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DECLARATION
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COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

HEYDON HALL

Drawn By and Mail to:

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STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

DECLARATIONS OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR HEYDON HALL

THIS DECLARATION, made on the date hereinafter set forth by HEYDON HALL, LLC (formerly known as Ardsley Park, LLC), a North Carolina limited liability company, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner and developer of that certain real property located in the City of Charlotte, Mecklenburg County, North Carolina and more particularly described on Exhibit A attached hereto and incorporated herein by reference (the "Property"), which Property is being developed by Declarant as an exclusive residential community known as Heydon Hall. Declarant desires to provide for the preservation and enhancement of the property values, amenities and opportunities in the Project (as defined herein) and for the maintenance of the Property and improvements thereon, and to this end desires to subject the Property to the easements, covenants, conditions, restrictions, charges and liens hereinafter set forth and/or described. Declarant desires to impose pursuant hereto easements, covenants, conditions and restrictions upon all of the Property, with the understanding that, at the option of Declarant, additional restrictions may be imposed with regard to the various phases or Sections of the Project.

WHEREAS, Declarant deems it desirable in order to insure the efficient preservation, protection and enhancement of the values in Heydon Hall and the residents' enjoyment of the specific rights, privileges and easements in the community properties that an organization be created to which will be delegated and assigned the powers of maintaining common areas and entrances, administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter imposed; and

WHEREAS, Declarant has caused to be created for the purposes aforesaid, a North Carolina non-profit corporation under the name and style of Heydon Hall Homeowners Association of Mecklenburg, Inc.

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

ARTICLE I

DEFINITIONS

Section 1. Definitions. The following terms when used in this Declaration, or any amendment or supplement hereto (unless the context shall otherwise require or unless otherwise specified herein or therein) shall have the following meanings:

- (a) "Act" shall mean and refer to the North Carolina Planned Community Act, Chapter 47F, North Carolina Statutes.
- (b) "Additional Declaration" shall mean and refer to any Declaration of Residential Covenants, Conditions and Restrictions filed in the Office of the Register of Deeds of Mecklenburg County, North Carolina with regard to a certain Phase, section or portion of the Property, as more particularly described in Section 3 of Article II hereof.
- (c) "Annual Assessments" shall have the meaning as set forth in Article V hereof.
- (d) "Approved Builder" shall mean and refer to one or more persons or companies, in the business of building and selling homes to individuals and selected by Declarant to buy Lots and construct homes for sale in the Property, so long as any such Approved Builder is in good standing with Declarant.
- (e) "Architectural Control Committee" shall mean and refer to the committee formed pursuant to Article X hereof to oversee the development and enforcement of architectural control standards and restrictions with respect to the Project and to perform certain other functions described in the Declaration.
- (f) "Architectural Design Guidelines" shall have the meaning set forth in Article X hereof.
- (g) "Articles" shall mean and refer to the Articles of Incorporation of the Association, a copy of which is attached hereto as Exhibit D, as the same maybe amended from time to time.
- (h) "Association" shall mean and refer to Heydon Hall Homeowners Association of Mecklenburg, Inc., a North Carolina non-profit corporation, its successors and assigns.
- (i) "Association Member" or "Member" shall mean and refer to any Person who holds membership in the Association as set forth in Article III hereof. Association Members shall include the Declarant, for so long as Declarant owns any part of the Property, and all Owners of Lots or other portions of the Property.
- (j) "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Association.
- (k) "Bylaws" shall mean and refer to the Bylaws of the Association, a copy of which is attached hereto as Exhibit E, as they may now or hereafter exist.

(l) "Certificate of Occupancy" shall mean and refer to any required certification issued by the appropriate governmental authorities as a prerequisite to occupancy of any structure on the Property.

(m) "Common Area" or "Common Areas" shall mean and refer, singularly or collectively, as applicable, to all land, improvements and other properties which hereafter shall be deeded to or acquired by, in fee, from time to time by the Association for the common use and enjoyment of the Owners and the Occupants, including, without limitation, the Private Roads, which are private roads to be maintained by the Association and that property identified and designated as "Common Area," "Common Open Space," "COS," "Park," "Square," "Fields," "Trails," "Storm Water Management Area," or other different language with similar meaning on any recorded Plat or Plats of the Property or any part of it.

(n) "Common Expenses" shall mean and refer to the actual and estimated expenses the Association incurs or expects to incur, for the general benefit of all Owners. Common Expenses include any reserves the Board deems necessary or appropriate.

(o) "Community System(s)" or "System(s)" shall mean and refer to any or all of a central telecommunication receiving and distribution system (e.g., cable television, high speed data/internet/intranet services, and security monitoring) and its components, including associated infrastructure, equipment, hardware and software, serving Heydon Hall.

(p) "Declarant" shall mean and refer to Heydon Hall, LLC (formerly known as Ardsley Park, LLC), a North Carolina limited liability company, any successor or assign to which Heydon Hall, LLC (formerly known as Ardsley Park, LLC) assigns its interest as Declarant hereunder in whole or in part by instrument recorded in the original records of Mecklenburg County, or any mortgagee of Declarant which takes control of the Property by foreclosure or trustee's deed.

(q) "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for Heydon Hall as it may be amended and/or supplemented from time to time as herein provided.

(r) "Entrance Monument Easements" shall mean and refer to the easements reserved by Declarant and granted to the Association in Article XII hereof over, across and under certain areas of the Property for the installation and maintenance of entrance monuments related improvements for the Project, all as more particularly described in Article XII.

(s) "Landscape Easements" shall mean and refer to the easements reserved by Declarant and granted to the Association in Article XII hereof over, across and under certain areas of the Property, for the installation, maintenance, repair and removal of landscaping and landscaping amenities, including irrigation facilities, all as more particularly described in Article XII hereof.

(t) "Lot" shall mean and refer to any plot of land, with delineated boundary lines, shown upon any recorded subdivision map of the Property, with the exception of any common area, common open space, streets, walkways or easements shown on any recorded map. In the event any Lot is increased or decreased in size by resubdivisions, through recordation of new subdivision plats, any such newly platted Lot shall thereafter constitute a Lot for the purposes of this Declaration.

- (i) "Park Lot" shall mean and refer to any Lot having a front width of seventy-five feet (75') or less.
- (ii) "Pavilion Lot" shall mean and refer to any Lot having a front width in excess of seventy-five feet (75') but less than ninety-five feet (95').
- (iii) "Promenade Lot" shall mean and refer to any Lot having a front width in excess of ninety-five feet (95').
- (iv) Declarant shall have the right to designate other categories of Lots during the existence of Special Declarant Rights.

(u) "Maintenance Areas" shall have the meaning as set forth in Article XII hereof.

(v) "Member" shall mean and refer to each Owner or Lot Owner who by virtue of ownership of a Lot is automatically a Member in the Association.

(w) "Mortgage" shall mean and refer to any mortgage or deed of trust constituting a first lien on a Lot.

(x) "Mortgagee" shall mean the owner and holder of a Mortgage at the time such term is being applied.

(y) "Notice and Opportunity for Hearing" shall mean and refer to the giving of at least fifteen (15) days' prior notice of a proposed action and the reasons therefor, 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.

(z) "Occupant" shall mean and refer to any person occupying all or any portion of a Lot, Tract or the Property for any period of time, regardless of whether such person is a tenant of the Owner of such Lot or portion of the Property.

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

(bb) "Person" shall mean and refer to any natural person, corporation, joint venture, partnership (general or limited), limited liability company, association, trust or other legal entity.

(cc) "Phase" shall mean and refer to any phase, section or portion of the Property for which a separate Plat or Plats are recorded in the Office of the Register of Deeds of Mecklenburg County, North Carolina.

(dd) "Plat" shall mean and refer to any plat of the Property or any part of it which has been recorded in the Office of the Register of Deeds of Mecklenburg County, North Carolina.

(ee) "Project" shall mean and refer to the residential development being developed or which may be developed by Declarant, as more particularly described on Exhibits A and B attached hereto and incorporated herein by reference.

(ff) "Property" or "Properties" shall mean and refer to that certain real property located in the City of Charlotte, Mecklenburg County, North Carolina and more particularly described on Exhibit A attached hereto and incorporated herein by reference, as well as such additional property as may be made subject to the provisions of this Declaration pursuant to the provisions of Section 2 of Article II hereof.

(gg) "Public Roads" shall mean and refer to any publicly maintained roads providing access to the Property and any public roads through the Property required by the Mecklenburg County Planning Commission to provide public access to any adjacent property.

(hh) "Private Roads" shall mean and refer to the private roads, streets, entrance ways and cul-de-sacs in the Subdivision as shown on the Plats, and any other roads, streets, entrance ways and cul-de-sacs on the Property, all to be privately maintained by the Association, as set forth in Articles IV and XI hereof.

(ii) "Shared Driveway" shall mean and refer to any driveway providing access to two (2) or more Lots.

(jj) "Shared Driveway Easements" shall mean and refer to the easements reserved by Declarant and granted to the Association and adjacent Lot Owners in Section 13 of Article XII hereof.

(kk) "Special Assessments" shall have the meaning as set forth in Article V hereof.

(ll) "Special Individual Assessments" shall have the meaning as set forth in Article V hereof.

(mm) "Special Declarant Rights" shall mean the rights as defined in Section 47F-1-103(28) of the Act for the benefit of a Declarant, including, but not limited to the following: to complete improvements indicated on plats or plans filed with or referenced in the Declaration; to exercise any development right as defined in the Act; to maintain sales offices, management offices, models and signs advertising Heydon Hall; to use easements through the Common Area, including the Private Roads, for the purpose of making improvements within Heydon Hall or within real estate which may be added to Heydon Hall; and to elect, appoint or remove any officer or Board Member of the Association during any period of Declarant control.

(nn) "Supplementary Declaration" shall mean and refer to any Supplementary Declaration of Covenants, Conditions and Restrictions filed in the Office of the Register of Deeds of Mecklenburg County, North Carolina to bring additional property within the coverage of this Declaration and the jurisdiction of the Association, as more particularly described in Section 2 of Article II hereof.

(oo) "Water Assessments" shall have the meaning as set forth in Article V hereof.

ARTICLE II

PROPERTY

Section 1. Property Made Subject to this Declaration. The Property is hereby made subject to this Declaration and the Property shall be owned, held, leased, transferred, sold, mortgaged and/or conveyed by Declarant, the Association, each Owner and each party owning record title to any of the Property subject to this Declaration and the controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens set forth in this Declaration.

Section 2. Additional Property. Declarant shall have the right, at its election without the consent of any Owner or Owners, to bring within the coverage of this Declaration and the jurisdiction of the Association all or any portion of the property described on Exhibit B attached hereto and incorporated herein by reference. Such additions authorized hereby shall be made by filing of record in the Office of the Register of Deeds for Mecklenburg County, North Carolina, Supplementary Declarations of Covenants, Conditions and Restrictions with respect to such additional property. Each such Supplementary Declaration shall extend the scheme of this Declaration and the jurisdiction of the Association to such additional property and thereby subject such additional property to assessment for their just share of the Association's expenses. Such Supplementary Declarations may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character of the additional property and as are not inconsistent with the provisions of this Declaration. Nothing contained in this Section 2, however, shall be construed to obligate Declarant to bring any additional property within the coverage of this Declaration.

Section 3. Additional Declarations. In addition to the controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens set forth in this Declaration, Declarant shall have the right, at its election without the consent of any Owner or Owners, to subject any Phase, Section or portion of the Property owned by Declarant to additional controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens, by filing an Additional Declaration in the Office of the Register of Deeds of Mecklenburg County covering only such Phase, Section or portion of the Property. Such an Additional Declaration may or may not provide for the establishment of a subAssociation to govern the ownership and/or maintenance of the Property affected by and the enforcement of the provisions of such Additional Declaration. Whether or not a subAssociation is formed pursuant to such Additional Declaration, the Association shall have the right and authority to enforce all controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens imposed by such Additional Declaration and any amendments thereto, whether or not such right and authority is expressly provided for in such Additional Declaration.

Section 4. Merger or Consolidation. Upon any merger or consolidation of an Association with another Association, the properties, rights and obligations of the Association may be transferred to another surviving or consolidated Association or, alternatively, the properties, rights and obligations of another Association may be added to the property, rights and obligations of such Association as the surviving corporation pursuant to a merger. The surviving or consolidated Association shall be considered an

Association and shall administer the terms and provisions of this Declaration (to the extent they relate to the Phase(s) or Section(s) of the Property over which such Association has jurisdiction) and the applicable Additional Declarations affecting the portions of the Property in the jurisdiction of such Association, together with the covenants and restrictions established upon any other properties, as one scheme. No such merger or consolidation, however, shall effectuate a revocation, change or addition to the terms and provisions of this Declaration or any Additional Declaration pertaining to the Property or any portion thereof except as specifically provided in this Declaration.

Section 5. Changes to this Declaration or Additional or Supplemental Declarations Requiring Declarant's Consent. Notwithstanding anything contained herein to the contrary, it is expressly understood and agreed that, so long as Declarant owns any part of the Property, the prior written consent of Declarant shall be required for any parties to modify, change and/or amend, in whole or in part, the terms and provisions of this Declaration, any Supplementary Declaration and/or any Additional Declaration or to impose new or additional covenants, conditions, restrictions or easements on any part of the Property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The voting rights of the membership shall be appurtenant to the ownership of the Lots. The Association shall have two (2) classes of voting membership.

(a) Class A. Except as provided below, Class A Members shall be all Lot Owners except the Declarant. Class A Members shall be entitled to one (1) vote for each such Lot owned. When more than one person owns an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members and the vote appurtenant to said Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

(b) Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to twenty (20) votes for each Lot located on the property in the Project owned by Declarant. Notwithstanding anything contained herein to the contrary, the Class B membership shall cease and be converted to a Class A membership on the earliest to occur of (a) the date on which Declarant no longer owns any part of the Property; (b) the date Declarant shall elect, in its sole discretion, that Class B membership cease and be converted to Class A membership (which election may be made, if at all, upon Declarant giving written notice of the election to the Board); or (c) December 31, 2015. The earliest to occur of (a), (b) or (c) above shall herein be referred to as the "Turnover Date." After the Turnover Date and for so long as Declarant owns any part of the Property, Declarant shall be a Class A Member.

ARTICLE IV

PROPERTY RIGHTS, EASEMENTS, RIGHTS OF ENTRY AND COMMUNITY SYSTEMS

Section 1. Owner's Right of Enjoyment. Every Owner, and in the case of rented homes, such Owner's tenants, shall have a non-exclusive right to and easement for the enjoyment of, in and to the Common Areas, including a perpetual non-exclusive right to use any Private Road for ingress, egress and regress to and from each Lot or other portion of the Property and such rights and easements shall be appurtenant to and shall pass with the title to every Lot.

The Owner's non-exclusive right to and easement for the enjoyment of, in and to the Common Areas shall also be subject to the following:

(a) The right of the Association to charge reasonable admission and other fees for the use of any facility situated upon the Common Area and to limit the use of said facilities to Owners who occupy a residence on the Property, and to their families, tenants, and guests as provided in Section 2 of this Article IV;

(b) The right of the Association to suspend the voting rights and rights of an Owner to the use of the facilities for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless the Members entitled to at least three-fourths (3/4) of the votes appurtenant to each of the two classes of Lots (Class A Lots and Class B Lots) agree to such dedication or transfer and signify their agreement by a signed and recorded written document, provided that this subsection shall not preclude the Board of Directors of the Association from granting easements for the installation and maintenance of sewerage, utilities, including CATV, and drainage facilities upon, over, under and across the Common Area without the assent of the membership when such easements, in the opinion of said Board, are requisite for the convenient use and enjoyment of the Property. Notwithstanding the above, the Association shall have the right to convey or transfer small portions of the Common Area to any party or parties for the purposes of changing any Lot lines or correcting minor errors, discrepancies or encroachments which may arise in deeds, surveys or other instruments into the Association or any Owner, including any corrections made necessary by the revision or modification of an existing recorded map of the Property;

(d) Except as provided in Subsection (c) hereinabove, conveyance or encumbrance of Common Area shall be governed by Section 47F-3-112 of the Act which provides that portions of the Common Area may be conveyed or subjected to a security interest by the Association if persons entitled to cast at least eighty percent (80%) of the votes in the Association agree in writing to that action. Proceeds of the sale or financing of Common Area shall be an asset of the Association. The Association, on behalf of the Owners, may contract to convey Common Area or subject Common Area to a security interest, but the contract is not enforceable against the Association until approved as hereinabove set forth.

Thereafter the Association has all powers necessary and appropriate to affect the conveyance or encumbrance, free and clear of any interest of any Owner or the Association in or to the Common Area conveyed or encumbered, including the power to execute deeds or other instruments. No conveyance or encumbrance of Common Area may deprive any Lot of its rights of access and support.

(e) The right of the Association, with the assent of Members entitled to at least two-thirds (2/3) of the votes appurtenant to each class of Lot (Class A and B), to mortgage, pledge, deed in trust, or otherwise hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(f) The right of the Association to levy Annual Assessments, Special Individual Assessments, Special Assessments and Water Assessments;

(g) The right of Declarant, its successors and assigns to make any improvements for any reason they deem proper upon the Common Areas, even after their conveyance to the Association. Declarant hereby reserves an easement over the Common Areas for the purpose of development the remainder of the adjacent property owned by Declarant. Although not limiting the scope of this easement, this easement shall include the right of access at all times for its employees, agents, subcontractors, invitees, etc., over the Common Areas and shall include the right to construct, maintain and dedicate any additional drainage easements, general utility easements and any additional sanitary sewer or water line easements across any of the Common Areas. This easement shall terminate upon the completion of the development of the Project or fifteen (15) years from the date hereof, whichever first occurs;

(h) The right of Declarant, its successors and assigns, and the Association, to erect and maintain monuments, fences, ponds, signs, lighting and irrigation systems, and any other improvements and landscaping within Common Areas or any easements granted under the provisions of Article XII hereof and as shown upon any plat of subdivision of the Property and within median strips; and

(i) The right of the Association to prescribe rules and regulations governing the use, operation and maintenance of the Common Area (including limiting the number of guests of Owners who may use such Common Area) subject to limitations established by Declarant on such right to impose such rules and regulations.

Section 2. Delegation of Use.

(a) Family. The right and easement of enjoyment granted to every Owner in Section 1 of this Article may be exercised by Members of the Owner's family who occupy the residence of the Owner within the Property as their principal residence in the City of Charlotte, Mecklenburg County, North Carolina.

(b) Tenants. The right and easement of enjoyment granted to every Owner in Section 1 of this Article may be delegated by the Owner to his tenants or contract purchasers who occupy a residence within the Property, or a portion of said residence, as their principal residence in the City of Charlotte, Mecklenburg County, North Carolina.

(c) Guests. Facilities located on Common Areas may be utilized by guests of Owners, tenants or contract purchasers subject to such rules and regulations governing said use of the Common Areas as may be established by the Board of Directors.

Section 3. Title to Common Areas. Title to the Common Areas shall be conveyed to the Association free and clear of all liens and encumbrances; provided, however, that Declarant shall have the right from time to time to reserve for the purpose of development of the Property all or any portion of the Property and any Common Areas for various easements and rights-of-way, together with the right to dedicate same where applicable and customary and the right of ingress and egress across the Common Areas in connection with the development of the Property. Declarant's rights hereunder shall not unreasonably interfere with Owner's easement for enjoyment.

The Association shall accept "as is" the conveyance of Common Areas without any representation or warranty, express or implied, in fact or by law, with respect thereto, or with respect to the improvements and repairs to be completed after the conveyance, including, without limitation, representations or warranties of merchantability or fitness for the ordinary or any particular purpose, and without any representations or warranties regarding future repairs or regarding the condition, construction, accuracy, completeness, design, adequacy of the size or capacity in relation to the utilization, date of completion or the future economic performance or operations of, or the utilities, materials or furniture which have been or will be used in such Common Areas or repairs, except as set forth herein. By acceptance of an interest in any such Common Area or the deed to any Lot, the Association and all Owners release Declarant from any claims and warrant that no claim shall be made by the Association or any Owner relating to the condition, or completeness of such property or repairs or for incidental or consequential damages arising therefrom.

Section 4. Entry Easement to Association. The Association, through its authorized representatives, shall have the right of entry and access to, over, upon and through all of the Property, to enable the Association to perform its obligations, exercise its rights, and fulfill its duties pursuant hereto, and such representatives shall not be deemed to have committed a trespass as a result thereof. Except in an emergency situation, entry shall only be during reasonable hours and after written notice by first class US mail to Owner of that portion of the Property being entered.

Section 5. Private Roads. Pursuant to the provisions of this Declaration, the Private Roads will be maintained by the Association. Maintenance of the Private Roads shall be to the standard of maintenance (if one is ascertainable) required by the Charlotte-Mecklenburg Innovative Zoning Standards. The Public Roads shall be maintained by Declarant until such maintenance is taken over by the appropriate governmental authority.

Section 6. Provisions of Services. The Association may provide, or provide for, services and facilities for all or any of the Owners and their Lots, and may enter into contracts or agreements with other entities, including Declarant, to provide such services and facilities. The Board may charge use or service fees for any such services and facilities, or may include the costs in the Association's budget as a Common Expense and assess it as part of the Annual Assessment, if provided to all Lots. By way of example, such services and facilities might include landscape maintenance, pest control service, cable television service,

telephone, internet access, security monitoring, caretaker, transportation, fire protection, utilities, trash collection and recycling, and similar services and facilities.

Nothing in this Section shall be construed as a representation by Declarant or the Association as to what, if any, services shall be provided. In addition, subject to the contract terms, the Board may modify or cancel existing contracts for services in its discretion, unless the services are otherwise required by this Declaration. Non-use of services provided to all Owners or Lots as a Common Expense shall not exempt any Owner from the obligation to pay assessments for such services.

Section 7. Rules and Regulations Regarding Security. It is anticipated that all entries from a Public Road to the Private Roads shall be gated with a mechanical gate to be opened by use of a card, code, electronic device or other means made available to Members by the Association. The Board may make such reasonable rules and regulations as it may elect with respect to the use of the card gate(s) and security systems, visitor screening, and access, ingress and egress into the Property. The Board shall have the authority to employ a private security firm to provide security and alarm/gate monitoring for the Property. The Board shall generally determine the scope and hours of operation of all security services. Entries may be monitored with cameras and recorded.

Neither the Association nor the Declarant (nor any director, officer or partner of either) makes any representation or warranty, direct or indirect, to any Owner regarding the security provided for the Property and none shall be liable in any manner whatsoever for any loss, injury, damage or death occurring on the Property, regardless of whether the same was the result of the failure of the security provided in accordance with the terms hereof to prevent the same.

Section 8. Bulk Rate Service Agreements. The Association may enter into contracts, including bulk rate service agreements, with providers of Community Systems components and other utilities and with other Persons for the maintenance, management, administration, upgrading, modification and operation of the Systems and utilities. The Association's expenses in connection with any such bulk rate contracts shall be a Common Expense to be included in the Annual Assessment; provided, if particular or additional services or benefits are provided to particular Lots, the Owner(s) of such Lot(s) shall pay the service provider directly for such services, or the Association may assess the costs as a Special Individual Assessment.

The terms of any Association contract for Community Systems or other utilities may obligate individual Owners or occupants to execute subscription agreements or other contracts directly with the Persons providing components or services prior to gaining access to the System or utility, or in the alternative, the Association may execute a subscription agreement or contract on behalf of all Owners. Such subscription agreements or other contracts may contain terms and conditions relating to use and access to the Community Systems or utility which, if violated by the Owner or occupant of a Lot, may result in services to such Owner's or occupant's Lot being terminated by the System or utility provider or by the Association. The termination of service for such a violation shall not relieve the Owner of the continuing obligation to pay that portion of assessments or other Association charges pertaining to the Community Systems or common utilities.

The Association shall have no obligation to utilize any particular provider or providers; provided, except for cause (as defined under a written agreement with the provider), the Association may not, without

Declarant's consent, terminate or refuse to renew any contract entered into during the existence of Class B Membership.

ARTICLE V

COVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) Annual Assessments or charges; (2) Special Assessments for capital improvements; and (3) Special Individual Assessments levied against individual Owners; such assessments to be fixed, established and collected from time to time as hereinafter provided. The assessments described in (1), (2), and (3) of this Section 1 (the "Assessments") together with interest thereon, late charges, attorney fees, court costs and other cost of collection, shall be a charge on the land and shall be a continuing lien upon each Lot against which each such assessment is made. The Assessment shall also be the personal or corporate obligation of the person(s), firm(s), or corporation(s) owning such Lot at the time when the Assessment fell due, but such personal obligation shall not be imposed upon such Owners' successors in title unless expressly assumed by them. Although unpaid Assessment charges are not the personal obligation upon such Owner's successors in title unless expressly assumed by the successors in title, the unpaid Assessment charges continue to be a lien upon the property against which the Assessment has been made.

Section 2. Purposes of Assessments. The Assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents of the Property, the enforcement of these Covenants and the rules of the Association, and in particular for the improvement, and maintenance of the Property and providing the services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area and any other areas maintained by the Association, including but not limited to, the cost of repair, replacement and additions thereto, the cost of labor, equipment, materials, management and supervision thereof, the payment of taxes assessed, the procurement and maintenance of insurance in accordance with the By-Laws, the employment of attorneys to represent the Association when necessary, and such other needs as may arise, all such items being Common Expenses of the Association.

Without limiting the generality of the above-described purposes, the Assessments levied by the Association may be used for the acquisition, construction, improvement (including landscaping and planting) and maintenance of the common facilities located or to be located in the Common Areas, the medians within Public Roads, including the landscaping and irrigation system(s), if any, located in the Common Areas, and the maintenance of landscaping and irrigation system(s) in the medians located in the Public Roads and the planting, maintenance and replanting of certain landscaping improvements on portions of Lots as more particularly set forth in subparagraph (b) below, and the payment of certain common expenses, including the following:

- (a) providing grass cutting, fertilizing, weed and insect treatments and maintenance of trees, shrubbery and flowers located on or within Common Areas, including the median located within the right-of-way of Smithfield Church Road;

(b) providing grass lawns, flower beds (including replanting) grass cutting, fertilizing, weed and insect treatments and maintenance of lawns, flowers, trees and shrubbery located on the area of each Lot between the pavement of the Private Road adjacent to the Lot and the front facade of the house constructed on the Lot (and additionally for corner Lots the area between the pavement and the side facade of the house as well);

(c) providing maintenance and operation of all walls, fountains and pools, monuments, irrigation facilities, sidewalks, paths or trails, parking areas, fences, signage, lighting or other structures and facilities located on or within median strips and any of the areas identified as Common Areas;

(d) providing grass cutting, fertilization, weed and insect treatments and maintenance of trees, shrubbery, flowers and sidewalks within the public street right-of-way where it is adjacent to Common Areas or other areas within or adjacent to public street rights-of way as determined by the Board;

(e) keeping the Common Areas clean and free from debris and to maintain the same in a clean and orderly condition;

(f) paying all ad valorem taxes levied against the Common Areas and any other property owned by the Association;

(g) paying the premiums on all insurance carried by the Association pursuant hereto or pursuant to the ByLaws;

(h) paying all legal, accounting and other professional fees incurred by the Association in carrying out its duties as set forth herein or in the ByLaws, including all costs and expenses of the Architectural Control Committee;

(i) promoting the recreation, health, safety and welfare of the residents in Heydon Hall as it relates to this Association;

(j) carrying out the powers and duties of the Board, the Association, and the Architectural Control Committee as stated in the Articles of Incorporation, By-Laws and this Declaration;

(k) maintaining any Storm Water Management Areas located on portions of Common Areas to the standard required by the governmental entity or agency having jurisdiction over such areas;

(l) paying of the costs of Community System(s) as may be approved by the Board pursuant to Sections 6, 7 and 8 of Article IV hereof, as may be deemed reasonably necessary for the protection of Lots and Common Areas;

(m) paying the water/sewer bills and management of the master water meter; and

(n) paying all and any other Common Expenses of the Association.

Section 3. Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum Annual Assessment shall not be in excess of: \$2500.00 per Class A Park Lot and \$625.00 per Class B Park Lot; \$2,800.00 per Class A Pavilion Lot and \$700.00 per Class

B Pavilion Lot; and \$3,100.00 per Class A Promenade Lot and \$775.00 per Class B Promenade Lot, except as otherwise provided herein.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the Annual Assessment may be increased or decreased by the Board of Directors effective January 1 of each year, without a vote of the membership, but subject to the limitation that the percentage of any such increase or decrease shall not exceed the following without a vote of the membership: (1) increase of 10% of the Annual Assessment for the previous year; (2) decrease of 5% of the Annual Assessment for the previous year or (3) if the increase in the CPI index is greater than 10% for the preceding year, the percentage increase shall be the increase in the CPI index (Consumer Price Index, U.S. City Average, All Items (1967 = 100) published by the U.S. Bureau of Labor Statistics in its monthly report entitled "The Consumer Price Index, U.S. City Average and Selected Areas" between the first and last months of the thirteen [13] month period terminating at the end of the third [3rd] quarter of the next preceding calendar year. If the CPI is discontinued then there shall be used the most similar index published by the United States Government indicating changes in cost of living).

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the Annual Assessment may be increased or decreased without limitation if such increase or decrease is approved by no less than two-thirds (2/3) of the votes appurtenant to each class of Lots (Class A and Class B), cast in person or by proxy, at a meeting duly called for this purpose.

(c) Any Annual Assessment established by the Board of Directors shall continue thereafter from year to year as the Annual Assessment until changed by said Board.

Section 4. Special Assessments. In addition to the Annual Assessments described in Section 3 above, the Board, with a vote of Members as provided in Section 7 hereof, may levy in any assessment year or years a special assessment or assessments ("Special Assessments") for the purpose of defraying, in whole or in part, any costs incurred by the Association which are not paid for out of funds on hand in the Association or out of the Annual Assessments collected by the Association. Such costs may include, but shall not be limited to, the costs of any construction, reconstruction, repair or replacement of a capital improvement upon or within the Common Area, including fixtures and personal property related thereto. Notwithstanding the above, all fees and costs incurred by the Association in exploring or waging a complaint or suit against Declarant must be paid for out of a Special Assessment and, for this purpose only, such a Special Assessment must be approved by a vote of the Members entitled to cast no less than two thirds (2/3) of all votes entitled to be cast by the Members. Any such Special Assessments shall be in the same ratio between Class A and Class B Lots as set forth in the first paragraph of Section 3 hereinabove. The due date of any Special Assessment levied pursuant to this Section 4 shall be fixed in the Board resolution authorizing such Special Assessment. Upon the establishment of a Special Assessment, the Board shall send written notice of the mount and due date of such Special Assessment to each Owner, including the Approved Builders and the Declarant, as applicable, at least thirty (30) days prior to the date such Special Assessment is due.

Section 5. (a) Special Individual Assessments. The Board may levy Special Assessments against individual Owners ("Special Individual Assessments") (i) for the purpose of paying for the costs of any construction, reconstruction, repair or replacement of any damaged component of the Common Areas occasioned by the act of a Lot Owner, his family, tenants, guests or agents, and not the result of ordinary

wear and tear; (ii) for payment of fines, penalties or other charges imposed against an individual or separate Owner relative to such Owner's failure to comply with the terms and provisions of this Declaration, the Bylaws or any rules or regulations promulgated hereunder, including, without limitation, penalties assessed by the Architectural Control Committee pursuant to the Architectural Design Guidelines, reimbursement to the Architectural Control Committee for any sums it expends on an Owner's behalf pursuant to the Architectural Design Guidelines, and reimbursement to the Association for all expenses incurred in connection with the enforcement of the provisions of Article XI; (iii) for the purpose of reimbursing the Association for costs (including attorney's 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; and (iv) for payment of particular or additional services provided to particular Lots. Provided, however, Declarant shall not be obligated to pay any Special Individual Assessment except with Declarant's prior written approval. The due date of any Special Individual Assessment levied pursuant to this Section 5 shall be fixed in the Board resolution authorizing such Special Individual Assessment. Upon the establishment of a Special Individual Assessment, the Board shall send written notice of the amount and due date of such Special Individual Assessment to the affected Owner(s) or the Declarant, as applicable, at least thirty (30) days prior to the date such Special Individual Assessment is due.

(b) Water Assessments. The Board shall levy Water Assessments against individual Owners for the purpose of collecting each Owner's share of the Association's municipal water/sewer bill as measured by the individual water meter for each Lot. The Water Assessment may be levied monthly, quarterly or annually as determined by the Board. After the Board has been able to determine an estimated average usage for each Lot, the Board, in its sole discretion, may elect to assess each Lot a quarterly or annual Water Assessment in advance for the succeeding time period; provided the Board shall be required to, at least annually, review the total water/sewer usage for each Lot for the previous year. If it is determined that the actual water/sewer usage for a Lot was less than estimated, the Association shall refund any excess Water Assessment collected from the Owner of such Lot or, at the Board's discretion, credit the excess against the next Water Assessment for such Lot. If it is determined that the actual water/sewer usage for a Lot was more than estimated, the Association shall collect the shortage in the next Water Assessment for such Lot.

Section 6. Assessment Rate. Except for the difference between Annual Assessments for Class A and Class B Lots, Annual Assessments and Special Assessments must be fixed at a uniform rate for all Lots and shall be collected on an annual, quarterly or monthly basis as determined by the Board.

Section 7. Notice of Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 and 4 of this Article shall be sent to all Members no less than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty (60%) percent of all the votes appurtenant to Class A and B Lots shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice or requirement, and if the same is called for a date not later than sixty (60) days after the date of the first meeting, the required quorum at the subsequent meeting shall be one-half ($\frac{1}{2}$) of the required quorum at the preceding meeting.

Section 8. Commencement of Annual Assessments. The Annual Assessment for each Lot shall commence on the first day of the month following the month of closing of the transfer of the Lot from Declarant to an Approved Builder or the closing of the transfer of the Lot from Declarant to an Owner who

is not an Approved Builder. The initial Annual Assessment shall be for the calendar year beginning January 1, 2003. The Annual Assessment for Lots which are recorded after January 1, 2003, or during calendar years after 2003 shall be pro-rated for that year, beginning on January 1st of that year. At such time as Declarant transfers ownership of a Lot to an Owner, the new Lot Owner will be responsible for payment of one hundred (100%) percent of the Annual Assessment due for the remainder of the calendar year in which the Lot transfer occurs. All Annual Assessments shall be payable in advance in equal installments as determined by the Board. Failure to mail notices by the dates required shall not affect the rights of the Association to assess Lots as provided herein.

It shall be the duty of the Board of the Association to fix the amount of the Annual Assessment applicable to each Lot. The Board shall make reasonable efforts to fix such amounts, in advance, by the first day of December of each year, and shall, at that time, prepare a roster of the Lots and Annual Assessments applicable thereto, which shall be kept in the office of the Association and shall be open to inspection by any Lot Owner upon reasonable notice to the Board. Written notice of the Annual Assessment shall thereupon be sent to the Owners of any Lot subject thereto. Annual Assessments shall be due and become a lien on each Lot on January 15th of each year. Failure to mail notices by the dates required shall not affect the right of the Association to assess Lots as provided herein. The omission of the Board to fix the Annual Assessment hereunder for that or the next year, shall not be deemed to waive or modify in any respect any of the provisions of this Declaration, or to release any Owner from the obligation to pay the Annual Assessment due from such Owner for that or any subsequent year and the Annual Assessment fixed for the preceding year shall continue until new Annual Assessments are fixed.

Notwithstanding Sections 1 and 8 hereof, Heydon Hall, LLC or its designated successor, may, at its election, postpone, in whole or in part, the date on which the Annual Assessments shall commence provided that the Declarant maintains the Common Areas for which no Annual Assessment is being collected during the period of such postponement.

Section 9. Capitalization of Association (Working Capital). Upon conveyance of a Lot by Declarant to an Owner, each such Owner shall contribute to the working capital of the Association an amount equal to one-half (½) the Annual Assessment then applicable to the Lot, which amount shall be paid by such Owner at the closing; shall be disbursed to the Association; shall not be considered as an advance payment of any Assessment; and shall not be refunded to an Owner upon the subsequent resale of a Lot. These funds shall not be used by Declarant to defray any of its construction or development expenses. These funds may be used by the Association for common expenses of the Association and for the purpose of purchasing Common Area furnishings, equipment and supplies and other approved Association expenditures.

Section 10. Non-Payment of Assessment. Any Assessment levied pursuant to these covenants which is not paid on the date when due shall be delinquent and shall, together with such interest thereon and cost of collection thereof, as hereinafter provided, including reasonable attorney's fees, thereupon become a continuing lien which shall bind such Lot in the hand of the then Owner, his heirs, devisees, personal representative and assigns. The personal obligation of the then Owner to pay such Assessment, however, shall remain his personal obligation and shall not pass to his successors in title unless expressly assumed by them. Interest on delinquent Assessments shall be charged at the lesser of one and one-half percent (1.5%) per month or the highest rate permitted by law.

Any Assessment not paid within thirty (30) days after the due date shall be subject to a late charge of Ten and No/100 (\$10.00) Dollars per month or the highest amount permitted by law, whichever is less; and the Association may bring an action at law against the Owner personally obligated to pay the same, or to foreclose the lien against the Lot as provided in Section 47F-3-116 of the Act and interest, late payment charges, costs and reasonable attorney's fees related to such action or foreclosure shall be added to the amount of such Assessment. No Owner may waive or otherwise escape liability for the Assessments provided for herein by not using the Common Areas or by abandoning his Lot.

Section 11. Subordination of the Lien to Mortgages. The liens provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust on a Lot. Sale or transfer of any Lot shall not affect any Assessment lien. However, the sale or transfer of any Lot which is subject to any mortgage or deed of trust, pursuant to a foreclosure thereof or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such Assessments as to the payment thereof which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first mortgage or deed of trust.

Section 12. Exempt Property. All property dedicated to, and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the Assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said Assessments.

Section 13. Reserves. The Annual Assessments shall, as determined by the Board, include reasonable amounts as reserves for the future periodic maintenance, repair and/or replacement of all or a portion of the Common Areas or Maintenance Areas and any improvements located thereon and any improvements which are maintained by the Annual Assessments. All amounts collected as reserves, whether pursuant to this Section 13 or otherwise, shall be deposited by the Association in a separate bank account to be held in trust for the purposes for which they were collected and are to be segregated from and not commingled with any other funds of the Association. Assessments collected as reserves shall not be considered to be advance payments of Annual Assessments.

ARTICLE VI

EASEMENTS

Easements for installation and maintenance of driveway, walkway, parking area, water line, gas line, cable television, telephone, electric power line, sanitary sewer and storm drainage facilities and for other utility installations are reserved as shown on the recorded plat(s). Further, easements ten feet in width for such purposes are reserved over, under and through and along the rear Lot lines of all Lots shown on recorded plats, and easements five feet in width for such purposes are reserved over, under and through and along all side Lot lines of all Lots shown on recorded plats, as well as easements ten (10) feet in width along the front Lot lines for construction, maintenance and repair purposes; provided; however, that the reserved easements shall never be greater than the required building set back lines shown or noted on any recorded map of the Property or required by any applicable zoning ordinances, i.e., in the event the side set back line for a Lot is three (3) feet, then the maximum width of the reserved easement is also three (3) feet. In

addition, all Lots are subject to a sidewalk, landscape and irrigation easement from the Public or Private Road rights-of-way to the front (and side at corner Lots) building wall of the principal structure. In the event it is determined that other and further easements are required over any Lot or Lots in locations not shown on the recorded plat and not along rear or side Lot lines, such easements may be established by the Declarant, except that if any such easements are reserved or established after the conveyance of a Lot or Lots to be affected thereby, the written assent of the Owner or Owners of such Lot or Lots and of the trustees and mortgagees in deeds of trust constituting a lien thereon shall be required. Within any such easements above provided for, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation, delivery and maintenance of public utilities, or which may obstruct or change the direction of flow of drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements, unless approved in writing by the Architectural Control Committee and all public authorities having jurisdiction. Any improvements or obstructions placed within easements shall be subject to removal or relocation without replacement as may be necessary for emergency service or maintenance operations by the Association or appropriate governmental authority. Such approved improvements shall be done at the Lot Owner's risk of removal.

ARTICLE VII

INSURANCE

Section 1. Insurance Requirements under the Act. Section 47F-3-113 of the Act requires certain insurance to be carried by the Association and provides for the distribution of insurance proceeds. Sections 2 through 5 of this Article VII set forth the requirements of Section 47F-3-113 of the Act. In the event the insurance requirements set forth in the Act or any portion of the Act are changed, amended or deleted, the insurance requirements set forth in Sections 2 through 5 of this Article VII shall likewise be changed, amended or deleted to conform with the insurance provisions of the Act without the requirement of a formal amendment to this Declaration.

Section 2. Property Insurance. The Association shall maintain, to the extent reasonably available, property insurance on the Common Area insuring against all risks of direct physical loss commonly insured against including fire and extended coverage perils. The total amount of insurance after application of any deductibles shall not be less than eighty percent (80%) of the replacement cost of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies. Any loss covered by this property insurance shall be adjusted with the Association, but the insurance proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any mortgagee or beneficiary under a deed of trust. The insurance trustee or the Association shall hold any insurance proceeds in trust for Owners and lienholders as their interests may appear. The proceeds shall be disbursed first for the repair or restoration of the damaged property, and Owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the planned community is terminated.

Section 3. Liability Insurance. The Association shall maintain, to the extent reasonably available, liability insurance in reasonable amounts, covering all occurrences commonly insured against for death,

bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Area. The liability insurance shall be for the benefit of the Owners, occupants, the Association, the Board, the managing agent, if any, the Declarant, and their respective officers, directors, agents, and employees in such amounts and with such coverage that shall be determined by the Board; provided that the liability insurance shall be for at least One Million Dollars (\$1,000,000.00) per occurrence for death, bodily injury and property damage.

Section 4. Required Provisions for Property and Liability Insurance. Insurance policies carried pursuant to Sections 2 and 3 above shall provide that:

- (a) Each Owner is an insured person under the policy to the extent to the Owner's insurable interest;
- (b) The insurer waives its right to subrogation under the policy against any Owner or member of the Owner's household;
- (c) No act or omission by any Owner, unless acting within the scope of the Owner's authority on behalf of the Association, will preclude recovery under the policy; and
- (d) If, at the time of a loss under the policy, there is other insurance in the name of the Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

Section 5. Insurance Repairs. Any portion of the planned community for which insurance is required under Sections 2 and 3 hereinabove which is damaged or destroyed shall be repaired or replaced promptly by the Association unless: (a) the planned community is terminated; (b) repair or replacement would be illegal under any State or local health or safety statute or ordinance; or (c) the Owners decide not to rebuild by an eighty percent (80%) vote. The cost of repair or replacement in excess of insurance proceeds and reserves is a common expense if any portion of the planned community is not repaired or replaced, (a) the insurance proceeds attributable to the damaged Common Area shall be used to restore the damaged area to a condition compatible with the remainder of the planned community; (b) the insurance proceeds attributable to limited common elements which are not rebuilt shall be distributed to the Owners of the Lots to which those limited common elements were allocated, or to lienholders, as their interests may appear; and (c) the remainder of the proceeds shall be distributed to all the Lot Owners or lienholders, as their interests may appear, in proportion to the common expense liabilities of all the Lots. Notwithstanding the provisions of this Section 5, Section 47F-2-118 (termination of the planned community) governs the distribution of the insurance proceeds if the planned community is terminated.

Section 6. Insufficient Proceeds. If the insurance proceeds received by the Association are insufficient to reimburse, to repair and/or replace any damage or destruction to person or property, the Board may levy a Special Assessment against the Owners to cover the deficiency.

Section 7. Owner's Personal Property. The Association or Declarant shall not be liable in any manner for the safekeeping or condition of any personal property belonging to or used by any Owner or his family, guests or invitees, located on or used at the Common Areas. Further, the Association or Declarant shall not be responsible or liable for any damage or loss to any personal property of any Owner, his family, guests or invitees located on or used at the Common Areas. Each Owner shall be solely responsible for all personal property and for any damage thereto or loss thereof, and shall be responsible

for the purchase of, at such Owner's sole cost and expense, any liability or other insurance for damage to or loss of such property.

Section 8. No Obligation to Insure Owners' Property. By virtue of taking title to a Lot within the Project, each Owner acknowledges that neither the Association nor Declarant has any obligation to provide any insurance for any portion of such Lot or any Improvement located thereon.

Section 9. Security. The Association may, in its sole discretion, but shall not be obligated to, provide certain security and fire protection measures, and maintain or support certain other activities within the Project designed to make the Project safer than it might otherwise be. Provided, however, should the Association provide, maintain or support any such measures or activities, then neither the Association, Board, Declarant, nor any successor of Declarant shall in any way be considered insurers or guarantors of security or fire protection within the Project, and neither the Association, Declarant nor any successor of Declarant shall be held liable for any loss or damage by reason or failure to provide or take any security or fire protection measures or for the ineffectiveness of any such measures undertaken. Each Owner and Occupant of any Lot and each tenant, guest and invitee thereof acknowledges and understands that neither the Association, Board, Declarant nor any successor of Declarant are insurers, and each such Owner, and Occupant of a Lot, and their tenants, guests and invitees hereby assume all risks for loss or damage to persons, property or contents belonging to any such persons.

ARTICLE VIII

USE RESTRICTIONS

Section 1. Land Use and Building Type. All Lots in the Development shall be known and described as residential Lots. No structure shall be erected, altered, placed or permitted to remain on any residential building plot other than one detached single family dwelling, not to exceed two and one-half (2 ½) stories in height, and a private garage for not less than two (2) cars and not more than three (3) cars in a "front load" garage or not more than four (4) cars on a "side load" garage and other outbuildings incidental to residential use of the plot. This section shall not prevent the use of model homes and construction trailers or similar structures during the construction of residences within the subdivision as approved by the Declarant.

Section 2. Building Setbacks. No building shall be erected on any residential Lot nearer to any street line 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 to the side street line than the building setback lines shown on the recorded map. Provided, however, Declarant reserves the right to revise any recorded map and change any building setback line shown on the original map provided that any minimum setback line shown on a revised map shall not be less than applicable zoning ordinances. With respect to corner Lots the front lot line shall be deemed the street line having the shorter frontage, and any residence erected on such corner Lot shall face the front lot line, unless otherwise approved by the Architectural Control Committee as provided in Article X hereof. No building, garage, carport, or other accessory building and structure incidental to the residential use of the Lots shall be located nearer to a side or rear lot line than permitted by applicable City of Charlotte zoning ordinances. For purposes of determining compliance or noncompliance with the foregoing building line requirements, decks, porches, terraces and wing-walls shall

be considered as part of the structure and will not be allowed to encroach into side or rear yard setbacks, except upon approval by the Architectural Control Committee. However, this provision shall not be construed to authorize or permit encroachment of any structure upon any easement shown on the recorded plat or reserved herein or upon any other Lot.

Section 3. Fences and Walls. Prior to construction or installation of any fence, wall, or other similar improvement on a Lot, such improvements must be approved by the Architectural Control Committee as provided for in Article X hereof. Declarant may build walls, fences or other similar improvements within the right-of-way of any Public or Private Road. Chain link fencing is not permitted, except that wire mesh specifically approved by the Architectural Control Committee may be used with fencing types as approved by the Architectural Control Committee to contain children and animals within the yard with approval of the Architectural Control Committee. The fencing restrictions in this Article shall not be applicable to model homes owned by Declarant or Declarant's assigns.

Section 4. Lot Area and Width. No residential structure shall be erected or placed on any building plot, which plot has an area of less than the square footage or a width of less than the width permitted by applicable City of Charlotte zoning ordinances.

Section 5. Temporary Structures and Parking. No residence of a temporary nature shall be erected or allowed to remain on any Lot, and no trailer, basement, shack, tent, garage, barn or any other building of a similar nature shall be used as a residence on any Lot, either temporarily or permanently. Mobile house trailers, on or off wheels, recreational vehicles, three or four wheel all terrain vehicles, motor homes, vehicles or enclosed bodies of the type which may be placed on or attached to a vehicle, known generally as "campers" or "trailers", commercial vehicles of any kind operated by a member of the household occupying the dwelling on the Lot and any boats and boat trailers shall not be parked on the Public or Private Roads within the front or side street setback lines or anywhere on the Lot where it or they would be visible from any Public or Private Road or another Lot.

No vehicle of any type which is abandoned, inoperative, non-registered or out of service shall be stored or kept on any Lot in such manner as to be seen from any other Lot or any Public or Private Road within the Project, and no automobiles or other mechanical equipment may be dismantled or allowed to accumulate on any said Lot. Vehicles shall not be parked on the sidewalk or within the right-of-way of any Public or Private Road, nor shall vehicles be parked or stored on any part of the Lot not improved for that purpose, i.e. garage, driveway, carport or parking pad. This paragraph does not preclude occasional overflow parking within the right-of-way of any Public or Private Road for guests or other reasonable purposes provided that no inconvenience is imposed on the Owners of other Lots within the Project.

The restriction set forth in this Section 5 shall not apply to sales trailers, construction trailers or other vehicles which may be used by Declarant or any Approved Builder, their agents and subcontractors, in the conduct of development of Heydon Hall and the construction of homes in Heydon Hall.

Section 6. Nuisances. No noxious or offensive trade or activity shall be carried on upon any Lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood as determined by the Board. No animals, livestock, or poultry of any kind shall be kept or maintained on any Lot or in any dwelling except that dogs, cats or other "conventional" or "customary" household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes. The

number of household pets generally considered to be outdoor pets such as dogs and cats shall not exceed three in number except for newborn offspring of such household pets which are under nine (9) months in age. No dog run or pen may be constructed or maintained on any Lot unless such dog run or pen has been approved in writing by the Architectural Control Committee. Notwithstanding the foregoing, Pitbulls are expressly prohibited, and the Association shall have the right to prohibit, or require the removal, of any dog or animal, which after consideration of factors such as size, breed and disposition of the animal, interference by the animal with the peaceful enjoyment by other Owners of their Lots and Common Areas and the security measures taken by the Owner with respect to such animal, the Board, in its sole discretion, deems to be undesirable, a nuisance or a safety hazard.

No potentially hazardous or toxic materials or substances shall be used or stored on any Lot other than normal household, lawn and garden products which shall be used by Owner in a manner not to permit spills or runoff of such materials onto the Lot, adjacent Lots or property, drainage swales and lakes. No dumping of grass clippings, leaves or other debris, petroleum products, fertilizers or other potentially hazardous or toxic substances shall be allowed on any Lot, drain, drainage ditch or swale, stream, pond or lake except the normal application of fertilizer to grass and landscaping with special care being taken to minimize runoff into any lake. No activity shall be allowed which violates local, state or federal laws or regulations; provided, the Board shall have no obligation to take enforcement action in the event of a violation.

Section 7. Dwelling Size and Attached Garage. The minimal heated square footage of a dwelling located on the property described on Exhibit A may not be less than as shown on Exhibit C attached hereto and incorporated herein by reference. The minimal heated square footage of a dwelling located on any property annexed as additional property pursuant to Section 2 of Article II hereof may not be less than as shown on an exhibit attached to any Supplementary Declaration or as provided in the body of such Supplementary Declaration. Each dwelling shall have a two (2), three (3) or four (4) car garage. Declarant has the right to vary the minimum square footage requirement by 10%.

Section 8. Outbuildings and Pools. No outbuildings of any kind shall be placed on any Lot without the prior written approval of the Architectural Control Committee as provided in Article X hereof. No above-ground pool structures shall be erected on any Lot.

Section 9. Easements. Easements for installation, maintenance and repair of utilities and cable television (CATV) and drainage facilities are reserved as shown on the recorded map and over the rear ten (10) feet and front and side five (5) feet of every Lot; provided, however, the reserved easements shall never be greater than the required building set back lines shown or noted on any recorded map of the Property or required by any applicable zoning ordinances, i.e., in the event the side set back line for a Lot is three (3) feet then the maximum width of the reserved easement is also three (3) feet. Within the easements, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of the utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements, unless approved in writing by the Architectural Control Committee and all public authorities having jurisdiction. Any improvements or obstructions placed within easements shall be subject to removal or relocation without replacement as may be necessary for emergency service or maintenance operations by the Association or appropriate governmental authority. Such approved improvements shall be done at the Lot Owner's risk of removal. The easement area of each Lot and all improvements in it shall

be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible. The Declarant reserves the right to create and impose additional easements or rights of way over unsold Lot or Lots for Public or Private Roads, drainage, utility and landscape purposes by the recording of appropriate instruments and such shall not be construed to invalidate any of these covenants.

Section 10. Signs. Unless approved by the Architectural Control Committee or Declarant, no sign of any kind shall be displayed to the public view on any Lot except one (1) professional sign previously approved by Declarant of not more than five (5) square feet advertising the property for sale or rent or signs used by an Approved Builder to advertise the property during the construction and sales period.

Section 11. Unintentional Violations. In the event of the unintentional violation of any of the building line restrictions set forth herein, Declarant, or its designated assigns, reserves the right, by and with the mutual written consent of the Owner or Owners for the time being of such Lot, to change the building line restriction set forth in the instrument provided, however, that such change shall not be in violation of any provisions of the zoning provisions of the City of Charlotte, nor serve as precedent for other Lots.

Section 12. Antennas, Satellite Dishes or Discs. No radio or television transmission or reception towers, antennas, dishes or discs shall be allowed on a Lot, unless approved by the Architectural Control Committee pursuant to Article X hereof.

Section 13. Leasing. Lots or portions of Lots may be leased for residential purposes. All leases shall have a minimum term of six (6) months. All leases shall require, without limitation, that the tenant acknowledge receipt of a copy of the Declaration of Covenants, Conditions and Restrictions for Heydon Hall, Declaration of Restrictions, By-Laws and Rules and Regulations of the Association for Heydon Hall. The lease shall also obligate the tenant to comply with the aforementioned documents.

Section 14. Maintenance of Lot, Trash Receptacle, Etc. Each Owner shall keep his Lot in an orderly condition and shall keep the improvements thereon in a suitable state of repair, promptly repairing any damage thereto by fire or other casualty. No clothesline may be erected or maintained on any Lot. No Lot shall be used in whole or in part for storage of rubbish of any character whatsoever and no trash, rubbish, stored materials, wrecked or inoperable vehicles or similar unsightly items shall be allowed to remain on any Lot outside an enclosed structure; provided however, that the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish and other debris for collections by governmental or other similar garbage and trash removal units.

All trash receptacles, wood piles, swimming pool pumps, filters and related equipment and other similar items shall be located or screened so as to be screened from view of neighboring streets and property; provided, however, if rubbish, garbage or any other form of solid waste is to be disposed of by being collected on a regular and recurring basis, containers may be placed in the open in the evening before a pickup is to be made as necessary to provide access to Persons making such pickups. Equipment must be stored the same day as collection, following collection. All rubbish, trash and garbage shall be regularly removed (no less frequently than weekly) and shall not be allowed to accumulate. Trash, garbage, debris or other waste matter of any kind may not be burned within Heydon Hall, except by the Declarant, during the original construction of residences on a Lot, without the prior written approval of the Association.

Section 15. Mailboxes. No mailbox or mailbox support may be used on a Lot other than any mailbox and support approved by the Declarant and fabricated to a design and color as approved by Declarant or the Architectural Control Committee. Approved mailboxes may not be altered or modified in any manner.

Section 16. Firearms. The use of firearms in Heydon Hall is prohibited. The term "firearms" includes, without limitation, "B-B" guns, pellet guns, bow and arrows, slingshots and small firearms of all types.

Section 17. Artificial Vegetation. Exterior Sculpture. Exterior Statuary and Similar Items. No artificial vegetation or plastic animal decoration, such as pink flamingos, etc. shall be permitted on the exterior of any property, unless placed temporarily on the property by a church or charitable organization in connection with fund raising purposes or in connection with the celebration of a special event. Exterior sculpture, fountains, flags, birdbaths, birdhouses and similar items must be approved by the Architectural Control Committee.

ARTICLE IX

INDEMNIFICATION OF DIRECTORS AND OFFICERS

Neither Declarant, nor any Member, nor the Board, nor the Association, nor any officers, directors, agents or employees of any of them shall be personally liable for debts contracted for or otherwise incurred by the Association or for a tort of another Member, whether or not such other Member was acting on behalf of the Association or otherwise. Neither Declarant, nor the Association, nor their directors, officers, agents or employees shall be liable for any incidental or consequential damages for failure to inspect any premises, improvements or portions thereof or for failure to repair or maintain the same. Declarant, the Association or any other person, firm or association making such repairs or maintenance shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any premises, improvements or portions thereof.

The Association shall, to the extent permitted by applicable law, indemnify and defend all members of the Board from and against any and all loss, cost, expense, damage, liability, claim, action or cause of action arising from or relating to the performance by the Board of its duties and obligations, except for any such loss, cost, expense, damage, liability, claim, action or cause of action resulting from the gross negligence or willful misconduct of the person(s) to be indemnified.

The Association shall indemnify any director or officer or former director or officer of the Association or any person who may have served at the request of the Association as a director or officer of another corporation, whether for profit or not for profit, against expenses (including attorneys' fees) or liabilities actually and reasonably incurred by him in connection with the defense of or as a consequence of any threatened, pending or completed action, suit or proceeding (whether civil or criminal) in which he is made a party or was (or is threatened to be made) a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for gross negligence or willful misconduct in the performance of a duty.

The indemnifications provided herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any statute, bylaw, agreement, vote of members or any disinterested directors or otherwise and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

The Association shall make efforts to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability.

The Association's indemnity of any person who is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall be reduced by any amounts such person may collect as indemnification (i) under any policy of insurance purchased and maintained on his behalf by the Association or (ii) from such other corporation, partnership, joint venture, trust or other enterprise.

Nothing contained in this Article IX, or in the Bylaws, shall operate to indemnify any director or officer if such indemnification is for any reason contrary to any applicable state or federal law.

ARTICLE X

ARCHITECTURAL CONTROL COMMITTEE

Section 1. Establishment. Declarant, or its designated assigns, shall establish an Architectural Control Committee (the "A.C.C." or "Committee") to perform the architectural review functions set forth in this Declaration and shall adopt the procedural rules and regulations for the performance of such duties by the A.C.C., including procedures for the preparation, submission and determination of the application for any approvals required by this Declaration. The A.C.C. shall consist of not less than three (3) nor more than five (5) members, each serving such terms as shall be determined by Declarant or the Association, as applicable, with such alternate members as Declarant may deem necessary. Declarant, or its designated assigns, shall appoint all of the original members of the A.C.C. and shall continue to appoint all members of the A.C.C. until Declarant and Approved Builders no longer own any Lot or any portion of the property described in Exhibit A or Exhibit B to this Declaration, at which time the Board of the Association shall have the power to appoint all of the members of the A.C.C. The appointees of the Board or Declarant need not be Members of the Association, architects, Owners, lessees or residents and do not need to possess any special qualifications of any type except such as the Board or Declarant may, in their discretion, require. However, it is recommended that at least one member of the A.C.C. be an architect, planner, engineer, developer or other member of a profession engaged in the construction or development industry. The A.C.C. shall hold regular meetings, a quorum for such meeting shall consist of a majority of the regular members, and the concurrence of a majority of the regular members at a meeting shall be necessary for any decision of the A.C.C. An alternate member, approved by Declarant may participate at any meeting at

which there is not a quorum of regular members present, may constitute a quorum by his (their) presence and shall have all of the authority of a regular member while so participating.

Section 2. Review by Committee. Notwithstanding anything contained in this Declaration to the contrary, no Improvements (as defined in Section 12), including, without limitation, site preparation on any Lot, change in grade or slope of any Lot, or erection of buildings or exterior additions or alterations to any building situated upon the Property, erection of or changes or additions in fences, hedges, walls and other structures, any landscaping, or any cutting of trees on any Lot, shall be commenced, erected or maintained on any portion of the Property until: (a) the Architectural Control Committee has approved the plans and specifications therefor and the location of such Improvements and has given its written approval for commencement of construction, all in accordance with the terms and requirements in the Architectural Design Guidelines; and (b) the fees set forth in or contemplated in this Article X have been paid. In addition to any standards established pursuant to this Declaration, Declarant may establish, by Additional Declarations, architectural and landscaping control standards, guidelines and restrictions in regard to various Phases or Sections of the Property. The provisions of this Article X shall not apply to the construction of any Improvements commenced, erected or maintained by Declarant on any Lot or upon any of the Common Areas or Maintenance Areas. In addition, no alteration or modification to an existing dwelling unit any other structure previously approved by the A.C.C. whether dwellings, buildings, gazebos, storage sheds, room additions, ramadas, rooms, fences, walls, canopies, statuary, awnings, roofs, devices to be mounted on roofs, exterior lighting facilities, recreational/athletic facilities, changes in exterior paint color, or other similar improvements or attachments shall be constructed and no alteration of the established drainage on a Lot shall be made unless complete plans and specifications therefor have been first submitted to and approved in writing by the A.C.C. The A.C.C. shall exercise its best judgment (neither arbitrarily nor capriciously) to the end that all such changes, improvements and alterations requested for properties within the Property conform to and harmonize with the existing surroundings, dwellings, landscaping and structures. Final plans and specifications shall be submitted in duplicate to the Committee. The plans and specifications shall show the nature, kind, shape, height, materials and location of all improvements and landscaping. The documents shall specify any requested variance from the set back lines, garage location or any other requirement set forth in this Declaration. At such time as the plans meet the approval of the Committee one complete set will be retained by the Committee and the other set shall be marked approved on behalf of the Committee and returned to the Owner or his designated representative. If disapproved by the Committee one set of such plans shall be returned marked "disapproved" and shall be accompanied by a statement setting forth the reasons for disapproval. In no event shall the Committee give verbal approval or disapproval of any plans. If the Committee fails to approve or disapprove such plans and specifications within thirty (30) days after the date of receipt of same by A.C.C., written approval of the matter submitted shall not be required and compliance with this Article shall be deemed to have been completed, so long as the submission does not otherwise violate or fail to conform to any restrictions or requirements of this Declaration or previously established requirements of the A.C.C. in which event the submission shall be deemed disapproved by the Committee. An Owner submitting plans to the Committee shall have the burden of establishing the date upon which the Committee received said plans.

Section 3. Subcommittee. The Architectural Control Committee with the advice and consent of the Board is herein empowered to form a subcommittee to the Architectural Control Committee the ("Sub A.C.C." or "Subcommittee") comprised of Members of the Association. The Subcommittee shall be comprised of such number of Members as the A.C.C. deems reasonable and necessary in order to carry out its function. The A.C.C. shall be entitled to delegate to the Subcommittee such responsibilities and activities

as the A.C.C., in its discretion, shall determine, including but not limited to the ability to preview submittals to the A.C.C. and make non-binding recommendations thereon. Such Subcommittee shall serve at the discretion of the A.C.C. and/or the Board and may or may not be continued following transfer of control of the A.C.C. to the Association.

Section 4. Appeal. Any Owner aggrieved by a decision of the Sub A.C.C. may appeal the decision to the A.C.C. in accordance with procedures to be established by the A.C.C. Such procedures would include the requirement that the appellant has modified the requested action or has new information which would in the A.C.C.'s opinion warrant a reconsideration. If the A.C.C. fails to allow an appeal or if the A.C.C., after appeal, again rules in a manner aggrieving the appellant, the decision of the A.C.C. is final.

Section 5. Fee. The Board may establish a reasonable processing fee to defer the costs of the Association in considering any requests for approvals submitted to it, which fee shall be paid at the time the request for approval is submitted.

Section 6. Architectural Design Guidelines and Development Standards. The Declarant and/or the A.C.C. may develop, publish and promulgate architectural standards and guidelines (hereafter "Architectural Design Guidelines") which shall be used by the A.C.C. in reviewing any proposed plans, specifications and materials submitted to the A.C.C. for approval. The Architectural Design Guidelines shall establish development standards setting forth the minimum standards for the design, size, location, style, structure, color, mode of architecture, mode of landscaping and relevant criteria deemed important by the A.C.C. or by Declarant for the construction of improvements of any nature in the Property. The purpose of such development standards will be to preserve and promote the character and orderly development of the Property. By acceptance of a deed to any Lot, each Owner thereof and his successors and assigns agrees to be bound by all provisions of such development standards as may be adopted by the A.C.C. and to use diligence in keeping abreast of the provisions thereof and any amendments thereto.

Section 7. No Waiver. The approval or disapproval by the A.C.C. of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the A.C.C. shall not be deemed: (a) to constitute a waiver of any right to approve or withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent not; (b) to prohibit the A.C.C. from modifying and amending the Architectural Design Guidelines from time to time (with the approval of the Board) to specifically permit any improvement previously prohibited or (c) to prohibit any improvement previously permitted.

Section 8. Variance. The A.C.C. may authorize variances from compliance with the Architectural Design Guidelines when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. Such variances may only be granted, however, when unique circumstances dictate, as determined by the A.C.C., and no variance shall (a) be effective unless in writing or (b) estop the A.C.C. from denying a variance in other circumstances.

Section 9. Violation of Approved Plans and Right of Entry. If it is determined by the A.C.C. that a violation exists on a Lot, or that work completed on any Lot has not been completed in compliance with the final plans approved by the Committee, the Committee or the Association may notify the Owner in writing of such non-compliance within thirty (30) days of inspection, specifying in reasonable detail the

particulars of non-compliance and may require the Owner to remedy the same. The Association shall have the right to enter upon the Lot of any Owner and to perform compliance or remedy non-compliance as ordered by the Committee and the cost of such performance or remedy shall be charged to the Owner of the Lot in question, which cost shall be due within ten (10) business days after receipt of written demand therefore. If the Owner fails to remedy such non-compliance or to commence and continue diligently toward achieving compliance, Declarant or the Association (as their interests shall appear) shall notify the Owner that it shall take action to remove the non-complying improvements and/or seek injunctive relief, recovery of costs incurred, and imposition of a fine, which fine shall not exceed ten percent (10%) of the cost of achieving compliance.

Section 10. Non-Liability for Approval of Plans. Architectural Control Committee approval of plans shall not constitute a representation, warranty or guarantee, whether express or implied, that such plans and specifications comply with good engineering design or with zoning or building ordinances, or other governmental regulations or restrictions. By approving such plans and specifications neither the Architectural Control Committee, the Members thereof, the Association, any Member thereof, the Board nor Declarant assumes any liability or responsibility therefore, or for any defect in any improvements constructed from such plans or specifications. Neither the Committee, any Member thereof, the Association, the Board nor Declarant shall be liable to any Member, Owner, occupant, or other person or entity for any damage, loss or prejudice suffered or claimed on account of (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective, or (b) the construction or performance of any work, whether or not pursuant to the approved plans, drawings and specifications.

Section 11. Compliance with laws. Review and approval of plans and specifications by the A.C.C. shall not imply or infer compliance with any law, ordinance or regulation, or structural integrity or safety of any improvements described in any approved plans and specifications. Review and approval as provided in this Article is for aesthetic purposes only. It is each Owner's sole responsibility to plan and construct any and all improvements in a manner which complies with all applicable codes, statutes, laws, ordinance and regulations in compliance with any approval granted hereunder.

Section 12. Definition of "Improvements". The term "Improvement" or "Improvements" shall mean and include any and all man made changes or additions to a Lot, including, but not limited to, the location, materials, size and design of all buildings (including any exterior devices attached to or separate from buildings, such as heating and air conditioning equipment, solar heating devices, antennae, satellite dishes, etc.); storage sheds or areas; roofed structures; parking areas; fences; "invisible" pet fencing; pet "runs," lines and similar tethers or enclosures; walls; irrigation equipment, apparatus and systems; landscaping (including cutting of trees); hedges; mass plantings; poles; driveways; statuary; ponds; lakes; changes in grade or slope; site preparation; swimming pools; hot tubs; Jacuzzi; tennis courts; tree houses; basketball goals; skateboard ramps; and other sports or play apparatus; signs; exterior illumination; and changes in any exterior color or shape. The definition of Improvements includes both original Improvements and all later changes to Improvements. The definition of Improvements, however, does not include the replacement or repair of Improvements previously approved by the Architectural Control Committee, provided such replacement or repair does not change exterior colors, materials, designs or appearances from that which were previously approved by the Architectural Control Committee.

Section 13. Duty to Complete Improvements. An Owner shall complete all approved improvements, subject to unforeseen circumstances and causes beyond the reasonable control of such Owner, as reasonably

determined by the A.C.C. within twelve (12) months following commencement of construction of such approved improvements.

ARTICLE XI

COMMON AREA AND LOT MAINTENANCE

Section 1. Maintenance by Association. The Association shall repair and maintain the Common Area and all improvements, utilities and facilities located on the Common Area, including the Private Roads. In addition, as more specifically provided in Section 2(b) of Article V, the Association shall maintain the landscaping and grass areas, including any irrigation system installed by Declarant or the Association, within the area located between the pavement of the Private Road adjacent to each Lot and the front facade of the house constructed on the Lot (and for corner Lots the area between the pavement and the side facade of the house as well).

Section 2. Maintenance by Owners. Except as provided in Section 1 hereinabove, each Owner shall, at all times, maintain, repair and otherwise be responsible for his Lot and all structures, parking areas, fences, and other improvements thereon including portions of sidewalks located on or adjacent to the Lot. Owners of Lots shall maintain driveways (including Shared Driveways serving more than one Lot) serving their respective Lots and their private mail box located within the Private Roads between the Lot boundary line and the nearest curb or pavement edge. The cost of maintenance, repair and replacement of Shared Driveways and the area within the Shared Driveway Easements shall be borne equally by the Owners of Lots on which the Shared Driveways are located. Owners of Lots with a Declarant constructed fence on a common Lot line shall each be responsible for paying their proportionate share of the cost of the maintenance, repair and replacement of such fence. An Owner shall be responsible for maintenance repair and replacement of sewer laterals and water laterals from the point of connection to the main water and sewer distribution line to the house, whether located in the street, on another Lot or within an easement. 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. Each Owner shall maintain, repair and replace the surface and subsurface drainage facilities, swales 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 City or other governmental entity. If any Owner, after Notice and Opportunity for Hearing, fails to maintain, repair and replace such drainage facilities, swales and appurtenances as required herein, the Association, at the expense of such Owner, shall maintain, repair and replace such drainage facilities, swales 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 Individual Assessment against such Owner to obtain reimbursement therefor as provided in Section 5 of Article V hereof.

No 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, swales 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 Heydon

Hall by the City, except to the extent such alteration in drainage pattern is approved in writing by the Architectural Control Committee and all public authorities having jurisdiction. All such drainage facilities, swales and appurtenances shall at all times be accessible to Declarant until Heydon Hall is completed and at all times shall be accessible to the Association and all persons installing, using, maintaining, repairing or replacing such drainage facilities, swales and appurtenances. Declarant may from time to time present for recordation in the official records of the City instruments showing approximate locations of subsurface storm drainage facilities and of subsurface groundwater drainage facilities. Owner shall be responsible for repairing/replacing any improvement damaged as a result of service or maintenance required within any easement, whether approved by the A.C.C. or not.

Section 3. Wetlands Ordinances and Regulations. Portions of the Property have been designated as "Wetlands" by the Corps of Army Engineers and may be shown as Wetlands on the recorded maps of the Property. The areas designated as Wetlands must be maintained as Wetlands in compliance with any applicable laws, ordinances and regulations governing Wetlands until such time as changes to such laws, ordinances and regulations allow these areas to be maintained or developed in a condition or state other than as previously required of areas designated as Wetlands.

Section 4. 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.

Section 5. Right to Enter. In addition to the easements set forth in Article XII hereof, 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 violation, 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. By way of illustration, and not limitation, the Association may repair, maintain and replace drainage facilities and/or drainage swales on a Lot.

Section 6. Failure to Maintain by Owner. All maintenance required by Owners under this Article XI shall be performed in a manner consistent with the Declaration, By Laws, Architectural Design Guidelines and all other applicable rules and regulations. If any Owner of a Lot fails properly to perform his or her maintenance responsibilities (including responsibility to maintain Shared Driveways and Shared Driveway Easement areas) or removes trees, shrubs or any other vegetation without A.C.C.'s approval, the Association, after giving Owner a minimum of seven (7) days' written notice to cure the failure to maintain, shall have the right, but not the obligation, to enter such Owners Lot to maintain said Lot and assess all costs incurred by the Association against the Lot and the Owner thereof as a Special Individual Assessment as provided in Section 5 of Article V.

ARTICLE XII

EASEMENTS AND OTHER RIGHTS

Declarant, in addition to any other easements granted or reserved herein, hereby reserves unto itself, its successors and assigns, and grants to the Association and any other persons or entities hereinafter set forth,

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

Section 1. Easements and Cross Easements on Common Areas. Declarant, for itself, its designees and the Association, reserves the right to impose upon the Common Areas henceforth and from time to time such easements and cross easements for ingress and egress, installation, maintenance, construction and repair of utilities and facilities including, but not limited to, electric power, telephone, cable television, antenna transmission, surveillance services, governmental and quasi governmental purposes, sewer, water, gas, drainage, landscape/irrigation, lake maintenance, storm water management, lighting, television transmission, garbage and waste removal, emergency services, and the like as it deems to be in the best interests of, and necessary and proper for, the Project or any portion thereof.

Section 2. Use of Common Areas. Declarant declares that the Common Areas are subject to a perpetual nonexclusive easement in favor of Declarant, the Association and their designees, the Owners and all their family members, guests, invitees and lessees, and appropriate governmental and quasi governmental agencies to use the Common Areas for all proper and normal purposes including, but not limited to, ingress, egress and access for the furnishing of services and utilities and for such use of the facilities as the same are reasonably intended in accordance with the terms of this Declaration and any Additional Declaration. If ingress or egress to any Lot or other portion of the Property is through any Common Area, any conveyance or encumbrance of such area is subject to this easement.

Section 3. Right of Way Over Private Roads. Declarant hereby reserves, for the benefit of itself, its agents, employees, lessees, invitees, designees, successors and assigns, and grants to the Association, their agents, employees, lessees, invitees, designees, successors and assigns, and to each Owner of a Lot or Tract, their family members, guests, invitees, successors and assigns, and to each Occupant of a Lot or Tract, and to all governmental and quasi-governmental agencies and service entities having jurisdiction over the Property while engaged in their respective functions, a perpetual non exclusive easement, license, right and privilege of passage and use, both pedestrian and vehicular, over and across the Private Roads for the purpose of providing access, ingress and egress to and from, through and between the Property.

Section 4. Right of the Association and Declarant to Enter Upon the Common Areas and Maintenance Areas. Declarant hereby reserves for the benefit of itself, its successors in interest and assigns, and grants to the Association and all agents, employees or other designees of Declarant or the Association an easement for ingress, egress and access to enter upon or over the Common Areas and Maintenance Areas for the purposes of inspecting any construction, proposed construction, or Improvements or fulfilling the rights, duties and responsibilities of ownership, administration, maintenance and repair of Declarant or the Association, as appropriate. Such easement includes an easement in favor of the Association and Declarant to enter upon the Common Areas and Maintenance Areas now or hereafter created to use, repair, maintain and replace the same for the purposes for which they are initially designated or for such purposes as they are hereafter redesignated or as Declarant otherwise determines them to be reasonably suited.

Notwithstanding the foregoing, nothing contained herein shall be interpreted as imposing any obligation upon the Association or Declarant to maintain, repair, or construct Improvements which an Owner is required to maintain, construct or repair.

Section 5. Easement for Encroachments. Declarant hereby reserves, for the benefit of itself, its successors in interest and assigns, and grants to the Association, the Owners, their successors and assigns, and to the Occupants of Lots, easements for encroachments, to the extent necessary, in the event any portion of the Improvements located on any portion of the Property now or hereafter encroaches upon any of the remaining portions of the Property as a result of minor inaccuracies in survey, construction or reconstruction, or due to settlement or movement. Any easement(s) for encroachment shall include an easement(s) for the maintenance and use of the encroaching Improvements in favor of Declarant, the Association, the Owners and all their designees,

Section 6. Maintenance Areas. Declarant hereby reserves, for the benefit of itself, its successors in interest and assigns, and grants to the Association, its successors and assigns, the following nonexclusive perpetual easements over certain areas of the Property as hereinafter described for the purposes hereinafter described:

(i) Easements for the purposes of landscaping and maintaining entryways and erecting and maintaining entrance monument(s), including guard houses, if any, for the Project, over, across and under those portions of the Property shown and designated as "Entry Easement" on the Plats (herein referred to as the "Entrance Monument Easements"). Declarant and/or the Association shall have the right to landscape and maintain the areas of the Property so designated as entryways to the Project, to erect and maintain entrance monument(s) thereon bearing the name of the Project, and to erect and maintain lighting for such monument(s), plantings, landscaping, irrigation systems and other improvements typically used for entryways.

(ii) Easements for the installation, maintenance, repair and removal of landscaping and landscaping improvements, including signage, walls, fences, monuments and irrigation systems, over, across and under those portions of the Property shown and designated as "Landscape Easements" on the Plats (herein referred to as "Landscape Easements").

(iii) Easements for the installation, maintenance, repair and removal of sidewalks, over, across and under those portions of the Property shown and designated as "Sidewalk Easements" on the Plat (herein referred to as the "Sidewalk Easements").

(iv) Easements for the installation, maintenance, repair and removal of landscaping and landscaping improvements, including irrigation systems, over, across and under those portions of Lots required to be maintained by the Association pursuant to the provisions of Article XI hereof.

All of the above described areas and items shall herein be referred to as the "Maintenance Areas." The Association shall maintain the Maintenance Areas to a consistent standard of maintenance typical of a first class development.

Section 7. Utility, Drainage Easements and Sidewalk Easements. The Property shall be subject to all easements and rights of way for utilities and drainage shown on the Plats, including, but not limited to, those certain easements shown and designated on the Plats as:

- (a) "Utility Easement";
- (b) "Public Storm Drainage Easement";
- (c) "Sanitary Sewer Easement";
- (d) "Sanitary Sewer Right of Way"; and
- (e) "Sidewalk, Landscape or Entrance Easements."

Such easements are hereby reserved for the use of Declarant, its successors and assigns, and are hereby established for the use of the Association, its successors and assigns.

Additionally, Declarant hereby reserves, for the benefit of itself, its successors and assigns, and grants to the Association, its successors and assigns, a non exclusive easement and right-of way over, under and along (a) a five (5) foot strip of land adjacent to the front, side and rear boundary lines of all Lots within the Property and (b) all Landscape Easements, for the installation and maintenance of lines, conduits, pipes and other equipment necessary for furnishing electric power, as, telephone service, cable service, water, irrigation, sanitary sewer and drainage facilities, storm drainage and/or other utilities. Within the above described easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation of utilities, unless approved by the A.C.C. In no event shall improvements change the direction or flow of drainage channels or create erosion problems in the easements. Any improvements or obstructions placed within easements shall be subject to removal or relocation without replacement as may be necessary for emergency service or maintenance operations by the Association or appropriate governmental authority. Such approved improvements shall be done at the Lot Owner's risk of removal.

This reservation of easements shall not prohibit the construction of driveways, at locations approved by the Architectural Control Committee, over such easements.

Section 8. Declarant's Right to Assign Easements; Maintenance of Easement Areas. Declarant shall have the right to assign and convey, in whole or in part, the easements reserved by it hereunder. The areas burdened by the easements and rights of way reserved by Declarant on each Lot or other portion of the Property pursuant hereto, including any Improvements in such areas, which are not to be maintained by the Association or a public authority or utility, shall be maintained continuously by each Owner of such Lot or other portion of the Property. Declarant and/or the Association may exercise the rights reserved in Article XI hereof for the purpose of enforcing the provisions of this Section 8.

Section 9. Easement Reserved for the Association and Declarant. Full rights of access, ingress and egress are hereby reserved by Declarant for itself and the Association at all times over and upon any Lot, Common Area or other portion of the Property for the exercise of the easement rights described in this Article XII and for the carrying out by Declarant or the Association of the rights, functions, duties and obligations of each hereunder; provided, that any such entry by Declarant or the Association upon any Lot or portion of the Property shall be made with the minimum inconvenience to the Owner of such property as is reasonably practical, and any damage caused as a result of the gross negligence of Declarant, the Association or their employees or agents shall be repaired by Declarant or the Association, as the case may be, at the expense of Declarant or the Association, as the case may be. This shall not apply to damages to

property or improvements located on or over established easements or rights-of-way that may be damaged, removed or relocated as required for emergency or easement maintenance. The Lot Owner shall be responsible for the repair/replacement of improvements and for identifying and/or locating any underground improvements within easement or right-of-way areas upon request.

Section 10. Additional Easements. Declarant shall have the right to grant over, under, across and upon any portion of the Property owned by Declarant, and the Board shall have the authority, in its sole discretion, to grant over, under, across and upon the Common Areas, such easements, rights of way, licenses and other rights in accordance with or to supplement the provisions of this Declaration or as may otherwise be desirable for the development of the Project, by the execution, without further authorization, of such grants of easement or other instruments as may from time to time be necessary or desirable. After such time as the members of the Board are no longer appointed by Declarant, the Board shall cooperate with Declarant and execute such grants of easements over the Common Areas as may be desirable to Declarant for the development of the Project and the preservation and enhancement of Declarant's interest therein.

Section 11. Community Systems Easements. Declarant reserves for itself, its successors and assignees, a perpetual right and easement to operate within Heydon Hall such Community Systems as Declarant, in its discretion, deems appropriate to service the buildings and the structures within any Lot or other portion of Heydon Hall. Such rights shall include, without limitation, Declarant's right to select and contract with companies licensed to provide telecommunications, cable television, and other Community Systems services in the region, and to charge individual users a reasonable fee not to exceed the maximum allowable charge for such service, as from time to time is defined by the laws, rules, and regulations of the relevant government authority, if applicable.

Section 12. No Merger of Easements. The easements hereby established shall not be terminated by merger or otherwise, except upon execution and recordation of an instrument specifically terminating any such easement.

Section 13. Shared Driveway Easements. Declarant hereby reserves for the benefit of itself, its successors and assigns, and grants to the Owners of Lots accessed by Shared Driveways, their successors and assigns, non-exclusive perpetual easements over, across and under those portions of the Property shown and designated as "Shared Driveway Easements" on the plats for the installation, maintenance, repair of driveways to provide all means of access to Lots on which the Shared Driveway is located or immediately adjacent thereto. The property lying outside the actual location of the paved portion of the driveway within the Shared Driveway Easements shall also be maintained by the Owners of Lots accessed by the Shared Driveways.

ARTICLE XIII

EMINENT DOMAIN (CONDEMNATION)

In the event of a taking of all or any portion of a Lot or all any portion of the Common Area by eminent domain, or by conveyance in lieu thereof, the awards paid on account thereof shall be applied in accordance with Section 47F-1-107 of the Act.

ARTICLE XIV
TERMINATION OF PLANNED COMMUNITY

Heydon Hall, a planned community under the Act, may be terminated only in strict compliance with Section 47F-2-118 of the Act.

ARTICLE XV
AMENDMENT

This Declaration may be amended only in strict compliance with the Act, including, without limitation, Section 47F-2-117 of the Act, except that no Amendment altering or impairing Special Declarant Rights may be made without the written consent of the Declarant.

ARTICLE XVI
GENERAL PROVISIONS

Section 1. Enforcement. The Declarant, the Association or any Owner, shall have the right to enforce, by any proceeding at law or in equity against any person or persons violating or attempting to violate any restriction, condition, covenant, reservation, lien and charge now or hereafter imposed by the provisions of this Declaration, either to restrain or to enjoin violation or to recover damages, and against the land to enforce any lien created by this Declaration. Failure or forbearance by the Declarant, the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Conflict with the Act: Severability. Should any of the terms, conditions, provisions, paragraphs, or clauses of this Declaration conflict with any provisions of the Act, the provisions of the Act shall control unless the Act permits the Declaration to override the Act, in which event the Declaration shall control. The invalidity of any covenant, restriction, condition, limitation, provision, paragraph or clause of this Declaration, or any part of the same, or the application thereof to any person or circumstance, shall not impair or affect in any manner the validity, enforceability or affect of the rest of this Declaration, or the application of any such covenant, restriction, condition, limitation, provision, paragraph or clause to any other person or circumstance.

Section 3. Amendment. Subject to the provisions of Article XVI hereof, the covenants and restrictions of this Declaration shall run and bind the land, for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless terminated or altered by a vote of seventy-five (75%) percent of a vote of the Owners after the expiration of said twenty-five (25) year period. This Declaration may be amended during the first twenty-five year period by an instrument signed by the Owners of not less than eighty (80%) percent of the Lots, and thereafter by an instrument signed by the Owners of not less than seventy-five

(75%) percent of the Lots; provided, however, that Declarant's rights hereunder may not be amended or altered without Declarant's prior written consent. Any amendment must be properly recorded and shall take effect only upon recording. For the purpose of this section, additions to existing property as provided in Article II, Section 2 hereof shall not constitute an "amendment".

Section 4. Interpretation of Declaration. Whenever appropriate, singular may be read as plural, plural may be read as singular, and the masculine gender may be read as the feminine or neuter gender. Compound words beginning with the prefix "here" shall refer to this entire Declaration and not merely the part in which they appear.

Section 5. Captions. The Captions herein are only for convenience and reference and do not define, limit or describe the scope of this Declaration, or the intent of any provision.

Section 6. Law Controlling. This Declaration shall be construed and controlled by and under the laws of the State of North Carolina.

Section 7. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, by ordinary mail, post paid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 8. Conflicts. In the case of any conflict between this Declaration and either the Articles of Incorporation or the By Laws of the Association, the Declaration shall control.

Section 9. Condemnation. Subject to the provisions of Article XIII hereof, in the event any Common Area or any portion thereof is made the subject matter of any condemnation or eminent domain proceedings or other sought to be acquired by a condemning authority, the proceeds of any award or settlement shall be distributed to the Association for the common benefit of the Owners and their mortgagees, as their interests appear.

Section 10. Disclaimer. Notwithstanding anything contained herein or in the Articles of Incorporation, By Laws, Rules or Regulations or any other document governing or binding the Association (collectively the "Association Documents"), the Association and the Declarant shall not be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Member, occupant or user of any portion of the Property, including, without limitation, Owners and their respective families, guests, invitees, agents, servants, contractors or subcontractors or for any property of any such persons. It is the express intent of the Association Documents that the various provisions thereof that are enforceable by the Association and govern or regulate the uses of the Property have been written, and are to be interpreted and enforced, for the sole purpose of maintaining the enjoyment of the Property. The Association and the Declarant are not empowered, and have not been created, to act as an entity which enforces or ensures any other individual's or entity's compliance with the laws of the United States, State of North Carolina or any other jurisdiction or the prevention of criminal, tortious or like regulated activities. Every Owner, by taking title to any part of the Property, covenants and agrees to hold harmless and to indemnify the Association and the Declarant, and their respective directors, trustees, officers, agents, parties and affiliates from and against all claims of any kind whatsoever by an invitee, licensee, family member, employee or other representative or agent of that Member for any loss or damage arising in connection with the use, ownership or occupancy of any portion of the Property.

Section 11. Notices and Disclaimers as to Community Systems. Any Community System and its providers, managers and operators may be subject to federal, state or municipal regulations, laws and ordinances. Such regulations, laws and ordinances may have a significant impact on certain aspects of the system including, but not limited to, the fees charged, the method of delivery, the rights of the system users, as well as the rights of the system providers or operators. These regulations and their impacts are beyond the Declarant's and Association's control.

In recognition of the fact that interruptions in cable television and other Community Systems services will occur from time to time, neither Declarant nor its successors or assigns shall in any manner be liable for, and no Community System user shall be entitled to a refund, rebate, discount or offset in applicable fees for, any interruption in Community Systems services, regardless of whether or not such interruption is caused by reasons within the service provider's control.

Each Owner acknowledges and agrees that the Association, by virtue of contractual relationships with Community Systems providers, may gain access to information relating to individual use of the Community Systems, including account and content information. In recognition of this fact, each Owner waives any privacy rights he or she may have in such information and any claims against the Association, the Board and Declarant relating to the acquisition of such information. Further, each Owner acknowledges and agrees that the acquisition of such information by the Association shall not create any duty on the part of the Association or Declarant to any Person to act in any manner with respect to such information.

Notwithstanding the above or any other provisions in this Declaration, there is no guarantee or representation that any particular Community System will be made available.

Section 12. Construction Activities. All Owners, occupants, and users of Lots are hereby placed on notice that Declarant, Approved Builder, and/or their agents, contractors, subcontractors, licensees, and other designees, successors, or assigns, may, from time to time, conduct blasting, excavation, construction, and other activities within Heydon Hall. By the acceptance of a deed or other conveyance or mortgage, leasehold, license, or other interest, and by using any portion of a Lot or Heydon Hall generally, the Owners and all occupants and users of Lots acknowledge, stipulate, and agree (a) such activities shall not be deemed nuisances, or noxious or offensive activities, under any applicable covenants or at law generally; (b) not to enter upon, or allow their children or other Persons under their control or direction to enter upon (regardless of whether such entry is a trespass or otherwise) any property within or in proximity to the Lot where such activities are being conducted (even if not being actively conducted at the time of entry, such as at night or otherwise during non-working hours); (c) that Declarant, Approved Builder, and all of their agents, contractors, subcontractors, licensees, and other designees, successors, and assigns, shall not be liable but, rather, shall be held harmless for any and all losses, damages (compensatory, consequential, punitive, or otherwise), injuries, or deaths arising from or relating to the aforesaid activities; (d) that any purchase or use of any portion of a Lot has been and will be made with full knowledge of the foregoing; and (e) this acknowledgment and agreement is a material inducement to Declarant and Approved Builder to sell, convey, lease, and/or allow the use of Lots within Heydon Hall.

Section 13. No Liability for Third Party Acts. Owners and occupants of Lots, and their respective guests and invitees, are responsible for their own personal safety and for their property in Heydon Hall. The Association may, but is not obligated to, maintain or support certain activities within Heydon Hall which promote or enhance safety or security within Heydon Hall. However, the Association and Declarant shall

not in any way be considered insurers or guarantors of safety or security within Heydon Hall, nor shall they be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

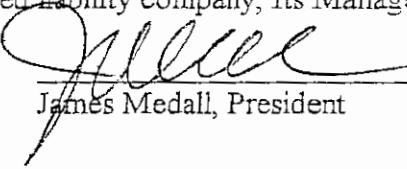
No representation or warranty is made that any systems or measures, including fire protection, burglar alarm, or other security monitoring systems, or any mechanism or system for limiting access to Heydon Hall, cannot be compromised or circumvented, nor that any such systems or measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing its tenants and all occupants of its Lot that the Association, the Board and its committees and Declarant are not insurers or guarantors of security or safety and that each Person within Heydon Hall assumes all risks of personal injury and loss or damage to property, including Lots and the contents of Lots, resulting from acts of third parties.

IN WITNESS WHEREOF, Declarant have caused this instrument to be executed as of this 27th day of February, 2003.

HEYDON HALL, LLC (formerly known as Ardsley Park, LLC),
a North Carolina limited liability company

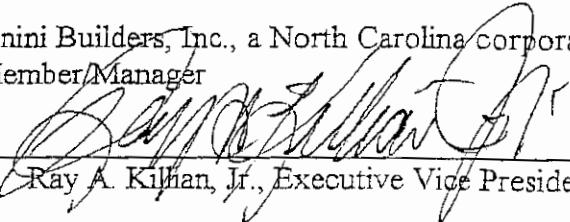
By: Rhein Smithfield, LLC, a North Carolina limited liability company, Its Member/Manager

By: Rhein Interests of Charlotte, LLC, a North Carolina limited liability company, Its Manager

By: 
James Medall, President

By: Simonini Smithfield, LLC, a North Carolina limited liability company, Its Member/Manager

By: Simonini Builders, Inc., a North Carolina corporation, Its Member/Manager

By: 
Ray A. Kilian, Jr., Executive Vice President

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, the undersigned Notary Public of the State and County aforesaid, certify that James Medall personally came before me this day and acknowledged that he is President of Rhein Interests of Charlotte, LLC, a North Carolina limited liability company, itself the Manager of Rhein Smithfield, LLC, a North Carolina limited liability company, itself the Member/Manager of HEYDON HALL, LLC (formerly Ardsley Park, LLC) a North Carolina limited liability company, and that he, as President, being authorized to do so, executed the foregoing on behalf of Rhein Interests of Charlotte, LLC, a North Carolina limited liability company, itself the Manager of Rhein Smithfield, LLC, a North Carolina limited liability company, itself the Member/Manager of HEYDON HALL, LLC, a North Carolina limited liability company.

Witness my hand and official seal or stamp, this the 7TH day of February, 2003.

Terri S. Carbon
Notary Public

My Commission Expires: 6/28/2006

[NOTARIAL SEAL]

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, the undersigned Notary Public of the State and County aforesaid, certify that Ray A. Killian, Jr. personally came before me this day and acknowledged that he is Executive Vice President of Simonini Builders, Inc., a North Carolina corporation, Member/Manager of Simonini Smithfield, LLC, a North Carolina limited liability company, itself the Member/Manager of HEYDON HALL, LLC (formerly Ardsley Park, LLC), a North Carolina limited liability company, and that he, as Executive Vice President, being authorized to do so, executed the foregoing on behalf of Simonini Builders, Inc., as Member/Manager of Simonini Smithfield, LLC, a North Carolina limited liability company, itself the Member/Manager of HEYDON HALL, LLC, a North Carolina limited liability company.

Witness my hand and official seal or stamp, this the 7TH day of FEBRUARY, 2003.

Terri S. Carbon
Notary Public

My Commission Expires: 6/28/2006

[NOTARIAL SEAL]

EXHIBIT A

Being all the property shown on record plats of Heydon Hall recorded in Map Book 38 at Page 699, Map Book 38 at page 701 and Map Book 38 at Page 713 in the Mecklenburg Public Registry.

EXHIBIT B

Additional Property

Lying and being in the City of Charlotte, Mecklenburg County, North Carolina, and more particularly described as follows:

Tract I: BEGINNING at a rebar set marking the common rear corner of Lots 16 and 17 of Seven Eagles Section Two Subdivision as shown on a map thereof recorded in Map Book 21 at Page 616 in the Mecklenburg Public Registry; running thence with the easterly property line of Lot 16 and a portion of Lot 15 as shown on the aforesaid map and the easterly property line of Lot 14 and a portion of Lot 15 of Seven Eagles Section Two Subdivision as shown on a map thereof recorded in Map Book 20 at Page 379 (which map was revised in Map Book 21 at Page 615 in said Registry to combine Lot 14 and a portion of Lot 15 into a revised Lot 14), two (2) calls and distances as follows: (1) N 38-36-57 E 207.12 feet to a concrete monument found (passing a bent rebar found on line at 25.06 feet); and (2) N 38-38-30 E 210.40 feet to a point located in the centerline of a creek (passing a rebar found and a concrete monument found on line at 97.96 feet and 190.22 feet respectively), said point being located S 38-32-38 W 174.78 feet from a 1" bar found marking the easternmost corner of the aforesaid Lot 14 and the northernmost corner of the property conveyed to Patricia Morrison Harris and Gary W. Harris by deed recorded in Book 8402 at Page 911 in the Mecklenburg County Public Registry, said point located in the centerline of the creek also being located in the southerly property line of the aforesaid property of Patricia Morrison Harris and Gary W. Harris; thence with the centerline of the creek and the southerly property line of the Patricia Morrison Harris and Gary W. Harris property as described in the aforesaid deed twenty (20) calls and distances as follows: (1) S 32-53-17 E 42.48 feet to a point; (2) S 62-28-29 E 66.58 feet to a point; (3) S 18-44-15 E 25.25 feet to a point; (4) S 01-07-53 W 42.47 feet to a point; (5) S 30-46-29 E 64.13 feet to a point; (6) S 54-27-54 E 51.88 feet to a point; (7) S 65-43-29 E 103.31 feet to a point; (8) S 30-31-13 E 56.76 feet to a point; (9) S 46-49-00 E 154.57 feet to a point; (10) S 36-56-47 E 71.48 feet to a point; (11) S 54-31-39 E 53.28 feet to a point; (12) S 19-05-31 E 40.28 feet to a point; (13) S 29-31-06 E 37.48 feet to a point; (14) S 20-31-09 E 170.87 feet to a point; (15) S 46-14-46 W 27.98 feet to a point; (16) S 16-14-05 W 42.92 feet to a point; (17) S 31-21-30 E 23.73 feet to a point; (18) S 09-27-58 E 79.35 feet to a point; (19) S 04-04-32 E 96.86 feet to a point; and (20) S 00-26-15 E 43.22 feet to a point in the centerline of McMullen Creek; thence with the centerline of McMullen Creek eleven (11) calls and distances as follows: (1) S 20-31-06 W 142.90 feet to a point; (2) S 06-13-13-E 136.95 feet to a point; (3) S 19-52-12 E 220.79 feet to a point; (4) S 01-38-00 W 104.87 feet to a point; (5) S 14-41-20 W 115.00 feet to a point; (6) S 29-56-20 W 195.00 feet to a point; (7) S 66-26-20 W 90.00 feet to a point; (8) S 51-26-20 W 160.00 feet to a point; (9) S 30-26-20 W 95.00 feet to a point; (10) S 19-56-20 W 328.00 feet to a point; and (11) S 16-25-15 W 104.99 feet to a point marking the northeasterly corner of that certain 14.34 acre parcel of land shown on Final Plat of Greenway Dedication (Cameron Wood VII) as shown on a map thereof recorded in Map Book 22 at Page 930 in the Mecklenburg Public Registry, said parcel of land being also described in deed recorded in Book 6431 at Page 674 in the aforesaid Public Registry; thence with the northerly property line of said 14.34 acre parcel of land and a portion of the easterly property line of that certain area designated as "Common Area" as shown on map of Cameron Wood, Phase VII-B, Map 3 as recorded in Map Book 25 at Page 82 in the aforesaid Public Registry, three (3) calls and distances as follows: (1) N 51-52-47 W 275.48 feet to a rebar found (passing a rebar found on line at 33.51 feet); (2) N 72-58-37 W 445.12 feet to a stone found; and (3) N 61-38-07 W 502.38 feet to a rebar set located in the easterly property line of the aforesaid Common Area; thence continuing with the easterly property line of said Common Area and the easterly property line of that certain area designated as "Common Area" as shown on map of Cameron Wood, Phase VII-B, Map 1 as recorded in Map Book 24 at Page 445 in the aforesaid

Public Registry N 25-22-22 W 749.91 feet to a concrete monument found located in the easterly property line of Lot 55 of Cameron Wood, Phase VII-C, Map 2 Subdivision as recorded in Book 26 at Page 238 in the aforesaid Public Registry; thence with the easterly property lines of Lots 50 through 55 (inclusive) of Cameron Wood, Phase VII-C, Map 2 Subdivision two (2) calls and distances as follows: (1) N 61-37-21 E 195.84 feet to a rebar set; and (2) N 61-37-46 E 346.42 feet to a concrete monument found marking a corner of the property conveyed to James J. Harris and wife, Angelia M. Harris by deed recorded in Book 3932 at Page 626 in the Mecklenburg Public Registry; thence with the easterly property line of the James J. Harris and wife, Angelia M. Harris property (now or formerly) N 38-38-19 E 324.02 feet to a point located within the right of way of Smithfield Church Road (passing a rebar found, a concrete monument found, and another rebar found, all on line at 146.99 feet, 152.29 feet and 264.45 feet respectively) to a point; thence S 72-58-09 E 12.75 feet to a point; thence S 67-16-09 E 80.55 feet to a point; thence S 72-58-09 E 165.87 feet to a point; thence in a northeasterly direction with the arc of a circular to the left, having a radius of 135.00 feet, an arc distance of 41.25 feet (having a chord bearing and distance of S 81-43-21 E 41.09 feet) to a point located in the westerly property line of the Ruth Reid Stewart property line (now or formerly); thence with the westerly property line of the Ruth Reid Stewart property (now or formerly) S 38-35-13 W 25.86 feet to a nail set within the right of way of Smithfield Church Road; thence within said right of way and with the southerly property line of the Ruth Reid Stewart property (now or formerly) S 73-03-04 E 414.78 feet to a rebar set marking the southeasterly corner of the Ruth Reid Stewart property (now or formerly); thence with the easterly property line of the Ruth Reid Stewart property (now or formerly) N 17-03-40 E 464.57 feet to a rebar found marking the northeasterly corner of the Ruth Reid Stewart property (now or formerly); thence with the northerly property line of the Ruth Reid Stewart property (now or formerly) and the northerly property line of the property conveyed to Wayne Edward Edge and wife, Deborah Belk Edge as described in deed recorded in Book 6590 at Page 513 in the Mecklenburg Public Registry N 72-57-12 W 331.10 to a rebar found (passing a concrete monument found on line at 231.25 feet marking a common corner of the Ruth Reid Stewart property (now or formerly) and the Wayne Edward Edge and wife, Deborah Belk Edge property), said rebar found marking the northwesterly corner of the property conveyed to Wayne Edward Edge and wife, Deborah Belk Edge by the aforesaid deed; thence a new line with the northeasterly property line of that certain 0.271 acre parcel of land deeded or to be deeded to Derick S. Close N 35-19-17 W 193.61 feet to the point and place of Beginning, and being designated as Tract 1 (containing 56.508 acres) and Tract 4 (containing 0.135 acres), all as shown on Boundary Survey entitled "Smithfield Church Road Property" by Joseph E. Whaley, Jr., R.C.P.L.S., dated May 23, 2001, last revised October 3, 2001, reference to which survey is hereby made for a more particular description of the property.

Tract II:

- (a) All or any portion of the property conveyed to Ruth Reid Stewart by deed recorded in Book 2106 Page 252 in the Mecklenburg Public Registry or the property conveyed Wayne Edward Edge and Deborah Belk Edge by deeds recorded in Book 6473 Page 694 and in Book 6590 Page 513, aforesaid Public Registry.
- (b) All or any portion of the property conveyed to Patricia Morrison Harris and Gary W. Harris by deed recorded in Book 8402 at Page 911 in the Mecklenburg Public Registry.

Tract III: Any property located adjacent to the Tract I and Tract II property or within $\frac{1}{2}$ miles of the Tract I and Tract II property.

EXHIBIT C

Heated Square Footage Schedule

Park Lots - 2,500 square feet

Pavilion Lots - 2,500 square feet

Promenade Lots - 3,000 square feet

REF 72 2003

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| FILED FOR REGISTRATION | DOC # 212510 |
| DATE | 9-10-03 |
| BOOK | 16093 |
| STAMPS | REG FEE 20- |
| | JUDITH A. GIBSON REGISTER OF DEEDS MECKLENBURG COUNTY, NC |

COPY

lent

Drawn by and mail to:

Wallace Pittman Poe & Webb, PLLC
2101 Rexford Road, Suite 100E
Charlotte, NC 28211 (JGW/rd)

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

SUPPLEMENTARY DECLARATION OF
COVENANTS, CONDITIONS AND
RESTRICTIONS FOR HEYDON HALL
(MAP 4)

THIS SUPPLEMENTAL DECLARATION, made on this 9th day of Sept., 2003
by **HEYDON HALL, LLC**, a North Carolina limited liability company, hereinafter referred to as
"Declarant";

W I T N E S S E T H:

WHEREAS, Declarant has heretofore imposed a Declaration of Covenants, Conditions and Restrictions for Heydon Hall upon a portion of the residential development known as Heydon Hall, which Declaration is recorded in Book 14813 at page 780 in the Mecklenburg Public Registry (hereinafter "Declaration");

WHEREAS, the aforesaid Declaration of Covenants, Conditions and Restrictions provides therein in Article II, Section 2 that "Declarant shall have the right. . .to bring within the coverage of this Declaration and the jurisdiction of the Association all or any portion of the property described on Exhibit B attached hereto. . ."

WHEREAS, the Declarant desires to incorporate the Heydon Hall, Map 4 property as same is shown on map thereof recorded in Map Book 39 at page 926 in the Mecklenburg Public Registry within the Properties subject to the Declaration;

NOW, THEREFORE, pursuant to the provisions of the aforesaid Declaration of Covenants, Conditions and Restrictions for Heydon Hall, Declarant does hereby annex the Heydon Hall, Map

4 property as shown on the aforesaid map to the property which is subject to the Declaration of Covenants, Conditions and Restrictions for Heydon Hall recorded in Book 14813 at page 780 in the Mecklenburg Public Registry to the end that the Heydon Hall, Map 4 property as aforesaid, shall be within the scheme of said Declaration and within the jurisdiction of the Association identified in said Declaration and to the further end that all present and future owners of all lots shown on map recorded in Map Book 39 at page 926 in the Mecklenburg Public Registry shall be subject to the terms and conditions of the aforesaid Declaration and shall have the rights and privileges therein set out.

IN WITNESS WHEREOF, HEYDON HALL, LLC has caused this instrument to be duly executed as of the day and year first above written.

HEYDON HALL, LLC (formerly Ardsley Park, LLC),
a North Carolina limited liability company

By: Rhein Smithfield, LLC, Its Manager

By: Rhein Interests of Charlotte, LLC, Its Manager

By: Julie
Its _____ President

By: Simonini Smithfield, LLC, Its Manager

By: Killian/Simonini, LLC, Its Manager

By:  Ray A. Killian, Jr., Manager

By: 
Alan C. Simonini, Manager

STATE OF NORTH CAROLINA, MECKLENBURG COUNTY

I, a Notary Public for the County and State aforesaid, certify that JAMES M. MEDALL personally came before me this day and acknowledged that he is the _____ President of Rhein Interests of Charlotte, LLC, the Manager of Rhein Smithfield, LLC, itself the manager HEYDON HALL, LLC (formerly Ardsley Park, LLC), a North Carolina limited liability company and that he, as _____ President, being authorized to do so, executed the foregoing on behalf of Rhein Interests of Charlotte, LLC as Manager of Rhein Smithfield, LLC, itself the manager of HEYDON HALL, LLC (formerly Ardsley Park, LLC). WITNESS my hand and official seal this 8th day of SEPTEMBER, 2003.

My Commission expires:
3/2/08

James M. Medall
Notary Public

[NOTARIAL SEAL]

STATE OF NORTH CAROLINA, MECKLENBURG COUNTY

I, a Notary Public for the County and State aforesaid, certify that Ray A. Killian Jr. and Alan C. Simonini personally came before me this day and acknowledged that they are the Managers of Killian/Simonini, LLC, the Manager of Simonini Smithfield, LLC, itself the Manager of HEYDON HALL, LLC (formerly Ardsley Park, LLC), a North Carolina limited liability company and that they, as Managers, being authorized to do so, executed the foregoing on behalf of Killian/Simonini, LLC, Manager of Simonini Smithfield, LLC, itself the Manager of HEYDON HALL, LLC (formerly Ardsley Park, LLC). WITNESS my hand and official seal this 9th day of SEPTEMBER, 2003.

My Commission expires:
6/28/2006

Jeri S. Carbon
Notary Public

[NOTARIAL SEAL]

| FILE COPY | |
|---|--------------|
| FILED FOR REGISTRATION | DOC. # |
| DATE 11-20-03 | TIME 10:52AM |
| BOOK 16458 | PAGE 978 |
| STAMPS | REG. FEE |
| JUDITH A. GIBSON REGISTER OF DEEDS MECKLENBURG COUNTY, NC | |

COPY
fw

Drawn by and mail to:
Wallace Pittman Poe & Webb, PLLC
2101 Rexford Road, Suite 100E
Charlotte, NC 28211 (JGW/rd)

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

SUPPLEMENTARY DECLARATION OF
 COVENANTS, CONDITIONS AND
 RESTRICTIONS FOR HEYDON HALL
 (MAP 6)

THIS SUPPLEMENTAL DECLARATION, made on this 19th day of Nov., 2003
 by **HEYDON HALL, LLC**, a North Carolina limited liability company, hereinafter referred to as
 "Declarant";

W I T N E S S E T H:

WHEREAS, Declarant has heretofore imposed a Declaration of Covenants, Conditions and Restrictions for Heydon Hall upon a portion of the residential development known as Heydon Hall, which Declaration is recorded in Book 14813 at page 780 in the Mecklenburg Public Registry (hereinafter "Declaration");

WHEREAS, the aforesaid Declaration of Covenants, Conditions and Restrictions provides therein in Article II, Section 2 that "Declarant shall have the right . . . to bring within the coverage of this Declaration and the jurisdiction of the Association all or any portion of the property described on Exhibit B attached hereto . . ."

WHEREAS, the Declarant desires to incorporate the Heydon Hall, Map 6 property as same is shown on map thereof recorded in Map Book 40 at page 397 in the Mecklenburg Public Registry within the Properties subject to the Declaration;

NOW, THEREFORE, pursuant to the provisions of the aforesaid Declaration of Covenants, Conditions and Restrictions for Heydon Hall, Declarant does hereby annex the Heydon Hall, Map

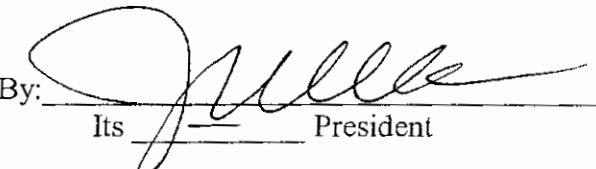
6 property as shown on the aforesaid map to the property which is subject to the Declaration of Covenants, Conditions and Restrictions for Heydon Hall recorded in Book 14813 at page 780 in the Mecklenburg Public Registry to the end that the Heydon Hall, Map 6 property as aforesaid, shall be within the scheme of said Declaration and within the jurisdiction of the Association identified in said Declaration and to the further end that all present and future owners of all lots shown on map recorded in Map Book 40 at page 397 in the Mecklenburg Public Registry shall be subject to the terms and conditions of the aforesaid Declaration and shall have the rights and privileges therein set out.

IN WITNESS WHEREOF, HEYDON HALL, LLC has caused this instrument to be duly executed as of the day and year first above written.

HEYDON HALL, LLC (formerly Ardsley Park, LLC),
a North Carolina limited liability company

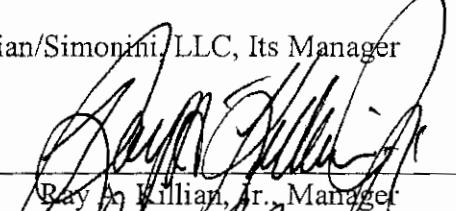
By: Rhein Smithfield, LLC, Its Manager

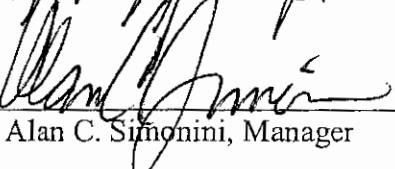
By: Rhein Interests of Charlotte, LLC, Its Manager

By: 
Its _____ President

By: Simonini Smithfield, LLC, Its Manager

By: Killian/Simonini, LLC, Its Manager

By: 
Ray A. Killian, Jr., Manager

By: 
Alan C. Simonini, Manager

STATE OF NORTH CAROLINA, MECKLENBURG COUNTY

I, a Notary Public for the County and State aforesaid, certify that James M. MEDALL personally came before me this day and acknowledged that he is the — President of Rhein Interests of Charlotte, LLC, the Manager of Rhein Smithfield, LLC, itself the manager HEYDON HALL, LLC (formerly Ardsley Park, LLC), a North Carolina limited liability company and that he, as — President, being authorized to do so, executed the foregoing on behalf of Rhein Interests of Charlotte, LLC as Manager of Rhein Smithfield, LLC, itself the manager of HEYDON HALL, LLC (formerly Ardsley Park, LLC). WITNESS my hand and official seal this 19th day of November, 2003.

My Commission expires:

1/16/04

Ruth Dromgoole

Notary Public

[NOTARIAL SEAL]



STATE OF NORTH CAROLINA, MECKLENBURG COUNTY

I, a Notary Public for the County and State aforesaid, certify that Ray A. Killian Jr. and Alan C. Simonini personally came before me this day and acknowledged that they are the Managers of Killian/Simonini, LLC, the Manager of Simonini Smithfield, LLC, itself the Manager of HEYDON HALL, LLC (formerly Ardsley Park, LLC), a North Carolina limited liability company and that they, as Managers, being authorized to do so, executed the foregoing on behalf of Killian/Simonini, LLC, Manager of Simonini Smithfield, LLC, itself the Manager of HEYDON HALL, LLC (formerly Ardsley Park, LLC). WITNESS my hand and official seal this 19th day of NOVEMBER, 2003.

My Commission expires:

6/28/2006

Terri S. Carbon

Notary Public

[NOTARIAL SEAL]