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Union County, Monroe, North Carolina

**DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS
FOR
CHESTNUT OAKS**

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AND
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This revised Declaration of Covenants, Conditions and Restriction for Chestnut Oaks is being recorded to correct certain terms and provisions and shall supercede the Declaration of Covenants, Conditions and Restrictions for Chestnut Oaks recorded in Book 1466, at Page 521, Union County Registry.

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**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
CHESTNUT OAKS**

THIS DECLARATION is made as of the 2 day Aug, 2001,
by **E. REECE GIBSON**, here and after referred to as the "Declarant", with reference to the following facts:

RECITALS

A. Declarant is the owner of certain real property in Union County, North Carolina, comprising a subdivision to be known as Chestnut Oaks as shown on maps recorded in Plat Cabinet G, Files 264 & 265; revised in Plat Cabinet G, Files 323 & 324; and further revised in Plat Cabinet G, Files 367 & 368, and the maps recorded in Plat Cabinet G, Files 376 & 377, Union County Public Registry.

B. Declarant owns or may acquire in the future certain real property in Union County, North Carolina, located adjacent to Phase 1. Declarant may, in his sole discretion and without obligation, by one or more supplemental filings pursuant to Article 16 hereof, make all or any portion of the Additional Land (as herein defined) subject to the Declaration and part of the Project (as defined in Section 1.23 hereof). The provisions of Article 16 hereof must be strictly complied with by Declarant in order to make all or any portion of the Additional Land subject to the Declaration and part of this Project. No act or acts of Declarant, including the recordation of a plat or plat indicating lots included to the subdivision, shall be taken to imply, or common plan and scheme of development until strict compliance with Article 16 has been effected by Declarant. Declarant intends to improve the Project as a planned residential development by dividing the Project into lots appropriate for single-family detached dwellings or single-family town homes with deeded lots.

C. Declarant intends to develop Phase 1 under a common scheme and general plan for the improvement and maintenance of Phase 1 and, to the extent determined by Declarant from time to time in the future, all or any part of the Additional Land.

D. For this purpose Declarant intends to subject Phase 1 (and so much of the Additional Land as shall, from time to time, be annexed to the Project in accordance with the provisions of this Declaration) to the covenants, conditions, restrictions, easements, liens, charges, assessments, and equitable servitudes set forth in the Declaration, for the benefit of the Project and the future owners thereof.

E. Declarant deems it desirable for the management and administration of the planned development and for the preservation of the values and amenities of the planned development to incorporate Chestnut Oaks Community Association, Inc. as a non-profit corporation under the laws of the State of North Carolina for the purposes of administering and enforcing the limitations, covenants, conditions, restrictions, easements, liens and equitable servitudes created by or imposed in accordance with the provisions hereof, collecting and disbursing the assessments and charges imposed in accordance with the provisions hereof,

and exercising such other powers as may be authorized by this Declaration, by law, or by its Articles of Incorporation and Bylaws.

NOW, THEREFORE, Declarant hereby declares as follows:

ARTICLE 1

DEFINITIONS

The following terms shall have the following meanings when used in this Declaration:

1.01. Additional Land. "Additional Land" means the real property described in Exhibit A, attached hereto and the land that adjoins the boundaries thereof or whose boundary is within 1,000 feet of any boundary line of the property described in Exhibit A, all or any portion of which may, from time to time, be made subject to this Declaration pursuant to the provisions of Article 16 hereof.

1.02. Appraisal. "Appraisal" means an appraisal by a member of the Appraisal Institute of the National Association of Real Estate Boards (or, if such Institute is not then in existence, a like organization).

1.03. Articles. "Articles" means the Articles of Incorporation of the Association, including any amendments thereto.

1.04. Association. "Association" means Chestnut Oaks Community Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

1.05. Board. "Board" means the Board of Directors of the Association.

1.06. Builder. "Builder" means any person or firm in the business of building and selling homes to individuals and selected by Declarant to buy Lots and construct homes for sale in the Project, including, but not limited to, Weekley Homes, Dogwood Homes, and Reece Gibson.

1.07. Bylaws. "Bylaws" means the Bylaws of the Association, including any amendments thereto.

1.08. Common Area. "Common Area" means all real property owned by the Association for the common use and enjoyment of its Members, including the Recreational Common Area and alleys, when conveyed to the Association, but does not include real property over which the Association has control.

1.09. Completion of Sales. "Completion of Sales" means the earlier of (1) conveyance of all portions of the Property to purchasers other than a successor Declarant hereunder or (2) expiration of the later of (I) twenty (20) years from the closing of the first sale of a Lot to a purchaser other than a Builder or a successor Declarant hereunder or (II) five (5) years from the conveyance of the first Lot in the Phase most recently made subject to this Declaration to a purchaser other than a Builder or a successor Declarant hereunder; provided, however, if Declarant is delayed in developing the Project, constructing improvements or selling Lots and dwellings due to strikes or work stoppages; shortages of materials, supplies, fuel, power,

or energy; moratoria or suspensions on issuance of land use permits and approvals or affecting the availability of water, sewer, power or other utilities or necessary services; inclement weather; civil strife; major disaster or other cause beyond Declarant's reasonable control, said twenty (20) year period shall be extended by the period of any such delay.

1.10. County. "County" means Union County in the State of North Carolina.

1.11. Declarant. "Declarant" means E. Reece Gibson of Union County, North Carolina, and any heir or assign to whom Declarant assigns his rights and interests as Declarant hereunder in whole or in part by instrument recorded in the official records of the County.

1.12. Declaration. "Declaration" means this Declaration and all amendments or supplements hereto.

1.13. **INTENTIONALLY DELETED.**

1.14. Lot. "Lot" means any numbered single family lot or plot of land, together with any improvements thereon, as shown upon any recorded final subdivision map covering the Project or a part thereof, which is not a dedicated street, alley or Common Area.

1.15. Member. "Member" means a member of the Association.

1.16. Mortgage. "Mortgage" means a specific lien upon real property to secure the payments of money or some other obligation.

1.17. Mortgagee. "Mortgagee" means the holder of the beneficial interest in any Mortgage.

1.18. Notice and Opportunity for Hearing. "Notice and Opportunity for Hearing" means giving at least fifteen (15) days prior written notice of a proposed action and the reasons therefore, and an opportunity to be heard by the Board, orally or in writing, not less than five (5) days before the effective date of the proposed action.

1.19. Owner. "Owner" means the record owner, whether one or more persons or entities, of a fee simple title to any Lot, and shall include Declarant and Builder as to any Lot owned by Declarant or Builder unless otherwise qualified herein. "Owner" shall not include any person or entity who holds an interest in a Lot merely as security for the performance of an obligation or as a tenant.

1.20. Person. "Person" means an individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

1.21. Phase "Phase" means each Phase of the Development and all the real property covered by supplemental declaration recorded pursuant to Section 16.02 of this Declaration.

1.22. Phase 1 "Phase 1" means the real estate shown on plats recorded in Plat Cabinet G, Files 264 & 265; revised in Plat Cabinet G, Files 323 & 324; and further revised in Plat Cabinet G, Files 367 & 368, and maps recorded in Plat Cabinet G, Files 376 & 377, in Union County Public Registry.

1.23. Project "Project" means the planned development known as Chestnut Oaks which shall be developed and constructed on part or all of the Property, consisting of Phase 1 and any additional Phases of real property but only to the extent made subject to this Declaration by recordation of a Supplemental Declaration pursuant to section 16.02 of this Declaration.

1.24. Property "Property" means collectively Phase 1 and the Additional Land.

1.25. Recreational Common Area "Recreational Common Area" means that a portions of the Project which Declarant will complete and convey or cause to be conveyed to the Association for the common use and enjoyment of its Members as recreational land, together with any and all improvements constructed thereon.

1.26. Rules and Regulations "Rules and Regulations" means reasonable and nondiscriminatory rules and regulations as may be adopted from time to time by the Association, provided notice of such rules and regulations have been given to the Owners in accordance with the requirements of the Declaration.

1.27. Substantial Completion "Substantial Completion" means that the improvement in question has been constructed in such a manner that it can be used for its intended purpose.

1.28. Supplemental Declaration "Supplemental Declaration" means a supplemental declaration of covenants, conditions and restrictions which shall be recorded for the purposes of annexing additional property, including all or any portion of the Additional Land, to the Project and causing such property to be subject to the scheme of covenants, conditions and restrictions contained in this declaration.

1.29. Town "Town" means the City of Stallings in Union County, North Carolina.

1.30. Voting Power "Voting Power" means the total number of votes held by all Members (and if there is more than one class of Members, the total of each class of Members) whose membership at the time the determination of voting power is made has not been suspended in accordance with the provisions of this Declaration or the Rules and Regulations. Voting Power shall be computed by including all such Members whether or not such Members are present in person or by proxy at a meeting. All voting specifications and requirements shall apply to the entire Project.

ARTICLE 2

SUBMISSION AND TERM

2.01. Submission. Phase 1 shall be held, conveyed, hypothecated, encumbered, sold, leased rented, used, occupied and improved subject to each and all of the limitations, covenants, conditions restrictions, easements, liens, charges, assessments and equitable servitudes set forth herein, all of which are declared to be (i) in furtherance of a common scheme and general plan for the development, improvement and maintenance of Phase 1 and (ii) for the purpose of enhancing, maintaining and protecting the value, desirability and attractiveness of Phase 1. All of the limitations, covenants, conditions, restrictions, easements, liens, charges, assessments and equitable servitudes set forth herein shall run with, be binding upon and inure to the benefit of Phase 1, shall be binding on and inure to the benefit of each and every person having or acquiring any right, title or interest in Phase 1, shall be binding upon and inure to the benefit of the successors in interest of such persons, and shall inure to the benefit of the Association, its successors and assigns.

2.02. Incorporation of Declaration Into Instruments. Any deed or other instrument by which a lot is conveyed shall be subject to the provisions of this Declaration and shall be deemed to incorporate the provisions of this Declaration, whether or not the deed makes reference hereto.

2.03. Term. This Declaration shall remain in force for a term of twenty (20) years from the date this Declaration is recorded, after which time it shall be automatically extended for successive periods of ten (10) years, unless sooner terminated by the affirmative vote of eighty percent (80%) of the total Voting Power of the Association and the written consent of eighty percent (80%) of the Mortgagees.

ARTICLE 3

COMPLIANCE WITH MANAGEMENT DOCUMENTS

3.01. Compliance with Declaration and Other Documents. Each Owner, resident or tenant of a Lot shall comply with the provisions of this Declaration, the Bylaws, Rules and Regulations duly adopted by the Association, decisions and resolutions of the Association and its duly authorized representative, all as may be amended from time to time, and failure to comply with any such provisions, decisions or resolutions, shall be grounds for an action to recover sums due for damages or for injunctive relief.

3.02. Resolution of Conflicts Between Documents. Each Owner covenants and agrees that the administration of Phase 1 shall be in accordance with the provisions of this Declaration, the Articles, the Bylaws, Rules and Regulations duly adopted by the Association. If there are any matters of conflict or inconsistencies in the Bylaws, Articles and this Declaration, then the provisions of the Declaration shall prevail. In the event that anything shown on a recorded final subdivision map for all or any portion of Phase 1 is in any way

inconsistent with provisions of this Declaration, then the provisions of this Declaration shall prevail. If a dispute arises among Owners in regard to the administration of the Project, then the provisions of this Declaration shall prevail.

ARTICLE 4

PROPERTY RIGHTS

4.01. Common Area Easements. Each Owner shall have a nonexclusive right and easement of use and enjoyment in and to the Common Area and of access to and from his Lot over any streets comprising a portion of the Common Area (if any), which rights and easements shall be appurtenant to and shall pass with the title to his Lot and subject to the following rights and restrictions:

(A) The right of the Association, after Notice and Opportunity for Hearing, to limit the number of guests of an Owner, to charge reasonable admission and other fees for the use of the Recreational Common Area facilities, if any, and to limit the use of said facilities to Owners who occupy a residence in the Project.

(B) The right of the Association to suspend the right of an Owner to use the Recreational Common Area facilities (1) for any period during which a fine against a Member or any assessment against such Owner's Lot remains unpaid; and, (2) after Notice and Opportunity for Hearing, for a period not to exceed ninety (90) days for any infraction of the Rules and Regulations;

(C) The right of the Association to grant easements and to dedicate or otherwise convey all or any part of the Common Area as provided in this Declaration;

(D) The right of the Association to borrow money to improve, repair, restore and reconstruct the Common Area and to place liens on the Common Area and otherwise encumber the Common Area for such purposes, subject to the approval of Members and Mortgagees as otherwise provided in this Declaration;

(E) The right of the Association to adopt Rules and Regulations governing use and enjoyment of the Common Area; and

(F) Easements for ingress, egress, use and enjoyment over, in, to and throughout the Common Area for the benefit of Declarant or any successor Declarant.

4.02. Delegation. Any Owner may delegate his rights of use and enjoyment of the Common Area and any facilities thereon to the members of his family or household residing on his Lot and to his guests and invitees while he is in possession of his Lot, subject, however, to reasonable restrictions imposed by the provisions of this Declaration, the Bylaws and the Rules and Regulations. Guests and invitees shall not be permitted on the Common Area unless the Owner or household member delegating his rights of use and enjoyment is physically present to accompany such guests and invitees while they are on the Common Area. Provided the notice required by

Section 4.03 of this Declaration has first been given to the Association, a tenant of an Owner, while residing on such Owner's Lot, shall be entitled to use and enjoy the Common Area and any facilities thereon and to delegate rights of use and enjoyment in the same manner as if such tenant were the Owner of such Lot. No such delegation shall release an Owner from his obligations hereunder, including, without limitation, the obligation to pay regular and special assessments.

Upon request, each Owner or tenant shall notify the Secretary of the Association of the names of all persons to whom such Owner or tenant has delegated any rights of use and enjoyment of the Common Area and the relationship that each such person bears to such Owner or tenant. Any delegated rights of use and enjoyment are subject to suspension to the same extent as the rights of Owners.

4.03. Tenants.

(A) Any Owner who rents or leases his Lot to a tenant shall be entitled to use and enjoy any recreational or other common facilities on the Common Area during the period the Lot is occupied by such tenant.

(B) No Owner shall lease or rent less than an entire Lot and no more than one family related by blood or marriage shall live in any one Lot. Except as provided in Section 7.20, the Lots shall not be leased or rented for hotel or transient purposes and no rental agreement or lease shall be made for a period of less than sixty (60) days. Subject to the foregoing restrictions, Owners shall have the right to lease or rent their Lots, provided that any lease or rental agreement between an Owner and a tenant shall be in writing and shall provide that it is in all respects subject to the provisions of this Declaration, the Bylaws, and the Rules and Regulations and that any failure by the tenant to comply with such provisions shall be a default under the rental agreement or lease. However, the failure of any lease or rental agreement to so provide shall not excuse any person from complying with the provisions of this Declaration, the Bylaws, and the Rules and Regulations.

(C) In the event an Owner shall rent or lease his Lot such Owner shall immediately give to the Association in writing:

- (1) the name of the tenant and the Lot rented or leased;
- (2) the current address of such Owner;
- (3) a true and complete copy of the lease or rental agreement; and
- (4) the certification of the Owner that the tenant has been given a copy of this Declaration, any applicable amendments, the Bylaws and the Rules and Regulations and that such tenant has been advised of any obligations he may have thereunder as a tenant.

(D) In no event shall any lease or rental agreement release or relieve an Owner from the obligation to pay regular and special assessments to the Association, regardless of

whether the obligation to pay assessments has been assumed by the tenant in such lease or rental agreement.

4.04. Reciprocal Easements. There shall be reciprocal appurtenant easements between each Lot and such portion or portions of the Common Area as may be adjacent thereto and between adjacent Lots for the flow of rainwater from gutters and downspouts; provided, however, that no such easement shall unreasonably interfere with the use and enjoyment of the Common Area or any adjacent Lot. If any Common Area or Lot encroaches upon a Lot because of the placement, construction, reconstruction, repair, movement, settling or shifting of the improvements constructed, reconstructed or repaired in accordance with the provisions of this Declaration, including a driveway, an easement for the encroachment and for its maintenance shall exist to a distance of not more than one (1) foot as measured from any point on the common boundary between the Common Area and the Lot or between Lots, as the case may be, along a line perpendicular to such boundary at such point; provided, however, that in no event shall such an easement exist for willful encroachments. If any Lot encroaches upon the Common Area as a result of construction, reconstruction, repair, shifting, settlement or movement of any portion of the Project, an easement for the encroachment and for its maintenance shall exist so long as it remains.

4.05. Utility Easements. A perpetual easement is reserved over the rear ten (10) feet and side five (5) feet of each Lot and as shown on all recorded subdivision maps of the Project for installation, maintenance, use or repair of public (or quasi-public) utilities, cable television or public (or quasi-public) storm drainage. All easements for installation, maintenance, use or repair of public (or quasi-public) utilities, cable television or public (or quasi-public) storm drainage facilities which are dedicated on any final subdivision map of the Project or created in some other way and extend over the rear ten (10) feet and each side five (5) feet of every Lot shall be kept free of buildings, and within such easements no structure shall be placed or permitted to remain which may damage or interfere with the installation, maintenance, use or repair of such public (or quasi-public) utilities, cable television or drainage facilities, or which may damage, interfere, or change the direction or flow of drainage in the easements. All such easements at all times shall be accessible to Declarant until the Project is completed and at all times shall be accessible to all persons installing, repairing, using or maintaining such utilities, cable television and drainage facilities. The easement area for each Lot and all improvements in it shall be maintained continuously by the Owner of such Lot, except for those improvements for which a public (or quasi-public) authority or utility company is responsible. Declarant reserves the right to create and impose additional easements or rights-of-way over unsold Lot(s) for street, drainage, and utility installation purposes by the recording of appropriate instruments and such shall not be construed to invalidate any of these covenants.

4.06. No Subdivision of Lots: No Time-Sharing. There shall be no further subdivision or partition of any Lot nor shall any Owner or any other person acquiring any interest in a Lot seek any partition or subdivision thereof. There shall be no time-sharing or other co-ownership which allows multiple Owners sequential possessory interests in a Lot.

4.07. Sale of Common Area. Except as otherwise provided in this Declaration, no sale, transfer, dedication, hypothecation, partition, subdivision, abandonment, release or alienation of

the Common Area shall occur or be valid, whether by act or omission of the Association, without the vote or written consent of eighty percent (80%) of the Voting Power of all Members [other than Declarant].

4.08. Rules and Regulations. The Board shall have the right to write, amend, supplement, adopt, publish and enforce Rules and Regulations governing the Project, the use and enjoyment of the Common Area, the Recreational Common Area and any facilities thereon, and the personal conduct thereon of the Owners, their guests, invitees, members of their families or households and tenants. The Members may amend any such Rules and Regulations adopted by the Board at any regular or special meeting of Members called for such purpose by (i) if a two-class voting structure is in effect, the vote or written consent of sixty-seven percent (67%) of the total Voting Power of each class of Members of the Association, or (ii) if a two-class voting structure is not in effect, the vote or written consent of sixty-seven percent (67%) of the total Voting Power of the Association. Such Rules and Regulations shall be reasonable, shall not discriminate against Declarant or Builder (or have an adverse impact on Declarant or Builder or upon the sale of Lots or the construction of improvements thereon), and must be consistent with this Declaration, the articles and the Bylaws.

4.09. Enforcement. The Association shall have the right, after Notice and Opportunity of Hearing, to levy fines for infraction of the provisions of this Declaration or the Rules and Regulations, provided (i) the Member shall have been warned in writing of a previous infraction within the preceding one (1) year, and (ii) the fine conforms to the provisions of Section 9.11.

4.10. Recreational Common Area. The recreational Common Area facilities shall include a clubhouse, swimming pool, gazebo, ballfield and walking trails and shall be located on a portion of the Common Area to be owned by the Association.

Annual assessments shall commence in accordance with Section 9.09. Upon acquisition of record title to a lot from Declarant or Builder, each Owner other than Declarant or Builder shall contribute to the capital of the Association an amount equal to one-fifth (1/5th) of the amount of the annual assessment for the Lot, including improvements, as determined by the Board, such contributions to be used by the Board for the maintenance, repair and replacement of the Recreational Common Area.

The Board may appoint any committee it desires composed of one or more members of the Board and one or more Members of the Association to recommend procedures, rules and regulations to the Board for the operation and use of the Recreational Common Area.

4.11. Berm and Landscape Easement. Any portion of a Lot which shares a berm, landscape planting, irrigation system or the Project monumentation with the Common Area or any other area for which the Association is responsible for the maintenance thereof, shall be subject to an easement in favor of the Association for landscaping, mowing and maintenance of the berm, landscape planting, irrigation system or the Project monumentation. No alteration, removal or modification to such berm, landscape planting, irrigation system or the Project monumentation shall be permitted without the prior written approval of the Declarant, his heirs or assigns.

ARTICLE 5

COMMON AREA EASEMENTS AND RIGHTS OF WAY: ENCUMBRANCES

5.01. Dedications. The Association shall have the power to grant easements in, on, over, through, and across the Common Area for any public or quasi-public improvements or facilities and their appurtenances, including, without limitations, street, sewer, drainage, water, gas and sprinkler improvements and facilities, provided (i) any such easement does not unreasonably interfere with the use and enjoyment of the Common Area or any Lot and (ii) the prior written consent of Declarant shall be obtained so long as Declarant owns any Lot. If ingress or egress to any Lot is through the Common Area, any conveyance or encumbrance of such Common Area is subject to said Lot Owner's easement. Each Owner, by accepting a deed to a Lot, expressly grants to the Association an irrevocably power of attorney for the purpose of granting easement in, on, over, through and across the Common Area. The President or other duly designated officer of the Association may execute, acknowledge and record in the official records of the County a certificate stating that the Board is the attorney in fact for the Owners for the purpose of such grant and that such power of attorney is properly exercisable in accordance with this Declaration. The acts of the Board in exercising its power of attorney shall be conclusively binding on all Owners. The power of attorney herein granted shall include authority to do such acts incidental to such grant and to incur such expenses as may be necessary or convenient in connection therewith. The Board, by resolution, shall instruct the appropriate officers of the Association to make, execute and deliver on behalf of any Owner, as his interest may appear, any and all instruments, certificates and documents, including but not limited to, releases, waivers, deeds, escrow instructions and conveyances of every kind and nature as may be deemed necessary or convenient for such dedication or grant.

5.02. Encumbrances. The Association shall have the right to borrow money to improve, repair, restore and reconstruct the Common Area and the place liens on the Common Area and otherwise encumber the Common Area for such purposes upon the vote or written consent of eighty (80%) of the total Voting Power of all Members [other than Declarant].

ARTICLE 6

COMMON AREA AND LOT MAINTENANCE

6.01. Maintenance by Association. The Association shall repair and maintain the Common Area including the Recreational Common Area and any improvements, utilities and facilities located on the Common Area. The Association's maintenance obligation shall arise upon the filing with the Association by Declarant of a notice of Completion of Common Area improvements, or any portion thereof, and the commencement of annual assessments against the Owners. The Association shall maintain and repair all signage, irrigation facilities, lighting and landscaping that may be installed on or within public street medians through out the Project.

The Association may contract with the local electrical power utility for the installation and thereafter continuous operation of decorative streetlights to be located within the public streets in the Project and such fees charged by the utility shall be paid from the annual assessments.

6.02. Maintenance by Owners. Each Owner, at all times, shall maintain, repair and otherwise be responsible for his Lot and the improvements thereon. Without limiting the generality of the foregoing, and subject to the requirements of Section 14.02 of this Declaration, an Owner shall be responsible for replacement and reconstruction of improvements on his Lot required because of damage or destruction by fire or other casualty and each Owner shall maintain, repair and replace the surface and subsurface drainage facilities and appurtenances located on his Lot as may be necessary to maintain good and proper drainage of the property and other real property in the vicinity, except for such facilities the maintenance of which has been assumed by the County or other governmental entity. If any Owner, after Notice and Opportunity for Hearing, fails to maintain, repair and replace such drainage facilities and appurtenances as required herein, the Association, at the expense of such Owner, shall maintain, repair or replace such drainage facilities and appurtenances at the sole cost and expense of such Owner, and the Board, without the vote or written consent of Members, may levy a special assessment against such Owner to obtain reimbursement therefor as provided in Section 9.07.

No building or other structure shall be placed or permitted to remain on any Lot which may damage or interfere with the use, maintenance, repair or replacement of such drainage facilities and appurtenances and no Owner shall do any work, construct any improvements, place any landscaping or suffer the existence of any condition whatsoever which shall alter or interfere with the drainage pattern for the Lots or Common Area as established in connection with the approval of the subdivision map or maps applicable to the Project by the County, except to the extent such alteration in drainage pattern is approved in writing by the Association and all public (or quasi-public) authorities having jurisdiction. All such drainage facilities and appurtenances shall at all times be accessible to Declarant until the Project is completed and at all times shall be accessible to the Association and all persons installing, using, maintaining, repairing or replacing such drainage facilities and appurtenances. Declarant may from time to time present for recordation in the official records of the County instruments showing the approximate locations of subsurface storm drainage facilities and of subsurface groundwater drainage facilities. If for any reason any such instrument is not accepted for recording, Declarant may deliver such instrument to the Association, and the Association shall maintain the same as part of its permanent records. In either event, each Owner shall be deemed to have notice of the location of such drainage facilities as may be shown in such instrument.

6.03. Negligence. The cost of repair or replacement of any improvement to be maintained and kept in repair by the Association, which repair or replacement is required because of the act or omission of any Owner, shall be the responsibility of and paid for by such Owner.

6.04. Right to Enter. After reasonable notice to the occupant, the Association or its agents shall have access over and upon any Lot when necessary in connection with any repair, maintenance, or replacement of improvements for which the Association is responsible or for the enforcement of this Declaration, and each Owner shall accept title to his Lot subject to such right of access of the Association or its agents.

ARTICLE 7

USE RESTRICTIONS

In addition to the restrictions set forth in Article 14 below, the following apply to the Project:

7.01. Residential Use. Except as otherwise provided in this Declaration, each Lot shall be used solely for the construction and occupancy of a residence for a single family and for no other purpose. Except as provided in Section 7.20, no Owner shall use or cause or permit his Lot to be used for any business, commercial, manufacturing or mercantile use or purpose, or for any other nonresidential use or purpose. No Structure shall be erected, altered, placed or permitted to remain on any Lot exceeding two and one-half (2-1/2) stories in height, and a private garage for not more than three (3) cars and other outbuildings incidental to residential use of the Lot.

7.02. Unlawful Activity. No unlawful activity shall be conducted on any Lot or in any other part of the Project. Nothing shall be done within the Project that is an unreasonable annoyance, inconvenience or nuisance to the residents of the Project, or that unreasonably interferes with the quiet enjoyment of occupants of Lots. No doorways, walkways or streets shall be obstructed in any manner which would interfere with their use for ingress or egress in the event of fire, earthquake or other emergency.

7.03. Parking. Unless otherwise permitted by the Rules and Regulations no boat, trailer, recreational vehicle, camper, camper truck or commercial vehicle shall be parked, stored or left (a) on any undesignated part of the Common Area, (b) in any driveway or (c) on any other part of a Lot, (d) or otherwise in the Project unless the same are fully enclosed within the garage located on the Lot. Any such vehicle shall be parked, stored or left wholly within the garage located upon the Lot, except to the extent same is already occupied to capacity, in which case such vehicle may be parked temporarily in the driveway once during any calendar month for not more than 24 consecutive hours. This restriction shall not apply to sales trailers, construction trailers, or other vehicles which may be used by Declarant and his agents and contractors in the conduct of their business prior to Completion of Sales. No boats, truck, trailer, pre-manufactured home, camper, recreational vehicle or tent shall be used as a living or dwelling area within the Project. No repairs to or maintenance of any automobile or other vehicle shall be made or performed on any driveway within the Project, except in the case of emergency and except as may be permitted by the Rules and Regulations. No unlicensed, wrecked or inoperable vehicles may be left on a Lot outside an enclosed structure.

7.04. Signs, Curtains and Flags. No Owner shall place on or about any window any metallic foil or other coating, substance or material which acts as a reflector of light and no Owner shall display, hang, store or use any signs, curtains, draperies, shades, stained glass, flags or other articles whatsoever outside of the dwelling on any Lot so as to be visible from outside the Lot, excluding seasonal decorations, the flag of the United States of America and as otherwise may be permitted by the Rules and Regulations. Flagpoles for seasonal decorations and the flag of the United States of America must be attached to the main dwelling, shall be no more than five (5) feet

In length and shall not be mounted on the roof of any dwelling. Notwithstanding the forgoing, one professionally manufactured sign of not more than five 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 in this section shall not apply to Declarant or his agents, who may erect such signs as Declarant deems desirable to promote the sale of Lots.

7.05 Antennas and Dishes. No exterior antenna, satellite dish or similar exterior improvement shall be maintained upon any Lot unless the prior written approval of the Board or Architectural Control Committee is obtained; provided, however, that the Association shall not prevent access to telecommunication services in violation of applicable law. Exterior antennas, satellite dishes greater than 1 meter in diameter or located in the front of the dwelling, or amateur radio equipment shall not be permitted upon any Lot; provided however, that (i) an Owner may install an antenna permitted by the Rules and Regulations upon the prior written notice to the Board or Architectural Control Committee may approve other antennas in the appropriate circumstances and (iii) the Board or Architectural Control Committee may establish guidelines as technology changes. The Association may install and maintain antennas, satellite dishes or similar equipment on the Common Area to serve the Project.

7.06 Laundry. No laundry or wash shall be dried or hung upon the exterior of any Lot or any place visible within the Project from outside such Lot.

7.07 Fences. No fence or wall shall be erected on any Lot closer to the front of the building facade except for temporary decorative fencing installed by the builder on a model home. Screening fencing around patios, decks, or pools, not to exceed six feet in height, may be erected only with the prior approval of the Board or the Architectural Control Committee. Perimeter fencing shall be natural or white in color with wood or vinyl picket fencing. Fencing may be up to six feet in height. Regular maintenance of materials and painting are required. Any other fencing attached to the board fencing may be used to contain animals within the yard with the prior approval of the Board or the Architectural Control Committee. All fencing must be approved by the Board or Architectural Control Committee prior to installation.

7.08. Pets.

(A) No animal shall be raised, bred or kept on any Lot or the Common Area, except that dogs, cats, or other house hold pets may be kept or maintained pets provided that they are not kept or maintained for commercial purposes. The number of household outside, generally considered to be outdoor pets, such as dogs, cats, et cetera, shall not exceed two in number except for newborn offspring of such household pets which are under six months of age. No animal shall be allowed if such animal constitutes an unreasonable annoyance, inconvenience

or nuisance to any other Owner. 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 Project.

(B) The Board may adopt Rules and Regulations concerning animals which are more restrictive than the provisions of this 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 Declaration, except that such rule shall not apply to animals residing in the Project at the time such rule is adopted. In any event, the Board at any time may require that any animal found to be a unreasonable annoyance, inconvenience or nuisance be removed as provided in Section 7.08(A).

7.09. Trash and Vegetation. No trash, rubbish, garbage or other waste material shall be kept or permitted upon any Lot or the Common Area, except in sanitary containers located in an appropriate area screened and concealed from view. No weeds, vegetation, rubbish, debris, garbage, waste materials of any kind whatsoever shall be placed or permitted to accumulate on any Lot or any portion of the Project which would render it unsanitary, unsightly, offensive, or detrimental to any property in the vicinity thereof or to the Occupants of any property in such vicinity. Grass, hedges, shrubs, vines and mass planting of any type on any Lot or any portion of the Project shall be kept trimmed and shall at regular intervals be mowed, trimmed and cut so as to appear neat and attractive. Trees, shrubs, vines and plants which die shall be promptly removed. If any Owner, after Notice and Opportunity for Hearing, fails to maintain such Owner's Lot in the manner provided by this Section 7.09 the Association, at the expense of such Owner, may take such steps as are necessary in order to remedy such conditions including cutting and removing of weeds, vegetation, rubbish, debris, garbage, waste materials and other accumulations on any Lot at the sole cost and expense of such Owner, and the Board, without the written consent of Members, may levy a special assessment against such Owner to obtain reimbursement of the cost therefore as provided in Section 9.07.

7.10. Nuisance. No noxious or offensive activity shall be carried on in or 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 Project or unreasonable 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.

7.11. Building Setbacks. No building shall be erected on any Lot nearer to the margin of the right-of-way of any street than the building setback lines shown on the recorded map, and with respect to a corner Lot no residence or other building shall be located nearer than the distance shown on the recorded map to the margin of the street right-of-way. It is provided, however, that eaves, steps, stoops, porches and chimneys shall not be considered a part of the building for purposes of interpreting this paragraph. With respect to corner Lots, the front lot line shall be deemed the street line having the significantly shorter frontage, and any residence erected on such corner Lot shall face the front lot line. No building,

Except town houses shall be located nearer than five feet to any side lot line or ten feet to any rear lot line. Provided, however, that this provision shall not be construed to authorize or permit encroachment of any structure on a Lot upon any easement shown on the recorded plat or reserved herein upon any other Lot. This provision shall also not be construed to authorize any violation of the zoning provisions of the appropriate governmental authority.

7.12. Temporary Structures. Except as provided in Section 7.20, no residence of a temporary nature shall be erected or allowed to remain on any Lot, and no boat, truck, trailer, shack, tent, barn, detached garage, recreational vehicle or any other building or vehicle of a similar nature shall be used as a residence on any Lot, either temporarily or permanently.

7.13. Floor Space. The floor area of each home constructed upon a Lot shall be not less than the heated square footage shown on the recorded plat; provided, however, that the square footage requirement shall be based on interior floor space of minimum 1500 square feet, exclusive of basements, garages, porches, decks, balconies and overhangs.

7.14. Accessory Structures. No metal carport, free standing metal garage, free standing metal utility building or other accessory structure shall be erected on any Lot or attached to any residence located on the Lot. However, one utility building shall be constructed with like materials and design of the main structure, and may be located on any Lot so that it is directly behind the residence as viewed from a point on a line of sight perpendicular to the street right-of-way. Such structure shall not exceed 150 square feet, unless the Board approves a greater square footage. The location and design of all such accessory structures, must be approved by the Board of the Architectural Control Committee, prior to installation.

7.15. Unintentional Violations. In the event of the unintentional violation of any of the building line restrictions set forth herein. Declarant reserves the right, by and with the mutual written consent of the Owner of such Lot, to change the building line restriction set forth in the instrument, provided however, that such changes shall not be in violation of any provisions of the Zoning Provisions of the appropriate government authority.

7.16. Above Ground Pools. No above ground pools shall be erected or installed on a Lot.

7.17. Architectural Requirements. The driveway and sidewalks on a Lot shall be constructed of concrete. The mailbox and paper holder on a Lot shall be mounted on an 11 gauge, 3-inch O.D. tube post. The mailbox shall be a #2 size rural mailbox (21-1/4 inches long x 8 inches wide). The mailbox floor shall be approximately 40 inches above the pavement. The newspaper holder shall be a 6-inch round (18 inches long) tube mounted under the mailbox. A #657-S pineapple design knob shall be on top of the post and a #40 "bell flower" design corner bracket shall be mounted under the newspaper holder. The boxes and post shall all be painted black and 3-inch gold numbers shall be applied on both sides of the newspaper holder. Specification will be provided to each owner by the Association. No building, accessory structure, fence or exercise/play equipment shall be erected, placed, or altered on any Lot until the construction plans and specifications and a plan showing the location of the structure have been approved by

The Declarant. His heirs or assigns, as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. No dwelling erected on any Lot shall have an exterior siding of concrete block or fire brick. Any dwelling located on a Lot shall have brick to grade or parged block. Hardiplank, wood board, stucco or cedar shakes, shall be on all other sides of the dwelling. The Developer reserves the right to alter the exterior building materials. No garage, carport, room, building, utility shed, fence, exercise/play equipment, pool or similar structure customarily incident to the residential use of the Lots, whether attached or detached from the main dwelling, shall be erected, placed, altered, or permitted to remain on any Lot unless the design, plans and location of the same shall have been approved in writing by the Declarant, his heirs or assigns. If the Declarant fails to approve, or disapprove such design, plans and location in accordance with the notice provisions of Article 14.0 1, then further approval will not be required but will be deemed to have been waived. Declarant shall be entitled to stop any construction in violation of these restrictions so long as Declarant owns any Lot or Lots within the Project or any sections of the subdivision know or designated as Chestnut Oaks as may be shown on maps recorded in the Union County-Public Registry.

7.18. Exercise Equipment. All swings sets, play structures, basketball goals and similar equipment must be located within the building setback lines, comply with the Rules and Regulations, and the location thereof must be approved in writing by the Board or the Architectural Control Committee in accordance with the provisions of Articles 7.17 and 14.01 of this Declaration. No trampolines shall be permitted on any Lot.

7.19. Removal of Obstructions.

(A) The Declarant, his heirs or assigns, without notice, may remove any obstructions of any nature located within road rights-of-way (including, but not limited to, trees, shrubs, fences, basketball goals and mailboxes) which, in the opinion of the Declarant, his heirs or assigns, which might produce a hazard or might interfere with the ability or willingness of the State of North Carolina or any municipality (or agency or department thereof) to take over the responsibility for maintenance of the roads.

(B) The Declarant, his heirs or assigns, shall have the right, in his sole discretion, to charge back the actual cost to him of removing obstruction against the Lot Owner who directly or through his agents, contractors or invitees caused or permitted the obstruction to be placed in the road right-of-way, and such Lot Owner shall indemnify and save the Declarant, his heirs or assigns, at law or in equity, caused by or resulting from the placement of the obstruction in the road right-of-way. In the event that the Lot Owner responsible for such charge or liability as aforesaid fails and refuses, after demand by the Declarant, his heirs or assigns, to pay said charge or liability, then the Declarant, his heirs or assigns, shall have a lien against such Lot thereon and may enforce collection of the charge or liability, together with reasonable attorneys fees, by any and all remedies afforded by law or in equity including, without limitation, the filing of a notice of lien and perfecting the same as by law provided, to the end that such charge or liability shall become a charge against the said Lot or dwelling unit.

7.20 Declarant's Rights. Notwithstanding anything to the contrary contained in this Article or elsewhere in this Declaration. Declarant, his agents, employees and contractors shall not be restricted or prevented by this Declaration from doing, and Declarant, his agents, employees and contractors shall have the right to do such things or take such actions as they deem necessary, advisable or convenient for completion and improvement of the Project as a residential community and for the sale, rental or other disposition of Lots in the Project. In the event of any conflict between a Builder and Declarant, the Declarant will be the prevailing party. The rights of Declarant or Builder, their agents, employees and contractors shall include, without limitation:

(A) The right and easement of ingress in, over and upon the Common Area for the purpose of performing on any part or parts of the Project acts deemed necessary, advisable or convenient for the completion and improvement of the Project acts deemed necessary, advisable or convenient for the completion and improvement of the Project as a residential community and for the sale, rental or other disposition of Lots; and

(B) The right to erect, construct, maintain, demolish or remove structures and other improvements on any Common Area as they deem necessary, advisable or convenient for the completion and improvement of the Project as residential community and for the sale, rental or other disposition of Lots; and

(C) The right to use Lots and improvements owned by Declarant or Builder as models, sales offices and contractor's offices and to construct and display promotional, informational and directional signs and other sales aids on or about any portion of the Project.

The rights of Declarant and, to the limited extent set forth herein, Builder under this section shall terminate one (1) year after the Completion of Sales. Amendment of this section shall require (i) if a two class voting structure is in effect, the vote or written consent of seventy-five percent (75%) of the Voting Power of each class of Members of the Association, or (ii) if a two-class voting structure is not in effect, the vote or written consent of seventy-five percent (75%) of the total Voting Power of the Association. Further, no amendment of this section can be made without the written approval of Declarant and Builder.

7.21. Right to Enter. Any governmental agency, including, but not limited to the County, its agents, and employees, shall have the right of immediate access to the Common Area at all times if necessary for the preservation of public health, safety and welfare.

7.22. Trees. If a lot has existing trees at the front of the lot, and the purchaser of the lot wishes to remove any of the existing trees, a minimum of four trees with a diameter of two and one half to four inches must remain on the lot, or be replaced with same. Removal of trees measuring more than four inches in diameter shall be subject to approval of the Developer.

ARTICLE 8

MEMBERSHIP AND VOTING RIGHTS

8.01. Governing Body. The Association shall be the governing body for all Owners with respect to the management, administration, maintenance, repair and replacement of the Project, as provided by this Declaration and the Bylaws.

8.02. Membership. Membership in the Association shall be composed of and limited to Owners. Each Owner, including Declarant, shall automatically be a Member of the Association and entitled to vote as set forth below. Membership shall be

Appurtenant to and may not be separated from ownership of a Lot. Upon termination of ownership, an Owner's membership shall automatically terminate and be automatically transferred to the new Owner of the Lot.

8.03. Voting. The Association shall have two classes of voting membership. Class A Class A Members shall be all Owners with the exception of Declarant and Builder; provided, however, that Declarant and Builder shall become Class A Members when their Class B membership ceases as provided hereinafter. Class A Members shall be entitled to one vote for each Lot owned. When more than one person holds an ownership interest in any Lot, all such persons shall be Members, but no more than one vote shall be cast with respect to any Lot. The vote for any such Lot shall be exercised as the Members holding an interest in such Lot determine among themselves. In the event of disagreement, the decision of Members holding a dispute between the co-owners regarding their vote prior to the casting of that vote, the vote of any co-owner shall be conclusively presumed to be the majority vote of the Owners of that Lot.

Class B Declarant and Builder shall be Class B Members. Builder shall be entitled to three votes for each Lot owned. Declarant shall be entitled to three votes for each Lot owned. Declarant's and Builder's Class B membership shall cease and be converted to Class A membership on the happening of one of the following events, whichever occurs earlier:

(1) when the total number of votes of the Class A Members exceeds total number of votes of the Class B Members; provided, that the Class B membership shall be reinstated with all rights, privileges and responsibilities, if conversion of the Class B membership to Class A membership hereunder, additional land containing Lots is annexed to the existing Project; or

(2) on December 31, 2023; or

(3) when Declarant, at its option, so determines.

8.04. Commencement of Voting Rights. Voting rights attributable to an ownership interest shall not vest until the assessment against that interest has been levied by the Association as provided in Article 9; provided, however, that voting rights shall be immediately vested with respect to amendments to this Declaration pursuant to Section 17.08.

8.05. Declarant's and Builder's Voting Rights. No requirement for the approval of a prescribed majority of the Voting Power of Members of the Association other than Declarant or Builder for action to be taken by the Association is intended to preclude Declarant or Builder from casting votes attributable to Lots owned by Declarant or Builder.

8.06. Control by Declarant. Notwithstanding any other language or provision to the contrary in this Declaration, in the Articles of Incorporation, or in the Bylaws of the Association.

Declarant hereby retains the right to appoint and remove any person, whether or not an Owner, on the Board of Directors of the Association and any officer or officers of the Association until ninety days after the first of the events to transpire outlined in Section 8.03 concerning the termination of the Class B Member status of Declarant or the surrender by Declarant of the authority to appoint and remove directors and officers by an express amendment to this Declaration executed and recorded by Declarant. Upon the expiration of the period of Declarant's right to appoint and remove directors and officers of the Association pursuant to the provisions of this Section, such right shall automatically pass to the Owners, including Declarant and Builder if they then own one or more Lots; and a special meeting of the Association shall be called for and held within ninety days from the date of the expiration of Declarant's rights hereunder. At such special meeting the Owners shall elect a new Board of Directors which shall undertake the responsibilities of running the Association and Declarant shall deliver the books, accounts, and records, if any, which they have kept on behalf of the Association which may still be in effect or operation. Each Owner by acceptance of a deed to or other conveyance of a Lot vests in Declarant such authority to appoint and remove directors and officers of the Association as provided in this Section.

ARTICLE 9

Covenants for Assessments

9.01. Covenant to Pay Assessments: Lien. Every Owner of any Lot(except Declarant) by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants and agrees to pay, to the Association such regular annual assessments or charges and such special assessments or charges as may be levied by the Association pursuant to the provisions of this Declaration. No assessment shall be due except with respect to Lots shown on a recorded subdivision plat. The amount of any such annual or special assessment plus any other charges thereon, such as interest, late charges and costs (including attorneys' fees), as such may be provided in this Declaration, shall be and become a lien upon the Lot assessed when the Association causes to be recorded in the official records of Union County a notice of assessment, which notice shall state:

- (A) The amount of such assessment and such other charges thereon as may be authorized by this Declaration;
- (B) A description of the Lot against which the same has been assessed; and
- (C) The name of the record owner of the Lot assessed.

Such notice shall be signed by an authorized representative of the Association. Upon payment of such assessment and charges in connection with which such notice has been so recorded, or other satisfaction thereof, the Association, at the Owner's cost and expense, shall cause to be recorded a further notice stating the satisfaction and the release of the lien thereof. The lien provided for herein shall be prior to all other liens recorded subsequent to the recordation of such notice of assessment. The lien may be enforced by foreclosure in accordance with North

Carolina law, or in any other manner permitted by law. The Association shall have power to purchase the Lot at a foreclosure sale and to hold, lease, mortgage and convey the same.

9.02. Personal Obligation. Each regular annual or special assessment, together with any late charges, interest, collection costs and reasonable attorneys' fees, shall be the personal obligation of each person or entity, other than any Mortgagee, who held an ownership interest in the Lot at the time such assessment was levied. If more than one person or entity holds an ownership interest in the Lot at such time, the personal obligation to pay such assessment or installment respecting such Lot shall be both joint and several. No Owner may exempt himself from payment of assessments, or installments, by waiver of the use or non-use of common facilities within the area or of any other portion of the Common Area or by abandonment or leasing of his Lot.

9.03. Use of Assessments. Regular annual or special assessments paid by Owners shall be used to pay for operation, maintenance, preservation, enhancement, repairs, upkeep of roads into common areas, alleys, and improvement of the Common Areas, including clubhouse, pool and ballfield and other purposes reasonably related to the foregoing, and to promote the recreation, health, safety and welfare of the Owners. In addition, such assessments shall be used to pay the cost of administration of the affairs of the Association, including payment of applicable taxes, and for the preservation of the Association's existence, to the extent properly allocable to the performance and exercise of the Association's duties and power under this Declaration. The foregoing is intended as an authorization to the Association and shall not be construed to require expenditure of Association funds for any particular purpose.

9.04. Reserve Funds. The Board shall establish and maintain reserves in accordance with standard accounting practices and procedures for Common Area replacements and maintenance and the initial budget of the Association. Each budget subsequently adopted by the Board shall provide for funds to be placed in reserves in at least the amount of reserves established in the initial budget unless a lower level of reserves is approved by the vote or written consent of a majority of the Voting Power of (i) if a two-class voting structure is in effect, by the vote or written consent of a majority of the total Voting Power of each class of Members, or (ii) if a two-class voting structure is not in effect, by the vote or written consent of a majority of the total Voting Power of the Association. Funds deposited in reserve for a particular purpose shall be held for that purpose and shall not be expended for any other purpose without (i) if a two-class voting structure is in effect, the vote or written consent of a majority of the Voting Power of each class of Members, or (ii) if a two-class voting structure is not in effect, the vote or written consent of a majority of the total Voting Power of the Association, except that if the Board determines that funds held in reserve for a particular purpose exceed an amount reasonably required as a prudent reserve for that purpose, then, without the vote or written consent of Members, the excess may be allocated to any other reserve fund established by the initial budget of the Association and expended for the purpose for which such other reserve fund has been established.

9.05. Regular Assessments. If an assessment year has fewer than twelve months, the foregoing amounts shall be proportionately reduced.

The Board shall fix the amount and due date of the regular annual assessment on a yearly basis at least fifteen days in advance of each assessment year; and further provided that the Board may not impose a regular annual assessment which is more than ten percent greater than the regular assessment for the immediately preceding fiscal year without (I) if a two-class voting structure is in effect, the vote or written consent of a majority of the Voting Power of each class of Members of the Association or (ii) if a two-class voting structure is not in effect, the vote or written consent of a majority of the Voting Power of the Association. Written notice of the regular annual assessments shall be sent to every Owner who is not present at the time the regular annual assessment is so fixed. If the Board fails to so fix the regular annual assessment, the assessment applicable for the previous assessment year shall remain in effect until the Board shall fix a new regular annual assessment. Regular annual assessments shall be payable annually on the first day of each January or at such other time as the Board may fix. The Association shall, upon demand, and for a reasonable charge, furnish to any person having a legitimate interest a certificate signed by an officer of the Association stating whether the regular annual assessment and special assessments, if any, on a specified Lot have been paid and, if not, the amount due. Notwithstanding the above, any lot owned by a Builder shall have an annual assessment of one half of the regular annual assessments.

9.06. Special Assessments. In addition to the regular annual assessments authorized herein, the Board may levy, in any assessment year, a special assessment against all Owners 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 capital improvements and related fixtures and personal property on or comprising a part of the Common Area; and further provided in any fiscal year, special assessments which exceed five percent of the budgeted gross expenses of the Association for that fiscal year may not be levied without (I) if two-class voting structure is in effect, the vote or written consent of a majority of the Voting Power of each class of Members of the Association or (ii) if a two-class voting structure is not in effect, the vote or written consent of a majority of the total Voting Power of the Association.

9.07. Assessment as Remedy. After Notice and Opportunity for Hearing, the Board, without the vote or written consent of Members, may levy a special assessment against an Owner as a remedy to reimburse the Association for cost (including attorneys fees) incurred in bringing the Owner, his Lot or his residence into compliance with the provisions of this Declaration, the Bylaws or the Rules and Regulations.

9.08. Allocation of Assessments. Except as otherwise provided in this Declaration, all regular and special assessments shall be levied equally against all Owners.

9.09. Commencement of Assessments. The regular annual assessments provided for herein shall commence as to all Lots at the discretion of the Board, but not later than January 1, 2001. The first assessment year shall be the period commencing on the date regular annual assessments commence and ending on the December 31 next following. The regular annual assessment for the first assessment year shall be prorated from the amounts fixed by Board for a full twelve-month year, based on the number of months to be contained in the first assessment year. Subsequent assessment years shall be each successive calendar year; provided, however, that at any time the Board may change the assessment year to correspond to a fiscal year selected by the Board. Assessments of Lots within each Phase of the Project which is annexed in accordance with the provisions of Article 16 below shall commence on the first day of the month following the conveyance of the first Lot with a dwelling to a purchaser, other than a successor Declarant, for use as a residence.

9.10. Revised Assessment. Subject to the provisions of Section 9.05, if at any time during the course of any year the Board shall deem the amount of the regular annual assessment to be inadequate or over adequate reason of a revision of its estimate of either expenses or income or otherwise, the Board shall have the right, at a regular or special meeting, to revise the regular annual assessment for the balance of the assessment year. Any such revised assessment shall become effective on the first day of the month next following the date of adoption, and additional amounts payable shall be due (or refunds of overages shall be made by the Association) at such time as determined by the Board.

9.11. Delinquent Assessments: Fines. Any assessment not paid within fifteen (15) days after the due date shall be delinquent. The Board may require that any delinquent assessment bear a late charge to cover administrative expenses incurred as a result of the late payment of the assessment. Late charges on delinquent assessments and fines levied as provided in Section 4.09 shall not exceed the following rates computed on the outstanding balance, which shall include any late charges previously assessed and unpaid, from month to month.

(A) On so much of the outstanding balance as does not exceed one thousand dollars (\$1,000), one and one-half percent (1.50%).

(B) If the outstanding balance is more than one thousand dollars (\$1,000), one percent (1%) on the excess over one thousand dollars (1,000) of the outstanding balance.

(C) If the late charge so computed is less than ten dollars (\$10) for any month, ten dollars (\$10).

No Charge may be imposed more than once for the delinquency of the same payment, provided, however, that the imposition of a late charge on any delinquent payment shall not eliminate or supersede charges imposed on prior delinquent payments. When an assessment is paid more than fifteen (15) days after the due date of the assessment, late charges shall accrue from the first day following the due date of the assessment. All late charges shall be non-cumulative. The Association may bring legal action against the Owner personally obligated to pay a delinquent assessment or fine and, after Notice and Opportunity for Hearing, the Association may suspend a delinquent Owner's membership rights in the Association while the

assessment or fine remains unpaid. In any legal action to enforce payment of an assessment or fine, the Association shall be entitled to recover interest, costs and reasonable attorneys' fees.

ARTICLE 10

INSURANCE

10.01. Duty to Maintain Insurance.

(A) The Association shall have the duty and the authority to maintain fire and extended coverage casualty insurance on the Common Area in an amount not less than the full insurable value thereof (based upon current replacement cost), and liability insurance with limits and amounts adequate, under standards in the insurance industry existing from time to time, to protect the Association and the Owners in the event of property damage, personal injury or death occurring in or about the Project. The Board shall have the authority to settle or enforce on behalf of the Association and on behalf of the Owners, by legal action or otherwise, any claim arising under any insurance carried by the Association.

(B) Each Owner shall maintain casualty and personal liability insurance pertaining to his Lot, in such form and in such amounts as the Rules and Regulations may require.

(C) All policies of insurance carried by the Association or the Owners shall include a waiver of subrogation if such waiver can be obtained, unless otherwise provided in the Rules and Regulations.

(D) Notwithstanding any other provisions contained herein, the Association shall continuously maintain in effect such casualty, flood and liability insurance meeting the insurance requirements for planned unit development projects established by the Federal National Mortgage Association and Government National Mortgage Association, so long as either is a Mortgagee or Owner of a Lot within the Project, except to the extent such coverage is not available or has been waived in writing by the Federal National Mortgage Association or Government National Mortgage Association.

10.02. Proceeds of Insurance. The proceeds of casualty insurance carried by the Association shall be paid to and held by the Association as trustee for the Owners, Declarant and Mortgagees for disbursement in accordance with the provisions of this Declaration.

Except as otherwise provided herein, casualty insurance proceeds shall be used for repair, replacement or reconstruction to the extent required to effectuate repair, replacement or reconstruction.

ARTICLE 11

DAMAGE AND DESTRUCTION

11.01. Damage to Lots. Restoration and repair of damage to any Lot and improvements thereon shall be made by and at the expense of the Owner thereof.

11.02. Repair. Restoration. Reconstruction. If damage occurs, the Association shall promptly contract for the repair, restoration or reconstruction of the Common Area or improvements which have been damaged or destroyed and apply any proceeds of insurance as received toward cost of such repair, restoration or reconstruction. The difference, if any, between the insurance proceeds payable by reason of such damage and the cost of such repair, restoration and reconstruction may be recovered by one or more special assessments levied by the Board equally against all Owners.

ARTICLE 12

EMINENT DOMAIN

12.01. Eminent Domain. If all or any portion of the Common Area is taken by action in eminent domain (hereinafter called a "taking"), the Association shall give written notice of the proceedings to all Owners and Mortgagees, and the condemnation award shall be fairly and equitably apportioned among the Owners, Mortgagees and the Association as the court may determine. A condemnation award which is not apportioned among the Owners by court judgment or by agreement between the condemning authority and each affected Owner shall be allocated first to the repair, restoration and reconstruction of any remaining portion of the Common Area and then any excess shall be distributed equally among the affected Owners (or any Mortgagee of an Owner to the extent such Mortgagee is entitled to such Owner's share of the proceeds). If requested by the court, an Insurance Trustee shall be employed to make disbursement of the award.

12.02. Repair. Restoration. Reconstruction. If only a portion of a Common Area facility is taken, the Board shall promptly contract for the repair, restoration or reconstruction of the Common Area facility to a complete architectural unit, to the extent such repair, restoration and reconstruction is reasonably necessary and practical. If the total cost of repair, restoration and reconstruction of the Common Area exceeds the amount awarded by the court for such purposes, the difference may be recovered by a special assessment levied equally against all Owners.

ARTICLE 13

[Article 13 Intentionally Deleted]

ARTICLE 14

ARCHITECTURAL CONTROL

14.01. Architectural Control. No building, pool, fence, wall, antenna, deck, patio, exercise/play equipment or other structure or improvement of any nature on any lot shall be erected, constructed, demolished, or altered until an application, including plans and specifications showing the nature, kind, shape, height, material, color, and location of the same, shall have been submitted to and approved in writing by the Board or an Architectural Control Committee which has been empowered by the Board to approve such applications and comprised of not less than three (3) and not more than five (5) persons who have been appointed by the Board; provided however, that no such approval shall be required for alterations to the interior of any residential structure. The Board may require a reasonable fee to accompany each application for approval. If the Board or such Architectural Control Committee, having not theretofore approved or disapproved an application, fails to approve or disapprove an application within thirty (30) days following receipt of written notice of failure to act, which written notice is given at least thirty (3) days following receipt of the initial application, the application shall be deemed approved. The restrictions herein contained shall have no application to the development, improvement, maintenance and repair of the Property by Declarant, Builder or by the Association, and neither the Board nor the Architectural Control Committee shall have any power or authority to review or require modifications in plans and specifications for construction or installation of improvements by Declarant or Builder.

14.02. Reconstruction of Residences. In the event of damage or destruction to a residence by fire or other casualty, the Owner shall within four (4) months diligently commence to reconstruct such residence as soon as reasonably possible and substantially in accordance with the original plan and specifications thereof; provided, however, that such residence shall be restored so that the exterior appearances thereof substantially resemble their appearances in form and in color prior to such damage or destruction. Notwithstanding the foregoing, however, any Owner of a damaged residence may request permission from the Board or duly authorized architectural control committee to reconstruct or repair his residence in accordance with revisions in the plans and specifications. The Board or said committee shall grant such requests only in the event that the proposed change or deviation will materially benefit and enhance the entire Project in a manner generally consistent with the plan and development thereof.

ARTICLE 15

MORTGAGEE PROTECTION

15.01. Interpretation. In the event any provision of this Article 15 is inconsistent with or contrary to any other provision of this Declaration, the provisions of this Article 15 shall control.

15.02. Notices. Any Mortgagee of any Lot, by written notice to the Association setting forth the Lot encumbered, the Owner thereof and the address to which notices may be sent, may

request and thereby be entitled to receive written notice from the Association of (i) any default which is outstanding for sixty (60) days or longer by the Owner of such Lot in the performance of his obligations under or in compliance with the provisions of this Declaration, the Bylaws or the Rules and Regulations, (ii) any substantial damage to or destruction of the Common Area, including the improvements located thereon, or, if known to the Association, any substantial damage to or destruction of a Lot, including the improvements located thereon, and (iii) any proposed or threatened taking by power of eminent domain of the Common Area or any portion thereof or of any Lot or portion thereof.

15.03. Mortgagee's Right to Information. Upon written request to the Association, a Mortgagee is entitled to: (1) inspect the books and records of the Association during normal business hours; and (2) receive an annual financial statement of the Association within ninety (90) days following the end of any fiscal year of the Project; and (3) receive written notice of all meetings of the Association and to designate a representative to attend all such meetings.

15.04. Damage and Destruction Rights. In the event of substantial damage to or destruction of any Lot or improvements to a Lot or any part of the Common Area, no provision of any document establishing the Project shall entitle the Owner of a Lot or other party to priority over such Mortgagee with respect to the distribution to such Owner of any insurance proceeds.

15.05. Condemnation Rights. If any Lot or portion thereof or the Common Area or any portion thereof is made the subject matter of any condemnation proceedings or is otherwise sought to be acquired by a condemning authority, no provision of any document establishing the Project shall entitle the Owner of a Lot or other party to priority over such Mortgagee with respect to the distribution to such Owner of the proceeds of any award or settlement.

15.06. Right of First Refusal. Any right given by an Owner of a Lot to any third person to purchase such Lot before it is offered for sale or sold to any other person (such right commonly known as a "right of first refusal") shall not be binding upon or enforceable against any Mortgagee acquiring such Lot pursuant to exercise of remedies provided for in the Mortgage, including foreclosure by judicial action or exercise of a power of sale, or by acceptance of a deed or assignment in lieu of foreclosure.

15.07. Subordination. No provisions contained in this Declaration shall defeat or render invalid the lien of any Mortgage which is made in good faith and for value. The lien of the assessments provided for herein shall be subordinate to the lien of any Mortgage recorded prior to the date any such assessment becomes due. This subordination shall apply only to assessments on a Lot which have become due and payable prior to a sale or transfer of such Lot pursuant to a decree of foreclosure or exercise of power of sale. Any Mortgagee who acquires title to or comes into possession of a Lot pursuant to exercise of remedies provided for in the Mortgage, including foreclosure by judicial action or exercise of a power of sale, and any purchaser at a foreclosure sale, shall take the Lot free of any claims for unpaid assessments or charges against the Lot which have accrued prior to the time such Mortgagee or purchaser acquires title to or comes into possession of the Lot; provided, however, this exception shall not be applicable to any claim for assessments or charges levied by the Association against all Lots for the purpose of recovering any revenue lost by reason of the nonpayment of past due

Assessments upon such Lot; and provided further, that except as otherwise provided in this section, all of the limitations, restrictions, covenants, conditions, easements, liens, charges, assessments, and equitable servitudes contained herein shall be binding upon any Owner whose title is derived through foreclosure sale, trustee's sale or otherwise. Except as provided above, the sale, transfer or conveyance of title to a Lot shall not relieve a selling Owner from personal liability for any assessment which became due and payable prior to such sale, transfer or conveyance, nor relieve such Lot from a duly recorded lien for any such prior unpaid assessment.

15.08. Payments by Mortgagees. Any Mortgagee, after at least ten days prior written notification to the Association of the items to be paid and the failure of the Association within such time to make payment, may pay, alone or in conjunction with other Mortgagees, delinquent taxes, liens or assessments which may be or become a charge against the Common Area, or any portion thereof, and any overdue premiums on policies of fire and extended coverage insurance for the Common Area and in the event of a lapse of such a policy of insurance may pay premiums to secure a new policy. In the event such payments are made, the Mortgagee making such payment shall be entitled to immediate reimbursement from the Association to the extent of the payment of a termination fee.

15.09 Professional Management. In the event that Declarant of the Association enters into any contract with any person or entity to provide management or maintenance services to the Project, such contract shall not exceed one year and shall provide the Association written notice, without payment of a termination fee.

ARTICLE 16

ANNEXATION

16.01. Right to Annex. Declarant shall have the right to annex Additional Land and thereby bring Additional Land within the scheme of the Declaration and subject to the jurisdiction of the Association. Declarant is under no obligation to annex the Additional Land and may elect to develop the Additional Land for single family or multifamily purposes, not as a part of the Project. Annexation of additional property may be accomplished in Phases.

16.02. Procedure for Annexation. Any annexation shall be made by recordation in the office of the Register of Deeds for the county wherein the property is located of a Supplemental Declaration covering the real property to be annexed. The Supplemental Declaration shall

describe the real property to be annexed and state that annexation is being made pursuant to this Declaration for the purpose of extending the jurisdiction of the Association to cover the Phase of the Project being annexed. The Supplemental Declaration may contain such complementary additions and modifications to the terms of this Declaration as may be necessary or desirable to reflect the different character, if any, of the Phase being annexed and as are not inconsistent with the general scheme of this Declaration. Annexation shall be effective upon recordation in the applicable public registry of the Supplemental Declaration and thereupon the real property described therein shall be subject to all of the provisions of this Declaration, to the extent made applicable by the Supplemental Declaration, and to the jurisdiction of the Association pursuant to the terms of this Declaration, the Articles and Bylaws.

16.03. Annexed Property. Each Owner of a Lot in an annexed Phase automatically shall be a Member of the Association and such Owners and annexed real property shall be subject to assessment by the Association for the benefit of the Project or any part thereof. Assessments of Lots in an annexed Phase shall commence upon the last to occur of : (a) commencement of regular annual assessments for the Project, and (b) the first day of the month next following the first conveyance of a Lot in such Phase to a purchaser, as provided in Section 9.09. The Association shall have the duties, responsibilities and power set forth in this Declaration, the Articles and Bylaws with respect to annexed real property. Except as may otherwise be expressly provided in this Declaration or any Supplemental Declaration, the Project shall be managed and governed by the Association as an entirety. Assessments collected from Owners in the Project may be expended by the Association anywhere in the Project without regard to the particular Phase, area or subdivision from which such assessments came. All Owners shall have ingress and egress to and from all the Common Area throughout the Project and any Phase thereof and shall have use and enjoyment of any recreational facilities and other amenities contained within the Common Area throughout the Project, provided that any such use shall be subject to the provision of this Declaration, any Supplemental Declaration, the Bylaws and the Rules and Regulations.

ARTICLE 17

MISCELLANEOUS PROVISIONS

17.01. Power to Settle Claims. The Board shall have the power and authority to compromise, settle, release and otherwise adjust claims, demands, causes of action and liabilities in favor of the Association and the Owners, on behalf of the Association and Owners, as the case may be, provided any such claim, demand, cause of action or liability arises out of or relates to a condition or defect common to all or a majority of the Lots or improvements constructed thereon, or to the development, design, construction, condition, repair or maintenance of or damage or injury to or defect in the Common Area or part thereof, and the Association shall have the right and the power to make and receive all payments or other consideration necessary therefore or in connection therewith. For such purposes, the Board shall be, and hereby is, irrevocably appointed attorney in fact to act on behalf of all Owners upon such terms and conditions and for such consideration as may be approved by a majority of the Board.

17.02. Independence of Provisions. The provisions of this Declaration shall be deemed independent and severable. Invalidity or partial invalidity of any provision of this

Declaration by judgement or court shall not affect any other provision of this Declaration, and the remaining provisions shall remain in full force and effect.

17.03 Notices. Notices shall be in writing and shall be addressed as follows: (i) if to an Owner: to the address of his Lot; (ii) if to Declarant, to E. Reece Gibson, 3701 Beulah Church Road, Matthews, North Carolina 28104; and (iii) if to the Association, to the address of the Project. The Association may designate a different address for notices by giving written notice of such change of address to all Owners and to Declarant. Declarant may designate a different address for notices by giving written notice of such change to the Association. Any Owner may designate a different address for notices by giving written notice of such change of address to the Association and to Declarant.

17.04 Headings. The Headings used in this Declaration are for convenience and reference only and the words contained therein shall not be held to expand, modify, or aid in the interpretation, construction, or meaning of this Declaration.

17.05 Enforcement. The failure of any Owner to comply with the provisions of this Declaration, the Bylaws or the Articles shall entitle the Association, any Owner, or any of them, to maintain an action for the recovery of damages or injunctive relief or both, and such persons or entities, or any of them, shall have the right to enforce all limitations, restrictions, covenants, conditions, easements, liens, charges, assessments and equitable, servitudes imposed by or pursuant to the provisions of this Declaration. Failure to enforce the provisions so this Declaration shall not be deemed a waiver of the right to do so thereafter. All remedies provided in this Declaration shall be cumulative and in addition to any other remedies available under law.

17.06. Equal Opportunity Housing. This Project provides equal opportunity housing. Each Lot sold shall be sold without regard to the race creed, color, national origin, ancestry, religion, marital status, age or sex of the purchaser.

17.07. Exhibits. Exhibit A, attached to this Declaration, is incorporated herein and made a part hereof by this reference.

17.08. Amendments. During any period in which a two-class voting structure is in effect, Declarant may amend this Declaration without the approval of any Member or Mortgagee provided the amendment does not materially alter or change any Owner's right to the use and enjoyment of such Owner's Lot or of the Common Area as set forth in this Declaration and the amendment does not adversely affect the title to any Lot; however, it does require the prior written consent of sixty-seven percent of the Mortgagees (based on one vote for each mortgage owned) and the prior written consent of the Department of Housing and Urban Development and the Veterans Administration,

Should the Veterans Administration, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective

requirements which necessitate the provisions of this Declaration or make such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Declaration to be recorded to reflect such changes.

Any other amendments of this Declaration shall require (i) if a two-class voting structure is in effect, the vote or written consent of sixty-seven percent (67%) of the Voting Power of each class of Members of the Association as such classes are set forth in the Bylaws and this Declaration; or (ii) if a two-class voting structure is not in effect, the vote or written consent of sixty-seven percent (67%) of the Voting Power of the Association; provided, however, that the percentage of the Voting Power (of each class of Members, of the Association, and of Members other than Declarant) necessary to amend a specific provision of this Declaration shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that provision.

Notwithstanding anything to the contrary contained in this Declaration, any amendment which establishes, governs, provides for or regulates any one of the following: (i) voting; (ii) assessments, assessment liens or subordination of such liens; (iii) reserves for maintenance, repair and replacement of the Common Area; (iv) insurance or fidelity bonds; (v) right to use of the Common Area; (vi) responsibility for maintenance and repair of the Project; (vii) expansion or contraction of the Project or the addition, annexation or withdrawal of property to or from the Project; (viii) the boundaries of any Lot; (ix) interests in the Common Area; (x) leasing of ownership interests; (xi) imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey his Lot; (xii) any provisions which are for the express benefit of Mortgagees; or (xiii) any other material amendment shall require (i) if a two-class voting structure is in effect, the vote or written consent of sixty-seven percent (67%) of the Voting Power of each class of Members, or (ii) if a two-class voting structure is not in effect, the vote or written consent of sixty-seven percent (67%) of the total Voting Power of the Association, and the written consent of sixty-seven percent (67%) of the Mortgagees. Any Mortgagee who does not respond within thirty (30) days request by the Association for consent to an amendment of this Declaration shall be deemed to have approved such request.

Any instrument amending this Declaration must contain a certification by the Secretary of the Association that the amendment has been correctly adopted in accordance with the provisions of this Declaration and be recorded in the official records of the County. Any such amendment shall be effective upon the date of recordation.

IN WITNESS WHEREOF, Declarant has executed and sealed this Declaration as
its act and deed this 2 day of Aug, 2001.

E. Reece Gibson, Declarant

[CORPORAL SEAL]

By: E. Reece Gibson
E. Reece Gibson, Owner

Assistant Secretary

STATE OF NORTH CAROLINA
COUNTY OF Mecklenburg

I, Dale E. Vaughan, a Notary Public, do hereby certify that
E. Reece Gibson personally appeared before me this day and acknowledged the due
execution of the foregoing instrument.

Witness my hand and notarial stamp or seal, this 2nd day of August
2001.

My commission expires:
Sept 22, 2003

Dale E. Vaughan
Notary Public

CONSENT

THIS CONSENT is made as of the 21 day of August, 2001 by Weekley Homes, L.P., a Delaware limited partnership.

WHEREAS, Weekley Homes, L.P. is the owner of certain lots in Chestnut Oaks, Phase I, as shown on map recorded in Plat Cabinet G, File Nos. 264 and 265; revised in Plat Cabinet G, File Nos. 323 and 324 and further revised in Plat Cabinet G, File Nos. 367 and 368 in the Union County Public Registry; and

WHEREAS, the attached revised Declaration of Covenants, Conditions and Restrictions for Chestnut Oaks is being recorded.

NOW, THEREFORE, Weekley Homes, L.P. hereby consents to the recorded of the attached revised Declaration of Covenants, Conditions and Restrictions for Chestnut Oaks and subjects all of the lots it owns in Chestnut Oaks to the terms and provisions of the attached revised Declaration of Covenants, Conditions and Restrictions for Chestnut Oaks.

WEEKLEY HOMES, L.P.,
a Delaware limited partnership

BY: DM WEEKLEY, INC.
A Delaware corporation, General Partner

By: 

President

STATE OF TEXAS

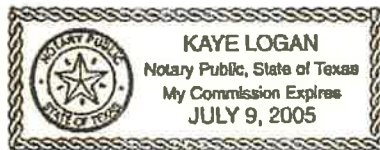
COUNTY OF Harris

I, Kaye Logan, a Notary Public in and for the County and State aforesaid, do hereby certify that on the 21st day of August, 2001, David M. Weekley personally appeared before me who, being by me first duly sworn, said that he is President of DM WEEKLEY, INC., the general partner of WEEKLEY HOMES, L.P., a Delaware Limited Partnership; and that by its authority duly given, he signed swore to the foregoing writing on behalf of said corporation in its capacity as General Partner of said partnership, and the said David M. Weekley acknowledged said instrument to be the act and deed of said corporation and the act and deed of said partnership.

WITNESS my hand and seal this 21st day of August, 2001.

Kaye Logan
Notary Public

My Commission Expires:



NORTH CAROLINA - UNION COUNTY
The foregoing instrument was acknowledged before me by Dale E. Vaughn & Kaye Logan, Notary Public, on the 21st day of Aug, 2001, at 3:15 PM.

JUDY G. PRICE, REGISTER OF DEEDS
BY: Serena Cioce
Asst. / Clerk

EXHIBIT "A"
TO
DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS
FOR
CHESTNUT OAKS

TRACT I: BEGINNING at an iron pin set within the right of way of S.R. 1357 (known as Potter Road), said iron pin being a corner of the property of Mary B. Duncan, now or formerly (Book 865, Page 280, Union County Registry), and running from said beginning iron pin with the Duncan property as follows: (1) South 81 degrees 54 minutes 33 seconds West 194.16 feet; (2) South 82 degrees 04 minutes 32 seconds West 210.00 feet to a found iron pin, a corner of the property of Nathan E. Privette (Book 866, Page 723, Union County Registry); thence with the Privette property South 76 degrees 38 minutes 21 seconds West 217.76 feet to a found iron pin, a corner of the property of Joyce Deason (Book 257, Page 596, Union County Registry); thence with the Deason property as follows: (1) South 79 degrees 47 minutes 18 seconds West 213.13 feet to a found iron pin (2) North 11 degrees 32 minutes 15 seconds East (crossing an iron pin found in the southern boundary of the right of way of S.R. 1363 at 221.59 feet) a total distance of 233.00 feet to a point within the right of way of S. R. 1363 (known as Oscar Privette Road); thence within the right of way of S.R. 1363 (but not the centerline thereof) South 85 degrees 16 minutes 05 seconds West 490.70 feet to a point in the said road right of way, a corner of the property of Dewy Privette (Book 369, Page 236, Union County Registry); thence with the property of Dewy Privette South 18 degrees 38 minutes 36 seconds West (crossing an iron pin found at 40.40 feet) a total distance of 355.16 feet to a found iron pin, a corner of the property of Gerald L. Privette (Book 389, Page 431, Union County Registry); thence with the Gerald L. Privette property South 19 degrees 10 minutes 05 seconds West 429.84 feet to found iron pin, a corner of the property of Aubrey R. Winston (Book 556, Page 403, Union County Registry); thence with the Winston property South 46 degrees 09 minutes 03 seconds West 168.76 feet to a found iron pin, a corner of the property of Clark Harm (Book 571, Page 784, Union County Registry); thence with the Harm property South 44 degrees 11 minutes 21 seconds West 291.86 feet to a found iron pin, a corner of the property of James November, Jr. (Book 678, Page 620, Union County Registry); thence with the November property South 44 degrees 08 minutes 55 seconds West 184.32 feet to a found iron pin, a corner of the property of Stephen Staniforth (Book 421, Page 99, Union County Registry); thence with the Staniforth property South 44 degrees 14 minutes 07 seconds West 127.76 feet to a found iron pin, a corner of the property of George Owenby (Book 459, Page 574, Union County Registry); thence with the Owenby property South 43 degrees 54 minutes 13 seconds West 30.91 feet to a found iron pin, a corner of the property of Steve Clardy (Book 353, Page 689, Union County Registry); thence with the Clardy property as follows: (1) South 08 degrees 02 minutes 52 seconds West 564.49 feet to a found iron pin; (2) South 07 degrees 25 minutes 45 seconds East 125.63 feet to a point; (3) South 25 degrees 33 minutes 49 seconds East (crossing an iron pin found at 18.78 feet) a total distance of 216.71 feet to a found iron pin, a corner of the property of Larry Vickery (Book 205, Page 465, Union

County Registry); thence with the Vickery property North 68 degrees 15 minutes 19 seconds East 2,207.73 feet to a nail set in the center of the right of way of S.R. 1357; thence with the center of the right of way of S.R. 1357 as follows: (1) North 02 degrees 12 minutes 41 seconds East 162.00 feet; (2) North 00 degrees 31 minutes 50 seconds East 213.02 feet; (3) North 00 degrees 27 minutes 56 seconds West 350.76 feet to a point in the center of said road right of way; thence South 70 degrees 39 minutes 48 seconds West 19.16 feet to a point within the right of way of S.R. 1357; thence continuing within the right of way of S.R. 1357 (but not the centerline thereof) as follows: (1) North 00 degrees 17 minutes 34 seconds West 299.83 feet to a found iron pin; (2) North 00 degrees 15 minutes 52 seconds West 228.00 feet to a point; (3) North 11 degrees 14 minutes 08 seconds East 87.00 feet to the beginning iron pin and containing 67.69 acres, more or less, shown on copy of unrecorded map of survey prepared by F. Donald Lawrence, NCRLS, of F. Donald Lawrence and Associates, P.A. originally dated April 30, 1999 and revised on July 25, 2000.

TRACT II: BEGINNING at an existing iron spike in center of SR 1362, common corner with Earnest Austin, now or formerly, runs thence with the center of SR 1362, South 77-45 West 737.98 feet to an existing iron spike located 0.6 mile from intersection with SR 1437; thence a new division line of approximate 31.1 acres, North 01-03 East 1113.45 feet to an existing iron rod; thence North 73-13-30 East 305.66 feet to an existing iron rod; thence North 58-06 East 315.60 feet to an existing iron rod; thence South 10-15 West 564.54 feet to an existing iron rod; thence South 05-19 East 125.60 feet to an existing iron rod; thence South 23-19 East 578.25 feet to an existing iron spike in the center of SR 1362, the point and place of BEGINNING and containing 14.55 acres, more or less, as shown upon survey by Rogell E. Hunsucker, R.L.S., dated May 16, 1979.

LESS AND EXCEPT: All of the property shown on map of survey prepared by F. Donald Lawrence, NCRLS, of F. Donald Lawrence & Associates, P.A. and recorded in Plat Cabinet G, File 264 and File 265, and revised on map of survey recorded in Plat Cabinet G, File 323 and File 324, and Plat Cabinet G, File 367 and File 368, Union County Registry. and Plat Cabinet G, File 376 and 377

**ADMENDMENT TO THE COVENANTS, CONDITIONS AND RESTRICTIONS FOR
CHESTNUT OAKS TOWNHOMES**

ARTICLE 19

19.0 **The Right to Contribution Runs with the Land.** The right of any Lot Owner to contribution from any other Lot Owner under this Article shall be appurtenant to the land and shall pass to the Lot Owners' successors in title.

19.1 **Contribution Certification by Adjoining Real Estate Lot Owner.** If any Townhome Lot Owner desires to sell his Townhomes Lot, he may, in order to assure a prospective purchaser that no adjoining Townhomes Lot Owner(s) has a right of contribution as provided in this Declaration, request that the adjoining Townhome Lot Owner(s) provide a certification that no right of contribution exists. It shall be the duty of each adjoining Townhome Lot Owner to make such certification immediately upon request and without charge; provided, however, that where the adjoining Townhome Lot Owner claims a right of contribution, the certification shall contain a recital of the amount claimed. In the event an adjoining Townhome Lot Owner refuses or neglects to provide such certification, it shall be deemed a waiver to proceed against such Townhome Lot Owner or his successors for any contributions which may have accrued to that date.

20.0 EXTERIOR MAINTENANCE

20.1 **Maintenance Responsibility.** In addition to maintenance of the Common Elements the Association shall provide exterior maintenance for each Lot in Use containing a Townhome, which shall be a Common Expense, as follows: Paint, repair and replace exterior Building surfaces, roofs, gutters and downspouts, maintenance of trees, shrubs, grass, walks, and driveways within the Lots (excluding rear yards within enclosed fenced areas maintained by the respective Lot Owners) and the Common Elements; and maintenance of all other exterior Improvements initially installed by Declarant. This exterior maintenance shall not include any maintenance specifically designated as the Townhome Lot Owner's responsibility elsewhere in this Declaration. In order to enable the Association to accomplish the foregoing, it is reserved to the Association the right to unobstructed access over and upon each Townhome Lot and each Townhome at all reasonable times to perform maintenance as provided in this section. The Townhome Lot Owner shall not place any furniture, place or construct any Improvements, or plant any vegetation in the front yard or, except with the prior approval required by Article 11, outside enclosed fenced areas in the rear yard of a Townhome Lot. After receiving the required approval, the Townhome Lot Owner may plant flowers and grass outside enclosed fenced areas in his rear yard and may also maintain portions or all of his rear yard and may also maintain portions or all of his rear yard, provided that such maintenance by the Townhome Lot Owner does not hinder the Association in performing its exterior maintenance obligations. In that event, the Townhome Lot Owner shall maintain such plantings or other maintenance. No such maintenance by a Townhome Lot Owner shall reduce the assessment payable by him to the Association. If, in the opinion of the

Association, any Townhome Lot Owner fails to maintain his rear yard in a neat and orderly manner, the Association may perform the required maintenance and assess Townhome Lot Owner for those costs.

20.2 **Cost of Maintenance.** In the event that the need for maintenance or repair of a Townhome located within the Planned Community is caused through the willful or negligent act of the Lot Owner, his family guests, tenants, contractors, employees or invitees, or is caused by any hazard covered under a North Carolina Standard Fire and Extended Coverage Insurance policy, the costs of such maintenance or repair shall be added to and become a part of the Assessment to which the Lot is subject.

20.3 **Maintenance Procedures.** The Association shall establish regulations governing the procedure for exterior maintenance of Townhomes. In the event any Townhome Lot Owner desire to expend a sum greater than that sum authorized by the Association, he/she shall advance to the Association, prior to the commencement of work an amount necessary to cover the additional expenses and a lien shall be established against the Townhome Lot Owner's Lot for any deficiency.

21.0 EASEMENTS.

21.1 **Blanket Utility Easement.** A blanket easement upon, across, over and under all of the Common Elements, and, to the extent reasonably necessary the portions of the Lots on which no portion of any building is constructed, is reserved for ingress and egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to water, sewer, gas, telephones, electricity, and a master antenna system. Notwithstanding such, no sewers, electrical lines, water lines, or other utility equipment or facilities may be installed or relocated in the Common Elements except as approved by the Declarant or, after the termination of Class B membership, the Association. Should any utility furnishing a service covered by this general easement request a specific easement by separate recordable documents, Declarant or, after the termination of Class B membership, the Association will have the right and authority to grant such easement. The easement provided for in this Article shall in no way affect other recorded easements within the Planned Community.

21.2 **Association Easement.** An easement is granted to the Association, its officers, agents, employees, and to any management company retained by the Association to enter in or to cross over the Common Elements. Every Lot shall be subject to an easement for entry by the Association (and the Persons described above) for the purpose of correcting, repairing, or alleviating any emergency condition which arises upon any Lot and that endangers any improvement or portion of the Common Elements.

21.3 **Temporary Construction Access and Disturbance Easement.** An easement over, through and to the Common Elements is reserved and established in favor of Declarant and all Lot Owners for purposes of ingress, egress, regress, conduct of construction activity, storage of construction materials and the necessary disturbance of land for construction on any Lot. This easement shall be used only as and when necessary to facilitate the construction of improvements

at any time on a Lot by Declarant or Lot owner as well as the extension of driveways, sidewalks, underground drainage and utility conduit and hookups to any dwelling structure situation on a Lot. In each instance, the Person exercising these easement rights shall use its best efforts to minimize any soil or land disturbance activities and shall restore the land to a condition which is graded smooth and in harmony with surrounding areas. Should that Person fail to restore the disturbed land as required, the Association may restore the land to the required condition and that Person shall indemnify the Association for the reasonable expense incurred in performing that restoration. This easement shall be restricted to that Common Elements which shall be reasonably servient and proximate to the Lot(s) upon which the construction is taking place.

21.4 **Repair, Maintenance and Reconstruction Easement.** If any Townhome is located closer than five (5) feet from its lot line, the Lot Owner thereof shall have a perpetual access easement over the adjoining Lot to the extent reasonably necessary to perform repair, maintenance or reconstruction of his Townhome. The repair, maintenance or reconstruction shall be done expeditiously and, upon completion of the work, the Lot Owner shall restore, to the extent reasonably practical, the adjoining Lot to as near the same condition as that which existed prior to the commencement of the work. Should the Lot Owner fail to restore the adjoining Lot as required, the adjoining Lot Owner and/or the Association may, at the other Lot Owner's expense, complete the required restoration.

21.5 **Drainage Easement.** For a period of eighteen (18) months following the last conveyance of a Lot to a Lot Owner by the Declarant, that Lot shall be subject to an easement for entry and encroachment by the Declarant for the purpose of correcting any grading or drainage problems with respect to that Lot or adjoining Lots. After such an entry, the Declarant, at its expense, shall, to the extent reasonably practicable, restore the affected Lot(s) to their original condition.

21.6 **Easement for Minor Encroachments.** All Townhome Lots and the Common elements shall be subject to a perpetual easement for the encroachment of initial Improvements constructed on Townhome Lots to the extent that such initial Improvements actually encroach. These authorized encroachments shall include, but not be limited to, such items as overhanging eaves, roofs, gutters, downspouts, exterior storage rooms, bay windows, stoops, decks, patios, porches, steps and walls. In the event a Building is partially or totally destroyed and then rebuilt, the Lot Owners of the Townhomes so affected agree that minor encroachments of part of the adjacent Townhome units or Common Elements due to construction shall be permitted and that a valid easement for this encroachment and the maintenance thereof shall exist.