

FOR REGISTRATION JUDITH A. GIBSON
REGISTER OF DEEDS
MECKLENBURG COUNTY, NC
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**MASTER
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
TANNERS CREEK SUBDIVISION**

This Master Declaration of Covenants, Conditions and Restrictions is made this 18th day of October, 2000, by *Niblock-Ridgeline, LLC*, a North Carolina Limited Liability Company, referred to in this instrument as "Developer or Declarant."

STATEMENT OF PURPOSE

Developer is the owner of that certain parcel of land which is known as *Tanners Creek* Subdivision located in Mecklenburg County, North Carolina, more particularly described in Exhibit A attached hereto and incorporated herein by reference (the "Submitted Property"). Developer desires to create thereon a master planned community which will contain a mix of housing types and uses as may be described in any master land use plan as approved by the appropriate jurisdiction.

Developer will convey the Submitted Property subject to certain protective covenants, conditions, restrictions, reservations and charges as hereinafter set forth.

Developer contemplates that separate easements, covenants, conditions, and restrictions may be imposed in regard to specific and additional sections or phases of *Tanners Creek*, and Developer reserves the right to impose certain additional and/or supplementary easements, covenants, conditions, and restrictions.

Developer desires to provide for the preservation and enhancement of the property values, amenities and opportunities in said community and for the maintenance of the properties and improvements thereon, and to that end desires to subject the Submitted Property, together with any and all such additions as may hereafter be made thereto, to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, and as may be hereafter supplemented, each and all of which is and are for the benefit of said property and each owner thereof.

Developer further desires to create an organization to which will be delegated and assigned the powers of owning, maintaining and administering the Common Area, administering and enforcing the covenants and restrictions contained herein, and collecting and disbursing the assessments and charges hereinafter created, in order to sufficiently preserve, protect and enhance the values and amenities in the Development.

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to ensure the residents' enjoyment of the specific rights, privileges and easements in the Common Area, and to provide for the maintenance and upkeep of the Common Areas and amenities. To that end, the Developer has or will cause to be incorporated under North Carolina law, *Tanners Creek Homeowners Association, Inc.*, as a nonprofit corporation for the purpose of exercising and performing the aforesaid functions.

In consideration of the premises and for the purposes stated, Developer hereby declares that all of the Submitted Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions (all of which are collectively referred to in this instrument as "restrictions"), which restrictions shall be construed as covenants running with the land and shall be binding upon all parties having any right, title or interest in the described real property or any part thereof, and to their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I: DEFINITIONS

The following words when used in this Master Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

- (1.1) "Additional Property" shall mean additional real estate other than the submitted property which may be subject to the terms of this Master Declaration in accordance with the provisions of Section 2.2 of this Master Declaration.
- (1.2) "Alleys" shall mean a type of Common Area in the nature of access and service rights of way running along the rear of certain Lots as designated on a duly recorded Map, which alleys shall be primarily (but not necessarily limited to) for access to the adjoining Lots served thereby; such alleys shall be maintained in the same manner as any Common Area. All alleys shall be open for general usage by the public, but shall not be accepted by the public for maintenance. Maintenance of alleys shall be the responsibility of the Association.
- (1.3) "Alley Assessments" shall mean the assessments established pursuant to paragraph 5.6 of the Master Declaration.
- (1.4) "Annual Assessments" shall mean the assessments established pursuant to paragraph 5.2 and 5.5 of the Master Declaration.
- (1.5) "Association" shall mean *Tanners Creek Homeowners Association, Inc.*, a nonprofit corporation organized and existing under the laws of the State of North Carolina and its successors and assigns.
- (1.6) "Board of Directors" shall mean and refer to the Board of Directors of the Association, which shall be elected and serve pursuant to the Bylaws.
- (1.7) "Builder(s)" shall mean and refer to any person or firm in the business of building and selling homes to individuals and selected by Developer to buy Lots

and construct homes for sale in the Development, including, but not limited to D.R. Horton, Inc., Fortis Homes, Inc., NVR, Inc. d/b/a Ryan Homes, Inc., and Westminster Homes, Inc.

(1.8) "Bylaws" shall mean the Bylaws for the Association.

(1.9) "Common Area" shall mean all real property owned by the Association in *Tanners Creek* for the common use and enjoyment of members of the Association lying within the boundaries of the Properties. Common Areas, with respect to the Properties subject to this Master Declaration, shall be shown on the plats of *Tanners Creek* recorded in the Mecklenburg County Registry and designated thereon as "Common Area", "Common Open Space", or "Urban Open Space".

(1.10) "Declarant" shall mean and refer to Niblock-Ridgeline, LLC and its successors and assigns.

(1.11) "Developer" shall mean and refer to Niblock-Ridgeline LLC and its successors and assigns.

(1.12) "Development" shall mean and refer to Tanners Creek Subdivision, a residential subdivision proposed to be developed on the Properties by Developer.

(1.13) "FHA and VA" shall mean and refer to the Federal Housing Administration, U.S. Department of Housing and Urban Development, and the Veteran's Administration, respectively. If either or both of these federal agencies shall hereafter cease to exist or perform the same or similar functions they now serve, references hereto to FHA or VA shall be deemed to mean and refer to such agency or agencies as may succeed to the duties and services now performed by either or both of these departments.

(1.14) "Limited Common Area" shall mean those lands owned by the Association that serve only a limited number of Lots and which may include, but specifically are not limited to, driveways and walkways serving townhome sites, parking spaces, alleys, buildings other areas serving only specified Lots, and other such similar areas as may be designated by the Developer.

(1.15) "Lot" shall mean and refer to any numbered plot of land, with delineated boundary lines, to be used for residential purposes shown upon any recorded subdivision plat of the Properties subject to this Master Declaration.

(1.16) "Map" shall mean and refer to the map or maps of the Submitted Property which are to be recorded in the Mecklenburg County Public Registry, and the map(s) of any additions to the Submitted Property which may be recorded hereafter by the Developer in the Mecklenburg County Public Registry.

(1.17) "Master Declaration" shall mean and refer to this Master Declaration of Covenants, Conditions, and Restrictions of **Tanners Creek**, as the same may be amended from time to time as herein provided.

(1.18) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, including Developer, which is a part of **Tanners Creek**, but excluding those having such interest merely as security for the performance of an obligation.

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

(1.20) "Property" or "Properties" shall mean the Submitted Property described in Exhibit "A" together with such additions thereto as may from time to time be designated by Developer in accordance with Article II hereof, whether or not such additions are contiguous with or adjoining the boundary line of the Submitted Property. "Property" or "Properties" may sometimes be referred to herein as "**Tanners Creek**."

(1.21) "Special Assessments" shall mean the assessments established pursuant to paragraph 5.7 of the Master Declaration.

(1.22) "Submitted Property" shall mean that certain parcel of real property described on Exhibit "A" attached hereto

(1.23) "Supplemental Declaration" shall mean and refer to any Supplemental Declaration of Covenants, Conditions, and Restrictions which are specific to certain sections, phases, or Maps of **Tanners Creek** as defined herein.

ARTICLE II: PROPERTY SUBJECT TO THIS MASTER DECLARATION

(2.1) The Submitted Property shall be held, transferred, sold, conveyed and occupied subject to this Master Declaration. Only the Submitted Property is hereby made subject to this Master Declaration, provided, however, Developer shall have the right to subject additional real property to these restrictions as provided in Section 2.2.

(2.2) Without further assent or permit, Developer shall have the right from time to time to subject additional real property to the terms and scheme of this Master Declaration said property to be developed as part of **Tanners Creek** and thereby bringing such additional properties within the jurisdiction of the Association by filing a Supplemental Declaration in the office of the Register of Deeds for Mecklenburg County, North Carolina, containing a description of the additional

property and a statement by the Developer of its intent to extend the operation and effect of this Master Declaration to the additional property.

(2.3) Any addition of real property (or easements or rights-of-way to such real property) shall be made by filing of record one or more Supplemental Declarations in respect to the property in the Mecklenburg County, North Carolina, Public Registry to be then made subject to this Master Declaration, and the jurisdiction of the Association shall thereby then extend to such property and subject such addition to the assessments provided in this instrument for a just and proportionate share of the Association's expenses.

(2.4) Any Supplemental Declaration may contain complementary additions and modifications to the covenants, conditions, and restrictions contained herein as may be necessary in the judgment of Developer to reflect the different character of the Additional Property.

ARTICLE III: PROPERTY RIGHTS

(3.1) **Ownership of Common Areas.** Developer shall convey the Common Areas to the Association after completion by Developer of improvements thereon, if any, and upon such time as Developer determines that the Association is able to maintain same. Notwithstanding the recordation of any Map or any other action by Developer or the Association, all Common Areas shall remain private property and shall not be considered as dedicated to the use and enjoyment of the public.

(3.2) **Owner's Easements of Enjoyment.** Every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot subject to the provision of this Master Declaration. Each Owner's nonexclusive right and easement of enjoyment in and to the Common Area is subordinate to the right of the Association to dedicate and convey Common Area pursuant to Sections (e) and (f) of this paragraph. Each Owner's easement of enjoyment includes, but is not limited to the following:

- (a) The right of the Association to promulgate and enforce reasonable regulations governing the use of the Common Area to insure the safety and rights of all Owners;
- (b) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- (c) The right of the Association to limit the use of the Common Area to Owners, their families and guests;

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

(e) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Association members. No such dedication or transfer shall be effective after the total votes outstanding in the Class A Membership equal the total votes outstanding in the Class B membership unless the members entitled to at least two-thirds (2/3) of the vote appurtenant to Class A Lots and Class B Lots agree to such dedication or transfer and signify their agreement by a signed and recorded written document, provided that this paragraph shall not preclude the Board of Directors of the Association from granting easements for the installation and maintenance of electrical, telephone, cablevision, water and sewerage utilities and drainage facilities upon, over, under and across the Common Area without the assent of the membership;

(f) The right of the Developer or the Association to grant utility, drainage and other easements across the Common Areas; and

(g) The Board of Directors of the Association shall have the right to dedicate or transfer all or any part of the Common Area to third parties provided the Association acquires in return other property which will be held thereafter as Common Area of equal or greater value.

(3.3) **Delegation and Use.** The right and easement of enjoyment granted to every Owner in Section 3.1 of this Article may be exercised by members of Owner's family and guests thereof. An Owner may delegate to his tenants his rights of enjoyment in and to the Common Area and such facilities thereon as may be provided, in accordance with the Association's bylaws and rules and regulations, if any.

ARTICLE IV: MEMBERSHIP & VOTING RIGHTS

(4.1) **Membership.** Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

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

(a) **Class A.** Class A members shall be all Owners with the exception of Developer and Builder (s) and shall be entitled to one (1) vote for each

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Lot owned. When more than one person holds an interest (other than a leasehold or security interest) in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

(b) **Class B.** The Class B members shall be Developer and Builder(s). The Developer and Builder(s) shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs first:

(i) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; provided that the Class B Lots shall be reinstated with all rights, privileges and responsibilities, if after conversion of the Class B Lots to Class A Lots hereunder, additional land containing Lots is annexed to the existing property pursuant to Section 2.2 hereof; or

(ii) Seven (7) years from the date of this Master Declaration; or

(iii) Notwithstanding Sections 4.2(a) and (b) hereof, so long as there shall be any Class B Lots in the Development and unless the Developer surrender the rights set forth in this paragraph (iii) by an express amendment to the Master Declaration executed and recorded by Developer, (a) the Bylaws of the Association may not be amended without the Developer's prior written consent, and (b) the Developer shall have the right to appoint or remove any Member(s) of the Board of Directors of the Association or any officer(s) of the Association; or

(iv) Other provisions applicable to the rights and obligations of the Members of the Association are set forth in the Master Declaration and in the Bylaws.

(4.3) **Board of Directors.** The Association shall be governed by a Board of Directors (the "Board") in accordance with the Bylaws.

(4.4) **Suspension of Rights.** During any period in which a member shall be in default in the payment of any Alley, Annual, Special or other periodic assessment levied by the Association, the voting rights of such member may be suspended by the Board of Directors until such assessment is paid. In the event of violation by a member of any rules and regulations established by the Board of Directors, such member's voting rights may be suspended by the Board after a hearing. Such hearing shall be held by the Board or a committee thereof after giving a member

ten (10) days prior written notice specifying each alleged violation and setting the time, place and date of the hearing. Determination of the violation shall be made by a majority vote of the Board or the committee thereof. During any period in which a member shall be in default in the payment of any Alley, Annual, Special or other periodic assessment levied by the Association or in violation of any rules or regulations established by the Board of Directors, such member shall be subject to a fine imposed by the Board of Directors which shall be the personal obligation of the person who is the Owner of such Lot at the time when the fine was levied.

The provisions as set forth in the preceding paragraph of this Section 4.4 are further subject to the provisions of N.C.G.S. Section 47F-3-107 and 47F-3-107.1

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

(4.6) Insurance. (1) **Public Liability:** The Association shall be required to obtain and maintain to the extent obtainable, public liability insurance in such limits as the Board of Directors may, from time to time, determine to be customary for projects similar in construction, location and use to the development, covering each member of the Board of Directors, the Managing Agent, if any, and each Owner with respect to his liability arising out of the ownership, maintenance or repair of the Common Areas; provided, however, that in no event shall the amounts of such public liability insurance ever be less than a million dollars per occurrence against liability for bodily injury, including death resulting therefrom, and damage to property, including loss of use thereof, occurring upon, in or about, or arising from or relating to, the property or any portion thereof. Such insurance shall include endorsements covering cross-liability claims of one insured against another, including the liability of the Owners as a single group to a single owner. The Board of Directors shall review such limits annually. Until the first meeting of the Board of Directors following the initial meeting of the Owners, such public liability insurance shall be in amounts of not less than one million dollars per occurrence for claims for bodily injury and property damage; (2) The Association shall be required to obtain and maintain to the extent obtainable hazard insurance on the common areas.

The provisions as set forth in the preceding paragraph of this Section 4.6 are further subject to the provisions of N.C.G.S. Section 47F-3-113.

(4.7) **Architectural Control.** After completion of the construction of the principal residence located on any Lot, no building, fence, wall, or other structure shall be commenced or maintained upon the properties, nor shall any exterior addition to or change or alteration therein be made, including the erection of antennas, aerials, awnings, the replacement of reflective or other material in the windows of a house or other exterior attachment, until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to the harmony of external design and location in relation to surrounding structures, topography and compliance with the restrictions by an Architectural Control Committee. The Architectural Control Committee shall be composed of three or more representatives appointed by Developer or by the Board of Directors, once Developer assigns to it the right of appointment hereunder. The right to appoint will automatically switch to the Board when the Class B membership converts to Class A. In the event the Committee fails to approve or disapprove such design and location within 30 days after said plans and specifications have been submitted to it, approval will not be required, and this paragraph 4.7 will be deemed to have been fully complied with. The Architectural Control Committee shall have the right to charge a reasonable fee for receiving such application in an amount not to exceed \$25.00. The Architectural Control Committee shall not approve any alterations, decorations, or modifications which would jeopardize or impair the soundness, safety or appearance of any Lot. Refusal or approval of plans, specifications, builder or location may be based upon any grounds including purely aesthetic considerations, which in the sole and uncontrolled discretion of the Architectural Control Committee shall be deemed sufficient. Provided that nothing contained herein shall be construed to permit interference with the development of the properties by the Developer in accordance with its general plan of development. D.R. Horton, Inc., Fortis Homes, Inc., NVR, Inc. d/b/a Ryan Homes, Inc., and Westminster Homes, Inc., have submitted or will submit initial plans and specifications to the Developer and are exempt from submitting initial plans and specifications for the Committee's approval.

ARTICLE V: COVENANT FOR MAINTENANCE ASSESSMENTS

(5.1) **Purpose of Annual Assessments.** The Annual Assessments levied by the Association may be used as follows:

- (a) To maintain all roads constructed within the Development to the standard of maintenance which would be required by the Town of Huntersville, the County of Mecklenburg, and/or N.C. Department of Transportation, and/or the appropriate governmental authority, before it will accept such roads for maintenance, and until such acceptance takes place;

- (b) To maintain all alleys or alleyways constructed within the Development to the standard of maintenance which would be required by the Town of Huntersville, the County of Mecklenburg, and/or N.C. Department of Transportation, and/or the appropriate governmental authority, for general usage by the public;
- (c) To maintain all lighting of Common Areas, alleys, and streets, with the exception of lighting provided by a governmental agency or body, if any;
- (d) To maintain any and/or all pathways in the Common Areas in an easily passable condition, free from fallen trees, undergrowth, and other obstructions; and to keep all dead, diseased or decaying trees, shrubs and bushes removed from such areas and to replace such with new trees, shrubs and bushes;
- (e) To maintain any swimming pool(s) and club house(s) and related facilities located on or in the Recreation Lot or Common Areas in accordance with the highest standards for private swimming pools and related facilities;
- (f) To keep any parks and/or picnic areas in the Common Areas clean and free from debris and to maintain all picnic tables and other amenities in a clean and orderly condition, and to maintain the landscaping therein, including any necessary removal and replacement of landscaping;
- (g) To maintain all parking areas (for automobiles or otherwise) located in the Common Areas free from debris and in good repair;
- (h) To comply with all agreements with (whether of the Developer or the Association), or statutes, ordinances, rules or regulations of, Town of Huntersville (or any agency thereof), Mecklenburg County (or any agency thereof), or the State of North Carolina (or any agency thereof), respecting the use of any Common Areas;
- (i) To provide such security as may be deemed reasonably necessary for the protection of the Common Areas from theft, vandalism, fire and damage from animals;
- (j) To maintain the entrance area to the Development in a clean and orderly condition and to maintain the landscaping thereon (including irrigation system, lighting, signage, groundcover, shrubs and flowers) to the standard established at completion of the entrance area;

- (k) To maintain all other landscaping in the Common Areas to the standard established at completion of such landscaping;
- (l) To pay all ad valorem taxes levied against the Common Areas and any property owned by the Association;
- (m) To pay the premiums on all hazard insurance carried by the Association on the Common Areas and all public liability insurance carried by the Association pursuant to the Bylaws;
- (n) To pay all legal, accounting and other professional fees incurred by the Association in carrying out its duties as set forth herein or in the Bylaws;
- (o) To maintain a contingency reserve equal to five percent (5%) of the sum of the amounts described in preceding subsections of this Section 5.1 in order to fund unanticipated expenses of the Association;
- (p) To maintain Best Management Practice ("BMP") for stormwater discharge as designated by duly recorded Map(s) and as required by statutes, ordinances, rules or regulations of Town of Huntersville (or any agency thereof), Mecklenburg County (or any agency thereof), or the State of North Carolina (or any agency thereof); and
- (q) The provision of any service which is not readily available from any governmental authority related to the use, occupancy and enjoyment of the properties and which the Association shall decide to provide. The purposes for which assessments may be levied shall include payment for utilities necessary to accomplish the foregoing purposes.

(5.2) **Budgeting and Allocating Common Expenses.** At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated expenses for the operation of the Association and the operation and maintenance of the Common Areas for the coming year. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Lots, and the amount to be generated through the levy of Annual Assessments, authorized in Section 5.5, Special Assessments against the Lots, as authorized in Section 5.7, and Alley Assessments, as authorized in Section 5.6.

The Association is hereby authorized to levy Annual Assessments equally against all Lots subject to assessments to fund the Common Expenses. In determining the Annual Assessment rate per Lot, the Board may consider any

assessment income expected to be generated from any additional Lots reasonably anticipated to become subject to assessment during the fiscal year.

The Developer may, but shall not be obligated to, reduce the Annual Assessment and the Alley Assessment for any fiscal year by payment of a subsidy (in addition to any amount paid by Developer under Section 5.3), which may, in the Developer's discretion, either be a contribution, an advance against future assessments due from the Developer, or a loan. Any such subsidy shall be disclosed as a line item in the income portion of the budget. The payment of such subsidy in any year shall not obligate the Developer to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and the Developer.

Pursuant to N.C.G.S. Section 47F-3-103(c) within 30 days after adoption of any proposed budget, the Board shall provide to each Owner a copy 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 Board shall set a date for a meeting of the Owners to consider ratification of the budget, such meeting to be held not less than 10 days nor more than 60 days after mailing of the budget and notice. There shall be no requirement that a quorum be present at the meeting. The budget is ratified, unless at said meeting a majority of all Owners in the Association or any larger vote specified in the Master Declaration rejects the budget. If the proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

The Board may revise the budget and adjust the Annual Assessment and the Alley Assessment from time to time, subject to the notice requirements and the right of the Members to disapprove the revised budget as set forth above.

(5.3) Creation of the Lien and Personal Obligation of Assessments. The Developer, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a Deed therefor, whether or not it shall be so expressed in said Deed, is deemed to covenant and agree to pay to the Association:

- (a) Annual Assessments ("Annual Assessments") as established in Section 5.2 (and authorized by Section 5.5) for the purposes specified in Section 5.1.
- (b) Special Assessments ("Special Assessments") as may be established in Section 5.7 for the purposes specified in Section 5.1 as may be approved by the members, to be established, and collected as provided herein.

(c) Alley Assessments ("Alley Assessments") as may be established in Section 5.6 for the purposes specified in Section 5.6.

In order to secure payment of the Annual, Special and Alley Assessments, any such assessment or charge remaining unpaid for a period of thirty (30) days or longer, together with interest, costs of collection and reasonable attorneys' fees, shall be a charge and continuing lien upon the Lot against which each such assessment or charge is made when a claim of lien is filed of record in the manner as described in N.C.G.S. Section 47F-3-116(a) and N.C.G.S. Section 47F-3-116 is otherwise incorporated fully herein by reference with regard to liens for assessments and as to the type of charges enforceable as assessments. Each such assessment or charge, together with interest, fines, late charges, costs of collection and reasonable attorneys' fees shall also be the personal obligation of the person who is the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to an Owner's successor in title unless expressly assumed by them. Such assumption shall not relieve an Owner of his obligations.

(5.4) **Exempt Property.** The assessments, charges and liens created under this Article shall not apply to the Common Area, nor shall they apply to any lot the title to which is vested either in any first mortgagee subsequent to foreclosure or in the Secretary of Housing and Urban Development or the Administrator of Veterans Affairs or any other state or federal governmental agency which acquired title by reason of such agency's guarantee or insurance of a foreclosed mortgage loan; provided, however, that upon the resale of such property by such first mortgagee or such governmental agency the assessment shall again accrue on such lot. Any lot which Developer may hereinafter designate for common use as part of the Common Areas shall also be exempt by a local public authority, and all land granted to or used by a utility company shall be exempt from the assessments created herein.

(5.5) **Maximum Annual Assessments.** For the calendar year beginning January 1, 2001 the maximum Annual Assessment shall be **\$350.00** for each Class A Lot in the Development and **\$125.00** for each Class B Lot in the Development. Annual Assessments may only be increased in accordance with the following:

(a) From and after January 1, 2001 the maximum Annual Assessment for Class A and Class B Lots may be increased each year not more than ten percent (10%) above the maximum Annual Assessment for the previous year without a vote of the membership.

(b) From and after January 1, 2001 the maximum Annual Assessment for Class A and Class B Lots may be increased above ten percent (10%), and without limitation, if such increase is approved by Members entitled to no less than two-thirds (2/3) of all of the votes of Class A and Class B.

members combined. Such voting may be represented in person or by proxy at a meeting duly called for this purpose.

(c) The Board of Directors may fix the Annual Assessment at an amount not in excess of the maximum herein provided.

The Annual Assessments shall be paid as provided in Section 5.9.

(5.6) Alley Assessments. Pursuant to N.C.G.S. Section 47F-3-115 which provides that "any common expense or portion thereof benefitting fewer than all of the lots shall be assessed exclusively against the lots benefitted", all Owners of Lots which are served by alleys or alleyways are required to pay an Alley Assessment in addition to the appropriate annual Assessment authorized above. The purpose of said Assessment is to provide for the maintenance, repair, or improvement of the Alleys depicted on the recorded Map(s). For the calendar year beginning January 1, 2001 the maximum annual Alley Assessment shall be ~~\$50.00~~ for each Class A Lot adjoining an Alley and shall be ~~\$16.50~~ for each Class B Lot adjoining an Alley. Those lots which adjoin an Alley and are obligated to pay the Alley Assessment will be set forth in a Supplemental Declaration(s). From and after January 1, 2001 the maximum Alley Assessment may be increased each year not more than ten percent (10%) above the maximum Alley Assessment for the previous year without a vote of the membership. The Alley Assessment shall be paid as provided in Section 5.9. The Alley Assessment shall be held in a reserve fund to be held in an interest bearing account to pay for any repairs, maintenance or improvement of the Alleys.

(5.7) Special Assessments. 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, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, and the roadways serving the Properties, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of Class A and Class B members combined.

(5.8) Notice and Quorum for Any Action Authorized Under Sections 5.5, 5.6 and 5.7. Written notice of any meeting called for the purpose of taking any action authorized under Section 5.5, 5.6 or 5.7 shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. There shall be no requirement that a quorum be present at the meeting.

(5.9) Date of Commencement of Annual Assessments and Alley Assessments; Due Dates; Certificate of Payment. The Annual Assessments and Alley Assessment shall commence as to all Lots on the first day of the month following the date such property is submitted to the provisions of this Master Declaration. From the date on which the Annual Assessments and Alley Assessments commence on a Lot until the date on which the Lot is sold by the Developer or Builder to the purchaser of a home, the Developer or Builder shall be liable for Annual Assessments and Alley Assessments at a rate which is

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one-third (1/3) of the rate otherwise payable. The first Annual Assessment and the first Alley Assessment shall be adjusted according to the number of days remaining in the calendar year when filed. After the first year, the Annual Assessment shall be payable annually (or semi-annually at the election of the Owner), on the first day of each March (or if the Owner has elected semi-annual payments, on the first day of each March or September) or on such other payment dates as shall be established by the Board of Directors. The Alley Assessment shall be payable annually on the first day of each March or on such other payment date(s) as shall be established by the Board of Directors. The Board of Directors shall fix the amount of the Annual Assessment against each Lot as provided in Section 5.2 and Section 5.5, and the Alley Assessment against applicable Lots as provided in Section 5.6. Written notice of the Annual Assessment and Alley Assessment shall be sent to every Owner. The Association shall, upon demand for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid to date. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

(5.10) Effect of Non-Payment of Assessment; Remedies of the Association.

Notwithstanding Section 5.9 hereof, the Developer may, at its election, postpone in whole or in part the date on which the assessment shall commence provided that the Developer maintains the Common Area and the Alleys for which no assessment is being collected during the period of such postponement. Any assessment not paid within fifteen (15) days after the due date shall be assessed a late charge as determined by the Board of Directors and bear interest from the due date at an annual rate of twelve percent (12%) but in no event above the then maximum legal rate, and to the extent allowed by law. In addition to such interest charge, the delinquent Owner shall also pay such late charge as may have been theretofore established by the Board of Directors of the Association to defray the costs arising because of late payment. The Association, or its agent or representative, may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot to which the assessment relates, and interest, costs and reasonable attorneys' fees for such action or foreclosure shall be added to the amount of such assessment to the extent allowed by law. No Owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the Common Area, abandonment of his Lot or for any other reason.

The provisions as set forth in the preceding paragraph of this Section Five are further subject to the provisions of N.C.G.S. Sections 47F-3-107 and 47F-3-107.1.

(5.11) Subordination of the Lien to First Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust on a Lot or any mortgage or deed of trust to the Developer. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to a mortgage foreclosure or under a power of sale or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer; provided, however, that the Board of Directors may, in its sole discretion, determine such unpaid assessments to be and Alley, Annual or Special

Assessment, as applicable, collectable pro rata from all Owners including the foreclosure sale purchaser. Such pro rata portions are payable by all Owners notwithstanding the fact that such pro rata portions may cause the Annual Assessment to be in excess of the maximum permitted in Section 5.5 of this Article and the Alley Assessment to be in the excess of the maximum permitted in Section 5.6 of this Article. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof, but the lien provided for herein shall continue to be subordinate to the lien of any mortgage or deed of trust as above provided.

(5.12) **Additional Associations.** Nothing contained herein shall prohibit or affect Developer's rights to establish one or more additional associations to govern a specific section(s), phase(s) or Map(s) of *Tanners Creek*. Developer may elect to establish an association to maintain and administer the Common Area and Limited Common Area as designated on a recorded Map(s) and/or Supplemental Declaration(s) relating to the development of Townhomes within *Tanners Creek*. In addition, D.R. Horton, Inc., may elect, to establish an association to maintain and administer the Common Area and Limited Common Area as designated on a recorded Map(s) and/or Supplemental Declaration(s) relating to the development of that 27.16 acre tract of property described in that deed dated February 28, 2000, and recorded in Book 11136, Page 417, Mecklenburg County Registry. In the event any separate association is established, the Annual Assessment, Special Assessment, Alley Assessment and/or any other applicable assessment appropriate to the owners of the Lots within that section, phase or Map, which may be established by the additional association, shall be in addition to any Annual Assessment, Special Assessment, and/or Alley Assessment established pursuant to this Master Declaration, unless otherwise specified in a Supplemental Declaration as provided herein. Any Annual Assessment, Special Assessment, Alley Assessment and/or any other applicable assessment due to the *Tanners Creek Homeowners Association, Inc.*, established pursuant to the Master Declaration and/or a Supplemental Declaration(s) thereto, may be remitted to the separate or additional association(s), if the Board authorizes said collection of assessments by the separate or additional association(s).

ARTICLE VI: USE RESTRICTIONS

(6.1) **Use of Common Areas.** No planting or gardening by individual Owners shall be done upon any Common Area. Except for the right of easement of enjoyment in and to the Common Areas herein given to each Owner, Owners are hereby prohibited and restricted from using any of the Common Area except as may be allowed and prescribed by the Association's Board of Directors or as expressly provided for herein. It is Developer's intent that this paragraph inure to the mutual benefit of all owners within the properties, and each Owner shall have a nonexclusive easement right to use and enjoy the Common Areas which shall be appurtenant to and shall pass with the title to his Lot, subject to the following:

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- (a) The right of the Association to promulgate and enforce reasonable regulations governing the use of the Common Areas to ensure the availability of the right to use the Common Areas to the Owners and the safety of all Owners on the Common Areas;
- (b) The right of the Association to suspend the voting rights of an Owner in the Association and the right of the association to suspend the right to use certain or all of the Common Areas by an Owner for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;
- (c) The right of the Developer or the Association to grant utility, drainage or other easements across the Common Areas; and
- (d) The right of the Developer or the Association to permit use of any recreational facility situated on the Common Area by persons other than Owners, their families, lessees and guests upon payment of use fees established by the Developer or the Association.

(6.2) **Land Use.** All Lots shall be used for residential purposes only, and common recreational purposes auxiliary thereto, and for no other purpose. Only one family may occupy a Lot as a principal residence at any one time. Developer may maintain a sales office, models and a construction office on any Lot until all Lots have been sold.

(6.3) **Nuisance.** No noxious or offensive activity shall be carried on upon any Lot or the Common Area, nor shall anything be done thereon which may be or become an unreasonable annoyance, inconvenience or nuisance to the residents of the Development, or unreasonably interferes with the quiet enjoyment of occupants of Lots. No Owner shall permit anything to be done or kept on his Lot which would result in the cancellation of insurance on any other residence or any part of the Common Area or which would be in violation of any law.

(6.4) **Pets.** No animals shall be raised, bred or kept on any Lot or the Common Area, except that dogs, cats, or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes. The number of household pets shall not exceed three (3) in number, except for newborn offspring of such household pets which are under nine (9) months of age. No animal shall be allowed if such animal constitutes an unreasonable annoyance, inconvenience or nuisance. **Animals specifically prohibited include livestock and bees.** If the Board receives any complaint that an animal constitutes an unreasonable annoyance, inconvenience or nuisance, the Board shall afford the Owner of such animal Notice and Opportunity for Hearing, and if the Board finds that such animal constitutes an unreasonable annoyance, inconvenience or nuisance, the Board may require that such animal be removed from the Properties. The Board may adopt Rules and Regulations concerning animals which are more restrictive than the provisions of this Master Declaration, including rules requiring that all animals be kept on a leash when in the Common Area and that animals be restricted to designated areas within the Common Area

and that Owners are responsible for cleaning up any mess that a pet creates within the Common Area. The Board may adopt a rule prohibiting certain pets, which is more restrictive than the provisions of this Master Declaration, except that such rule shall not apply to animals residing on the Properties at the time such rule is adopted. In any event, the Board at any time may require that any animal found to be an unreasonable annoyance, inconvenience or nuisance be removed as provided in 6.3 above.

(6.5) **Temporary Structures.** Except as may be otherwise provided in this Master Declaration, no building of a temporary nature shall be erected or allowed to remain on any Lot, and no trailer, shack, tent, barn, detached garage, or any other building of a similar nature shall be used as a dwelling on any Lot, either temporarily or permanently.

(6.6) **Above Ground Pools.** No above ground pools shall be erected or installed on a Lot.

(6.7) **Access to Lots.** The Association, its agents or employees, shall have access to each Lot from time to time during reasonable working hours, upon oral or written notice to the Owner, as may be necessary for the maintenance, repair or replacement of any portion of the Common Area or facilities situated upon such Lot which serve another Owner's Lot. The Association or its agent shall also have access to each Lot at all times without notice as may be necessary to make emergency repairs to prevent damage to the Common Area or another Lot.

(6.8) **Clothes Drying.** No drying or airing of any clothing or bedding shall be permitted outdoors on any Lot or in any other unenclosed area (including porches and patios) within the Properties.

(6.9) **Signs.** One sign of not more than five (5) square feet, advertising a Lot for sale or rent, may be placed by the Owner on his Lot in such manner that it will be visible from outside the Lot. The prohibitions herein shall not apply to Developer or Builder(s), or their agents, who may erect such signs as they deem desirable to promote the sale of Lots.

(6.10) **Plumbing; Central Water and Sewer.** All plumbing, dishwashers, toilets and sewage disposal systems shall be connected to a sewage system approved by the appropriate governmental authority. The applicable governmental authority must certify that such system may be used prior to the use and occupancy of any dwelling on the Lot.

(6.11) **Fuel Tanks and Garbage Containers.** No fuel storage tanks shall be allowed on any lot. All outdoor receptacles for ashes, trash, rubbish or garbage shall either be screened or placed in the rear yard so as not to be visible from any street.

(6.12) **Maintenance.** Each Owner shall keep his Lot in an orderly condition and shall keep the improvements thereon in a suitable state of repair, promptly repairing any damage thereto by fire or other causality. No clothesline may be erected or maintained on any Lot. Each Owner shall further maintain the yard and landscaping on his Lot in a clean and neat

condition and shall keep his yard mowed and landscaping trimmed so as not to be unsightly. All Owners shall keep their Lots, whether occupied or unoccupied, free of all tall grass, undergrowth, dead, diseased or decaying trees, weeds, trash, rubbish and debris and shall keep all Lots in a neat and attractive condition. All improvements erected on Lots shall be maintained in a clean, neat, and orderly condition and in a good state of maintenance and repair.

(6.13) **Vehicles and Parking.** Each Owner shall provide space for parking (2) automobiles on his Lot prior to occupancy of any dwelling constructed on such Lot in accordance with reasonable standards established by the Architectural Control Committee. No commercial vehicles over one (1) ton capacity, boat, motor home, bus (including school bus), travel trailer or other recreational vehicle may be stored overnight on any Lot unless the same be within an enclosed garage or area not visible from the streets or from adjoining dwellings. This restriction shall not apply to sales trailers, construction trailers, or other vehicles which may be used by Developer, and its agents and contractors, in the conduct of its business prior to completion of sales. No unlicensed vehicles may be kept, or stored, on a Lot.

(6.14) **Antennas.** No radio or television aerial or antenna, or T.V. satellite dish [except those which do not exceed 24 inches in diameter and are not located on the front or street facing elevation(s) of any dwelling], or any other external electronic equipment or devices, may be installed or maintained on any exterior of any structure erected on a Lot unless the location, size and design has been approved by the Architectural Control Committee.

(6.15) **Exercise and Recreational Equipment.** All swing sets, treehouses, play houses, basketball goals and similar equipment must be located within building setback lines, and must otherwise meet with the approval of the Architectural Control Committee as to design, construction, materials, etc. Skateboard ramps are specifically not permitted.

(6.16) **Reconstruction.** Any building on any Lot which is destroyed in whole or in part by fire, windstorm, flood or other Act of God must be rebuilt, or all debris from such building removed and the Lot restored to the condition it was in prior to commencement of construction of such building, with reasonable promptness, provided, however, that any such reconstruction must be commenced within six (6) months from the date of such destruction or if no reconstruction is to occur, then all such debris must be removed and the Lot restored to its prior condition within six (6) months of such destruction.

(6.17) **Subdivision.** No Lot shall be subdivided or its boundary lines changed without the written consent of the Developer, provided, however, that the Developer hereby expressly reserves to itself, its successors and assigns, the right to replat any two (2) or more Lots shown on the Maps of the Properties, and to otherwise change boundary lines as it may deem necessary.

(6.18) **Interval Ownership.** No Owner may deed, sell, convey, or otherwise transfer his Lot under any time-sharing or interval ownership arrangement.

(6.19) **Hazardous Activities.** Nothing shall be done or kept on any Lot or in the Common Area which will increase the rate of insurance of the Common Area or any other Lot without the prior written consent of the Board of Directors of the Association. No Owner shall permit anything to be done or kept in his Lot or in the Common Area which would result in the cancellation of insurance on any part of the Common Area, or which would be in violation of any law.

(6.20) **Regulations.** Reasonable regulations governing the use of the Common Area and external appearance of all structures erected on the Lots may be made and amended from time to time by the Board of Directors of the Association; provided, however, that all such regulations and amendments thereto shall be approved by a majority vote of the Members before the same shall become effective. Copies of such regulations and amendments thereto shall be furnished to each Member by the Association upon request.

(6.21) **Compliance.** In the event that the Owner of any Lot fails to comply with any of the restrictions set forth in this Article or such rules and regulations as may be subsequently promulgated by the Board of Directors, the Association, or Developer, shall have the right (among other remedies which may be available), but not the obligation, to enter any Lot and undertake any necessary action in order to cure such Owner's default. All expense and cost incurred by the Developer or Association in curing such default shall be charged to the defaulting Owner, shall be payable by such Owner to the Developer or Association immediately upon demand and shall constitute a lien on the applicable Lot until paid.

(6.22) **Alleys.** All alleys designated on any recorded Map(s) as "Alley" shall be used primarily for access to the lots served thereby and for the installation and maintenance of certain dry utilities. All such alleys shall function as and be maintained in the same manner as Limited Common Area, whether or not such designation shall appear on the recorded Map(s). All alleys shall be open for general usage by the public, but shall not be accepted by the public for maintenance. Developer and/or the Association shall have the continuing right and easement to designate any such alley or alleys as having "one way" vehicular traffic.

ARTICLE VII: EASEMENTS

(7.1) **General.** Developer reserves easements for the installation and maintenance of driveways, walkways, parking areas, water lines, telephone and electric power lines, gas lines, cable television lines, sanitary sewer and storm drainage facilities, pumping and lift stations, silt fences, drainage ditches and for other utility installations over the Properties as provided in Article III, Section 3.2(f) of this Master Declaration. Each Owner, by his acceptance of a deed to a Lot, and the Association by its acceptance of a deed to the Common Areas, acknowledges such reservation and the right to Developer to transfer such easements to the Association or to such utility companies as Developer may choose. The easements reserved by Developer include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or take any similar action reasonably necessary to provide economical utility installation and to maintain the overall appearance of the Development.

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Certain of the easements referred to herein and reserved by Developer may, but need not, be shown on the Maps. Developer further reserves the right to locate wells, pumping stations, lift stations and tanks within any Common Areas or any residential Lot designated for such use on any Map or upon any Lot adjacent to such designated Lot with the permission of the Owner of such adjacent Lot.

Within any such easements, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation of sewage disposal facilities and utilities, or which may change the direction of flow or drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements. In addition, Developer, and/or the Association, shall have the continuing right and easement to maintain all water lines located on the Lots, including the right to go into dwellings and disturb the structure and floors thereof in order to maintain those lines located within or under said dwelling.

Each Lot now or hereafter subjected to this Master Declaration shall be subject to all easements shown or set forth on the recorded plat or plats of survey upon which such Lot is shown. No structure of any type shall be erected or placed upon any part of a Lot or the Common Area which shall interfere with rights and use of any and all easements shown on said recorded plat.

(7.2) **Control of Signs.** Developer shall have the right to place permanent and temporary directional and advertising signs for *Tanners Creek* on the Common Area and unsold Lots and within street rights-of-way until one hundred percent (100%) of the Lots have been sold.

(7.3) **Emergency.** There is hereby reserved without further assent or permit and to the extent allowed by law, a general easement to all firemen, ambulance personnel, policemen and security guards employed by Developer and all similar persons to enter upon the Properties or any portion thereof, in the performance of their respective duties.

(7.4) **Municipal Easement.** A general easement of access is granted to all utility providers, into, over and through each Lot for the purpose of maintaining, repairing and servicing the utility lines located on said Lot and for providing municipal services to which said Lot is entitled.

(7.5) **Alley Easements.** The Developer hereby grants and conveys to all Lot owners and the Association, its successors and assigns, a permanent nonexclusive easement and right-of-way over the alleys which are located along the rear of certain Lots as designated on a duly recorded Map(s). Said alleys shall be primarily (but not necessarily limited to) for access to the adjoining Lots served thereby; such alleys shall be maintained in the same manner as any Common Area. All alleys shall be open for general usage by the public, but shall not be accepted by the public for maintenance. Maintenance of alleys shall be the responsibility of the Association. Developer and/or the Association shall have the continuing right and easement to designate any such alley or alleys as having "one way" vehicular traffic.

ARTICLE VIII: GENERAL PROVISIONS

(8.1) **Covenants Running with the Land.** All provisions of this Master Declaration shall be construed to be covenants running with the land, and with every part thereof and interest therein, and every Owner or any other person or legal entity claiming an interest in any lot, and his heirs, executors, administrators, successors and assigns, shall be bound by all of the provisions of this Master Declaration.

(8.2) **Duration.** The covenants, conditions and restrictions of this Master Declaration shall be binding for a term of twenty (20) years from the date this Master Declaration is recorded, after which time they shall be automatically extended for successive and additional periods of ten (10) years each.

(8.3) **Amendment.** This Master Declaration and any Supplemental Declaration may be amended or terminated during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Owners, and thereafter may be amended or terminated by an instrument signed by not less than seventy-five percent (75%) of the Owners subject to the following conditions:

- (a) All additions or amendments must be consented to by Developer in writing so long as Developer is the owner of any lot in the development;
- (b) Notwithstanding anything in this Section 8.3 to the contrary, Developer may, at Developer's option, amend this Master Declaration without obtaining the consent or approval of any other person or entity if such amendment is necessary to cause this Master Declaration to comply with the requirements of the FHA, VA, the Federal National Mortgage Association or other similar agency;
- (c) No Amendment shall become effective until the instrument evidencing such change has been filed of record in the Mecklenburg County Public Registry.

(8.4) **FHA/VA Approval.** In the event the Developer, its successors or assigns, has arranged for and provided purchaser of Lots with FHA insured or VA mortgage loans, then as long as any Class B lot exists, as provided in Article I hereof, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties (other than as provided in Article II of this Master Declaration of Covenants, Conditions and Restrictions), deeding, mortgaging or dedication of Common Area to persons other than the Association or amendment of this Master Declaration.

(8.5) **Enforcement.** If any Owner shall violate or attempt to violate any of these restrictions, failure to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief, or both, maintainable by the Board of Directors on behalf of the Association, or, in proper case, by an aggrieved owner. Any failure by Association or any other Owner to enforce any of the foregoing restrictions or other provisions shall in no event be deemed a waiver of their right to do so thereafter.

Invalidation of any covenant, condition or restriction or other provision of this Master Declaration shall not affect the validity of the remaining portions thereof which shall remain in full force and effect.

(8.6) **Headings.** Headings are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular paragraphs to which they refer.

(8.7) **Unintentional Violation of Restrictions.** In the event of unintentional violation of any of the foregoing restrictions with respect to any Lot, the Developer or its successors reserves the right (by and with the mutual written consent of the then Owner or Owners of such Lot) to change, amend or release any of the foregoing restrictions as the same may apply to that particular Lot.

(8.8) **Severability.** The provisions of this Master Declaration are severable and the invalidity of one or more provisions hereof shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder hereof.

(8.9) **Joinder of Development Lender.** Southland Associates, Inc., Trustee, and Central Carolina Bank and Trust Company, owner and holder, join in the execution of these Restrictive Covenants solely for the purpose of subordinating the lien of the following recorded deed of trust to these Restrictive Covenants: Deed of Trust from Niblock-Ridgeline, LLC, a North Carolina limited liability company to Southland Associates, Inc., Trustee for Central Carolina Bank and Trust Company dated July 28, 1999 and recorded in Book 10649 at Page 214, in the Mecklenburg Public Registry in the original principal amount of \$6,200,000.

(8.10) **Joinder of D.R. Horton, Inc.** D.R. Horton, Inc., as owner of that 27.16 acre tract of property described in that deed dated February 28, 2000, and recorded in Book 11136, Page 417, Mecklenburg County Registry, joins in the execution of these Restrictive Covenants for the purpose of consenting hereto and submitting to the provisions, regulations, and general content hereof.

(8.11) **Joinder of Westminster Homes, Inc.** Westminster Homes, Inc., as owner of that tract of property recorded in Book 11621 Page 28, Mecklenburg County Registry, joins in the execution of these Restrictive Covenants for the purpose of consenting hereto and submitting to the provisions, regulations, and general content hereof.

(8.12) **North Carolina Planned Community Act.** The provisions contained hereinbefore this Master Declaration notwithstanding, nothing herein contained shall be construed so as to be in conflict with, or contrary to, those provisions of Chapter 47F of the North Carolina General Statutes, entitled the "North Carolina Planned Community Act", which are to take precedence, or be controlling, over the content of a Declaration (as defined therein).

IN WITNESS WHEREOF the undersigned has caused this Master Declaration to be executed effective the day and year first above written.

**NIBLOCK-RIDGELINE, LLC,
a North Carolina Limited Liability Company**

By: **Ridgeline Development Corp.**
a North Carolina Corporation
Member-Manager

By: *W. Kendall Foster*
W. Kendall Foster, President

By: **Niblock Development Corp.**
a North Carolina Corporation
Member-Manager

By: *W. Kendall Foster*
President

**D. R. HORTON, INC.,
a Delaware Corporation**

By: *John Ogden*
President

WESTMINSTER HOMES, INC.

By: *Paul D. Coats*
Vice President

**SOUTHLAND ASSOCIATES, INC.
Trustee**

By: *Debbie*
Vice President

CENTRAL CAROLINA BANK and TRUST CO.

By: *D. H. ...*
Vice President

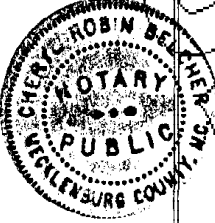
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NORTH CAROLINA

MECKLENBURG COUNTY

I, Cheryl Robin Belcher, a notary public of the County and State aforesaid, certify that W. Kendall Foster personally came before me this day and acknowledged that he is President of Ridgeline Development Corporation, a North Carolina Corporation, Member-Manager of Niblock-Ridgeline LLC, a North Carolina Limited Liability Company, and that he as President, being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official seal, this 19th day of October, 2000.



Cheryl Robin Belcher
Notary Public

My commission expires: 09/17/04

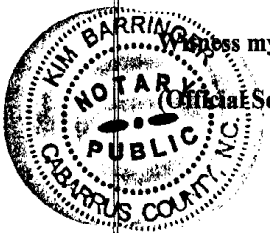
NORTH CAROLINA

COUNTY OF Cabarrus

I, Kim Barringer, a notary public of the County and State aforesaid, certify that William Niblock personally came before me this day and acknowledged that he is Vice President of Niblock Development Corp., a North Carolina Corporation, Member-Manager of Niblock-Ridgeline LLC, a North Carolina Limited Liability Company, and that he as Vice President, being authorized to do so, executed the foregoing on behalf of the corporation.

William Niblock

Witness my hand and official seal, this 18th day of October, 2000.



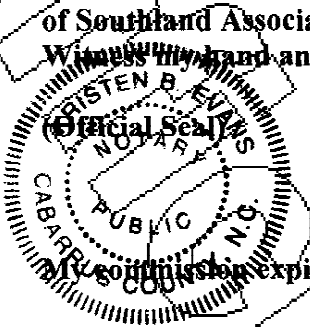
Kim Barringer
Notary Public

My commission expires: Feb. 03, 2004

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NORTH CAROLINA

NORTH CAROLINA
Cabarrus
~~MECKLENBURG~~ COUNTY

I, Kristen Bevans, a notary public of the County and State aforesaid, do hereby certify that Chris D. Lewis, personally appeared before me this day and stated that ~~(she is~~ the President of Southland Associates, Inc., Trustee for Central Carolina Bank and Trust Co., and acknowledged, on behalf of Southland Associates, Inc., the due execution of the foregoing instrument. Witness my hand and official seal this the 30 day of October, 2000.

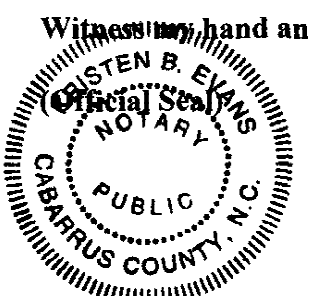


Kristen Bevans
Notary Public

My commission expires: 07-31-01

NORTH CAROLINA
COUNTY OF Cabarrus

I, Kristen Bevans, a notary public of the County and State aforesaid, certify that N.C. Edgeworth personally came before me this day and acknowledged that ~~(she is~~ the President of Central Carolina Bank and Trust Company, a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President.



Witness my hand and official seal, this 30 day of October, 2000.

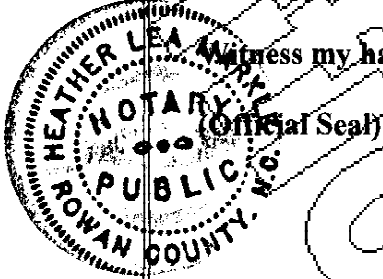
Kristen Bevans
Notary Public

My commission expires: 07-31-01

NORTH CAROLINA
COUNTY OF Rowan

I, Heather Lea Markle, a notary public of the County and State aforesaid, certify that Jack Ogden personally came before me this day and acknowledged that (s)he is Vice President of D.R. Horton, Inc., a Delaware Corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President.

Witness my hand and official seal, this 26th day of October, 2000.



Heather Lea Markle

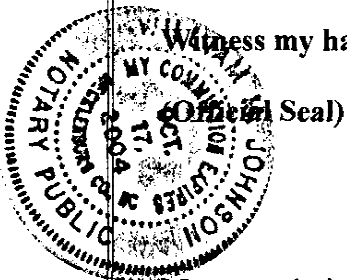
Notary Public

My commission expires: 10-13-2003

NORTH CAROLINA
COUNTY OF Mecklenburg

I, William M. Johnson, a notary public of the County and State aforesaid, certify that Paul D. Carter personally came before me this day and acknowledged that (s)he is Vice President of Westminster Homes, Inc., and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President.

Witness my hand and official seal, this 25th day of October, 2000.



William M. Johnson

Notary Public

My commission expires: October 17, 2004

EXHIBIT "A"

TRACT I

Lying and being in Long Creek Township, Mecklenburg County, North Carolina, on the south side of McIlwaine Road (S.R. #2130) and on the Northeast side of Beatties Ford Road (S.R. #2074), adjoining the property of David H. Gant (Book 4203, Page 705), James B. Pharr, et. al. (Book 3867, Page 545), James Arthur Beard [now or formerly (Book 2669, Page 255)], a portion of the subdivision of Norman Park, Block A and B (Map Book 10, Page 321), the Charlotte-Mecklenburg Board of Education ["CMBE" (Book 9990, Page 119)], Ernest Jackson (Book 3370, Page 330), Clayton Jackson (Book 3370, Page 334), First Union National Bank, Trustee [{"FUNB", now or formerly (Book 3604, Page 436)], and Dewey S. Grant, Jr. (Book 5814, Page 731), and being more particularly described as follows:

BEGINNING at an existing #4 rebar on the south side of McIlwaine Road, the northwestern corner of Gant, and runs thence two (2) courses and distances with the line of Gant, as follows: (1) S. 03-49-30 W. 384.00 feet to an existing ½" solid iron rod, the southwestern corner of Gant; and thence (2) N. 83-03-16 E. 455.35 feet to an existing ½" pipe, a corner of Gant and Pharr; thence with the line of Pharr, N. 83-03-16 E. 577.48 feet to an existing stone in the line of Beard, a corner of Pharr; thence two (2) courses and distances with the line of Beard, as follows: (1) S. 23-49-57 W. 657.57 feet to an existing iron in a stump; and thence (2) S. 66-37-28 E. 437.92 feet to an existing ½" pipe in a stone, the northwestern corner of Lot 1 in Block B of Norman Park; thence with the rear line of said Lot, the cul-de-sac of O'Hara Street, and the rear line of Lots Nos. 39, 38, 37, 36, 35, 34, 33, 32, 31, 30, 29, 28, 27, 26, 25, 24, and 23, in Block A of Norman Park, S. 19-44-08 W. (passing an existing ½" pipe at 521.61 feet, the rear common corner of Lots Nos. 33 and 34, and an existing #5 rebar at 720.36 feet) 1050.04 feet to a set #4 rebar in the rear line of Lot No. 23, the northeastern corner of CMBE; thence three (3) courses and distances with the line of CMBE, as follows: (1) N. 73-06-14 W. 498.91 feet to a set #4 rebar; thence (2) S. 18-07-44 W. [passing a point on line in the centerline of a 15-foot sanitary sewer easement (Book 09990, Page 119/126) at 1089.57 feet] 1146.67 feet to a set #4 rebar; and thence (3) S. 19-03-16 W. (passing a set #4 rebar on the north side of Beatties Ford Road at 1085.79 feet) 1115.80 feet to a point in the centerline of Beatties Ford Road; thence four (4) courses and distances with the centerline of Beatties Ford Road, as follows: (1) N. 66-36-19 W. 27.81 feet to a point; thence (2) N. 62-54-12 W. 54.26 feet to a point; thence (3) N. 59-41-34 W. 47.97 feet to a point; and thence (4) N. 58-59-26 W. 384.74 feet to a point; thence leaving Beatties Ford Road, N. 31-34-56 E. (passing a set #4 rebar on line on the north side of Beatties Ford Road at 30.00 feet) 136.43 feet to a point; thence in a generally northerly direction, at a radius of 772.50 feet, for an arc distance of 349.47 feet to a point; thence N. 05-39-43 E. 124.87 feet to a point; thence N. 61-10-46 W. 167.70 feet to a point; thence N. 29-11-17 W. 98.28 feet to a point; thence N. 62-24-50 W.

282.98 feet to a point; thence S. 61-34-25 W. 62.29 feet to a point; thence S. 31-47-39 W. (passing a set #4 rebar on line on the north side of Beatties Ford Road at 529.66 feet) 559.66 feet to a point in the centerline of Beatties Ford Road; thence four (4) courses and distances with the centerline of Beatties Ford Road, as follows: (1) N. 58-59-26 W. 12.92 feet to a set #4 rebar; thence (2) as said roadway curves in a generally northwesterly direction, at a radius of 457.43 feet, for an arc distance of 385.38 feet to a point; thence (3) N. 10-43-09 W. 464.66 feet to a point; and thence (4) as said roadway curves in a generally northwesterly direction, at a radius of 710.78 feet, for an arc distance of 68.17 feet to a point; thence leaving Beatties Ford Road, and with the line of Ernest Jackson, N. 02-54-18 E. (passing a point on line on the north side of Beatties Ford Road at 79.67 feet) 787.59 feet to a set #4 rebar; thence continuing with the line of Ernest Jackson, N. 23-34-45 E. 102.94 feet to an existing 1/2" bent solid iron, a corner of Clayton Jackson and Ernest Jackson; thence with the line of Clayton Jackson, N. 24-03-57 E. 139.06 feet to a set #4 rebar, a corner of Clayton Jackson and FUNB; thence three (3) courses and distances with the line of FUNB, as follows: (1) N. 26-21-19 E. 643.90 feet to an existing 1/2" pinched top pipe; thence (2) S. 49-02-41 E. 814.03 feet to an existing 1/2" pinched top pipe; and thence (3) N. 15-26-04 E. 574.45 feet to a 3/4" pipe in center of creek, a corner of FUNB and Grant; thence two (2) courses and distances with the line of Grant, as follows: (1) N. 14-19-39 E. 538.70 feet to an existing 3/4" pipe; and thence (2) N. 14-17-06 E. (passing an existing #4 rebar on the south side of McIlwaine Road at 445.07 feet) 476.15 feet to a point in the centerline of McIlwaine Road; thence with the centerline of McIlwaine Road, N. 89-08-50 E. 348.83 feet to a point; thence leaving the centerline of McIlwaine Road, S. 03-49-30 W. 30.10 feet to the point of **BEGINNING**, containing 135.18 acres, as surveyed by William M. Allen, R.L.S., of Don Allen & Associates, P.A., May 27, 1999, and revised on July 20, 1999.

TRACT II

Lying and being in Mecklenburg County, North Carolina, on the east side of Beatties Ford Road (S.R. #2074), on the south side of McIlwaine Road (S.R. #2130), and on the south and west sides of an unnamed creek, adjoining the property of Glen R. Gant (Book 4203, Page 702), Dewey S. Gant, Jr. (Book 5814, Page 731), Michael Weinman Association (Book 5732, Page 996), and Clayton Jackson (Book 3370, Page 334), and being more particularly described as follows:

BEGINNING at a hole at the intersection of the centerlines of Beatties Ford Road and McIlwaine Road, and runs thence with the centerline of McIlwaine Road, N. 83-00-24 E. 535.60 feet to a p.k. nail set in the center of a bridge; thence leaving said bridge and roadway, eighteen (18) courses and distances with the centerline of said unnamed creek, and with the line of Glen R. Gant, and of Dewey S. Gant, Jr., as follows: (1) S. 04-21-17 W. 78.53 feet to a point; thence (2) S. 42-23-34 E. 67.64 feet to a point; thence (3) S. 72-15-22 E. 84.80 feet to a point; thence (4) S. 75-17-52 E. 196.00 feet to a point; thence (5) S. 81-24-38 E.

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29.04 feet to a point; thence (6) S. 85-28-45 E. 191.83 feet to a point; thence (7) S. 44-36-59 E. 16.67 feet to a point; thence (8) S. 88-10-25 E. 95.62 feet to a point; thence (9) N. 78-17-20 E. 22.62 feet to a point; thence (10) S. 79-12-39 E. 41.14 feet to a point; thence (11) S. 48-54-06 E. 109.39 feet to a point; thence (12) S. 35-47-51 E. 202.60 feet to a point; thence (13) S. 35-51-00 E. 169.01 feet to a point; thence (14) S. 36-37-45 E. 156.72 feet to a point; thence (15) S. 37-40-20 E. 97.97 feet to a point; thence (16) S. 39-18-28 E. 134.62 feet to a point; thence (17) S. 35-15-01 E. 54.09 feet to a point; and thence (18) S. 57-50-00 E. 31.77 feet to a bent 1" pipe in said unnamed creek, and in the line of Michael Weinman Association, a corner of Dewey S. Gant, Jr.; thence three (3) courses and distances with the line of Michael Weinman Association, as follows: (1) S. 19-58-45 W. 574.45 feet to a ½" pinched top pipe; thence (2) N. 44-30-00 W. 814.03 feet to a ½" pinched top pipe; and thence (3) S. 30-54-00 W. 645.90 feet to a set #4 rebar, a corner of Jackson; thence with the line of Jackson, S. 88-07-30 W. (passing a #4 rebar on line in the eastern right-of-way line of Beatties Ford Road at 459.36 feet) 489.42 feet to a point in the centerline of Beatties Ford Road (said point lying N. 15-36-28 W. 64.97 feet from a p.k. nail in the centerline of said road); thence four (4) courses and distances with the centerline of Beatties Ford Road, as follows: (1) N. 15-40-00 W. 270.35 feet to a point; thence (2) N. 14-36-00 W. 100.00 feet to a point; thence (3) N. 11-02-00 W. 100.00 feet to a point; and thence (4) N. 07-04-12 W. 999.82 feet to the point of **BEGINNING**, containing 41.17 acres, as surveyed by William M. Allen, P.L.S. of Don Allen & Associates, P.A., January 28, 1999.

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JUDITH A. GIBSON
REGISTER OF DEEDS, MECKLENBURG COUNTY
COUNTY & COURTS OFFICE BUILDING
720 EAST FOURTH STREET
CHARLOTTE NC 28202

Filed For Registration: 11/03/2000 09:09 AM
Book: RE 41696 Page: 235-265
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RESTR 31 PGS \$66.00
Recorder: MAXINE HAITH

State of North Carolina, County of Mecklenburg

The foregoing certificate of KIM BARRINGER, KRISTEN B. EVANS, HEATHER LEA MARKLE, WILLIAM M. JOHNSON, CHERYL ROBIN BELCHER Notaries are certified to be correct. This 3 RD of November 2000

JUDITH A. GIBSON, REGISTER OF DEEDS By: *[Signature]*
Deputy/Assistant Register of Deeds



2000161664

UNOFFICIAL SUBMIT