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MASTER DECLARATION OF COVENANTS

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HARNETT COUNTY, NORTH CAROLINA

JANUARY 2005

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## DECLARATION OF COVENANTS

THIS DECLARATION, made the 13<sup>th</sup> day of January, 2005, by OMEGA VIII INVESTMENTS, LLC, a North Carolina limited liability company, hereinafter referred to as "Declarant" or "Company");

### WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Anderson Creek Township, Harnett County, North Carolina known as Zero Lot Subdivision of Section 1, WESTERFIELD FARMS, a plat of which has been duly recorded in Plat Book 2004, Page 928-929 of the Harnett County, North Carolina Registry; and

WHEREAS, pursuant to Chapter 47F of the North Carolina General Statutes, the "North Carolina Planned Community Act" (the "Act"), Declarant desires to create a planned community known as "WESTERFIELD FARMS" which will integrate residential uses and amenities in a design that offers greater convenience to the residents and surrounding area; and

WHEREAS the Company desires to provide for the preservation of the values and amenities and for the maintenance of common properties in said property and under a general plan or scheme of improvement desires to subject said property to the covenants, restrictions, easements, affirmative obligations, charges and liens hereinafter set forth, hereinafter referred to as the "Covenants" or the "Declaration", all of which is hereby declared to be for the benefit of said property and each and every owner of any and all parts thereof; and

WHEREAS, although Declarant contemplates that additional easements, covenants, conditions and restrictions may be imposed on various sections of Westerfield Farms, all of which may not be the same and all of which may not be applicable to all sections, Declarant desires to impose certain easements, covenants, conditions and restrictions as stated herein upon all of Westerfield Farms with the understanding that, at Declarant's option, certain additional and/or supplementary easements, covenants, conditions and restrictions may be imposed.

WHEREAS, the Company deems it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which can be delegated and assigned the power and authority of maintaining and administering the common properties, administering and enforcing these covenants and restrictions and collecting and disbursing all assessments and charges necessary for such maintenance, administration and enforcement; and

WHEREAS, the Company has caused to be incorporated under the laws of the State of North Carolina, a non-profit corporation, Westerfield Farms Homeowners' Association, Inc., for the purpose of exercising the functions aforesaid, which functions are hereinafter more fully set forth;

NOW THEREFORE, the Company declares that the real property depicted on the above-described plat recorded in Plat Book 2004, Page 928-929 shall be held, transferred, sold, conveyed, given, donated, leased, occupied and used subject to the covenants, restrictions, conditions, easements, changes, assessments, affirmative obligations, and liens hereinafter set forth. These Covenants, the benefits of these Covenants, and the affirmative and negative burdens of these Covenants, shall touch and concern and run with the land herein referred to as the "Property." The Company reserves the right to add additional Covenants to these covenants but the said additional covenants shall apply only in respect to the property owned by the Company at the time of the adoption of the additional Covenants but not to property previously conveyed to others. All rights and easements reserved by the Declarant under these Covenants shall also be reserved to the assignees and successors in interest of the Declarant.

**Part One**  
GENERAL REFERENCES

Article I  
Definitions

(a) "Alley" shall mean any private street or alley so dedicated for limited common use by owners not ordinarily maintained by a governmental authority.

(b) "Approval by the Declarant" shall mean written approval issued by the Declarant, signed by its appropriate managing manager(s) or member manager(s), officers or Managing Agent or designated representative or attorney in fact.

(c) "Approval by the Review Board or Declarant" shall mean and refer to any approval required under these Covenants to be made by the Architectural Review Board or the Declarant and which shall be sought and received or denied pursuant to the provisions of these Covenants.

(d) "Association" shall mean and refer to **Westerfield Farms Homeowners' Association, Inc.**, a North Carolina non-profit corporation, its successors and assigns.

(e) "Association Member" shall mean and refer to the Company and its designated officers, employees or agents and all those Owners who are Members of the Association.

(f) "Board" or "Board of Directors" shall mean those persons elected or appointed and acting collectively as the Board of Directors of the Association.

(g) "By-Laws of the Association" or "By-Laws" shall mean and refer to the By-Laws of Westerfield Farms Homeowners' Association, Inc.

(h) "Common Area" or "Common Element" or "Common Properties" shall mean and refer to all real property leased or owned by the Association for the common use and enjoyment of the Members, persons occupying dwelling places or accommodations of members on a guest or tenant basis to the extent permitted by the Board of Directors through its established rules and regulations.

Property to be dedicated as a Common Area shall be conveyed to the Association at such time as seen fit by the Declarant in its sole discretion. Declarant reserves the right, in its sole discretion, to convey from time to time additional property to the Association, which property may include all or any portion of the Properties, including any additional land, or part thereof, annexed by Declarant pursuant to Article IX, Section 4 hereof and the Association shall accept any such conveyance of additional property and thereafter such additional property shall be held and maintained by the Association as Common Area. Improvements, which may include, but shall not be limited to, roadways, signs identifying the Properties, retention or detention ponds or erosion control devices, a swimming pool, clubhouse and playground, gathering place and common buildings may be located on such Common Area. Reference to Common Area in these covenants does not imply or guarantee that the Property affected by these covenants or any future section(s) of Westerfield Farms will have any Common Area. Provision for creation, disposition, administration and maintenance of Common Area is made herein only in the event the Company decides at any time, in its sole discretion, that Common Areas are desirable to promote or enhance the quality of life or promote the scheme of development in a given section of Westerfield Farms.

(i) "Common Expenses" shall mean and include:

(1) All sums lawfully assessed by the Association against its members;

(2) Expenses of administration, maintenance, repair, or replacement of the Common Properties;

(3) Expenses declared to be common expenses by the provisions of this Declaration or the Bylaws;

(4) Hazard, liability, or such other insurance premiums as the Declaration or the Bylaws may require the association to purchase or as the Association may deem appropriate to purchase;

(5) Ad valorem taxes and public assessment charges lawfully levied against Common Properties;

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

(7) The expense of maintenance of any roads, streets, easements, landscaping, amenities, taxes or any other expense item associated with any Common Property not located on the Property but permitted to be used by the members of this Association by any adjoining landowner, association or other entity pursuant to any cross-easement, cross-access or other agreement by the Association with the adjoining land owner;

(8) Expenses for maintenance of security devices or personnel;

(9) Expenses for the collection and removal of ordinary and usual debris and garbage of the Association Members; and,

(10) Any other expenses determined by the Board or approved by the members to be common expenses of the Association.

(j) "Company" or "Declarant" shall mean Omega VIII Investments, LLC, a North Carolina limited liability company, and its successors and assigns, if Declarant shall make an express conveyance of its rights as developer hereunder to such successor or assign.

(k) "Covenants" or "Declaration" shall mean this instrument as it may be from time to time amended, supplemented, modified or incorporated by reference.

(l) "Dwelling Unit" shall mean any residential structure constructed on a Lot and intended for Residential Use as defined in Part II, Article I, Section 1.

(m) "Entry Features" shall mean and refer to those portions of Common Area upon which permanent identification signs or monuments shall be initially installed and erected by Declarant at various entrances of Westerfield Farms and upon conveyance of such portions of the Common Area to the Association, the Entry Features shall be maintained by the Association as a Common Expense within the meaning of this Declaration.

(n) "Intended Use" shall mean the use intended for various parcels within the Property as shown on the Master Plan of Westerfield Farms, prepared by the Declarant as the same may be revised from time to time by the Declarant, or the use to which any particular parcel of land is restricted by covenants expressly set forth or incorporated by reference in deeds by which the Declarant has conveyed the Property.

(o) "Limited Common Area or Element" shall mean those lands that serve only a subgroup such as a limited number of Lots or a separate section of the subdivision and which may include, but specifically are not limited to, driveways and walkways serving townhouse sites, parking spaces, buildings or other areas serving only specified Lots or located within a certain section of Westerfield Farms and such other such similar areas as may be designated by the Declarant. Such subgroups may be subject to special assessments and may be assessed pursuant to NCGS 47F-3-115(c) as follows:

(1) Any Common Expense associated with the maintenance, repair, or replacement of a Limited Common Element shall be assessed against the lots to which that Limited Common Element is assigned, equally, or in any other proportion that the Declaration provides;

(2) Any Common Expense or portion thereof benefiting fewer than all of the lots shall be assessed exclusively against the lots benefited; and

(3) The costs of insurance shall be assessed in proportion to risk and the costs of utilities shall be assessed in proportion to usage.

(p) "Local Authority" shall mean any municipal, county, or any agency or district thereof, having jurisdiction in the matters of Westerfield Farms.

(q) "Lot" shall mean and refer to any separately numbered plot of land shown upon any now or subsequently recorded subdivision map of the Properties with the exception of the Common Area, Limited Common Area and any dedicated public streets. Declarant hereby reserves the right to re-configure from time to time and without the consent of the Owners or the Members of the Association, the boundaries of any Lot or Lots owned by Declarant and to thereby create additional Lots, eliminate existing Lots or create additional Common or Limited Common Area. If Declarant elects to exercise its right to revise the boundaries of one or more Lots owned by Declarant, Declarant shall record a revised plat of the affected Lot or Lots. Upon the recording by Declarant of such a revised plat, each lot shown or, the previously recorded plat or plats, the boundaries of which are revised by the revised plat, shall cease to be a "Lot" as defined in this Declaration and each newly configured lot shown on the revised plat shall be a "Lot" as defined in this Declaration.

(r) "Master Plan" shall mean and refer to the drawing(s) which represents the conceptual land plan for the future development of the remaining undeveloped areas of Westerfield Farms Subdivision ("Westerfield Farms"). Since the concept of the future development of the undeveloped portions of Westerfield Farms is subject to continuing revision and change at the discretion of the Declarant as provided herein, present and future references to the "Master Plan" shall be references to the latest revision thereof. In addition, no implied reciprocal covenants shall arise with respect to lands which have been retained by the Declarant for future development except that all the covenants, restrictions, obligations, and conditions set forth in this Declaration shall apply to all portions of the property depicted on the plat recorded in Plat Book 2004, Page 928-929 and retained by the Company. THE DECLARANT OR ANY OWNER SHALL NOT BE BOUND BY ANY MASTER PLAN, USE OR RESTRICTION OF USE SHOWN ON ANY MASTER PLAN, AND MAY AT ANY TIME CHANGE OR REVISE SAID MASTER PLAN. NOTHING HEREIN SHALL BE CONSTRUED AS A CONSENT OF ANY OWNER TO A REZONING OR POD APPROVAL FOR USE OF THE PROPERTY SHOWN ON THE MASTER PLAN.

(s) "Member" when used in the context of discussing the Westerfield Farms Owner's Association, Inc. shall mean and refer to the Declarant and its designated officers, employees or agents and all those Owners who are Members of the Association as provided in Part Three, Article I, Section 1 hereof, including the spouse and children (under 18) permanently residing with said Owner.

(t) "Offensive or Noxious" activity or behavior shall include but not be limited to a public nuisance or nuisance per se and shall also include any behavior or activity which is inconsistent with both the reasonable pleasurable use of the Property area by a substantial number of the residents and overnight guests and their reasonable expectations of permanent habitation, vacation, meeting, working, recreating, or enjoying sports, music, food, natural surroundings, and entertainment, free of excessively noisy behavior grossly disrespecting the rights of others, flashing or excessively bright lights, racing vehicles, significantly loud radio, hi-fi, electronic music distractions, and other unreasonable behavior curtailing the reasonable pleasure and use of the facilities within or adjacent to the Property. Public musical or other entertainment, parades, concerts, festivals, carnivals, competitions or shows conducted under permit from the Declarant shall not constitute offensive or noxious activity or behavior unless such permit is withdrawn by the Declarant, or its terms and conditions violated.

(u) "Owner" shall mean and refer to the Owner as shown by the records in the Register of Deeds of Harnett County, North Carolina, whether it be one or more persons, firms, associations, corporations, or other legal entities, including the Declarant, of fee title to any Lot depicted on the plat recorded in Plat Book 2004, Page 928-929 but, notwithstanding any applicable theory of a mortgage, shall not mean or refer to the mortgagee or holder of a security deed, its successors or assigns, unless and until such mortgagee or holder of a security deed has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or tenant of an Owner. In the event that there is recorded in the Office of the Register of Deeds, a long-term contract of sale covering any Lot or parcel of land within the Property, the purchaser under said contract of such Lot or parcel of land shall be the Owner and not the fee simple title holder. A long-term contract of sale shall be one where the purchaser is required to make payments for the property for a period extending beyond twelve (12) months from the date of the contract, and where the purchaser does not receive title to the property until such payments are made although the purchaser is given the use of said property.

(v) "Period of Declarant Control" means the period commencing on the date hereof and continuing until the later of (i) ten (10) years after the date of the first conveyance of a Lot to an owner other than a declarant; (ii) when a declarant no longer owns a Lot in Westerfield Farms; or any property added to said subdivision.

(w) "Planned Unit" shall mean and refer to any structure or part of a structure designed for occupancy as a single family dwelling and shall include single family residences, condominium units, townhouses, villas, apartments or any other single family dwelling unit located on the Properties, including attached and detached units, as planned under the Master Use Plan as it may be amended from time to time.

(x) "Property" or "Properties" shall mean and refer to the zero lot subdivision of Section 1 of Westerfield Farms, as recorded in Plat Book 2004, Page 928-929 of the Harnett County, North Carolina Registry. "Property" or "Properties" shall also include future sections of Westerfield Farms Subdivision as the same may be developed from time to time except that such future sections of Westerfield Farms shall become subject to these covenants only from and after the recording of the plat or plats for said future section(s) and the recording of a Supplemental Declaration which incorporates by reference this Declaration and which expressly makes the new section(s) subject to these covenants, or portions of same. The Supplemental Declaration may contain such complementary additions and/or modifications of the covenants and restrictions contained in this Declaration as may be necessary or convenient, in the sole judgment of Declarant, to reflect the different character, if any, of the new section, but such modification shall have no effect on the Property described in Part One, Article II, Section 1 hereinafter.

(y) "Register of Deeds" shall mean and refer to the Register of Deeds for Harnett County, North Carolina, and the successors to that office.

(z) "Use or Used for Residential Purposes" shall mean to be used as one's residence or normal and customary place of abode as hereinafter more fully set forth in Part Two, Article II, Section 1, and shall not include any use for business purposes except as expressly permitted in Part Two, ARTICLE II, Section 1, hereof. All individual lots which are platted and recorded shall be deemed to be Residential Lots to be used for Residential Purposes unless some other use or intention is indicated on the plat or some related recorded document.

## Article II

### Property and Additions Thereto

Section 1. Property. The real property which is and shall be held, transferred, sold, conveyed, given, donated, leased and occupied subject to these covenants is depicted on the plat recorded in Plat Book 2004, Page 928-929 of the Harnett County, North Carolina Registry, including each and every lot delineated thereon, including Lots 1 through 35 and Lot 68, inclusive, and certain streets and roadways. Where any conflict concerning the use and/or maintenance of the street system in Westerfield Farms exists between any provision in these covenants and the Code of any Local Authority or county having jurisdiction thereof and/or the Statutes of the State of North Carolina, the pertinent Code and/or the Statutes of the State of North Carolina shall prevail, except that if these covenants impose a more restrictive standard and if the Code of the Local Authority having jurisdiction and/or the Statutes of the State of North Carolina allow them to do so, they shall prevail.

Section 2. Other Additions. The Declarant may also include future sections of Westerfield Farms Subdivision as the same may be developed from time to time except that such future sections of Westerfield Farms shall become subject to these covenants only from and after the recording of the plat or plats for said future sections(s) and the recording of a Supplemental Declaration which incorporates by reference this Declaration and which expressly makes the new section(s) subject to these covenants. The Supplemental Declaration may contain such complementary additions and/or modifications of the covenants and restrictions contained in this Declaration as may be necessary or convenient, in the sole judgment of the Company, to reflect the different character, if any, of the new section, but such modification shall have no effect on the Property described in Part One, ARTICLE II, Section 1 above.

Section 3. Special Declarant Rights. Declarant reserves the following special declarant rights for the entire Property, including any future sections of Westerfield Farms Subdivision during the period of Declarant control;

- (a) To complete any and all improvements indicated on the plats and plans;
- (b) To exercise any development right reserved in this Declaration.
- (c) To construct and maintain any sales offices, management offices, signs advertising the Property or any property which may be added thereto, management office or model on any of the Lots or on any of the Common Properties shown on the plat;
- (d) To use easements through the Common Properties for the purpose of making improvements within the Property or any property added thereto; or
- (e) To alter the size of any Lot, combine or merge two or more Lots, to subdivide Lots or other Property into Common Property.
- (f) To exercise all rights granted under NCGS 47F-103 (28).

Section 4. Mergers. Upon merger or consolidation of the Association with another association, as provided for in the Bylaws of the Association, its property, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or in the alternative, the property, rights and obligation of another association may, by operation of Law, be added to the properties of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the Property, together with the covenants and restrictions established upon any other properties, as one plan. No merger or consolidation shall affect any revocation, change or addition to the covenants established by this Declaration within the Property, including, without limitation, the maximum limits on assessments and dues of the Association, or any other matter substantially affecting the interests of Members of the Association.

Section 5. Blanket Easement for Utilities. There is hereby created a blanket easement upon, across, over and under all of the Property for installing, replacing, repairing, operating and maintaining all utilities, including but not limited to storm and sanitary sewers, gas, telephones and electricity, to service the Property. By virtue of this blanket easement, it shall be expressly permissible for the providing electrical cable or telephone company to erect and maintain any necessary poles and other necessary equipment on the Property. An easement is further granted to all police, fire protection, ambulance and all similar persons to enter upon the streets, driveways and other parts of the Common Properties in the performance of their duties. Anything to the contrary contained in this section notwithstanding, no sewer lines electrical lines, water lines or other utilities may be installed or relocated on the Property except as approved by Declarant. Should any utility furnishing a service covered by the blanket easement herein provided request a specific easement by separate recordable document, Declarant or the Association shall have the right to grant such easement without conflicting with the terms hereof.

Section 6. Declarant's Reservation of Rights. Declarant shall have, and may reserve in any conveyance of the Common Area, a non-exclusive easement in and to all streets, driveways, alleys, walkways and parking areas, provided and designated for common use from time to time, in the Common Area, subject, however, to such reasonable rules and regulations as may be established for their use by the Association. Declarant shall also have the right and easement to enter upon the Properties for all reasonable purposes relating to the construction, protection, sale, repair, inspection and renovation of any improvements constructed thereon. The foregoing rights and easements shall continue for the term of this Declaration and shall be for the benefit of Declarant, its successors and assigns, and their agents and employees. Declarant specifically reserves alienable easements over all streets and Common Areas as necessary to provide ingress, egress, regress and the installation of utilities for future development by Declarant or its successors and assigns of any properties adjoining the Properties.

**Part Two**  
COVENANTS, RESTRICTIONS AND AFFIRMATIVE OBLIGATIONS APPLICABLE  
TO DEVELOPMENT OF WESTERFIELD FARMS

Article I  
Construction Restrictions

Section 1. Residential Purpose No structure, except as hereinafter provided, shall be erected, altered, placed or permitted to remain on any Lot other than a detached single family dwelling not to exceed two (2) stories in height unless the Architectural Review Board ("Review Board") as established hereinafter approves in writing a variance permitting a structure of more than two stories, and a garage and small accessory building (which may include a pool house, servants' quarters, or guest facilities), provided, the use of such dwelling or accessory building does not in the opinion of the Board or Architectural Committee overcrowd the site. Such accessory building may not be constructed prior to the construction of the primary dwelling.

Section 2. Multi-Family Use Prohibited No multiplex residence or apartment house shall be erected or placed on, or allowed to occupy, any detached single-family Lots shown on the Plat as single family use only, and no dwelling once approved and constructed shall be altered or converted into a multiplex residence or apartment house.

Section 3. Parcels. No Lot shall be subdivided, or its boundary lines changed, nor shall application for same be made to the Planning Board for the Local Authority having jurisdiction over the Properties and the development of Westerfield Farms, except with the written consent of the Declarant; however, the Declarant hereby expressly reserves to itself, its successors or assigns, the right to replat any such Lot or Tract and to take such other steps as are reasonably necessary to make such replatted Lot or Tract suitable and fit as a building site(s) including, but not limited to, the relocation of easements, walkways, rights-of-way, private roads, bridges, and Lots.

The provisions of this Section shall not prohibit the combining of two (2) or more contiguous Lots into one (1) larger Lot. Following the combining of two (2) or more Lots into one (1) larger Lot, only the exterior boundary lines of the resulting larger Lot shall be considered in the interpretation of these Covenants. Consolidation of Lots, as described above, must be approved by the Declarant, said approval to be granted in the Declarant's sole discretion upon such terms and conditions as may be established for the Declarant from time to time, including specific provisions for the payment of assessments.

Section 4. Completion of Construction. The exterior of all dwellings and other structures must be completed within six (6) months, unless a longer time is allowed by the Review Board, after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the Owner or builder due to strikes, fires, national emergency or natural calamities. Houses and other dwelling structures may not be temporarily or permanently occupied until the exteriors thereof have been completed. During the continuance of construction, the Owner shall require the contractor to maintain the Residential Lot or building site in a reasonably clean and uncluttered condition. Upon completion of construction, the Owner shall cause the contractor to immediately remove all equipment, tools and construction material from the Lot. Any damage to roads, Common Areas, or property owned by others caused by the Owner's contractor or other parties providing labor or services to the Owner shall be repaired by the Owner at Owner's expense. Landscaping plans for all Dwelling Units and other structures must be completely implemented within the time established by the Review Board at the time of a Certificate of Completion pursuant to regulations issued for that purpose.

Section 5. Construction Limitation. During construction all vehicles involved, including those delivering supplies, must enter the lot on a driveway only as approved by the Review Board so as not to damage unnecessarily trees, street paving and curbs. During construction, builders must keep the Dwelling Units, garages, and building sites clean and free of debris. All building debris, stumps, trees, etc., must be removed from each Lot by the builder as often as necessary to keep the house and Lot attractive. Such debris will not be dumped in any area of the Property.

Section 6. Minimum Heated Living Space. No single-story Dwelling Unit shall be constructed on

any such Lot which shall have heated-area living space constituting ground coverage on one or more levels of less than 1,300 square feet; and no multi-story residence shall be constructed on any of the said Lots which shall have a heated living space of less than 1,650 square feet, of which a minimum of 1,000 square feet shall be on the ground floor, or shall constitute ground coverage of one or more levels. Heated-area living space shall mean the ordinary living space in a Dwelling Unit which is designed and constructed so as to be capable of being heated for regular living use in cold weather. In computation of floor space, furnace room areas, garages, and open porches shall not be counted.

Section 7. Set-Back Requirements. The building line of any single-story Dwelling Unit or the buildings appurtenant thereto constructed on any of said Lots, other than corner Lots, shall not be less than thirty-five (35) feet from the street line on which the Dwelling Unit fronts; not less than ten (10) feet from either side line; and not less than twenty-five (25) feet from the rear property line. With respect to two-story Dwelling Units the front and rear set back line shall be the same. The side set backs for a two-story Dwelling Units with no single story wing shall be ten (10) feet. The side set back for a two story Dwelling Unit with a single story wing shall be ten (10) on the two-story side and ten (10) on the single story side. With respect to corner lots, the building line of any Dwelling Unit or the buildings appurtenant thereto shall be not less than thirty-five (35) feet from the street on which the dwelling house fronts and not less than twenty (20) feet from the side street, and not less than ten (10) feet from the interior side line, and not less than twenty-five (25) feet from the rear property line except that residential structures on corner lots which observe the front yard requirements on each of the two intersecting streets may reduce the required rear yard by fifteen (15) feet.

The provisions of this Section 7 may be changed and modified with respect to any one or more lots so as to make the provisions less restrictive provided said diminished restrictions comply with the Code of the Local Authority having jurisdiction over the Properties by (a) the change being approved by a written recorded instrument signed by all of the Owners of all contiguous Lots to the Lot on which the change is sought and (b) by the majority of the Owners of the Lots within one hundred (100) feet of any boundary of the Lot on which the change is sought; and (c) while Declarant continues to own any Lot in the property, by the change being approved by the written consent of Declarant.

Section 8. Garages The side-line restriction above shall not apply to detached garages located within the rear one-fourth (1/4) of the property. The building line of such detached garages shall not be less than ten (10) feet from a side line and not less than ten (10) feet from the rear line. On corner lots, such detached garages must be located upon the rear interior one-quarter (1/4) of said corner "Lot", or be subject to the side-line restriction as set forth in paragraph 7 above. Provided, however, no detached garage or other appurtenant buildings shall be constructed or located nearer than thirty (30) feet to a property line abutting a lake or pond unless specific approval to do so by the Architectural Review Board.

Section 9. Exteriors No structure may be constructed with an exterior wall finish material of concrete, cinder block or asbestos siding shingles or other materials not approved by the Architectural Review Board.

Section 10. Parking. Each Owner subject to these Covenants shall provide space off of streets or community roads for the parking in accordance with reasonable standards established by the Review Board.

Section 11. Fences No chain link fence or solid panel fence or wall shall be erected or maintained nearer to any street than the principal Dwelling Unit on improved Lots or nearer to any street than the setback line on any vacant Lot, but ornamental fences not to exceed three (3) feet in height may be erected within such area upon approval of the Architectural Review Board.

Section 12. Mailboxes. The placement design, type and color of any mailbox and its support must be approved by the Architectural Review Board. Typical designs will be supplied upon request.

Section 13. Architectural and Design Review.

(a) Purpose. In order to preserve the natural beauty of Westerfield Farms and its setting, to maintain a pleasant and desirable environment, to establish and preserve a harmonious design for the community, and to protect and promote the value of property, no building, fence, wall, sign, swim-

ming pool, mail box, tennis court, roof, exterior structure or other structure shall be erected, placed, added to, or altered until the proposed building plans, specifications (including height, color and composition of roof, siding, or other exterior materials and finish), plot plan (showing the proposed location of such building or structure, drives and parking areas), landscape plan and construction schedule shall have been submitted and approved in writing as hereinafter provided.

(b) Objectives. Architectural and Design review shall be directed towards attaining the following objectives for Westerfield Farms:

(1) preventing excessive or unsightly grading, indiscriminate earth moving or clearing of property, removal of trees and vegetation which could cause disruption of natural water courses or scar natural land forms;

(2) ensuring that the location and configuration of structures are visually harmonious with the terrain and vegetation of the Lots and Dwelling Units and with surrounding Lots, Dwelling Units and structures and does not unnecessarily block scenic views from existing structures or tend to dominate any general development or natural landscape;

(3) ensuring that the architectural design and structures and their materials and colors are visually harmonious with Westerfield Farms' overall appearance, history and cultural heritage, with surrounding development, with natural land form and native vegetation, and with development plans officially approved by the Declarant, or any Local Authority, if any, for the areas in which the structures are proposed to be located;

(4) ensuring the plans for landscaping provide visually pleasing settings for structures on the same Lot and on adjoining or nearby Lots, and blend harmoniously with the natural landscape;

(5) ensuring that any development, structure, building or landscaping complies with the provisions of these Covenants;

(c) Architectural Review Board.

(1) The Declarant shall establish an Architectural Review Board (such board hereinafter referred to as the "Review Board") which shall consist of three (3) members. The three (3) members shall be appointed by the Declarant until such time as the Declarant, in its sole discretion, transfers control of the Review Board functions to the Association. The regular term of office for each member shall be one (1) year, coinciding with the fiscal year of the Declarant. Any member appointed by the Declarant may be removed with or without cause by the Declarant at any time by written notice to such appointee. A successor or successors appointed to fill such vacancy shall serve the remainder of the term of the former members. When control of the Review Board functions is transferred to the Association, members of the Review Board shall be elected by the Board of Directors of the Association and any member so elected may resign or be removed by the Board in the same manner as provided in the By-Laws of the Association for the resignation and removal of officers of the Board.

(2) The Review Board shall select its own Chairman and he, or in his absence, the Vice Chairman, shall be the presiding officer of its meetings. All meetings shall be held upon call of the Chairman; all meetings shall be held at the offices of the Declarant in Harnett or Cumberland County, North Carolina or at such other places in either county as may be designated by the Chairman. The affirmative vote of a majority of the members of the Review Board present at the meeting at which there is a quorum shall constitute the action of the Review Board on any matter before it. The Review Board shall operate in accordance with its own rules of procedure and guidelines which shall be filed with the Association and maintained in the records of the Association.

(3) The Review Board is hereby authorized to retain the services of one or more consulting architects, landscape architects, urban designers, and/or attorneys and other professional consultants as it determines necessary, to advise and assist the Review Board in performing the functions here in prescribed.

(4) The Review Board may adopt, promulgate, amend, revoke and enforce guide-

lines, hereafter referred to as the Architectural Review Standards, for the purposes of:

- (i) Governing the form and content of plans and specifications to be submitted for approval pursuant to the provisions hereof;
- (ii) governing the procedure for such submission of plans and specifications; and
- (iii) establishing policies with respect to the approval and disapproval of all proposed uses and all construction or alteration of any structure on any Lot;
- (iv) The Review Board shall make a published copy of its current Development Guidelines readily available to Members and prospective Members of the Association upon request.

(d) Transfer of Architectural Review Authority. Upon the sale of one hundred percent (100%) of the sites for the permitted Lots as shown on the Master Plan, the Declarant shall, by filing a supplementary declaration of covenants and conditions with the Register of Deeds, transfer the above-described review authority to a permanent Review Board which, subject to the covenants and conditions stated within the aforesaid supplemental declaration, shall be under the control of the Association. This Section does not obligate the Declarant to make such transfer at any particular time; provided, however, that such transfer must be made no later than thirty (30) days after sale of the last Lot, as to all portions of the Property shown the Master Plan where one hundred percent (100%) of the sites for permitted Lots as shown on said Master Plan have been sold to third parties. The Declarant may in its sole discretion prior to or during transition of Control allow the Association's Board to elect one or more members to the Review Board provided that such members have the professional qualifications established by the Declarant.

(e) Review of Approval of Plans for Additions, Alterations or Changes to Structures and Landscaping No building, wall, fence, sign, mail box, trash containers, swimming pool, tennis court, roof, color and composition of roof, siding and other exterior materials and finishes, exterior light, landscaping or other structure or improvement of any kind shall be commenced, erected, or maintained upon any Lot, or upon the exterior of any existing building, or upon the Common Areas, nor shall any landscaping be done, maintained, nor shall any addition to any existing building or structure or alteration or change therein be made or maintained until the proposed building plans, specifications (including height, shape, type, nature, color and composition of roof, siding or other exterior materials and finish), plot plan (showing the location of such building or structure, and other items listed hereinabove, drives and parking area), landscape plan, and construction schedule shall have been submitted to and approved by the Review Board.

Any alteration of the plans and specifications, changes or deviations from the approved plans and specifications during construction or of the completed structure must also be submitted to the Review Board reserving the same rights to disapprove alterations as it retains for disapproving the original structures.

(f) Submission, Approval and Refusal of Architecture, Siting, Landscaping and Other Building Plans: Two (2) copies of all plans and related data shall be furnished the Review Board. One (1) copy shall be retained in the records of the Review Board. The other copy shall be returned to the Property Owner marked "approved" or "disapproved." The Review Board may establish a fee from time to time sufficient to cover the expense of reviewing plans and related data at the time they are submitted for review and to compensate any consulting architects, landscape architects, urban designers or attorney's retainer in accordance with subparagraph (c) (iii) above. Approvals shall be dated and shall not be effective for construction commenced more than six (6) months after such approval unless a different expiration time is specifically stated in the approval. Disapproved plans and related data shall be accompanied by a reasonable statement of items found unacceptable. In the event approval of such plans is neither granted nor denied within forty-five (45) days following receipt by Review Board of all of the required documents with written request for approval, the provisions of this Section shall be thereby waived. Refusal of approval of plans, location or specification may be based by Review Board upon any ground which is consistent, with the objectives of these Covenants, including purely aesthetic considerations, so long as such ground is not arbitrary and capricious.

(g) Approval Not a Guarantee or Representation of Proper Design or Good Workmanship

No approval of plans, location or specifications, and no publication or architectural standards bulletins shall ever be construed as representing or implying that such plans, standards or specifications, will, if followed, result in a properly designed residence. Such approvals and standards shall in no event be construed as representing or guaranteeing that any residence or improvement thereto will be built in a good and workmanlike manner. Neither the Declarant nor the Review Board shall be responsible or liable for any defects in any plans or specifications submitted, revised or approved under these Covenants nor for any defects in construction pursuant to such plans and specifications. The Owner shall have sole responsibility for compliance with approved plans and does hereby, by acceptance of title to property subject to these Covenants, agree to hold the Review Board and the Declarant harmless for any failure thereof caused by the Owner's architect or builder. The Declarant reserves the right to prohibit the Owner's builder and/or general contractor from going to or upon the site in the event it is determined that failure to comply with approved plans is intentional or due to gross negligence under the above-mentioned circumstances. The Owner hereby agrees that the exercise of these rights shall not constitute a denial of Owner's property rights and shall not give rise to a cause of action for damages by the Owner.

Section 14. Repairs. Any building or other improvement on the Property that is destroyed partially or totally by fire, storm or any other means shall be repaired or demolished within a reasonable period of time, and the land restored to an orderly and attractive condition. If Owner fails to commence to repair or demolish and remove same within 30 days after notice from the Review Board, the Association or the Declarant and fails to diligently continue, the Association may do so at the Owner's expense.

Section 15. Remedies. If the finished Dwelling Unit, garage, accessory building or other structure does not comply with the submitted and approved plans and specifications, the Review Board retains the right to make the necessary changes at owner's expense to comply with the approved plans and specifications, the right to treat such charge or cost as an assessment, the right to file under the North Carolina lien laws a notice of lien for any costs incurred, and the further right to resort to all remedies provided under the laws of North Carolina for the recovery of such costs and the expenses of collection including without limitation, reasonable attorneys' fees. Any changes in plans or specifications must first be re-approved by the Review Board in accordance with the procedure herein specified for architectural control.

Article II  
Use Restrictions

Section 1. Residential Use. All Lots or parcels of land shall be used for residential purposes exclusively. No structure or structures shall be erected, altered, placed or permitted to remain on any residential parcel other than as provided in these Covenants and restrictions.

“Residential,” referring to a mode of occupancy, is used in contradistinction to "business" or "commerce" or "mercantile" activity and, except where otherwise expressly provided, "residential" shall apply to temporary as well as permanent uses, and shall apply to vacant land as well as to buildings constructed thereon. No Lot or Dwelling Unit restricted to "residential" purposes may be used as means of service to business establishments on Lots, including but not limited to supplementary facilities or an intentional passageway or entrance into a business. Use for single household residential purposes shall mean and refer to use as a place of long-term dwelling or residence, and shall also include use for seasonal lodging. The restriction to use for “residential” purposes is subject to the following qualifications:

(a) Unless further restricted in the deed or other document, the use of a portion of a Dwelling Unit as an office shall be considered as a residential use if such use does not create a significant increase in customer or client traffic to and from the Dwelling Unit, if no sign, symbol, logo or nameplate identifying a business or professional office is affixed to or about the grounds or the entrance to the Dwelling Unit, if the office is only incidentally used for business or professional purposes, and if the Declarant or Association, after responding to a complaint by a neighboring Owner, has not expressly requested that the subject Dwelling Unit not be used in whole or in part as an office.

(b) The use of a Dwelling Unit as a model or for sales or operational purposes shall be limited to those granted written temporary permission for such use by the Company in its sole discretion, and may be deemed a use for residential purposes for a maximum period of sixty (60) months

after the building is newly constructed and is ready for occupancy, and use of said Dwelling Unit as a model or for sales or operational purposes after said sixty (60) months period shall be prohibited.

(c) The use of the Dwelling Unit shall be limited to occupancy by people directly related by adoption, marriage, or blood in the first and second degree or four or less people who are not so related.

Section 2. Other Buildings and Vehicles. No mobile home, trailer, manufactured home, double wide or modular home, tent, barn, or other similar out-building, vehicle, or structure shall be placed on any Lot at any time, either temporarily or permanently, without prior approval from the Declarant or the Review Board and such approval shall normally be limited to temporary use of such structures reasonably essential to economical, orderly and efficient construction during the construction process only. No home trailers or residence trailer, manufactured home, double wide or modular home, may be permitted on the Lot, Tract or Parcel and no boats, boat trailers, campers, privately owned golf carts, motorcycles, motorbikes, recreational vehicles, trucks, or utility trailers may be maintained on the Property, without prior written approval of the Declarant or Review Board. The term "truck" as used herein is intended to refer to those vehicles of various sizes and designs for transporting goods, moving heavy articles or hauling quantities of cargo and which are used in a trade or business in which the truck is used because of its commercial capabilities and not merely as a means of transportation, or which displays identification on the exterior of the vehicle to a commercial enterprise. This is not intended to include such dual-purpose vehicles as station wagons, jeeps, "Scouts", "Waggoner", "Bronco", "Blazer" or land rover type vehicles and sports trucks and trucks of one-half (1/2) ton or less or similar, attractive vehicles driven and maintained primarily as a means of transportation that do not have exposed signage or logo other than discreet identification approved by the Declarant or the Review Board and do not have exposed equipment or supplies.

Section 3. Unsightly Conditions. It shall be the responsibility of each Owner and tenant thereof to prevent the accumulation of litter, trash, packing crates or rubbish or the development of any unclean, unsightly or unkempt or unmaintained condition of buildings or grounds on his property either before, during or after construction, nor to permit accumulations which shall tend to substantially decrease the beauty of the community as a whole or the specific area. Each Owner after completion of the Dwelling Unit and as required by notice from the Review Board shall keep the grass, weeds, plants and other vegetation on his Lot cut, free of leaves, and well trimmed at all times.

Section 4. Offensive Activity. No noxious or offensive activity as defined herein shall be conducted on any Lot, Dwelling Unit, Common Area or Limited Common Areas within Westerfield Farms nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to the community. No exterior speaker, horn, whistle, bell, or other sound device which is unreasonably loud or annoying, except security devices used exclusively for security purposes, shall be located, used, or placed upon lands within Westerfield Farms. The playing of loud music within a Dwelling Unit or other structure or from the balcony thereof shall be noxious and offensive behavior constituting a nuisance.

Section 5. Hazardous Activity. No part or parts of any land within Westerfield Farms shall be used by any Owner in such manner which would increase the hazard of fire on any other part or parts of Westerfield Farms or any adjoining property. No activity shall be conducted which has the possible consequence of ground pollution, including but not limited to the storing of toxic chemicals, fuels or other similar substances. Any underground storage of any substance must have prior approval from the Review Board.

Section 6. Junk Vehicles. Except where kept in an enclosed garage, (i) no automobile or motor vehicle may be dismantled on said Property; (ii) no mechanically defective automobile or currently unlicensed automobile shall be placed or allowed to remain on said Property over ten (10) days; and (iii) no junked cars shall be placed or allowed to remain on said Property.

Section 7. Fuel Tanks. No fuel tanks or similar storage receptacles may be exposed to view. Any such receptacles may be installed only within an accessory building or within a screened area, or buried underground provided, however, that approval for such underground storage tank is obtained in advance from the Review Board. Nothing contained herein shall prevent the Declarant or Association from erecting, placing or permitting the placing of tanks, or other apparatus, on the Property for uses related to the provision of utility or other service.

Section 8. Antennas. No television antenna, dish, radio receiver or sender or other similar device larger than eighteen (18) inches in diameter shall be installed upon a lot or attached to or installed on the exterior portion of any dwelling or other structure or property within Westerfield Farms, nor radio, television signals, nor any other form of electromagnetic radiation shall be permitted to originate from any Dwelling Unit or Lot which may unreasonably interfere with the reception of television or radio signals upon any other of such properties, except as follows:

(a) The provisions of this Section shall not prohibit the Declarant from installing equipment necessary for a master antenna system, security system, cable television and mobile radio systems or other similar systems within Westerfield Farms; and

(b) Should cable television services be unavailable and good television reception not be otherwise available, an Owner may make written application to the Review Board for permission to install a television antenna; which permission may be granted in the Review Board's discretion.

Section 9. Lights. The design and location of all exterior lighting fixtures shall be subject to the approval of the Review Board. Neither these nor any other illumination devices, including but not limited to Christmas ornaments, located anywhere on the structures or grounds of any Lot or Dwelling Unit or other residential structure within the Property shall be located, directed, or of such intensity to affect adversely the nighttime environment of any adjacent property.

Section 10. Laundry. In order to preserve the aesthetic features of the architecture and landscaping, each Owner, his or her family, his or her guests, or his or her tenants, shall not hang laundry from any area within or outside a Dwelling Unit if such laundry is within the public view, nor hang laundry in full public view to dry, such as on balcony and terrace railings. This provision may, however, be temporarily waived by the Company or Review Board during periods of severe energy shortages or other conditions where enforcement of this Section would create a hardship.

Section 11. Vegetable Gardens. A vegetable garden will be permitted provided it is located to the rear of the house, is not visible from the street, and does not exceed the size of 300 square feet. No vegetable gardens of any size shall be allowed on lots adjoining any lakes or ponds or streams.

Section 12. Sports Equipment. No sports or play equipment or similar use structure may be erected, placed or constructed and permitted to remain longer than 72 hrs within a ten day period in any yard area from the front corners of the house to the street; for corner lots the front and side corners of the house to the street unless specifically approved by the Architectural Review Board. At no time will sports or play equipment be utilized on roads or within the right-of-way. This is defined but not limited to trampolines, volley ball nets, basketball goals, play houses, or similar type equipment visible from the road.

Section 13. Animals. No animals, livestock or poultry of any kind shall be raised, bred, kept or pastured on any Lot or in any Dwelling Unit except that dogs, cats or other household pets (limited to three pets per Dwelling Unit) may be kept or maintained provided that they are not kept or maintained for commercial purposes and further provided that they are kept and maintained in compliance with, (i) the rules and regulations established by the Board, all laws and ordinances of the State of North Carolina, the County of Harnett and any Local Authority which may have jurisdiction, or its successors, relating thereto; and (ii) such rules and regulations pertaining thereto as the Association may adopt from time to time. No animal shall be kept or secured by being chained, tied or otherwise attached to an inanimate object. If an animal creates offensive sounds such as barking so as to disturb the peaceful enjoyment of the Owners' neighbors, such animal shall not be allowed outside the confines of the Dwelling Unit located on the Lot except under the physical control of its owner or other person. Pets shall be housed in the Dwelling Unit or in pens approved by the Review Board.

The breach of any of these restrictions, conditions, any obligations and duties shall be a noxious and offensive activity constituting a nuisance. The Declarant and/or the Association shall have the right to remove from the Property or any Lot any pet constituting or creating a nuisance.

Section 14. Roadways. In order to provide for safe and affective regulation of traffic, the Declarant may promulgate from time to time parking and traffic regulations as they relate to conduct on, over and about the streets and roadways in Westerfield Farms. These regulations shall initially include but shall not be limited to those set out hereinafter and the Declarant reserves the right to adopt addi-

tional regulations or to modify previously promulgated regulations from time to time and to make such adoption or modification effective thirty (30) days after mailing notice of same to the record Owners of all Lots, Dwelling Units, or parcels within the Property.

(a) No motorcycles, motorbikes or all-terrain vehicles of any kind may be operated on the roads and streets within Westerfield Farms, unless they are street legal, are in compliance with all North Carolina vehicle licensing laws, are operated by licensed drivers and are not operated in a manner constituting a nuisance.

(b) The Declarant, or the Association, may post "no parking" signs along the streets and roadways within Westerfield Farms where it, in its sole discretion, determines appropriate to do so. Violators of said "no parking" signs are subject to having their vehicles towed away and shall be required to pay the cost of such towing and storage before their vehicle may be recovered. The act of towing said vehicle shall not be deemed a trespass or a violation of the Owners' property rights, because the Owner shall be deemed to have consented to such action by accepting the right to use the roads and streets within Westerfield Farms. Violators of any rules and regulations promulgated by the Board may be fined and/or have their planned community privileges suspended in accordance with the provisions set forth in NCGS 47F-3-107.1.

Section 15. Parking. No automobile, truck or vehicle of any kind shall be parked on any public or private street, or in the Common Areas, within the Property after receiving notification from the Declarant or from any Local Authority having jurisdiction, to remove the automobile, truck or vehicle, nor shall they be parked on any alley within the Property. Owners shall not be permitted to park motor homes, boats, trailers, campers or any other similar vehicles or property on the streets, alleys, Lots or Common Area of the Property. All such items shall be parked in an enclosed garage or areas screened from the street and the adjoining Lot's view and approved by the Declarant or the Review Board. No vehicle or trailer of any type that is unregistered or does not have a valid, current state of federal inspection certificate shall be parked or stored on any Lot, street or any other portions of the Property unless within an enclosed garage.

Except for vehicles parked in an enclosed garage, not more than three vehicles shall be permitted to be parked and remain in the driveway of any Lot at any time, said driveway being located on the side of the Dwelling Unit built on said Lot. No driveway shall be altered, enlarged or extended from its original construction so as to encroach upon any portion of the front yard or the back yard of any Lot. No vehicle or any type shall be permitted to be parked and remain on any unpaved portion of the front yard or the back yard of any Lot at any time.

Adequate off street parking shall be provided by the Owner of each Lot for the parking of motor vehicles owned by such Owner and Owner of such Lot shall not be permitted to park his motor vehicles on the streets of the Property except as designated in the applicable rules and regulations promulgated by the Board or in an applicable Supplementary Declaration or as approved by the Declarant or the applicable Local Authority having jurisdiction.

The Declarant and its agents shall have the right to enter upon any Lot for the purpose of correcting such conditions, including, but not limited to, the removal of junk, mechanically unfit or unlicensed or any other property which is in violation of this Section (6) or (14) which has collected on the Lot, and the cost of such corrective action shall be paid by the Owner. Except in cases of emergencies, such entry shall not be made until fifteen (15) days after the Owner of the Lot has been notified in writing of the need to take corrective action and unless such Owner fails to perform the corrective action within said fifteen (15) day period. The provisions of this paragraph shall not create any obligation on the part of the Declarant to take any such corrective action. The procedures to be followed in actions anticipated in this paragraph shall be pursuant to NCGS 47F-3-107.1

Section 16. Insurance. Nothing shall be kept, and no activity shall be conducted, on the Property which will increase the rate of insurance applicable to residential use for the Property or any Lots. No Owner shall do or keep anything, nor cause or allow anything to be done or kept, on his Lot, the Common Area or Limited Common Area which will result in the cancellation of insurance on any portion of the Property, or Lots therein, or which will be in violation of any law, ordinance, or regulation. No waste shall be committed on any portion of the Common property.

Section 17. Signs. No signs or ornaments shall be erected or maintained on the Property by anyone including, but not limited to, the Owner, a realtor, a contractor or subcontractor, or except with the written permission of the Declarant or Review Board or except as may be required by legal proceedings. If such permission is granted, the Review Board reserves the right to reasonably restrict size, color and content of such signs. One sign advertising the sale of a Dwelling Unit and/or Lot may be placed upon a lot at any time, said sign not to be larger than two feet by two feet (2' x 2').

Section 18. Water and Sewage. No private water wells may be drilled or maintained by any Owners other than the Declarant so long as the Declarant or its agents, or licensees, or public water and sewer provider or other Local Authority, its successors and assigns, has installed a water distribution line to such property except with approval of the Review Board. No septic tanks may be installed in the Property so long as the Declarant, or its agents or licensees, or a public sewer utility company or other governmental unit, its successors and assigns, operates a sewage collection line to such property or are willing to extend such a sewage line to such property, except with proper approval of the Review Board. No sewage shall be emptied or discharged into creek, marsh, lake, river or other body of water at any time.

Section 19. Firearms; Hunting Prohibited. There shall be no discharging of firearms, guns or pistols of any kind, caliber, type, or method of propulsion; and no hunting of any type shall be carried on or conducted on the Property.

### Article III Environmental Controls

Section 1. Topography and Vegetation. Topographic and vegetation characteristics of a Lot shall not be altered by removal, reduction, cutting, excavation or any other means without the prior written approval of the Review Board. Written approval will be granted for the minimum amount of earth movement and vegetation reduction required in plans and specifications approved pursuant to the provisions of this Declaration.

Section 2. Tree Removal. No trees with a diameter of three inches or more may be removed without the written approval of the Declarant or the Review Board. A tree location plan and location map of adjacent and nearby structures may be required as a part of the submission under Part Two, Article I, Section 13 and this Article III.

Section 3. Tree Maintenance. Trees planted by the Declarant, Association, or Builders, within the submitted landscape plan, right of way, or common area, prior to transfer to a third party will be maintained by the third party in perpetuity unless approved by the Architectural Review Board for removal.

Section 4. Certain Controls. To implement effective and adequate erosion control and protect the beauty of the Property, the Declarant, its successors, assigns (including but not limited to the Association), and agents shall have the right to enter upon any Lot before or after a building or structure has been constructed thereon for the purpose of performing any grading or landscaping work or constructing and maintaining erosion prevention devices. Provided, however, that prior to exercising its right to enter upon the property for the purpose of performing any grading or landscaping work or constructing and maintaining erosion prevention devices, the Declarant or Association, as the case may be, shall give the Owner the opportunity to take any corrective action required by giving the Owner notice indicating what type of corrective action is required and specifying in that notice that immediate corrective action must be taken by such Owner. The procedures to be followed in actions anticipated in this paragraph shall be pursuant to NCGS 47F-3-107.1.

To implement effective insect, reptile and woods fire control, the Declarant, its successors, assigns, and agents have the right to enter upon any property on which a building or structure has not been constructed and upon which no landscaping plan has been implemented. In any case which in the opinion of the Declarant the condition of the Lot detracts from the overall beauty, setting and safety of Westerfield Farms, the Declarant, its successors, assigns, and agents shall have the aforementioned rights of entry for the purpose of mowing, removing, clearing, cutting, or pruning underbrush, weeds or other unsightly growth, removing trash, draining standing water or dispensing pesticides.

The cost of this vegetation, trash and drainage control shall be kept as low as reasonably possible and shall be paid by the respective Owner. Such entry shall not be made until after such Owner has been notified in writing of the need of such work and unless such Owner fails to perform the work within time set out in such notice. The procedures to be followed in actions anticipated in this paragraph shall be pursuant to NCGS 47F-3-107.1.

The provisions of this Section 3 shall not be construed as an obligation on the part of the Declarant to mow, clear, cut or prune any property, to provide garbage or trash removal services, to perform any grading or landscaping work, construct or maintain erosion prevention devices or storm drainage improvements, or to provide water pollution control on any privately owned property.

Entrance upon property pursuant to the provisions of this Section 3 shall not be deemed a trespass.

The rights reserved unto the Declarant in this Section 3 shall not be unreasonably employed and shall be used only where necessary to affect the stated intents and purposes of this Declaration.

Section 5. Environmental Hazards. To secure the natural beauty of Westerfield Farms, the Declarant, its successors or assigns may promulgate and amend from time to time rules and regulations which shall govern activities which may, in its judgment, be environmentally hazardous, such as the application of fertilizers and pesticides and other chemicals. Failure of any Owner or tenant of property within Westerfield Farms to comply with the requirements of such rules and regulations shall constitute a breach of these Covenants.

The Declarant hereby reserves unto itself, its successors, assigns, and agents a perpetual, alienable and releasable easement and right on, over and under all property in Westerfield Farms for the purpose of taking any action necessary to effect compliance with such environmental rules and regulations and covenants. The cost of such action by the Declarant shall be paid by assessment of the respective Owner(s) of the property upon which the work is performed in accordance with the provisions of Part Three of this Declaration.

Section 6. Further Siting Authority. To prevent excessive "run-off" or drainage resulting from any improvements to residential Lots or other tracts, the Declarant hereby reserves to itself, its successors and assigns, the right to establish a maximum percentage of property which may be covered by a building, patio, driveway or other structures. In the establishment of such maximum percentage the Declarant shall consider topography, percolation rate of the soil, soil types and conditions, vegetation cover and other relevant environmental factors. Neither this nor any other right reserved herein by the Declarant shall be construed, however, to be an obligation of the Declarant to take any action.

Section 7. Erosion in Open Spaces. Common Areas and Restricted Common Areas. The Declarant, its successors and assigns, shall have the right, but, shall not be obligated, to protect all Common Areas from erosion, by planting trees, plants, and shrubs where and to the extent necessary or by such mechanical means as construction and maintenance of sedimentation basins, or other means deemed expedient or necessary by the Declarant. The right is likewise reserved to the Declarant to take steps necessary, within Common Areas, to provide and insure, adequate drainage ways, to cut fire breaks, and to remove diseased, dead or dangerous trees and carry out other similar activities, the cost of which services is to be paid by assessments of the Owners in accordance with the provisions of Part Three of this Declaration.

Section 8. Street lighting. Declarant reserves the right to subject the Property to a contract with South River Electric Membership Corporation or other electric supplier for the installation of underground electric cables and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to South River Electric Membership Corporation or such other electric supplier by the Owner.

Section 9. Dumping Prohibited. No dumping of trash, garbage, sewage, sawdust or any unsightly or offensive material shall be placed upon and of the Property, except as is temporary and incidental to the bona fide construction on or improvement of the area.

### **Part Three**

WESTERFIELD FARMS PROPERTY OWNERS' ASSOCIATION, INC.

#### Article I

#### Membership and Voting Rights in the Association

Section 1. Membership. Every Owner shall be a Member of the Association. The Declarant acting through its designated officers, employees and agents shall be a Member of the Association. In the case of multiple ownership of any Lot, Dwelling Unit or other properties in Westerfield Farms, each Owner shall be a Member, subject to such limitations and fees established by the Declarant and Board of Directors from time to time.

Section 2. Voting Rights. The Association shall have one type of regular voting membership. Each Member shall be entitled to one (1) vote for each Lot or Dwelling Unit which he owns. If a Dwell-

ing Unit is constructed on more than one (1) Lot, the Owner shall have one (1) vote for the Dwelling Unit, but shall have no additional vote for each other Lot comprising a part of the total consolidated home or building site so long as such lot remains a part of the consolidated site.

When any Property entitling the Owner to membership of the Association is owned of record in the name of two (2) or more persons or entities, whether fiduciaries, joint tenants, tenants-in-common, tenants-in-partnership or in any other manner of joint or common ownership, or if two (2) or more persons or entities have the same fiduciary relationship respecting the same Property, then an instrument shall direct who shall cast the vote or votes, and it or a copy thereof shall be filed with the secretary of the Association.

Section 3. Composition of Board. The Association shall be governed by a Board of Directors consisting of three (3) members, with the number in subsequent years to be determined as provided for in the By-Laws of the Association. The Declarant shall have the right to appoint and remove all three (3) persons on the Board and to appoint and remove all officers of the Association during the period of Declarant control.

Section 4. Cumulative Voting Prohibited. Each Member shall be entitled to as many votes as equals the number of votes he is ordinarily entitled to multiplied by the number of Directors to be elected, but may not cast all of such votes for any one (1) Director and must distribute them among the number to be voted for, and all votes must be cast in whole numbers and not fractions thereof. It is the intent of this Section to prohibit cumulative voting.

## ARTICLE II

### Property Rights in Common Areas

Section 1. Members' Easement of Enjoyment in Common Areas. Subject to the provisions of these Covenants, the rules and regulations of the Association, and any fees or charges established by the Association, every Member and every tenant and guest of such Member shall have a right of easement of enjoyment in and to the Common Areas and such easement shall be appurtenant to and shall pass with the title of every Lot or Dwelling Unit. The privilege granted to guests and tenants of Members to use and enjoy the Common Areas, subject to the rules, regulations and fees, if any, established by the Association for such use, may be denied to or withdrawn from such guests or tenants pursuant to the procedures provided by NCGS 47F-3-107.1.

Section 2. Title to Common Areas. The Declarant covenants for itself, its successors or assigns, that, upon the completion of the surveying, platting of same and recordation of the plat, it shall convey to the Association by limited warranty deed those properties designated as "Common Areas". The obligation to convey shall apply only to Common Areas which are delineated on the plat being currently recorded notwithstanding that there may be other or additional "Common Areas" delineated on the current revision of the Master Plan. All said parcels of land may be conveyed to the Association subject to: (1) all restrictive covenants of record at that time, including but by no means limited to this Declaration; (2) all existing mortgages; (3) a reservation by the Declarant of the right to substitute or add new mortgages thereon; provided, however, that in no event shall the Association be obligated to assume the payment of principal or interest on any such mortgagee; and (4) easements reserved by the Declarant herein for Special Declarant Rights.

Section 3. Extent of Members' Easement. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) the right of the Association, in accordance with its Bylaws, to borrow money from the Declarant or any other lender for the purpose of improving and/or maintaining the Common Areas and providing services authorized herein and in aid thereof to mortgage said properties; and

(b) the right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosures; and

(c) the right of the Association, as provided in its By-laws to suspend the rights and easements of enjoyment of any Member, or any Tenant or Guest of any Member, for any period during which the payment of any assessment against property owned by such Member remains delinquent, and for any period not to exceed sixty (60) days for any infraction of its published rules and regulations, it being understood that any suspension for either nonpayment of any assessment or a breach of the rules and regulations of the Association shall not constitute a waiver or discharge of the Member's obligation to pay the assessment; and

(d) the right of the Association to charge reasonable admission and other fees for the use of the Common Areas and any facilities included therein; and

(e) the right of the Declarant or the Association by its Board of Directors to dedicate or transfer to any public or private utility, utility easements on any part of the Common Areas; and

(f) the right of the Association to give or sell all or any part of the Common Areas, including leasehold interests, to any public agency, authority, public service district, or private concern for such other purposes and subject to such conditions as may be agreed to by the Members, provided that no such gift or sale or determination as to the purposes or as to the conditions thereof shall be effective unless such dedication, transfers and determinations as to purposes and conditions shall be authorized by (i) the Declarant as long as it owns any portion of the Property and (ii) the affirmative vote of three-fourths (3/4) of the votes cast at a duly called meeting of the Association, and unless written notice of the meeting and of the proposed agreement and action thereunder is sent to every Member of the Association at least thirty (30) days prior to such meeting. The presence of Lot Owners or of proxies of such Lot Owners entitled to cast sixty percent (60%) of all the votes of said Owners shall constitute a quorum. A true copy of such resolution together with a certificate of the results of the vote taken thereon shall be made and acknowledged by the President or Vice President and Secretary or Assistant Secretary of the Association and such certificate shall be annexed to any instrument of dedication or transfer affecting the Common Areas prior to the recording thereof. Such certificates shall be conclusive evidence of authorization by the membership and shall not apply to roads, water, sewer and storm drainage dedicated or deeded to the local or state governmental authority by the Declarant. The Declarant may make such dedications or conveyances without the members consent;

(g) notwithstanding anything to the contrary in subparagraph (g) immediately above, unless such sale or gift substantially affects the overall appearance of the planned community or substantially affects living conditions of lot owners not included within the subdivision section wherein the Common Area is located (the "Affected Section"), such sale or gift may be authorized by (i) the Declarant as long as it owns any portion of the Property and (ii) the affirmative vote of three-fourths of the votes cast at a duly called meeting of the Owners of Lots in the Affected Section. The Association shall give written notice of a meeting and of the proposed agreement and action thereunder to every Owner within the Affected Section at least thirty (30) days prior to such meeting.

(h) the presence of Lot Owners of the Affected Section or of proxies of such Lot Owners entitled to cast Sixty percent (60%) of all the votes of said Owners shall constitute a quorum. A true copy of such resolution together with a certificate of the results of the vote taken thereon shall be made and acknowledged by the President or Vice President and Secretary or Assistant Secretary of the Association and such certificate shall be annexed to any instrument of dedication or transfer affecting the Common Areas within the Affected Section prior to the recording thereof.

(i) the rights of reversion of the Lessor of and Common Areas leased by the Association upon expiration of the lease;

(j) the special Declarant rights reserved herein.

### ARTICLE III

#### Covenants for Maintenance Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges which are Common Expenses; (2) special assessments for extraordinary maintenance and capital improvements; (3) special assessments for purchase, construction or reconstruction of improvements; and (4) to the appropriate governmental taxing authority, a pro rata share of assessments for public improvement to the Common Areas if the Association shall default in payment thereof. The annual and special assessments, together with interest and costs, and reasonable attorney's fees for collection, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for the delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

The Association shall also have the authority, through the Board of Directors to establish, fix and levy a special assessment on any Lot to secure the liability of the Owner thereof to the association arising from breach by such Owner of any of the provisions of this Declaration which breach shall

require the expenditure of time and money or both, by the Association to repair or remedy.

Each Owner covenants, for himself, his heirs, successors and assigns, to pay each assessment levied by the Association on the Lot described in such conveyance to him within ten (10) days of the due date as established by the Board, and further covenants that if said assessment shall not be paid within thirty (30) days of the due date, the payment of such assessment shall be in default and the amount thereof become a lien upon said Owner's Lot as provided herein and shall continue to be such lien until fully paid.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the paying of Common Expenses to promote the recreation, health, safety, and welfare of the Owners of Lots; and, in particular, but not limited to, for the acquisition, improvement and maintenance of Property, services, amenities and facilities, and for the use and enjoyment of the Common Areas, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes and public assessments assessed against the Common Areas, the providing for limited access to the property, the procurement and maintenance of insurance in accordance with the Bylaws or as deemed appropriate by the Board, the payment of common antenna or cable service, the employment of counsel, accountants and other professionals for the Association when necessary, and such other needs as may arise.

Section 3. Amount of Assessment.

(a) Criteria for establishing Annual Assessment. In establishing the annual assessment for any assessment year, the Board of Directors shall consider all current cost and expenses of the Association, any accrued debts, and reserves for future needs.

(b) Board Authority. Until such time as the Board affirmatively establishes an initial assessment, the assessment shall be zero.

(c) Declarant Expenses. Until such time as Declarant shall no longer control the Board, Declarant shall pay any Association expenses not otherwise covered by the assessment hereunder.

Section 4. Replacement Reserve. Out of the Common Expenses assessment, the Board shall create and maintain a reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Properties which the association may be obligated to maintain.

Section 5. Notice and Quorum for Budget Ratification Under Section 3 and 4. Within 30 days after adoption of any proposed budget for the association, the executive board shall provide to all the lot owners a summary of the budget and a notice of the meeting to consider ratification of the budget, including a statement that the budget may be ratified without a quorum. The executive board shall set a date for a meeting of the lot owners to consider ratification of the budget, such meeting to be held not less than 10 nor more than 60 days after mailing of the summary and notice. There shall be no requirement, that a quorum be present, at the meeting. The budget is ratified unless at that meeting a majority of all the lot owners in the association or any larger vote specified in the declaration rejects the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the lot owners shall be continued until such time as the lot owners ratify a subsequent budget proposed by the executive board.

Section 6. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment, year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, restoration, repair or replacement of a capital improvement upon the Common Properties, any extraordinary maintenance, including fixtures and personal property related thereto and any property for which the Association is responsible provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 7. Notice and Quorum For Any Action Authorized Under 6. Written notice of any meeting called for the purpose of taking any action authorized under this Article shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty-one percent (51%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, an-

other meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be twenty-five (25%) percent of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 8. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis or other periodic basis established by the Board.

Section 9. Date of Commencement of Annual Assessments; Due Dates; Initial Working Capital. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the passage of a resolution by the Board duly establishing same. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge if it deems appropriate, 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 issuance.

In addition to the regular assessments to be charged and paid hereunder, each Lot Owner shall, at the time of the initial sale of each Lot by Declarant to that Lot Owner, pay to the Association a sum equal to two (2) months' assessment on that lot as additional working capital of the Association. These amounts need not be segregated but may be commingled with regular assessment funds. This working capital amount shall be paid by the Lot Owner notwithstanding the fact that Declarant may have made prior regular assessment payments to the Association on the Lot being sold pursuant to the provisions of the first sentence hereunder.

Section 10. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall be delinquent, in default and shall bear interest from the due date until paid at the highest rate then permitted by North Carolina law not to exceed eighteen (18%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same plus interest, costs, late payment charges and reasonable attorneys' fees, or foreclose the lien against the Lot. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his Lot.

The lien herein granted unto the Association shall be enforceable pursuant to Article 2A of Chapter 45 of the General Statutes from and after the time of recording a Claim of Lien in the Office of the Clerk of Superior Court in the County in which the Property is located in the manner provided therefore by Article 8 of Chapter 44 of the North Carolina General Statutes, which claim shall state the description of the Lot encumbered thereby, the name of the record owner, the amount due and date when due. The claim of lien shall be recordable any time after thirty (30) days after the due date of the assessment or any installment thereof and the lien shall continue in effect until all sums secured by said lien as herein provided shall have been fully paid. Such claims of lien shall include all assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorneys' fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claims of lien shall be signed by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record.

Section 11. Subordination of the Lien to Mortgages and Ad Valorem Taxes. The lien of the assessments provided for herein shall be subordinate to the lien of any institutional first mortgage and ad valorem taxes on said Lot. The sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage or tax foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer, but shall not abate the personal obligation of the prior owner. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 12. Exempt Property. Any portion of the Property dedicated to, and accepted by, a local public authority and any portion of the Property owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assess-

ments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

#### ARTICLE IV FUNCTIONS OF ASSOCIATION

Section 1. Authorized Services. The Association shall be authorized but not required to provide the following services:

- (a) maintenance of the Common Properties;
- (b) performance of the services necessary or desirable in the judgment of the Board of Directors of the Association to carry out the Association's obligations and business under the terms of this document;
- (c) taking any and all actions necessary to enforce all covenants and restrictions affecting the Property and to perform any of the functions or services delegated to the Association in any covenants or restrictions applicable to the Property, including but not limited to fining Owners for violating same or for not properly maintaining their property;
- (d) setting up and operating an architectural review board in the event that the Association is designated by the Declarant as the agent of the Declarant for such purpose;
- (e) constructing improvements on Common Areas for use for any of the purposes or as may be required to provide the services as authorized in this Article;
- (f) provision of administrative services including but not limited to insurance, legal, accounting and financial, and communication services informing Members of activities, notice of meetings, referendums, etc., incident to the above-listed services, and payment of taxes and other expenses.
- (g) any other services necessary to perform its obligations hereunder.

In the event the Association is unable or unwilling to perform any of the services listed above in a manner satisfactory to the Declarant, the Declarant shall be and hereby is authorized to perform such services, at the Association's expense, as long as such expenses are reasonable and necessary to carry out the Declarant's obligations under this Declaration.

Section 3. Mortgage and Pledge. The Board of Directors of the Association shall have the power and authority, to borrow money for use by the Association and to mortgage the property of the Association and to pledge the revenues of the Association as security for such loans made to the Association which loans shall be used by the Association in performing its authorized functions. The Declarant may, but shall not be obligated to, make loans to the Association, subject to approval by the Declarant of the use to which such loan proceeds will be put and the method by which such loans will be repaid and subject to a maximum of loan amount approved by the Declarant, at interest rates acceptable to the Declarant. Notwithstanding anything in this Declaration to the contrary, the Association shall not be allowed to reduce the limits of the minimum regular annual assessment at any time there is outstanding any amounts due the Declarant as repayment of any loans made by the Declarant to the Association.

Section 4. Contracts. The Association, prior to the passage of control from the Declarant to the Members as herein provided, shall not enter into any management contracts or leases, which would bind the Association either directly or indirectly unless there is a right of termination of any such management contract or lease, without cause, which is exercisable without penalty at any time after transfer of control of the Association from the Declarant to the Members, upon not more than ninety (90) days' notice to the other party to the contract or Lease.

Section 5. Working Capital. An additional function of the Association may be to establish at the time of activation of the Association a working capital fund which shall collect at least two (2) months' assessments for each Lot or Dwelling Unit. Each Lot or Dwelling Unit's share of the working capital fund must be collected from the purchaser of the Lot or Dwelling Unit and transferred to the Association at the time of closing of the initial sale of each Lot or Dwelling Unit from the Declarant or other initial grantor. The working capital funds shall be maintained in an account for the use and benefit of the Association. The purpose of this fund is to insure that the Association Board will have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable. Amounts paid into the fund are not to be considered as advanced payment of regular assessments.

In addition, upon the sale or transfer of ownership of any property within Westerfield Farms, there may be collected a transfer fee (as set by the Board of Directors from time to time) to cover administrative and other expenses incurred in the change of the Association's records.

Section 6. Information. It shall be the responsibility of the Association to make available to Owners and mortgage lenders making loans to Owners, and to holders, insurers or guarantors of any first mortgage on a Dwelling Unit or Lot within the Property, current copies of the Declaration, By-Laws, other rules and regulations relating to the Property, and the books, records and financial statements of the Association. "Available" shall mean available for inspection, upon request, during normal working hours or under other reasonable circumstances. The reasonable cost of reproduction of such documents shall be paid by the requesting party.

Section 7. Lenders' Notices. An additional function of the Association shall be to provide, upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the Lot or Dwelling Unit number or address, written notice to any mortgage holder, insurer or guarantor of any of the following matters:

(a) any condemnation or casualty loss that affects either a material portion of the Property or the Lot or Dwelling Unit securing its mortgage;

(b) any sixty-day delinquency in the payment of assessments or charges owed by the Owner of any Lot or Dwelling Unit on which the lender holds the mortgage;

(c) a lapse, cancellation or material modification or any insurance policy or fidelity bond maintained by the Association;

(d) any proposed action that requires the consent of a specified percentage of mortgage holders.

Section 8. Insurance Requirements. The Association shall at all times maintain in full force and effect casualty (hazard and flood) and liability insurance and fidelity bond coverage as hereinafter specified and in accordance with GS 47F-3-113:

(a) Hazard Insurance The hazard coverage required hereunder shall protect at least against loss or damage by fire or all other hazards that are normally covered by the standard extended coverage endorsement and all other perils customarily covered for similar structures, including those covered by the standard "all risk" endorsement, and shall likewise include, but shall not necessarily be limited to, the following coverage:

(1) Required Coverage. The Association shall maintain a policy of property insurance, with the premiums being paid as a Common Expense. The policy must cover all of the improved Common Areas, except for those that are normally excluded from coverage, such as land, foundation, excavation, etc. fixtures and building service equipment that are considered part of the Common Areas, as well as personal property and supplies of the Association. If the Common Areas are not improved, no hazard insurance shall be required.

(2) Amount of Insurance. Insurance should cover one hundred percent (100%) of the current replacement cost of the injured facilities. Coverage does not need to include land, foundations, excavation or other items that are usually excluded from insurance coverage.

(3) Special Endorsements. The insurance coverage herein required shall include Agreed Amount and Inflation Guard Endorsements when it can be reasonably obtained. Construction code endorsements such as Demolition Costs Endorsements, Contingent Liability from Operation of Building Laws Endorsements and Increased Cost of Construction Endorsements shall be required when reasonably obtainable.

(b) Flood Insurance - If any part of the Common Properties are improved and such improvements are located in a flood hazard zone as defined by the Federal Emergency Management Agency, the Association must maintain a "master" or "blanket;" policy of flood insurance and provide for the premiums to be paid as a common expense. The policy should cover any buildings on Common Areas and personal property of the Association. The amount of insurance should be at least equal to the lesser of one hundred percent (100%) of the current replacement cost of all buildings and other insurable property located in the flood hazard area; or, the maximum coverage available for the property under the National Flood Insurance program.

(c) Liability Insurance - The Association shall maintain comprehensive general liability insurance policy covering all common areas, public ways and any other areas comprising the Common Areas which are under its supervision. The policy shall provide coverage of at least One Million Dollars and 00/100 (\$1,000,000.00) for bodily injury and property damage for a single occurrence. The liability insurance should provide coverage for the following:

- (1) bodily injury and property damage that results from the operation, maintenance or use of the Common Areas and any facilities thereon; and
- (2) any legal liability that results from lawsuits related to employment contracts in which the Association is a party.

The Association's liability policy shall provide for at least thirty (30) days' written notice to the Association before the insurer can cancel, refuse to renew or substantially modify the policy.

(d) Fidelity Bonds - The Association may have blanket fidelity bonds for anyone who either handles or is responsible for funds held or administered by the Association, whether or not: that person receives compensation for their services. Any independent management agent retained by the Association that handles funds for the Association shall also be covered by its own fidelity bond.

Except, for fidelity bonds that an independent management agent obtains for its personnel, all other bonds shall name the Association as an obligee and shall have their premiums paid as a common expense by the Association. The fidelity bond shall cover the maximum funds that will be in the custody of the Association or its management agent at any time while the bond is in force. Additionally, the fidelity bond coverage must at least equal the sum of three (3) months' assessments of Lots and Dwelling Units in the Property, plus the Association's reserve funds.

The bonds must include a provision that calls for ten (10) days' written notice to the Association before the bond can be cancelled or substantially modified for any reason. This same notice must also be given to each servicer that services a FNMA-owned mortgage in the Property provided the Association has been given notice from such servicer and a request for such notification.

## **Part Four**

### GENERAL PROVISIONS

#### Article I

#### Duration

The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, the Company or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a period of twenty-five (25) years from the date this Declaration is recorded. Upon the expiration of said twenty-five-year period this Declaration shall be automatically renewed and extended for successive ten-year periods. The number of ten-year renewal periods hereunder shall be unlimited with this Declaration being automatically renewed and extended upon the expiration of each ten-year renewal period for an additional ten-year period; provided, however, that there shall be no renewal or extension of this Declaration if during the last year of the initial twenty-five -year period, or during the last year of any subsequent ten-year renewal period if three-fourths (3/4) of the votes cast at a duly held meeting of the Association vote in favor of terminating this Declaration at the end of its then current term. It shall be required that written notice of any meeting at which such a proposal to terminate this Declaration is to be considered, setting forth the fact that such a proposal will be considered, shall be given each Member at least thirty (30) days in advance of said meeting. In the event that the Association votes to terminate this Declaration, the President and Secretary of the As-

sociation shall execute a certificate which shall set forth the resolution of termination adopted by the Association, the date of the meeting of the Association at which such resolution was adopted, the date that notice of such meeting was given, the total number of votes of Members of the Association, the total number of votes required to constitute a quorum at a meeting of the Association, the number of votes necessary to adopt a resolution terminating the Declaration, the total number of votes cast in favor of such resolution, and the total number of votes cast against such resolution. Said certificate shall be recorded in the Register of Deeds for Cumberland County, North Carolina, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration.

## Article II Amendments

Declarant reserves the right to alter or amend this Declaration as long as Developer owns any Lot or any portion of the Property. Otherwise, this Declaration may be amended as set forth in N.C.G.S. §47F-2-117.

## Article III Notices

Section 1. How Notice Given. Any notice required to be sent to any Member or Owner under the provisions of the Declaration shall be deemed to have been properly sent, and notice thereby given, when mailed, with the proper postage affixed, to the last known address of the person or entity who appears as Owner on the Association's books, on the first day of the calendar month in which said notice is mailed.

Section 2. Notice to Co-Owners. Notice to one (1) of two (2) or more co-owners of a Residential lot or Dwelling Unit shall constitute notice to all co-owners.

Section 3. Notice Where Address or Ownership Changed. It shall be the obligation of every Member to immediately notify the Secretary of the Association in writing of any change of address. Any person who becomes an Owner and Member following the first day in the calendar month in which said notice is mailed shall be deemed to have been given notice if notice was given to his predecessor-in-title.

## ARTICLE IV Enforcement, Severability and Interpretation

Section 1. Who May Enforce Generally. In the event of a violation or breach of any of the affirmative obligations or restrictions contained in this Declaration by any Owner or Member or agent of such Owner or Member, the Company or any other Owners or Members, or any of them jointly or severally, shall have the right to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any event.

Section 2. Enforcement by the Association. In addition to the foregoing and any other remedy set out in these Covenants, the Association shall have the right to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any event.

The Association may engage a person or persons to respond to complaints received as to violations of the Covenants and shall inform the violators of such complaint. If the violation is not expeditiously terminated, the Company or Association may engage legal counsel to bring an appropriate injunctive action, including any appeals, to enforce these Covenants. Violators shall be obligated to reimburse the Association in full for all its direct and indirect costs, including but not limited to legal fees incurred by the Association in maintaining compliance with these Covenants in the event the Association prevails in such proceedings.

Section 3. Enforcement by the Company. In addition to the foregoing, the Company shall have the right, but shall not be obligated, to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any event. Violators shall be obligated to reimburse the Company in full for its direct and indirect costs, including but not limited to legal fees incurred by the Company in maintaining compliance with these Covenants in the event the Company prevails in such proceedings.

Section 4. Against Whom May the Covenants be Enforced. The obligations and benefits prescribed by the Covenants shall run with the Property and shall be enforceable against the Company, its successors or assigns, the Association and against any Owner or other person whose activities bear a relation to the Property when the aforesaid parties engage in activities (including omissions and failures to act) which constitute violations or attempts to violate or circumvent the covenants and restrictions set forth in this Declaration.

Section 5. Means of Enforcement. Enforcement of these Covenants shall be by any proceeding at law or in equity, whether it be to restrain violation or to recover damages or to create any lien created by these Covenants.

Section 6. Severability. Should any covenants and restrictions herein contained, or any Part, ARTICLE, Section, paragraph, sentence, clause, phrase or term in this Declaration be declared to be void, invalid, illegal, or unenforceable for any reason by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no wise affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

Section 7. Interpretation. In all cases, the provisions of this Declaration shall be given that interpretation of construction which will best result in the consummation of the general plan of development of the Property. The provisions of these Covenants shall be given full force and effect notwithstanding the existence of any zoning or similar ordinance which allows a less restricted use of the Property.

Section 8. Authorized Action. All action which the Association is allowed to take under this instrument shall be authorized actions of the Association if approved by the Board of Directors of the Association in the manner provided for in the By-Laws of the Association, unless the terms of this instrument provide otherwise.

Section 9. Trespass. Whenever the Association, and/or the Company are permitted by these Covenants to correct, repair, clean, preserve, clear out or do any action on any property or on the easement areas adjacent thereto, entering the property and taking such action shall not be deemed a trespass.

Article V  
Assignment

The Declarant reserves the right to assign to the Association its rights reserved in these Covenants to approve (or disapprove) improvements proposed in Westerfield Farms and nearby areas, including, but not limited to, the right to approve (or disapprove) architectural or other plans or drawings, specifications, color, finish, plat or site plan and construction schedules, and any other rights or prerogatives reserved unto the Declarant.

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

OMEGA VIII INVESTMENTS, LLC  
a North Carolina limited liability company

By: SHOWCASE CONSTRUCTION CO.  
a North Carolina corporation, Manager

By: Mary Etowski  
Mary L. Etowski  
President

NORTH CAROLINA  
CUMBERLAND COUNTY

I, Joyce E. Whitten, a Notary Public for said County and State, do hereby certify that Mary Etowski personally appeared before me and acknowledged that she is the President of SHOWCASE CONSTRUCTION CO., a North Carolina corporation, Manager of OMEGA VIII INVESTMENTS, LLC, a North Carolina limited liability company, and that by authority duly given, and as the act of the corporation, the foregoing instrument was signed in its name by herself as its President.

Witness my hand and notarial seal, this the 9 day of March

Joyce E. Whitten  
Notary Public

My commission expires: Nov. 7, 2005

