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Prepared by and return to: Beemer, Savery & Hadler, P.A., P.O.  
Drawer 3150, Chapel Hill, N.C., 27515

NORTH CAROLINA

DECLARATION OF COVENANTS, CONDITIONS  
and RESTRICTIONS FOR WAVERLY FOREST, PHASE I

ORANGE COUNTY

THIS DECLARATION OF COVENANTS, CONDITIONS and RESTRICTIONS,  
made and entered into this the 1st day of February, 1993, by  
HOMESCAPE DEVELOPMENT COMPANY, INC., a North Carolina corpora-  
tion, hereinafter "Declarant," whose address is 107 Creekview  
Circle, Carrboro, North Carolina, 27510.

WITNESSETH:

Whereas, Declarant, as successor in interest to Westminster  
Company as the developer/declarant of Fair Oaks Subdivision, is  
the record owner of 6.91 acres more or less, lying in the Town of  
Carrboro, Chapel Hill Township, Orange County, which tract is  
more particularly described in Exhibit A attached hereto and  
incorporated herein by reference.

AND WHEREAS, the land described on Exhibit A attached was  
originally part of a 25.55 acre tract of land purchased by  
Westminster Company, all of which was made subject to a  
Declaration of Master Covenants, Conditions and Restrictions for  
Fair Oaks, recorded in Book 698, Page 594, and to Restrictive  
Covenants for Fair Oaks - Single Family, recorded in Book 726,  
Page 9, Orange County Registry, to which reference is made.

AND WHEREAS, Westminster Company, having developed Fair Oaks,  
Phases I-IV, then sold the aforesaid 6.91 acre tract to Homescape  
Development Company, Inc., which thereby became the successor in  
interest to Westminster Company, as the Developer/Declarant for  
Fair Oaks Subdivision.

AND WHEREAS, Homescape Development Company, Inc., as  
Declarant, now desires to make the lots it will develop from the  
that certain 6.91 acre tract as described herein in Exhibit A  
subject to the aforesaid Master Covenants and the aforesaid  
Restrictive Covenants for Single Family homes and to bring the  
future property owners in Waverly Forest, Phase I, into the  
Fair Oaks Homeowners Association, with all rights, privileges,  
responsibilities and duties accruing to them as to the members of

FOR MULTIPLE PIN ASSIGNMENT SHEETS  
SEE BOOK 1085 PAGES 271-273

BEEMER, SAVERY  
& HADLER, P.A.  
ATTORNEYS AT LAW  
SUITE 800 8 FRANKLIN SQUARE  
1828 E FRANKLIN STREET  
P O DRAWER 3150  
CHAPEL HILL, N. C. 27514



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the Fair Oaks Homeowners Association to the same extent as if the lots in Waverly Forest, Phase I, had been developed by Westminster Company as Fair Oaks, Phase V.

NOW, THEREFORE, in consideration of the premises and for other good and sufficient consideration, the receipt of which is hereby acknowledged, Declarant declares that all the property described in the attached Exhibit A shall be held, sold, and conveyed subject to the following restrictions, covenants and conditions. The purpose of said restrictions, covenants and conditions is to protect the value, desirability and attractiveness of the aforesaid real property. Said restrictions, covenants and conditions shall be appurtenant to and run with the land and shall be binding on all parties having any right, title or interest in the described real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

#### ARTICLE ONE

Each lot shown on Plat Book 60, Page 56, Orange County Registry, which shall be identified upon sale and conveyance as a lot in WAVERLY FOREST, PHASE I, shall be sold and conveyed subject to the Declaration of Master Covenants, Conditions and Restrictions for Fair Oaks, recorded in Book 698, Page 594, Orange County Registry, and to the Restrictive Covenants for Fair Oaks - Single Family, recorded in Book 726, Page 9, Orange County Registry, which instruments are hereby incorporated by reference as if more fully set out herein whether or not reference to either of these two instruments is made in the deed of conveyance. Each Owner of a lot in WAVERLY FOREST, PHASE I, as shown on Plat Book 60, Page 56, Orange County Registry, shall be deemed to have all the same privileges, responsibilities, duties and obligations to all lot owners in Fair Oaks Subdivision, Phases I-IV and to all other lot owners in Waverly Forest, Phase I, and shall be a member, by virtue of owning a lot in Waverly Forest, Phase I, of the Fair Oaks Homeowners Association as duly constituted. To that extent, each Owner of a lot in WAVERLY

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FOREST, PHASE I, shall be deemed to be subject to the Articles of Incorporation of Fair Oaks Community Association, Inc., recorded in Book 738, Page 328, Orange County Registry, and to the By-Laws of this organization.

**ARTICLE TWO**

The following provisions shall be amendments to the aforesaid Restrictive Covenants for Fair Oaks - Single Family recorded in Book 726, Page 9, Orange County Registry, and shall apply solely and exclusively to the lots developed and sold in Waverly Forest, Phase I, as shown on Plat Book 60, Page 56, Orange County Registry.

(1) The building setbacks for Waverly Forest, Phase I, shall be consistent with the zoning requirements of the Town of Carrboro in effect at the time the plat for Waverly Forest, Phase I, and this Declaration are recorded, but in no event shall such setbacks be less than the setback requirements previously established for Fair Oaks, Phases I-IV.

(2) Conveyance of Common Area: Declarant shall, prior to the conveyance of the first Lot in Waverly Forest, Phase I, convey fee simple title to the Common Area or Open Space to the Fair Oaks Community Association, Inc., subject to Declarant's reserved easement rights during construction as set forth herein but free and clear of all encumbrances except for street or road rights of way, sidewalks, parking areas and utility easements. Subject to Declarant's reserved easement rights, the Association, from and after the sale and conveyance of three-quarters of the lots in Waverly Forest, Phase I, shall be solely responsible for maintaining and insuring the Common Area or Open Space.

(3) Declarant, while it retains fee simple title to at least one Lot in Waverly Forest, Phase I, or the Association's Board of Directors, shall have the power and authority to grant and establish upon, over, under and across the Common Area or Open Space of Waverly Forest, Phase I, as conveyed to it such further easements as are requisite for the convenient use and enjoyment of the lots in Waverly Forest, Phase I, as well as its

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proper maintenance or operation. An easement over, through and to the Common Areas or Open Space in Waverly Forest, Phase I, is hereby reserved, conveyed and established in favor of Declarant, and its duly authorized agents and assigns, for ingress, egress, and regress, for the purpose of construction activity, storage of construction materials, the necessary disturbance of land for construction on any Lot and installation of driveways, sidewalks, underground drainage and utilities. Said easement shall continue and exist only so long as Declarant and its duly authorized agents and assigns are actually engaged in construction on any lot in Waverly Forest, Phase I. No Lot Owner in Waverly Forest, Phase I, shall interfere or hamper Declarant, its agents or assigns, in connection with such construction.

(4) In the event during the initial construction on any Lot in Waverly Forest, Phase I, the driveway serving that Lot is constructed in such a manner that it encroaches upon an adjoining Lot in Waverly Forest, Phase I, then the Owner of the Lot served by the driveway shall have an easement of ingress-egress-regress in common with the owner of the Lot upon which the driveway, as initially constructed, encroaches. This easement right shall include the right and the duty to maintain such driveway and shall be appurtenant to and run with the land.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be executed in its corporate name, with its corporate seal affixed, by order of its Board of Directors, on the day and year first above written.

Homescape Development Company, Inc.

By: James A. Brandewie  
James A. Brandewie, President



BEEMER, SAVERY  
& HADLER, P.A.  
ATTORNEYS AT LAW  
SUITE 800-B, FRANKLIN SQUARE  
1828 E FRANKLIN STREET  
P.O. DRAWER 3150  
CHAPEL HILL, N.C. 27514

Kerry A. Brandewie  
Kerry A. Brandewie, Secretary  
corporate seal

Jerone C. Herring, as Trustee, and Branch Banking and Trust Company, as Beneficiary, with respect to Lots 1, 2 and 20, Waverly Forest, Phase I, as shown on the aforesaid recorded plat,



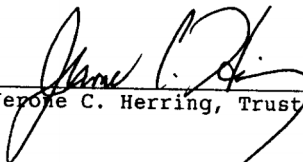
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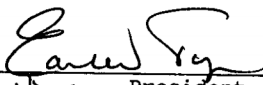
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join in the execution of this instrument for the sole purpose of subordinating the lien of their deeds of trust recorded in Book 959, Page 1, in Book 959, Page 6, and in Book 1065, Page 371, Orange County Registry, to this Declaration to the same extent as if this Declaration had been executed and recorded immediately prior to the aforesaid deeds of trust being recorded.-

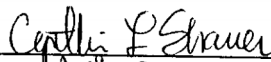
Charles G. Beemer, as Trustee, and Ery Magasanik and wife Laura Magasanik, as Beneficiaries, join in the execution of this instrument for the sole purpose of subordinating the lien of their deed of trust recorded in Book 937, Page 220, Orange County Registry, to this Declaration to the same extent as if this Declaration had been executed and recorded immediately prior to the aforesaid deed of trust being recorded.

Branch Banking and Trust Company  
Beneficiary

 (seal)  
Jerome C. Herring, Trustee

By:   
Vice President

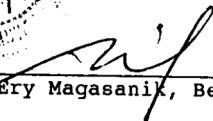
Attest:

  
Cynthia L. Shaver  
Asst. Secretary  
Corporate seal

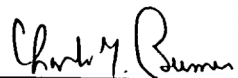
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'93 MAR 4 AM 11:35

BETTY JUNE HAYES  
REGISTER OF DEEDS  
ORANGE COUNTY, N.C.

 (seal)  
Ery Magasanik, Beneficiary

 (seal)  
Laura Magasanik, Beneficiary

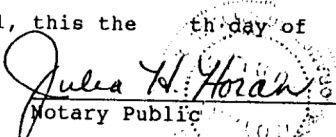
 (seal)  
Charles G. Beemer, Trustee

NORTH CAROLINA - COUNTY OF ORANGE

I, Julia H. Horan, a notary public in and for said county and state do hereby certify that Kerry A. Brandewie personally came before me this day and acknowledged that she is Secretary of Homescape Development Company, Inc., a North Carolina corporation, and that by authority duly given and as an act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by its Secretary.

Witness my hand and notarial seal, this the th day of February, 1993.

My commission expires:  
5/31/97

  
Notary Public

BEEMER, SAVERY  
& HADLER, P.A.  
ATTORNEYS AT LAW  
SUITE 800-B FRANKLIN SQUARE  
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NORTH CAROLINA - COUNTY OF ORANGE

I, DOROTHY C. KEY, a notary public in and for said county and state do hereby certify that CYNTHIA L. SHAVER



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personally came before me this day and acknowledged that she is  
Asst. Secretary of Branch Banking and Trust Company,  
Beneficiary, and that by authority duly given and as an act of  
the corporation, the foregoing instrument was signed in its name  
by its VICE President, sealed with its corporate seal, and  
attested by its Asst. Secretary.

Witness my hand and notarial seal, this the 17 th day of  
February, 1993.

My commission expires: MAY 11, 1996

Dorothy C. Key  
Notary Public

NORTH CAROLINA - COUNTY OF WILSON

I, Marlene E. Dunn, a notary public in and for said  
county and state, do hereby certify that Jerone C. Herring,  
Trustee, personally appeared before me this day and acknowledged  
the due execution of the foregoing.

Witness my hand and notarial seal, this the 11 th day of  
February, 1993.

My commission expires: Oct-9, 1994

Marlene E. Dunn  
Notary Public

MASSACHUSETTS - COUNTY OF Kiddlebreef

I, HOWARD W. WOLK, a notary public in and for  
said county and state do hereby certify that Ery Magasanik and  
wife Laura Magasanik, Beneficiaries, personally came before me  
this day and acknowledged the due execution of the foregoing.

Witness my hand and notarial seal, this the 5 th day of  
February, 1993.

My commission expires:  
NOVEMBER 2, 1995

Howard Wolk  
Notary Public

NORTH CAROLINA - COUNTY OF ORANGE

I, Julia H. Horan, a notary public in and for said county  
and state, do hereby certify that Charles G. Beemer, Trustee,  
personally appeared before me this day and acknowledged the due  
execution of the foregoing.

Witness my hand and notarial seal, this the 1st day of  
February, 1993.

My commission expires: 5/31/97

Julia H. Horan  
Notary Public

**EXHIBIT A**

**PROPERTY DESCRIPTION - WAVERLY FOREST, PHASE I**

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BEING all of Lots 1 through 23, the "Tot Lot," and all areas  
designated "Open Space" as shown on the survey entitled  
"FairOaks-Phase 5, Final Plat, Waverly Forest Subdivision," by  
Dale D. Faulkner, R.L.S., dated February 25, 1992, and recorded  
in Plat Book 60, Page 56, Orange County Registry, to which plat  
reference is hereby made for a more particular description of  
same.

NORTH CAROLINA - ORANGE COUNTY

The foregoing certificate(s) of Julia H. Horan, Dorothy C. Key, Marlene E. Dunn  
and Howard W. Wolk,

~~As Notaries~~ Notaries Public of the designated Governmental units ~~is~~ (are) certified to be correct. Filed for registra-  
tion this the 4th day of March 19 93, at 11:35 o'clock, A.M.

in Record Book 1085 Page 274 Betty June Hayes, Register of Deeds

Return: \_\_\_\_\_

By: Bonnie B. Kerner  
Assistant/Deputy  
Register of Deeds