

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

TURTLE ROCK

This DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made July 25, 1996 by FIRST COLONY GROUP, LTD., a North Carolina corporation with its principal office in Mecklenburg County, North Carolina, and GS Investments, Inc., a North Carolina corporation with its principal office in Mecklenburg County, North Carolina (hereafter collectively referred to as "DECLARANT").

STATEMENT OF PURPOSE

DECLARANT is the owner of the real property comprising the real estate development known as "Turtle Rock" more particularly described on Exhibit A which is attached hereto and incorporated herein by reference, (hereafter called "the Property"). DECLARANT desires to impose upon the Property certain covenants, conditions and restrictions with regard to the use of the Property and with regard to use of certain segments of the Property.

DECLARATION

DECLARANT hereby declares that the Property, and any additional property subjected to this Declaration by Supplemental Declaration, shall be held, sold, used and conveyed subject to the following covenants, conditions, restrictions and easements, each and all of which shall run with the land comprising the Property, and each and all of which shall be binding upon, and inure to the benefit of, all parties having any right, title or interest in the Property or any part thereof, and their respective heirs, personal representatives, successors and assigns.

ARTICLE I: DEFINITIONS

The terms in this Declaration and the exhibits to this Declaration shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

1.1 Articles of Incorporation or Articles: The Articles of Incorporation of Turtle Rock Owners Association, Inc., as filed with the Secretary of State of the State of North Carolina.

1.2 Association: Turtle Rock Owners Association, Inc.

1.3 Base Assessment: Assessments levied on all Members pursuant to Article IX to fund Common Expenses for the general benefit of all property in Turtle Rock as more particularly described in Section 9.1.

1.4 Board: The Board of Directors of the Association.

1.5 Builder: Any Person which purchases one or more Lots for the purpose of constructing improvements for later sale to consumers or purchases one or more parcels of land within the Property for further subdivision, development and/or resale in the ordinary course of such Person's business.

1.6 By-Laws: The By-Laws of the Association, attached as Exhibit B and incorporated by reference, as they may be amended.

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JUDITH A GIBSON REG OF DEEDS MECK NC  
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DRAWN BY AND MAIL TO:  
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1.7 Class "B" Control Period: The period of time during which the Class "B" Member is entitled to appoint a majority of the members of the Board as provided in Section 3.3 of the By-Laws.

1.8 Common Area: Those areas of the Property designated as Common Area on maps recorded in the Mecklenburg County Registry or in this Declaration, and those areas, if any, for which the Association assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration or other applicable covenants, contract or agreement or by its own volition.

1.9 Common Expenses: The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to this Declaration, the By-Laws, and the Articles of Incorporation.

1.10 Damage: Damage to or destruction of all or any portion of the Property.

1.11 Declarant: First Colony Group, Ltd., GS Investments, Inc., and their successors, heirs and assigns; also, any person who takes title to the Property or any portion of the Property, or any interest therein, and who is designated as Declarant in a recorded instrument executed by Declarant. If Declarant or any of their successors, heirs or assigns, shall transfer their interest in the Property or assigns their rights under this Declaration, the successor shall be substituted for such party and shall be entitled to exercise the rights of Declarant under this declaration of the By-Laws.

1.12 Easement: Any easement reserved to Declarant or utility companies or shown on recorded maps or plats or described within this document.

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

1.14 Governing Documents: The this Declaration, the Articles of Incorporation, the Bylaws, any Rules promulgated under the Bylaws, and any amendments and supplements thereto, including any additional recorded covenants.

1.15 Lot: Any single-family residential lot which is a numbered plot of land to be used for single-family residential purposes shown upon any subdivision plat of the Property, or any portion of the Property, subject to this Declaration, and recorded in the Mecklenburg County Registry.

1.16 Member: A Person which is subject and entitled to membership in the Association pursuant to Section 3.2, and Declarant, as long as the Class "B" membership exists under Section 3.2.

1.17 Mortgage: A deed of trust, mortgage, deed to secure debt or any other form of security conveyance of real property.

1.18 Mortgagee: A beneficiary or holder of a Mortgage.

1.19 Mortgagor: Any Person who gives a Mortgage.

1.20 Owner: One or more Persons who hold the record title to any Lot, but excluding in all cases any party holding an interest merely as security for the performance of an obligation.

1.21 Person: A natural person, a corporation, a partnership, a trustee, or any other legal entity.

1.22 Property: The real property described on Exhibit A, together with such additional property as may be subjected to this Declaration in accordance with Section 14(e).

1.23 Recorded: Recorded in the Office of the Register of Deeds of Mecklenburg County, North Carolina.

1.24 Repair: Repair to or reconstruction of property to substantially the condition in which it existed prior to the Damage, allowing for changes or improvements necessitated by changes in the applicable building codes.

1.25 Special Assessment: Assessments levied in accordance with Section 9.5.

1.26 Specific Assessment: Assessments levied in accordance with Section 9.6.

1.27 Supplemental Declaration: An instrument filed in the Office of the Register of Deeds of Mecklenburg County, North Carolina, pursuant to Section 14(e) which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument.

## ARTICLE II: PROPERTY RIGHTS

2.1 Every Owner shall have a right and nonexclusive easement of use, access and enjoyment in and to the Common Area, subject to:

- (a) This Declaration and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The right of the Board to adopt rules regulating the use and enjoyment of the Common Area;
- (d) The right of the Association to dedicate or transfer all or any part of the Common Area pursuant to Section 4.7; and
- (e) The right of the Association to mortgage, pledge or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

Any Owner may extend such Owner's right of use and enjoyment to guests and invitees, subject to reasonable regulation by the Board.

If ingress or egress to any lot or residence thereupon is through any common area, any conveyance or encumbrance of such common area pursuant to Section 4.7 shall be made subject to the easement of the owner of said Lot for ingress and egress.

## ARTICLE III: MEMBERSHIP AND VOTING RIGHTS

3.1 Function of Association: The Association shall be the entity responsible for management, maintenance and control of the Common Area, and for enforcement of this Declaration and such reasonable rules regulating use of the Property as the Board may adopt. The Association shall also be responsible for administering and enforcing the architectural standards and controls for Turtle Rock set forth in this Declaration.

3.2 Membership: The Association shall have two classes of membership, Class A and Class B.

- (a) Class A. The Class A Members of the Association shall be the Owners.

(b) Class B. The sole Class B Member shall be Declarant. The Class B membership shall terminate and become converted to Class A membership upon the earlier of:

(i) conveyance of seventy-five percent (75%) of the Lots to homeowners; or

(ii) the expiration of five (5) years from the date of this declaration.

### 3.3 Voting.

(a) Class A. Class A Members shall be entitled to one vote per lot:

(b) Class B. The Class B Member shall be entitled to four (4) votes for each Lot owned by Declarant.

(c) Exercise of Voting Rights. A Member's voting rights may be exercised by the Member, if a natural person, or if not a natural person, by any duly authorized officer or director of a corporation, partner of a general partnership, limited partner of a limited partnership or manager of a limited liability company. No vote shall be exercised for any property which is exempt from assessment under Section 9.10.

## ARTICLE IV: RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

4.1 Common Area. The Association shall manage and control the Common Area and all improvements thereon, and shall keep it in good, clean and attractive condition, pursuant to the Governing Documents.

4.2 Personal Property and Real Property for Common Use. The Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal property and real property. Declarant or its common may convey to the Association improved or unimproved real estate located on the Property, personal property and leasehold and other property interests. Such property shall be accepted by the Association and thereafter maintained by the Association at its expense for the benefit of the Owners and occupants of the Property, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association.

4.3 Enforcement. The Association may impose sanctions for violations of the Governing Documents, in accordance with procedures set forth in the By-Laws, including reasonable monetary fines. The Association, through the Board and in accordance with Section 3.19 of the By-Laws, may exercise self-help to cure violations, and may suspend any services it provides to any Member (or to such Member's property) who is more than 30 days delinquent in paying any charge due to the Association. All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the provisions of the Governing Documents, if the Association is awarded any damages or relief, it shall be entitled to recover from the opposing party all reasonable costs and attorney's fees incurred in such action. Any judgment awarding the Association monetary relief shall bear interest at the rate of sixteen percent (16%) or the maximum rate allowed on contracts by law, whichever is greater.

4.4 Board Authority. Except as otherwise specifically provided in the Governing Documents or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

4.5 Governmental Interests. As long as Declarant owns any portion of the Property, Declarant may designate sites within the Property for fire, police, water, and other utility facilities, parks, and other public or quasi-public facilities. If the sites

include the Common Area the Association shall take any action ordered by Declarant and necessary to permit such use, including conveyance of the site. The sites may include property not owned by Declarant if the owner of such site consents.

4.6 Indemnification. The Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any suit or other proceeding (including settlement if approved by the then Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions as to which the liability of officers and directors is limited under the Articles of Incorporation and North Carolina law. This right to indemnification shall not be exclusive of any other rights such person may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance if reasonably available.

4.7 Dedication of Common Area. The Association may not dedicate, mortgage or convey portions of the Common Area to the State of North Carolina, to Mecklenburg County, to any other local, state, or federal governmental entity and to other entities without the approval of seventy-five percent (75%) of the Members (excluding the Declarant). Any dedication of the Common Area during the Class B Control Period shall require the prior approval of the HUD/VA.

4.8 Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to make the Property safer than it otherwise might be. Neither the Association, the Declarant, nor any successor Declarant shall be considered insurers or guarantors of security within the Property, nor shall any of them be held liable for any loss or damage by reason of failure to provide security or of ineffectiveness of security measures undertaken. No representation or warranty is made that any fire protection system, burglar alarm system or other security measures cannot be compromised or circumvented, nor that any such security measures undertaken will in all cases prevent loss or provide the service for which it is intended. Each Owner understands and covenants to inform its tenants that the Association, its Board and committees, the Declarant, and any successor Declarant are not insurers and that each Person using the Property assumes all risks of personal injury and loss or damage to property resulting from acts of third parties. Nothing in this paragraph, however, shall be construed as an intent to waive or as a waiver of any rights, causes of action or demands of any kind on behalf of any Owner against any firm, person or corporation whose acts or omissions directly or indirectly result in bodily injury, personal injury or damage to property.

#### ARTICLE V: MAINTENANCE

5.1 Association's Responsibility. The Association shall maintain and keep in good repair the following:

(a) all landscaping and other flora, lakes and ponds, structures and improvements situated upon the Common Area;

(b) all primary entry features and signage for the Turtle Rock community (but not those specific to a particular parcel or area within Turtle Rock) to the extent that such rights-of-way lie within or adjacent to the Property;

(c) such additional property as may be included as Common Area by this Declaration, any Supplemental Declaration, or any contract or agreement for maintenance thereof entered into by the Association;

Except as provided above, the responsibilities of the Association under Article V shall not be reduced by any means

except with the prior written approval of Declarant, as long as Declarant owns any portion of the Property.

The Association may assume maintenance responsibility for the common property of any Member or for any other property within Turtle Rock, by agreement with either the Member or owner. All costs of maintenance pursuant to this paragraph shall be assessed as a Specific Assessment against the benefitted Member or property.

Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement necessary under this Article V shall be a Common Expense to be allocated among all Members as part of the Base Assessment, without prejudice to the right of the Association to seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, any Supplemental Declaration, other recorded covenants, or agreements with the owner(s) of such property.

**5.2 Individual Responsibility.** Each Owner shall maintain that Owner's Lot all structures, parking areas, and other improvements on that Property in a manner consistent with the standards accepted by the Association and all applicable covenants.

**5.3 Standard of Performance.** Unless specifically provided herein or in other instruments, maintenance shall include necessary repair and replacement. All maintenance shall be performed consistent with the standards adopted by the Association, the Turtle Rock Architectural Control Committee and the covenants. The Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

#### ARTICLE VI: INSURANCE AND CASUALTY LOSSES

##### 6.1 Association Insurance.

(a) The Association shall maintain in full force and effect fidelity insurance coverage protecting against dishonest acts by Association officers, directors, trustees, and employees and all others who are responsible for handling funds of the Association in the amount of one year's operating budget, plus projected reserve balances during the budget year. If professional management is obtained by the Association and it has this coverage and it handles the funds, then this requirement will be satisfied.

(b) If the Board of Directors so elects, officers and directors liability insurance covering the officers and directors of the Association may be obtained in such amount as the Board of Directors shall determine.

(c) The Association shall have the right to purchase and maintain comprehensive general liability insurance coverage and such other insurance coverage as the Board of Directors may deem necessary and appropriate.

(d) Premiums upon insurance policies purchased by the Association shall be paid by the Association as common expenses to be assessed and collected from all of the Owners.

(e) All insurance policies purchased by the Association shall be for the benefit of the Association.

#### ARTICLE VII: NO PARTITION

Except as permitted in this Declaration, there shall be no judicial partition of the Common Area. This Article shall not prohibit the Board from acquiring and disposing of real property which may or may not be subject to this Declaration, or tangible personal property.

ARTICLE VIII: CONDEMNATION OF COMMON AREA

[Reserved]

ARTICLE IX: ASSESSMENTS

9.1 Creation of Assessments. The Association is hereby authorized to levy assessments for all expenses incurred or expected to be incurred by the Association in performing its duties and exercising its rights under the Governing Documents, including but not limited to:

(a) expenses of maintaining, repairing, replacing, operating and insuring Common Area and other areas under the Association's responsibility;

(b) the cost of insurance and fidelity bond coverage obtained pursuant to Article VI;

(c) expenses of monitoring and enforcing compliance with the provisions of this the Governing Documents;

(d) expenses arising out of the Association's indemnification obligations under Section 4.6;

(e) expenses arising out of any measures undertaken to enhance the safety of the Property pursuant to Section 4.8;

(f) expenses arising out of its exercise of architectural control under Article X;

(g) all reasonable expenses of managing the Association (provided, during the Class B Control Period the directors appointed by the Class B Member shall receive no compensation for their management of the Association);

(h) legal, accounting and other professional fees; and

(i) such other expenses as the Board deems necessary or desirable to keep the Property in good, clean and attractive condition.

There shall be three types of assessments: (a) Base Assessment to fund Common Expenses based on the annual budget prepared in accordance with Section 9.3; (b) Special Assessments as described in Section 9.5; and (c) Specific Assessments as described in Section 9.6. Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of the Property, is deemed to covenant and agree to pay these assessments.

All assessments, together with interest (at a rate determined by the Board from time to time not to exceed 16%) from the date of delinquency, late charges, costs, and reasonable attorney's fees (collectively, "Fees"), shall be a charge and continuing lien upon the Property of the defaulting owner each Lot until paid, as more particularly provided in Section 9.7. Such assessments and Fees shall be the personal obligation of the Person who was the Owner of the Lot at the time the assessment arose. Upon transfer of title to the Lot, the grantee shall be jointly and severally liable for all any assessments and Fees due at the time of the conveyance. However, no first Mortgagee or other Person who obtains title to the Lot upon exercise of the remedies provided in such Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title, the lien of any assessment shall be subordinate to any first mortgage.

The Association shall, upon request, furnish to any Member or Owner a certificate signed by the Association stating whether such assessment has been paid, which shall be conclusive evidence of payment. The Association may require advance payment of a reasonable processing fee for the issuance of such certificate.

All Base Assessments for each calendar year shall be due on January 1 of that year (except during the first year that Base Assessments are due, in which event the Base Assessments shall be due, on a pro rated basis, on the first day of the month subsequent to the Person taking title to the property in the subdivision), but shall be payable quarterly, with one-fourth of the annual Base Assessment payable the first day of each calendar quarter. Special Assessments and Specific Assessments shall be due and payable as determined by Declarant or by the Association. If any person is, or becomes, delinquent on any assessment, the Board may accelerate all assessments due for that calendar year and may require that all assessments be paid in full immediately.

Each Member shall be jointly and severally obligated with the Owners of Lots subject to such Member's jurisdiction, for all assessments levied against such Lots, and shall be responsible for paying to the Association, the total amount of all assessments against the Lots under such Member's jurisdiction. Such amount shall have first priority for payment each Member's income. The above shall not relieve any Owner of liability for its pro rata share of any amounts not paid by the Member.

No Owner may exempt himself from liability for assessments by any means. The obligation to pay assessments is a separate covenant on the part of each Member and Owner. No diminution of assessments shall be allowed for any alleged failure of the Association or Board to take some action required of it, or for inconvenience arising from the making of repairs or from any other action.

The Association is specifically authorized to enter into subsidy or "in kind" contracts with any entity for payment of Common Expenses.

9.2 Declarant's Obligation for Assessments. During the Class B Control Period, Declarant may elect either to pay regular assessments on that portion of the Property which it owns or to pay the difference between the amount of assessments levied on all other assessed property and actual expenditures by the Association during the fiscal year. Unless Declarant notifies the Board in writing 60 days before the beginning of each fiscal year, Declarant shall continue paying on the same basis as during the preceding year. Declarant's obligations hereunder may be satisfied in the form of cash or by "in kind" contributions of services or materials. After termination of the Class B Control Period, Declarant shall be obligated for assessments on that portion of the Property which it owns in the same manner as any other Owner.

9.3 Computation of Base Assessments. At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses for the coming year, including a capital contribution to establish a reserve fund in accordance with a budget separately prepared as provided in Section 9.4. Such budget may, in the Board's discretion, take into account any income anticipated from sources other than Base Assessments.

The total dollar amount to be raised through the levy of Base Assessments shall be assessed against each Lot pro rata.

The Board shall establish a cutoff date for determining what property is part of the Property for purposes of allocating the assessment.

The Board shall send a copy of the budget and notice of the amount of the Base Assessments due for the following year to each Member at least 30 days prior to the beginning of the fiscal year for which it is to be effective. The budget shall become effective unless disapproved by at least 75% of the total Class A votes and 75% of the Class A Members, and by the Class B Member, if existing. The Board need not call a meeting to consider the budget except on petition of the Members as provided in the Bylaws, presented to the Board within 10 days after notice.



All Base Assessments for each calendar year shall be due on January 1 of that year (except during the first year that Base Assessments are due, in which event the Base Assessments shall be due, on a pro rated basis, on the first day of the month subsequent to the Person taking title to the property in the subdivision), but shall be payable quarterly, with one-fourth of the annual Base Assessment payable the first day of each calendar quarter. Special Assessments and Specific Assessments shall be due and payable as determined by Declarant or by the Association. If any person is, or becomes, delinquent on any assessment, the Board may accelerate all assessments due for that calendar year and may require that all assessments be paid in full immediately.

Each Member shall be jointly and severally obligated with the Owners of Lots subject to such Member's jurisdiction, for all assessments levied against such Lots, and shall be responsible for paying to the Association, the total amount of all assessments against the Lots under such Member's jurisdiction. Such amount shall have first priority for payment each Member's income. The above shall not relieve any Owner of liability for its pro rata share of any amounts not paid by the Member.

No Owner may exempt himself from liability for assessments by any means. The obligation to pay assessments is a separate covenant on the part of each Member and Owner. No diminution of assessments shall be allowed for any alleged failure of the Association or Board to take some action required of it, or for inconvenience arising from the making of repairs or from any other action.

The Association is specifically authorized to enter into subsidy or "in kind" contracts with any entity for payment of Common Expenses.

9.2 Declarant's Obligation for Assessments. During the Class B Control Period, Declarant may elect either to pay regular assessments on that portion of the Property which it owns or to pay the difference between the amount of assessments levied on all other assessed property and actual expenditures by the Association during the fiscal year. Unless Declarant notifies the Board in writing 60 days before the beginning of each fiscal year, Declarant shall continue paying on the same basis as during the preceding year. Declarant's obligations hereunder may be satisfied in the form of cash or by "in kind" contributions of services or materials. After termination of the Class B Control Period, Declarant shall be obligated for assessments on that portion of the Property which it owns in the same manner as any other Owner.

9.3 Computation of Base Assessments. At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses for the coming year, including a capital contribution to establish a reserve fund in accordance with a budget separately prepared as provided in Section 9.4. Such budget may, in the Board's discretion, take into account any income anticipated from sources other than Base Assessments.

The total dollar amount to be raised through the levy of Base Assessments shall be assessed against each Lot pro rata.

The Board shall establish a cutoff date for determining what property is part of the Property for purposes of allocating the assessment.

The Board shall send a copy of the budget and notice of the amount of the Base Assessments due for the following year to each Member at least 30 days prior to the beginning of the fiscal year for which it is to be effective. The budget shall become effective unless disapproved by at least 75% of the total Class A votes and 75% of the Class A Members, and by the Class B Member, if existing. The Board need not call a meeting to consider the budget except on petition of the Members as provided in the Bylaws, presented to the Board within 10 days after notice.

If the proposed budget is disapproved or the Board fails to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year.

9.4 Reserve Budget and Capital Contribution. The Board shall annually prepare a reserve budget, setting the required capital contribution in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget, with respect to both amount and timing by annual Base Assessments over the budget period.

9.5 Special Assessments. In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Except as otherwise provided in the Declaration, any Special Assessment shall require the vote of at least 51% of the total Class A votes, of the Class B Member, if the Class B Member still owns any of the Property. Special Assessments shall be payable in a manner and at such times as determined by the Board.

9.6 Specific Assessments. The Board shall have the power to specifically assess against individual Lots fines authorized by the Governing Documents and expenses incurred as a consequence of the conduct of less than all Owners. The Association may also levy a Specific Assessment against any Lot for costs incurred in bringing any Lot into compliance with the provisions of the Governing Documents, provided the Board gives prior notice to the Owner and an opportunity for a hearing.

9.7 Lien for Assessments. The Association shall have a lien against each Lot to secure payment of delinquent assessments, and Costs. Such lien shall be superior to all other liens, except (a) liens superior by law, and (b) the lien of any first Mortgage of record made in good faith and for value. Such lien, when delinquent, may be enforced in the same manner as mechanics' liens under North Carolina law.

The sale or transfer of any Lot shall not affect the assessment lien or any subsequent assessments, except that the sale or transfer of a Lot pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to such sale or transfer. A purchaser of a Lot who obtains title pursuant to foreclosure shall not be personally liable for assessments on such Lot due prior to such acquisition of title. Such unpaid assessments shall be reallocated among all Residential Lots, if the foreclosure affected a Residential Lot, and may be added to and collected as part of the following year's Base Assessment against such Lots.

9.8 Date of Commencement of Assessments. Reserved

9.9 Failure to Assess. Failure of the Board to fix assessment amounts or to deliver notice to each Member shall not be a waiver of any Owner from the obligation to pay assessments. In such event, each Member or Owner shall pay Base Assessments on the same basis as for the last year for which an assessment was made, if any, until a new assessment is made, at which time the Association may retroactively assess any shortfalls in collections.

9.10 Exempt Property. The following property shall be exempt from payment of Base Assessments and Special Assessments: common areas and property dedicated to and accepted by any governmental authority or public utility.

#### ARTICLE X: ARCHITECTURAL STANDARDS

No building, fence, signs, wall or other structure shall be commenced, erected, or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein (including but not limited to, color or painting or the exterior and type of exterior finish) be made, except in exceptional cases, when in such

cases, three copies of the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board (said committee being hereinafter referred to as the "Architectural Control Committee"). Absent such approval, the proposed improvement may not be commenced.

In the event an Owner of any Lot in the Properties shall make unauthorized changes to the premises and the improvements situated thereon in a manner unsatisfactory to the said Board of Directors or the Architectural Control Committee, said Board of Directors or the Architectural Control Committee shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain and restore the Lot and the exterior of the Buildings and any other improvements erected thereon. The cost of such exterior maintenance and any other costs or attorney's fees incurred in the enforcement of the rights under these provisions shall be considered a Specific Special Assessment against that owner(s) and his/her Lot(s). Any approval by the said Board of Directors or the Architectural Control Committee shall be in accordance with the requirements set forth hereafter.

The Declarant shall serve as the Architectural Control Committee until Declarant conveys all lots which comprise the Property.

#### ARTICLE XI: RESTRICTIONS ON USE

11.1 Residential Use. All Lots shall be used for single family residential purposes only and subject to the restrictions of this Article XI. No structure erected, altered, placed or permitted to remain on any Lot shall exceed three and one-half stories in height. A private garage for each Lot for not more than three cars and other accessory structures customarily incidental to the use of the Lot may be erected.

11.2 Setbacks. No building shall be located nearer to the front property line or any side street line than the building setback line as shown on the recorded maps of Lots. No building shall be located nearer any side Lot line than the applicable zoning ordinance shall allow. Deviations from building line requirements not in excess of ten percent (10%) thereof shall not be construed as a violation of the building line requirements as long as such deviation does not violate any local ordinance or zoning.

11.3 Animals and Pets. No animals of any kind shall be kept on any Lot except generally accepted household pets, which may be kept thereon for the sole pleasure and use of the occupants but not for commercial use and no more than three pets over the age of six months shall be permitted at any time. Birds shall be confined in cages. In no instance shall household pets become a nuisance to other Owners, or infringe upon the property rights of other Owners.

11.4 Signs. No advertising signs of any type or kind shall be erected, placed or permitted to remain upon or above any Lot or Common Area with the exception of a single sign "For Rent" or "For Sale," which sign shall not exceed two feet by three feet in dimension and shall refer only to the premises on which displayed, there being only one sign to a Lot. Notwithstanding the above, Declarant may erect and place signs of any size or shape on any unsold Lot or the Common Area. Declarant shall also have the right of ingress, egress and regress over the aforesaid Lots and Common Area in order to maintain and replace any such signs until 100% of the Lots have been conveyed by Declarant.

11.5 Nuisances. No activity may be carried on which shall or may be offensive, illegal, or an annoyance or nuisance, as

determined by Declarant. No Lot or right-of-way shall be used or for rubbish disposal, or for storage if such storage may cause such Lot or right-of-way to appear unclean or unsightly; nor shall any thing be kept upon any Lot or right-of-way that will emit a foul odor or will cause noise that might disturb the peace. However, the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish and other such debris for pick up by trash removal service units, but such deposits shall only be permitted upon the specific day of pick up. In the event any Owner fails or refuses to keep his Lot free from unsightly objects, weeds, or underbrush or to maintain the main the structures on each Lot in a manner satisfactory to the Board of Directors, the Board of Directors may, five days after delivering notice to the Owner requesting the Owner comply with the requirements of this paragraph, enter and remove all such unsightly objects or vegetation at Owner's expense and Owner agrees to pay such costs incurred by The Association in the enforcement of this paragraph. No such entry as provided herein shall be deemed a trespass. The foregoing provisions shall not apply to Declarant or to a Builder while constructing residences upon any Lots.

11.6 Clotheslines, Garbage Cans, Etc. All clothes lines, garbage cans, lawn mowers, stored materials, wrecked unlicensed or inoperable vehicles, and similar equipment shall be kept in an enclosed structure or adequately screened by planting or fencing, as determined by the Board of Directors. Incinerators for garbage, trash or other refuse shall not be permitted on any Lot.

11.7 Antennas. No freestanding radio or television transmission or reception towers, antennas, dishes or discs shall be erected on a Lot. Radio and television antennas not exceeding seven and one-half (7 1/2) feet in height above the roofline of the residence and dishes or disks not exceeding three (3) feet in diameter and not visible from the street in front of the residence may be attached to the structure of the residence only.

11.8 Walls, Fences and Hedges. Walls and fences are permitted as long as both sides of such structures are constructed of identical materials and identical designs. For masonry walls, no exposed concrete block will be permitted. Hedges shall be maintained in a neat condition on both sides. All walls, fences, and hedges shall not be located within setbacks or sight triangles as described herein or shown on record maps of the Property.

11.9 Pools. Pools shall be permitted upon Lots but such pools must be located directly behind the residence of each Lot, screened from view by a six-foot privacy fence, and be at least twenty feet from both side Lot lines and the rear Lot line.

11.10 Driveways and Parking Areas. Only driveways and parking areas constructed of concrete or brick shall be permitted.

11.11 Vehicles, Boats and Trailers. No vehicles, boats, trailers, recreational vehicles or similar items shall be allowed to remain upon any Lot unless parked upon driveways and screened from view by fencing or landscaping approved by the Board of Directors.

11.12 Use of Outbuildings and Similar Structures. There shall be no structure of a temporary nature on any Lot. No trailer, shed, tent, garage or any other similar structure shall be used as a residence. Provided, however, this paragraph shall not be construed to prevent Declarant from using sheds or other temporary structures during construction. Provided, further, this paragraph shall not be construed to prevent Owners from constructing a permanent detached garage, carport, or utility shed (such shed not to exceed 12 feet by 16 feet in area) if constructed of materials similar to those used in the residence upon such Lot, if located behind the rear wall of the residence, if constructed in conformity to existing structures within the immediate area, and if not located within any Easements.

11.13 Basketball Goals and Mailboxes. Basketball goals shall be permitted on a Lot if placed a minimum of twelve (12) feet behind the concrete curb into such Lot and placed outside of the public right-of-way. All goals and surrounding areas are to be maintained in a neat and orderly condition so as not to create a nuisance, as described in Section 11.5. No stone or masonry mailbox structures are permitted. All mailboxes are to be constructed of break-away materials as approved by the North Carolina Department of Transportation, such as 4" x 4" wooden posts or small diameter metal posts.

11.14 Minimum Square Footage. Single family dwellings shall contain not less than a minimum of 850 square feet of heated floor area, exclusive of garage, carport, unheated storage areas and non-living space for dwellings.

11.15 Side Setbacks. (See Section 11.2)

11.16 Waiver. Declarant may, but need not, waive in writing any violation of the designated and approved building location lines on either side Lot line, horizontal measurement only, provided that such violation does not exceed 10% of the applicable requirements and provided such violation does not violate any local ordinance or zoning.

11.17 Subdivision of Lots. No Lot shall be subdivided by sale or otherwise, except by and with the written consent of Declarant and in compliance with local ordinances.

11.18 Fire. In the event any home or structure is destroyed or partially destroyed, said damage must be repaired and the improvement reconstructed within twelve months.

11.19 General. Each Lot now or hereafter subjected to this Declaration shall be subject to all Easements. No structure of any type shall be erected upon a Lot which will interfere with rights and use any Easement.

11.20 Utility and Drainage. An easement on each Lot is hereby reserved by Declarant for itself and its successors and assigns along, over, under and upon a strip of land ten (10) feet in width along the rear lot lines of all Lots shown on recorded plats, and easements five (5) feet in width along the front and side lot lines of all Lots shown on recorded plats, in addition to any other Easements. The purpose of these easements shall be to provide, maintain, and operate drainage facilities and utility service lines to, over or for each of the Lots. Within these easements, no structure, planting or other material shall be placed which may interfere with the installation or maintenance of utilities, or which may change the direction or flow of drainage channels in the easements except for party walls located on a portion of the side line or lines of a Lot. The easement area of and all improvements in it shall be maintained by Owner, except for those improvements for which a public authority or utility company is responsible. With ten (10) days prior written notice to Owner, Declarant may exercise the right to remove obstructions in such easements upon Owner's failure to do so, at Owner's expense, and Owner agrees to pay costs incurred by Declarant in doing so. For the purpose of this covenant, Declarant reserves the right to modify or extinguish the easements herein along any Lot lines in its sole discretion. For the duration of these restrictions, no such utilities shall be permitted to occupy or otherwise encroach upon any of the easement areas reserved without first obtaining the prior written consent of Declarant; provided, however, local service from utilities within easement areas to residences constructed upon any such Lots may be established without first obtaining separate consents therefor from Declarant.

11.21 Emergency. There is hereby reserved a general easement to all firemen, ambulance personnel, police and security guards and all similar persons to enter upon the Property or any portion thereof, in the performance of their respective duties.

11.22 Declarant's Consent to Sales Material. Until all of the Lots have been conveyed by Declarant, all sales and advertising materials, and all forms of deeds, contracts for sale, and other closing documents for the sale of Lots by any Builder shall be subject to the prior approval of Declarant, which approval shall not be unreasonably withheld. If Declarant fails to notify a Builder of approval or disapproval within thirty days, Declarant shall be deemed to have approved the foregoing. Upon disapproval, Declarant shall provide Builder a list of required changes, and the above procedure shall be repeated until approval is obtained.

11.23 Declarant's Consent to Amendments. This Article XI may not be amended without the express written consent of Declarant until all Lots which are a part of the Property have been conveyed by Declarant; provided, however, the rights of Declarant contained in this Article shall terminate upon the earlier of (a) 20 years from the date this Declaration is Recorded, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

11.24 Duration. The restrictions, conditions and covenants of this Article shall be binding for a term of twenty years from the date this Declaration is Recorded, after which time they shall be automatically extended for successive periods of ten years each unless terminated as provided in Section 11.26.

11.25 Amendments and Termination. Article XI of this Declaration as it relates to the Single Family Property may be terminated during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Owners and signed by Declarant if Declarant shall own any Lots, and thereafter may be terminated by an instrument signed by not less than seventy-five percent (75%) of the Owners of Lots. Article XI of this Declaration may be amended upon the affirmative vote or written consent of a majority of the Owners of Lots and the written consent of Declarant; provided, however, that Declarant may amend this Article XI to correct minor and clerical errors, as determined by Declarant, without approval of Owners, and should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete or relax any of their requirements which necessitate provisions of this Declaration, Declarant, without approval of Owners, may amend this Declaration to reflect such changes. Any such amendment or termination shall not be effective until an instrument evidencing such change has been filed of record in the Mecklenburg County Registry.

11.26 Enforcement. If any Owner shall violate or attempt to violate any of these restrictions, it shall be grounds for an action to recover sums due, damages or injunctive relief, or both, maintainable by Declarant, or, in proper case, by an aggrieved Owner. Failure by Declarant or any other Owner to enforce any of the foregoing restrictions or other provisions shall not be deemed a waiver of their right to do so.

11.27 Unintentional Violation. In the event of an unintentional violation of any of the foregoing restrictions with respect to any Lot, Declarant reserves the right (with the mutual written consent of the then Owner of such Lot) to change, amend, or release any portion of the foregoing restrictions as the same may apply to that particular Lot.

11.28 Association as Successor to Declarant. For purposes of this Article, the Association shall be deemed to be vested with all rights and authority that is reserved to Declarant in this Article, upon the termination of the Class B Control Period.

#### ARTICLE XII: EASEMENTS

12.1 Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Lot and any adjacent Common Area or adjacent Lot due to the unintentional placement or settling of the improvements thereon to a distance of not more than

three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. No such easement shall exist if such encroachment occurred due with the willful and knowing consent of an Owner, occupant, or the Association.

12.2 Easements for Utilities, Etc. There are hereby reserved unto Declarant, so long as Declarant owns any portion of the Property, the Association, and the common of each access and maintenance easements upon, across, over and under all of the Property to the extent reasonably necessary for the purpose of replacing, repairing and maintaining television reception systems, security and similar systems, roads, walkways, bicycle pathways, lakes, ponds, wetlands, drainage systems, street lights, signage, and all utilities, and for the purpose of installing any of the foregoing on property owned by the Person exercising the easement or within the Easements. These easements shall not entitle the holders to construct or install any of the foregoing systems, facilities or utilities over, under or through any existing structure on a Lot, and such installation shall occur only within 50 feet of the Lot boundary line unless otherwise consented to in writing by the Owner of the affected Lot, whose consent shall not unreasonably be withheld. Any damage to a Lot resulting from the exercise of these easements shall promptly be repaired at the expense of, the Person exercising the easement. The exercise of these easements shall not unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

Declarant specifically grants to the local water supplier, electric company and natural gas supplier easements across the Property for ingress, egress, installation, reading, replacing, repairing and maintaining utility meters and boxes. However, the exercise of this easement shall not extend to permitting entry into the structures on any Lot, nor shall any utilities be installed or relocated on the Property, except as approved by the Board or Declarant.

#### ARTICLE XIII: MORTGAGEE PROVISIONS

An institutional holder, insurer or guarantor of a first Mortgage who provides written request to the Association (such request to state the name and address of such holder, insurer or guarantor and the street address of the Lot to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Property or which affects any Lot on which there is a first Mortgage held, insured or guaranteed by such Eligible Holder (hereinafter "Mortgaged Lot");

(b) Any violation of the Governing Documents affecting the Mortgaged Lot, where such violation has not been cured within 60 days;

(c) Any lapse, cancellation or material modification of any insurance policy maintained by the Association; or

(d) Any proposed action which would require the consent of a specified percentage of Eligible Holders.

#### ARTICLE XIV: DECLARANT'S RIGHTS

(a) Any or all of the special rights and obligations of Declarant set forth in this Declaration or the By-Laws may be transferred, in whole or in part, to other Persons if the transfer does not reduce an obligation nor enlarge a right beyond that contained in the Governing Documents. No transfer shall be effective unless in a writing signed by Declarant and Recorded.

(b) Declarant and Builders authorized by Declarant may maintain and carry on upon portions of the Common Area such facilities and activities as in the sole opinion of Declarant may be reasonably required or convenient to the construction on or sale of such Lots. Declarant and authorized Builders shall have easements for access to and use of such facilities.

(c) Declarant and its employees, agents and common shall have a right and easement over and upon all of the Common Area for the purpose of constructing and installing such improvements to the Common Area as Declarant deems appropriate in its sole discretion.

(d) No Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Property without Declarant's written consent. Any attempted recordation without such consent shall be void unless subsequently approved by a writing signed by Declarant and Recorded.

(e) Declarant shall have the unilateral right at anytime to make additional property subject to the terms of this Declaration, provided that such additional property is contiguous to the Property described herein. Such addition shall be accomplished by the identification of such additional property, and the execution and recordation of an instrument ("Supplemental Declaration") expressly making such property subject to the terms of this Declaration. The foregoing notwithstanding, as annexation of additional property during the Class B Control Period shall require the prior written approval of the HUD/VA.

(f) This Article may not be amended without the written consent of Declarant. The rights contained in this Article shall terminate upon the earlier of (a) 20 years from the date this Declaration is recorded, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

(g) Declarant shall have, at all times during the Class B Control Period, the right to modify the Governing Documents in order to (1) correct clerical or other patent errors (2) bring the Declarations into compliance with HUD, VA, FNMA, FHLC, or any other government agency or entity.

#### ARTICLE XV: GENERAL PROVISIONS

15.1 Term. Unless earlier terminated by an instrument signed by Members holding seventy-five percent (75%) of the Class A votes and by the Class B Member, if any, and Recorded, this Declaration shall run with and bind the Property, and shall inure to the benefit of and shall be enforceable by the Association, any Owner, or their respective legal representatives, heirs, successors and assigns for a term of 40 years from the date this Declaration is Recorded. After such time, this Declaration shall be automatically extended for successive periods of ten years, unless an instrument signed by Members holding a majority of the Class A votes and the Class B Member, if the Class B membership has not been terminated, has been Recorded within the year preceding any such extension, agreeing to amend or terminate this Declaration. Provided, nothing in this Section shall be construed to permit the termination of any easement without the consent of the holder of such easement.

#### 15.2 Amendment.

(a) By Declarant. Until termination of the Class B membership, Declarant may unilaterally amend all articles of this Declaration for any purpose; thereafter, Declarant may unilaterally amend such articles if such amendment is necessary: (i) to bring any provision into compliance with any applicable governmental statutes, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Lots; (iii) to enable any institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal



Home Loan Mortgage Corporation, to make or purchase mortgage loans on the Lots; (iv) to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots; or (v) to satisfy the requirements of any governmental agency.

Declarant may also unilaterally amend this Declaration to correct minor or clerical errors. However, any such amendment shall not adversely affect the title to any Lot unless the Owner shall consent thereto in writing.

So long as Declarant still owns any portion of the Property, it may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner.

The foregoing notwithstanding, any amendment made during the Class B Control Period shall require HUD/VA approval.

Any amendment made pursuant to this section that does materially and adversely affect the right of any owner shall not be effective until approved in accordance with Section 15.2(b).

(b) By Members. Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing 75% of the total Class A votes in the Association and the consent of the Class B Member, if the Class B membership has not been terminated. In addition, the approval requirements set forth in Article XIV(f) shall be met if applicable.

No amendment may remove, revoke or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

(c) Effective Date and Validity. To be effective, any amendment must be Recorded.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority so to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

15.3 Severability. Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect other provisions or applications.

15.4 Perpetuities. If any of the provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one years after the death of the last survivor of the now living descendants of Patricia Jenkins of Charlotte, North Carolina.

15.5 Reserved

15.6 Use of the Words "Turtle Rock". No Person shall use the words "Turtle Rock" or any derivative in any material without Declarant's prior written consent, except that Builders may use the term where it is used solely to specify that particular property is located within Turtle Rock, and the Association shall be entitled to use the word "Turtle Rock" in its name.

15.7 Compliance. Every Owner of any Lot shall comply with the Governing Documents. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity.

15.8 Notice of Sale or Transfer of Title. Any Owner desiring to sell or transfer title to his or her Lot, shall give the Board at least seven days' prior written notice of the name and address

of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transferor shall be jointly and severally responsible with the transferee for all obligations of the Owner of the Lot, until the date upon which such notice is received by the Board.

15.9 Enforcement by Individual Owners. In addition to the enforcement rights granted to the Association in Section 4.3, each Owner shall also have the right to enforce the terms of this Declaration, including the right to seek injunctive relief to prevent or discontinue any violation hereof.

thence with the northerly boundary of said Wofford property and the adjoining property owned now or formerly by Walter Hafermalz as recorded in Book 4604 at page 562 of the Mecklenburg County Registry the following 2 calls and distances: (1) North 44 degrees, 21 minutes, 22 seconds West 663.16 feet to an iron pin (passing an iron pin on the common northerly corner of the aforementioned Wofford and Hafermalz properties); (2) North 20 degrees, 54 minutes, 30 seconds West 199.68 feet to an iron pipe, such iron pipe lying within the sixty foot public right-of-way for Dogwood Drive; thence North 78 degrees, 55 minutes, 8 seconds East 262.00 feet to the southeasterly corner of Lot #5 of Block C of the V.H. Brawley property as shown on the Map recorded in Map Book 14 at page 569 of the Mecklenburg County Registry; thence with the rear easterly boundaries of the aforementioned Lot #5 and the adjoining Lots 4, 3, 2 and 1 in Block C and Lots 1, 2, 3, 4, 5, 6, 7 and 8 of Block D of the aforementioned V.H. Brawley property, and the adjacent property owned now or formerly by Richard Daniel Williams and wife, Cathy P. Williams as recorded in Book 4524 at page 618 of the Mecklenburg County Registry, North 11 degrees, 5 minutes, 51 seconds West 2,328.60 feet (passing eleven iron pipes and pins located in the rear easterly boundaries of the aforementioned Lots) to an iron pin; thence with the northerly boundary of the aforementioned Williams Property South 81 degrees, 10 minutes, 34 seconds West 204.85 feet to an iron pin, such pin also lying in a southeasterly corner of the property owned now or formerly by Robinson Presbyterian Church as recorded in Book 2057 at page 471 of the Mecklenburg County Registry; thence with the northeasterly boundary of said Robinson Presbyterian Church property North 9 degrees, 45 minutes, 54 seconds West 423.63 feet to an iron pipe, such pipe marking the POINT AND PLACE OF BEGINNING. Said tract contains approximately 136.46 acres as shown on the "Boundary Survey of 136.46 Acres for First Colony Group" as performed by Edward L. Killough, North Carolina Registered Land Surveyor, February 12, 1996.

## LEGAL DESCRIPTION

Lying and being in Clear Creek Township, Mecklenburg County, North Carolina, and BEGINNING AT AN IRON PIPE having N.C. Grid Coordinates (NAD 83) N 545518.58, E 1502057.0, such pipe also lying South 74 degrees, 41 minutes, 21 seconds East 1,177.50 feet from N.C.G.S. Control Monument M048, such monument having N.C. Grid Coordinates (NAD 83) N 545829.46, E 1500921.22, such pipe also lying on a common corner of the properties owned now or formerly by Robinson Presbyterian Church, as recorded in Book 2057 at page 471 of the Mecklenburg County Registry, and the property owned now or formerly by George V. Pait as recorded in Book 2507 at page 339 in the Mecklenburg County Registry, such pipe marking the POINT AND PLACE OF BEGINNING; thence with the aforementioned Pait property and boundary of the adjacent property owned now or formerly by Mattie Newell as recorded in Book 1685 at page 114 of the Mecklenburg County Registry, North 80 degrees, 3 minutes, 41 seconds East 568.40 feet to an iron pipe; thence, with the northeasterly boundary of said Newell property, North 51 degrees, 24 minutes, 6 seconds West 508.02 feet (passing an iron pin lying on the easterly boundary of the sixty foot public right-of-way for Harrisburg Road at 485.57 feet), to a point lying on the centerline of the sixty foot public right-of-way for Harrisburg Road; thence with said centerline North 38 degrees, 29 minutes, 17 seconds East 435.27 feet to a point; thence with the southerly boundary of the property owned now or formerly by J.T. Garrison heirs as recorded in Book 3225 at page 91 of the Mecklenburg County Registry, and the adjacent property owned now or formerly by Professional Child Care as recorded in Book 3762 at page 829 of the Mecklenburg County Registry, South 51 degrees, 30 minutes, 11 seconds East 891.19 feet (passing an iron pin lying on the easterly boundary of the sixty foot public right-of-way for Harrisburg Road at 30.00 feet and an iron pipe lying on the common southerly corner of the said Garrison and Professional Child Care properties) to an iron pipe lying in the southerly boundary of the aforementioned Professional Child Care property; thence with the boundary of said Professional Child Care property and the adjacent property owned now or formerly by J.M. Little as recorded in Book 3438 at page 55 of the Mecklenburg County Registry, the following 3 calls and distances: (1) South 75 degrees, 21 minutes, 35 seconds East 435.81 feet to an iron pin; (2) South 1 degree, 11 minutes, 57 seconds East 486.70 feet to a nail and cap in a stump; (3) South 72 degrees, 34 minutes, 11 seconds East 1,173.73 feet to an iron pin, such pin lying on the southerly boundary of the aforementioned Little property and a northwesterly corner of the property owned now or formerly by John L. Carpenter as recorded in Book 7375 at page 911 of the Mecklenburg County Registry; thence with the easterly boundary of the aforementioned Carpenter property South 17 degrees, 47 minutes, 10 seconds West 2,363.15 feet to an iron pin, such pin also lying in the northerly boundary of the property owned now or formerly by John L. Carpenter, as recorded in Book 3438 at page 57 of the Mecklenburg County Registry; thence with the northerly boundary of said Carpenter property and with McKee Creek the following 8 calls and distances: (1) South 80 degrees, 25 minutes, 40 seconds West 150.52 feet; (2) South 86 degrees, 6 minutes, 9 seconds West 123.75 feet; (3) South 82 degrees, 9 minutes, 49 seconds West 121.89 feet; (4) South 87 degrees, 0 minutes, 39 seconds West 174.53 feet; (5) South 65 degrees, 4 minutes, 9 seconds West 133.46 feet; (6) South 36 degrees, 51 minutes, 59 seconds West 136.16 feet; (7) South 5 degrees, 57 minutes, 19 seconds West 124.02 feet; (8) South 10 degrees, 32 minutes, 39 seconds West 185.08 feet to an iron pin, such pin also lying on a northeasterly corner of the property owned now or formerly by John A. Wofford as recorded in Book 5164 at page 249 of the Mecklenburg County Registry;

FIRST COLONY GROUP, LTD.

[CORPORATE SEAL]

By: [Signature]  
President

ATTEST:

[Signature]  
Secretary

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

This 24th day of July, 1995 personally came before me, Michael J. Mulvaney, who being by me duly sworn, says that he is President of FIRST COLONY GROUP, LTD., a corporation, and that the seal affixed to the foregoing instrument in writing is the corporate seal of said corporation, and that said writing was signed and sealed by him on behalf of said corporation by its authority duly given. And the said ~~assistant secretary~~ President acknowledged the said writing to be the act and deed of said corporation.

My Commission Expires:  
April 2, 2000

[Signature]  
Notary Public

GS INVESTMENTS, INC.

[CORPORATE SEAL]

By: [Signature]  
Vice President

ATTEST:

[Signature]  
Secretary

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

This 24th day of July, 1996 personally came before me, Patricia Jenkins, who being by me duly sworn, says that she is Vice President of GS INVESTMENTS, INC., a corporation, and that the seal affixed to the foregoing instrument in writing is the corporate seal of said corporation, and that said writing was signed and sealed by her on behalf of said corporation by its authority duly given. And the said ~~secretary~~ VICE-President acknowledged the said writing to be the act and deed of said corporation.

My Commission Expires:  
April 2, 2000

[Signature]  
Notary Public