the Property. In the event of death or resignation of any member of the Architectural Control Committee, the party or body having the authority to appoint members to the Architectural Control Committee shall have full authority to designate and appoint successor. Members of the Architectural Control Committee maybe removed or replaced at any time, with or without cause, and without prior notice, by the party or body then having the authority to appoint such members. Notwithstanding anything contained herein to the contrary, the Architectural Control Committee shall have the right, power and

authority to employ and/or use the services of any architects, engineers, attorneys or other professionals as it deems necessary or advisable, in its sole discretion, to carry out the duties and obligations of the Architectural Control Committee as described in this Article VII.

Section 3. Architectural and Landscaping Guidelines

The Architectural Control Committee shall, from time to time, promulgate architectural and design guidelines (the "Architectural and Design Guidelines"). The Architectural and Landscape Guidelines shall be explanatory and illustrative of the general intent of the development of the Property and are intended as a guide to assist the Architectural Control Committee in reviewing plans and specifications for Improvements. The Architectural and Landscape Guidelines shall also set out, among other things, the procedure for submission, review and approval of plans and specifications to the Architectural Control Committee and the fees to be imposed by the Architectural Control Committee, as more specifically described in Article VII, Section 8 hereof. In any event, the Architectural and Design Guidelines shall not be binding upon the Architectural Control Committee, maybe revised and amended at any time by the Architectural Control Committee, in its sole discretion and shall not constitute, in every event the basis for approval or disapproval of plans, specifications and other materials submitted to the Architectural Control Committee for approval.

Section 4. Definition of "Improvements". The term "Improvement" or "Improvements" shall mean and include any and all man-made changes or additions to a Lot, including, but not limited to, the locations, materials, size and design of all buildings (including any exterior devises attached to or separated from buildings such as heating and air conditioning equipment, antennae, satellite dishes, etc.); storage sheds or areas; roofed structures; parking areas; fences; "invisible" pet fencing; pet "runs," lines and similar tethers or enclosures; walls; irrigation equipment, apparatus and system landscaping (including cutting of trees); hedges; mass planting; poles; driveways; ponds; changes in grade or slope; site preparations; swimming pools; hot tubs; jacuzzis; tennis courts; tree houses; basketball goals; skateboard ramps; and other sports or play apparatus; signs; exterior illumination; and changes in any exterior color or shape. The definition of Improvements, however, does not include the replacement or repair which does not change exterior colors, materials, designs or appearances from that which previously approved by the Architectural Control Committee.

Section 5. Enforcement.

(a) It is Declarant's intent that the architectural control provisions of this Declaration are to permit control of the architectural design and landscaping and to establish quality standards for construction and construction activity in the Property and to help preserve values of properties in the Property. All Owners, by purchasing property subject to this Declaration, acknowledge that a violation of any such provisions could result in irreparable harm and damage to other Owners of Property in the Property and to the Declarant, and to the values of their respective properties in the Property, a monetary measure of which harm and damage would be difficult to establish. Accordingly, the Association shall have the specific right (but not the obligation) to enforce and/or to prevent any violation to the provisions contained in this Article VII by a proceeding at law or in equity against the person or persons violations or attempting to violate any such provisions. This Declaration hereby specifically reserves and grants unto the Architectural Control Committee, the Board and any agent or member thereof, the right of entry and inspection upon any portion of the Property for the purpose of determination by the Architectural Control Committee or the Board whether there exists any construction of any Improvement which violates the terms of any approval by the Architectural Control Committee, the terms of the Architectural and Landscape Guidelines, the terms of the Declaration.

(b) As to nonconforming or unapproved Improvements, the Association may require any Owner to restore such Owner's Improvements to the condition existing prior to the construction thereof (including, without limitation, the demolition and removal of any unapproved Improvements) if such Improvements were commenced or constructed in violation of this Article. In addition, the Association may, but has no obligation to cause such restoration, demolition and removal to be performed and to levy the amount of the cost thereof as a Special Individual Assessments against the Lot or portion of the Property upon which such Improvements were commenced or constructed.

Section 6. Time for Review. Upon submission of all detail reasonably requested by the Architectural Control Committee (received in the office of Declarant or other office as designated by Declarant), the submitting Owner shall receive, in writing, the decision of the Committee within thirty (30) business days. Failure of the Committee to render a written decision within thirty (30) business days shall be deemed approval of the submission. If plans and specifications or other submittals are not sufficiently complete or are otherwise inadequate, the Architectural Control Committee may reject them as being inadequate or may approve or disapprove part, conditionally or unconditionally, and reject or approve the balance. The Architectural Control Committee is authorized to request the submission of samples of proposed construction materials.

Section 7. Variances. The Architectural Control Committee is hereby authorized and empowered to grant reasonable variances from the provisions of this Declaration or the Architectural and Landscape Guidelines in order to overcome specific development problems or hardship caused by strict application of the provisions of either this Declaration or the Architectural and Landscape Guidelines. Such variances, however, must not materially injure any of the Property, amenities or Improvements in the Subdivision and must be made in furtherance of the spirit and purpose of this Declaration. The committee is specifically empowered to, at its sole discretion, grant variances of setback requirements up to ten percent (10%) of the total setback required. The Architectural Control Committee will not, however, grant any variance for setbacks less than those required by applicable zoning ordinances unless the Owner also obtains a variance from the appropriate governmental authority empowered to grant such variances. Approval of the Committee of any Improvement or use for a designated Lot shall not be a waiver of the Committee's right to reject a similar or identical Improvement or use upon another Lot (or the same Lot at another time) if such Improvement or use is of a nature that it may be rejected under the terms of this Declaration or the Architectural and Landscape Guidelines. Similarly, in light of the purpose of this Declaration, approval by the Committee of any specific set of plans does not bind the Committee to approve an identical set of plans submitted at another time.

Section 8. Fees Required by Architectural Control Committee. The Architectural Control Committee may require that each Person submitting plans and specifications for Improvements to the Architectural Control Committee pay a reasonable fee for review of plans. Such fee, including the amount, payee and purpose(s) therefore, shall be established by, and may be increased from time to time by, the Architectural Control Committee and shall be set forth in the Architectural and Landscaping Guidelines.

Section 9. Limitation of Liability. No member of the Architectural Control Committee or the Architectural Changes Committee shall be liable for claims, causes of action or damages (except where occasioned by willful misconduct of such member) arising out of services performed pursuant to this Article VII. Neither the Architectural Control Committee, nor the members thereof, nor the Association, nor Declarant, nor any officers, directors, members, employees, agents or affiliates of any of them, shall be liable for damages or otherwise to anyone submitting plans and specifications and other submittals for approval or to any Owner by reason of mistake of judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval of, or the failure to approve or disapprove of, any plans and specifications. The approval of plans and specifications by the Architectural Control Committee shall not be deemed or construed as a representation or warranty of the Architectural Control Committee, Declarant, or any officer, director, member, employee, agent or affiliate of any of them. (i) that Improvements constructed in accordance with such plans and specifications will comply with applicable zoning ordinances, building codes, or other governmental or quasi-governmental laws, ordinances, rules and regulations or (ii) as to the structural soundness, quality, durability, suitability, fitness or proper functioning of Improvements constructed in accordance with such plans and specifications; and any responsibility or liability therefore is hereby disclaimed. Every person who submits plans and specifications, and every Owner, agrees that he will not bring any action or suit against Declarant, the Association, the Architectural Control Committee, the Board, or the officers, directors, members, employees, agents or affiliates of any of them, to recover any such damages and hereby releases, demises, and quitclaims all claims, demands and causes of action out of or in connection with any judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands and

causes of action not known at the time the release is given.

Section 10. Miscellaneous. The Owner shall be responsible to ensure that any Improvements will comply and be constructed in accordance with applicable building codes, zoning ordinances, environmental regulations and/or any other governmental laws, ordinances, rules and regulations and secure any necessary permits or approvals.

ARTICLE VIII

EASEMENTS AND OTHER RIGHTS

Declarant hereby reserves unto itself, its successors and assigns, the right, on behalf of itself and the Association, to grant additional easements on, upon, over, across, through and under the Common Areas and any portion of the Property owned by Declarant as deemed to be in the best interests of and proper for the Property, including, but not limited to, easements in favor of Declarant, the Association, the Owners, and all their family members, guests, invitees and tenants and to various governmental and quasi-governmental authorities and agencies and private concerns.

Section 1. Easements and Cross-Easements on Common Areas. Declarant, for itself, its designees and the Association, reserves the right to impose upon the Common Areas henceforth and from time to time such easements and cross-easements for ingress and egress, installation, maintenance, construction and repair of utilities and facilities including, but not limited to, electric power, telephone, cable television, master antenna transmission, surveillance services, governmental and quasi-governmental purposes, sewer, septic system, water, gas, drainage, irrigation, storm water management, lighting, television transmission, garbage and waste removal, emergency services, and the like.

Section 2. Right-of-way Over Roadways. Declarant hereby reserves, for the benefit of itself, its agents, employees, lessees, invitees, designees, successors and assigns, and grants to the Association, its agents, employees, tenants, invitees, designees, successors and assigns, and to each Owner of a Lot, their family members, tenants, guests, invitees, successors and assigns, and to each Occupant of a Lot, and to all governmental and quasi-governmental agencies and service entities having jurisdiction over the Property while engaged in their respective functions, a perpetual non-exclusive easement, license, right and privilege of passage and use, both pedestrian and vehicular, over and across the Roadways for the purpose of providing access, ingress and egress to and from, through and between the Property.

The Association or any Lot Owner shall not place any Improvements or make any changes to the Roadways or any site lines across a lot at any intersection that would cause the NCDOT not to accept the Roadways for public maintenance. If an Owner does not correct such items, the Declarant or Association shall have the right to correct such items and bill and place a Special Individual Assessment on such lot.

Section 3. Easement for Encroachments. Declarant hereby reserves, for the benefit of itself, its successors in interest and assigns, and grants to the Association, the Owners, their successors and assigns, and to the Occupants of Lots, easements for encroachments, to the extent necessary, in the event any portion of the Improvements located on any portion of the Property now or hereafter encroaches upon any of the remaining portions of the Property as a result of minor inaccuracies in survey, construction or reconstruction, or due to settlement or movement. Any easement(s) for encroachment shall include an easement(s) for the maintenance and use of the encroaching Improvements in favor of Declarant, the Association, the Owners and all their designees.

Section 4. Utility, Drainage and Septic Easements. The Property shall be subject to all easements and rights-of-way for utilities, drainage and septic shown on the Plats, including, but not limited to, those certain easements shown and designated on the Plats as:

- (a) "Utility Easement";
- (b) "Public Storm Drainage Easement";
- (c) "Septic Field Easements"; and

(d) "Septic Supply Pressure Line Easement."

Such easements are hereby reserved for the use of Declarant, its successors and assigns, and are hereby established for the use of the Association, its successors and assigns, and include, without limitation, storm drainage easements of variable width, whether or not depicted on a Plat, over the entire area within all ditches along any Roadway.

Additionally, Declarant hereby reserves, for the benefit of itself, its successors and assigns, and grants to the Association, its successors and assigns, a non-exclusive easement and right-of-way over, under and along a 10-foot strip of land adjacent to the front, side and rear boundary lines of all Lots within the Property for the installation and maintenance of lines, conduits, pipes and other equipment necessary for furnishing electric power, gas, telephone service, cable service, water, irrigation, septic system, sanitary sewer and drainage facilities, storm drainage and/or other utilities. Within the above-described easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation of utilities or which may change the direction or flow of drainage channels in the easements. This reservation of easements shall not prohibit the construction of driveways, at locations approved by the Architectural Control Committee, over such easements.

Section 5. Additional Easements. Declarant shall have the right to grant over, under, across and upon any portion of the Property owned by Declarant, and the Board shall have the authority, in its sole discretion, to grant over, under, across and upon the Common Areas, such easements, rights-of-way, licenses and other rights in accordance with or to supplement the provisions of this Declaration or as may otherwise be desirable for the development of the Property, by the execution, without further authorization, of such grants of easement or other instruments as may from time to time be necessary or desirable. Such easements may be for the use and benefit of persons who are not Association Members or Owners. After such time as the members of the Board are no longer appointed by Declarant, the Board shall cooperate with Declarant and execute such grants of easements over the Common Areas as may be desirable to Declarant for the development of the Property and the preservation and enhancement of Declarant's interest therein.

ARTICLE IX

GENERAL PROVISIONS

Section 1. Duty of Maintenance. Except for those portions, if any, of a Lot which the association may elect to maintain or repair hereunder, the Owner of any Lot shall have the duty and responsibility, at such Owner's sole cost and expense, to keep the Lot(s) owned by such Owner, including Improvements thereon and ground and drainage easements or other rights-of-way incident thereto, in compliance with the covenants, conditions, restrictions and development standards contained in this Declaration (to the extent applicable), and in any Supplemental Additional Declaration, in accordance with the provisions of the Architectural and Landscape Guidelines, and in a well-maintained, safe, clean and attractive condition at all times.

If an Owner of any Lot has failed in any of the duties or responsibilities of such Owner as set forth herein, then the Board and Declarant, either jointly or severally, may give such Owner written notice of such failure and such Owner must within ten (10) days after receiving such notice (which notice shall be deemed to have been received upon deposit in an official depository of the United States mail, addressed to the party to whom it is intended to be delivered, and set by certified mail, return receipt requested), perform the care and maintenance required or other wise perform the duties and responsibilities of such owner as describe din herein. Provided, however, this cure period shall be extended for a time not to exceed sixty (60) days so long as Owner shall have commenced to cure such nonconformity and shall diligently prosecute the same. Should any such Owner fail to fulfill this duty and responsibility within such period, then the Association, acting through its authorized agent or agents, or Declarant (so long as it owns any portion of the Property), acting through its authorized agent or agents, either jointly or severally, shall have the right and power to enter onto the premises of such Owner and perform such care and maintenance

without any liability for damages for wrongful entry, trespass or otherwise to any person. The Owner of the Lot on which such work is performed shall be liable for the cost of such work, together with interest on the amounts expended by the Association or Declarant, as the case may be, on demand for such costs and expenses (including interest as above provided). If such Owner shall fail to reimburse the Association or Declarant, as the case may be, within thirty (30) days after the mailing to such Owner of a statement for such costs and expenses, then, without limitation of any other rights of the Association or Declarant, the Association may impose a Special Individual Assessment against such Owner.

Section 2. Duration. This Declaration and the controls, covenants, restrictions and standards set forth herein shall run with and bind the Property and any Owner, and shall inure to the benefit of every Owner of a Lot in the Property and every Owner of any other portion of the Property, including Declarant, and their respective heirs, successors, and assigns, for a term of thirty (30) years beginning on the date this Declaration is recorded in the Office of the Register of Deeds of Iredell County, North Carolina. At the end of such thirty (30) year period, the easements, covenants, conditions and restrictions set forth herein shall automatically be extended for successive period(s) of ten (10) additional years, unless prior to the expiration of a respective period, by two-thirds (2/3) vote of the Association Members, there shall be adopted a resolution to terminate these covenants and restrictions. Owners may vote in person or by proxy at a meeting duly called for such purpose at which a quorum is present, written notice of which shall have been given to all Owners at least thirty (30) days in advance of the date of such meeting, which notice shall set forth the purpose of such meeting. The foregoing shall not limit the right of Declarant to amend and/or supersede, in whole or in part, the terms and provisions hereof, as such right in favor of Declarant is described in Section 3 below.

Section 3. Amendment. Except as otherwise expressly provided herein and subject to the limitations hereinafter contained, this Declaration may be amended or modified at any time by a vote of no less than sixty-seven percent (67%) of all votes entitled to be cast by the Association Members, which vote is taken at a duly held meeting of the Association Members at which a quorum is present, all in accordance with the Bylaws. Provided, however, if sixty-seven percent (67%) of all votes present at a duly held meeting of the Association Members at which a quorum is present and by, within ninety (90) days of such vote, obtaining written consent to such amendment by Association Members holding a sufficient number of votes to comprise, along with such voting Association Members, a total of sixty-seven percent (67%) of all votes entitled to be cast by Association Members. Further provided, that any amendment or modification to this Declaration must be consented to by Declarant so long as Declarant is the Owner of any Lot or other portion of the Property, which consent Declarant may grant or withhold in its sole discretion. Any amendment or modification upon which the vote of Association Members is required pursuant to this Section 3 shall become effective when an instrument executed by the Association Members voting for such amendment or modification is filed of record in the Office of the Register of Deeds of Iredell County, North Carolina; provided, however, such an amendment or modification, in lieu of being executed by the Association Members voting for such amendment or modification, may contain a certification of the Secretary of the Association stating that the amendment or modification has been voted on and approved by the requisite number of votes of the Association Members, as provided in this Section 3.

Notwithstanding the terms of the immediately preceding paragraph of this Section 3, for a period of ten (10) years after the recordation of this Declaration, Declarant, without obtaining the approval of any Association Member or any Owner or Owners other than Declarant, shall have the unilateral right, in its sole and absolute discretion, to make any amendments or modifications hereto which Declarant deems necessary or desirable, including, without limitation amendments or modifications to any procedural, administrative or substantive provision of this Declaration. Furthermore, at any time during the term of this Declaration, Declarant, without obtaining the approval of any Association Member or any Owner or Owners other than Declarant, shall have the unilateral right, in its sole and absolute discretion, to make any amendments or modifications hereto which are (i) correctional in nature and do not involve a change which materially adversely affects the rights, duties or obligations specified herein and (ii) necessary to cause this Declaration or any Additional Declaration to comply with the requirements of FHA, VA, the Federal National Mortgage Association or other governmental agency.

Section 4. Release of Property. For a period of ten (10) years after the recordation of this

Declaration, Declarant shall have the right, in its sole and absolute discretion, without the consent of the Association, any Association Member or any other Owner, to release any portion of the Property then owned by Declarant from the terms of this Declaration by recording a release in the Office of the Register of Deeds of Iredell County, North Carolina. After the recordation of such release, the portion of the Property described therein shall not be subject to the terms of this Declaration.

Section 5. Enforcement; Litigation. The Association, Declarant or any Owner shall have the right, but not the obligation, on its own behalf or on behalf of others, to enforce the provisions of this Declaration or any Additional Declaration. Enforcement of the controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens for which provision is made in this Declaration shall be by a proceeding at law or in equity (or otherwise, as provided in this Declaration) against any person or persons violating or attempting to violate any such control, covenant, condition, restriction, easement, development guideline, charge or lien, either to restrain such violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association, Declarant or any Owner to enforce any such control, covenant, condition, restriction, easement, development guideline, charge or lien shall in no event be deemed a waiver of the right to do so thereafter or of any other or future violation of any thereof. Except as otherwise expressly provided in this Declaration, no judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of no less than two-thirds (2/3) of all votes entitled to be cast by the Association Members, which vote is taken at a duly held meeting of the Association Members at which a quorum is present, all in accordance with the Bylaws. The immediately preceding sentence shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration, (b) the imposition and collection of assessments, charges or other fees hereunder, (c) proceedings involving challenges to ad valorem taxation, (d) counter-claims brought by the Association in proceedings instituted against it or (e) actions brought by the Association against any contractor, vendor, or supplier of goods or services to the Property. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Section 6. Severability of Provisions. If any paragraph, section, sentence, clause or phrase of this Declaration shall be or become illegal, null or void for any reason or shall be held by any court of competent jurisdiction to be illegal, null or void, the remaining paragraphs, sections, sentences, clauses or phrases of this Declaration shall continue in full force and effect and shall not be affected thereby. It is hereby declared that the remaining paragraphs, sections, sentences, clauses and phrases would have been and are imposed irrespective of the fact that any one or more other paragraphs, sections, sentences, clauses or phrases shall become or be illegal, null or void.

Section 7. Condemnation. Whenever all or part of the Common Area shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages for and on account of such taking shall be paid to the Association. The Association, acting through the Board, shall have the right to negotiate and litigate the issues with respect to the taking and compensation affecting the Common Area, without limitation on the right of the Owners to represent their own interests. Each Owner, by his acceptance of a deed to a Lot, or other portion of the Property, hereby appoints the Association as his attorney-in-fact to negotiate, litigate or settle on his behalf all claims arising from the condemnation of the Common Area. All compensation and damages paid to the Association on account of such a taking shall be used to restore the Common Area, provided such restoration is possible, with the excess, if any, to be retained by the Association and applied to future operating expenses by the Board, in its sole discretion.

Section 8. Notice. Except as otherwise set forth herein expressly, whenever written notice to an Owner or Association Member (including Declarant) is required hereunder, such notice shall be given by the mailing of same, postage prepaid, to the address of such Owner or Association Member appearing on the records of Declarant or the Association. If notice is given in such manner, such notice shall be conclusively deemed to have been given by placing same in the United States mail properly addressed, with postage prepaid, whether received by the addressee or not. Declarant's address as of the date of recording of this Declaration is 17824 Statesville Road, Suite 112, Cornelius, NC 28031-6101.

Section 9. Headings. The titles, headings and captions which have been used throughout this

Declaration are for convenience only and are not to be used in construing this Declaration or any part thereof.

Section 10. No Exemption. No Owner or other party may exempt himself from the coverage hereof or obligations imposed hereby by non-use of such Owner's Lot (s) or other property located within the Property or the Common Area.

Section 11. Unintentional Violation of Restrictions. In the event of unintentional 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 then Owner or Owners of such Lot) to change, amend or release any of the foregoing restrictions as the same may apply to that particular Lot.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed as of the day and year first above written.

ANNISTON, LLC
a North Carolina limited liability company
By: Ridgeline Development Corp., Manager

By: W. Kendall Foster
Name: W. KENDALL FOSTER
Title: PRESIDENT



State of North Carolina

County of Mecklenburg

I, Cheryl Robin Belcher, a Notary Public of the County and State aforesaid, certify that W. Kendall Foster personally came before me this day and acknowledged that he is President of Ridgeline Development Corp., a North Carolina corporation and Manager of Anniston, LLC, a North Carolina limited liability company, and that he, as President, being authorized to do so, executed the foregoing instrument on behalf of the limited liability company.

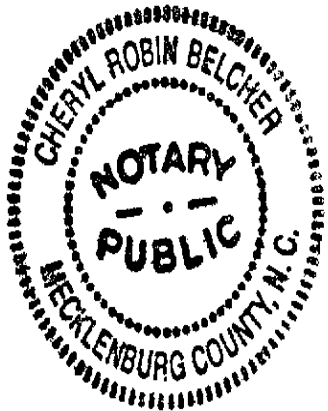
Witness my hand and official stamp or seal this 18th day of Jan., 2005.

Cheryl Robin Belcher

NOTARY PUBLIC

My Commission expires: 09/17/09

[NOTARIAL STAMP OR SEAL]



THIS JOINDER AND CONSENT is made this 25 day of January, 2005, by BB&T, a North Carolina corporation (Beneficiary); and BB&T Collateral Services Corp. ("Trustee"), Trustee under that certain Deed of Trust and Security Agreement recorded in Book 1563 at Page 1230 in the Iredell County Public Registry (the "Deed of Trust").

The undersigned Beneficiary and the Trustee do hereby consent to, and join in, the conditions, covenants, reservations, easements and restrictions that are herein declared, reserved and imposed upon the Property and additions to the Property. The undersigned Beneficiary and Trustee hereby subordinate the Deed of Trust to this Declaration of Covenants, Conditions and Restrictions (including future amendments and supplementary declarations) so that any foreclosure or other conveyance of the Property subject to this Declaration pursuant to the Deed of Trust, shall not cut off, invalidate or otherwise affect the covenants, conditions, restrictions, easements and other terms of this Declaration.

IN WITNESS WHEREOF, the Beneficiary and the Trustee have caused this Release to be duly executed under seal, this the 25 day of January, 2005.

BENEFICIARY:

BB&T

By: Michael G. Carle (SEAL)

Name: Michael G. Carle

Title: Vice President

TRUSTEE:

BB&T Collateral Services Corp.

By: John L. Kravnik (SEAL)

Name: John L. Kravnik

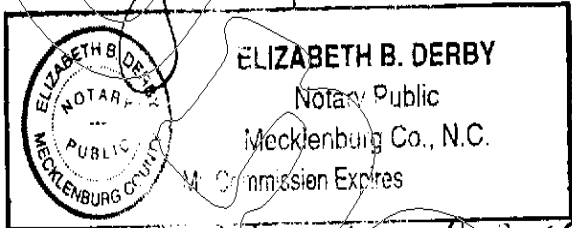
Title: VP

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, a Notary Public of the County and State aforesaid, do hereby certify that John L. Kraynik personally appeared before me this day and acknowledged that (s)he is the Vice President of **BB&T Collateral Services Corp.**, Trustee, 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.

WITNESS my hand and notarial seal, this 21st day of January, 2005.



Elizabeth B. Derby
Notary Public

My commission expires: 9-2-08

(NOTARIAL SEAL)

STATE OF NORTH CAROLINA

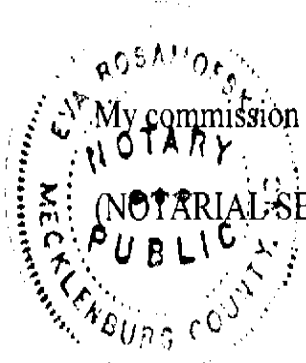
COUNTY OF MECKLENBURG

I, a Notary Public of the County and State aforesaid, do hereby certify that Michael G. Carle personally appeared before me this day and acknowledged that (s)he is the Vice President of **BB&T**, 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.

WITNESS my hand and notarial seal, this 25 day of January, 2005.

Eva Formofky
Notary Public

My commission expires: 4/12/2009



(NOTARIAL SEAL)

EXHIBIT A

That certain parcel of land located in Iredell County, North Carolina, known as **ANNISTON, Phase 1, Map 1**, recorded in **Map Book 46, Page 61**, Iredell County Registry hereto and incorporated herein and containing 48.840 acres.

NORTH CAROLINA
IREDELL COUNTY

THE CERTIFICATE OF:

Cheryl Robin Belcher Elizabeth B. Derby
& Eva Rasmussen
IS CERTIFIED TO BE CORRECT.

BRENDA D. BELL, REGISTER OF DEEDS

BY: Shirley D. Campbell
ASST./DEPUTY

EXHIBIT B

The lots and the Septic Field Easements appurtenant to certain individual lots are shown on a plat of Anniston Subdivision, Phase 1, Map 1, recorded in Plat Book 46 at Page 61 in the Office of the Register of Deeds for Iredell County, North Carolina:

<u>Lot</u>	<u>Septic Field Easement Appurtenant to Such Lot</u>
3	3A
4	4A
5	5A
6	6A
7	7A
8	8A
9	9A
10	10A
11	11A
12	12A
14	14A
15	15A
16	16A
17	17A
18	18A
36	36A
38	38A
39	39A
40	40A
42	42A
43	43A