

TO BE  
PICKED UP

NORTH CAROLINA  
GUILFORD COUNTY

DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by CENTRE COURT ASSOCIATES, a Virginia General Partnership, hereinafter referred to as "Declarant."

103329

W I T N E S S E T H :

WHEREAS, Declarant is the Owner of certain property in Morehead Township, County of Guilford, State of North Carolina, which is more particularly described as:

All of that certain parcel of land shown on the plat entitled Westlake Townhomes, Phase I, which appears of record in the Office of the Register of Deeds of Guilford County, North Carolina, in Plat Book 57, page 123.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Westlake Townhomes Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinabove described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

All that land designated "Common Area" as shown on the plat entitled "Westlake Townhomes, Phase I," which appears of record in the office of the Register of Deeds of Guilford County, North Carolina, in Plat Book 57, at page 123.

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Section 5. "Lot" shall mean and refer to any numbered plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area, and dedicated streets, upon which are constructed or are designed for construction thereof of a Townhouse.

Section 6. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 7. "Declarant" shall mean and refer to Centre Court Associates, its successors and assigns.

Section 8. "Living Unit" shall mean and refer to any portion of a building situated upon the Properties designed and intended for use and occupancy as a residence by a single family.

Section 9. "Member-User" shall mean and refer to any person, not a Member of the Association as that term is defined in Section 6 of this Article and Article III, Section 1, hereafter, who, in consideration for the use of the recreation facilities and areas of the Association, pays an initial membership fee and the additional monthly charge prescribed by the Association therefor. A Member-User shall have no voting rights in the Association.

Section 10. "Invitee-User" shall mean and refer to any person who is not a Member of the Association as defined in Article I, Section 6, above and Article III, Section 1, hereafter who becomes entitled to the use of the common facilities by paying a separate charge on each occasion that he uses the common facilities.

## ARTICLE II

### PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to permit the use of and charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to the use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 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 an instrument signed by at least two-thirds (2/3) of each class of members, agreeing to such dedication or transfer, has been recorded;

(d) the right of the Association to mortgage, pledge, deed in trust or hypothecate any of all of its real or personal property as security for money borrowed or debts incurred;

(e) the right of the Association to impose regulations for the use and enjoyment of the Common Area and improvements thereon, which regulations may further restrict the use of the Common Area.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his rights of enjoyment of the Common Area and facilities to the members of his family, his tenants, or

contract purchasers who reside on the property.

Section 3. Parking Rights. Ownership of each Lot shall entitle the Owner or Owners thereof to the use of not more than two (2) automobile parking spaces for each Living Unit, which shall be as near as and convenient to said Living Unit as reasonably possible, together with the right of ingress and egress in and upon said parking area. The Association shall permanently assign one (1) vehicle parking space for each Living Unit on a Lot.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to a lien for assessments 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 Association shall have two classes of voting membership.

Class A. Class A Members shall be (i) the Declarant, their successors or assigns, as to Living Units once rented or leased by them to single family occupants and as to Lots retained by them upon the termination of Class B membership, and (ii) all Owners other than the Declarant. Class A Members shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote or votes for the Living Unit on such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B Members shall be the Declarant (except as to Lots owned by the Declarants and once rented or leased to single family occupants) and shall be entitled to four (4) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) on December 31, 1980.

Section 3. The Association shall have nonvoting Class C Members consisting of two classes of persons entitled to use the recreation areas and facilities of the Association:

Member-User. A Member-User shall be any person to whom the Association shall have issued a "Member-User Certificate" in consideration for an initial membership fee. Member-Users further shall be obligated to pay to the Association a monthly charge in an amount set by the Board of Directors. Member-Users shall be subject to all rules and regulations governing the use of the recreation facilities and areas of the Association as are prescribed from time to time for and applicable to other Members. Member-User Certificates shall be saleable by the holder thereof at any time and transferrable on the books and records of the Association, subject to any limitations shown on the face of the certificates and to the right of the Association, upon request for transfer thereof on the books and records of the Association, to repurchase such Certificate for the same initial consideration paid therefor by the Member-User. In the event that any Member-User shall continue to fail or refuse to pay to the

Association any one or more monthly charges, after 30 days written notice of such default mailed by the Association to such Member-User at the mailing address shown on the books and records of the Association, the Association may declare the Member-User's Certificate null and void and of no further force and effect and either retire the Certificate or resell the same to any other person. Upon such a declaration by Association the Member-User status shall terminate and he shall forfeit any sums previously paid as membership fees or monthly charges.

Invitee-User. An Invitee-User shall be any person permitted to use the recreation facilities and areas of the Association by permission of the Association in consideration for a separate charge or fee on each occasion of use.

#### ARTICLE IV

##### COVENANTS FOR MAINTENANCE ASSESSMENTS

X  
Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenant, and each Owner for 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, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided, and (3) to the appropriate governmental taxing authority, a pro rata share of ad valorem taxes levied against the Common Area and a pro rata share of assessments for public improvements to the Common Area if the Association shall default in the payment thereof for a period of six (6) months, all as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for the delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties and in particular may be used for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose and related to the exterior maintenance of homes situated upon Lots or for the use and enjoyment of the Common Area, including but not limited to the cost of repairs,, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes assessed against the Common Area, the procurement and maintenance of insurance in accordance with the By-Laws, the payment of charges for common television antenna service to Lots, the employment of attorneys to represent the Association when necessary, and such other needs as may arise.

Section 3. Maximum Annual Assessment: Until December 31 of the year of the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Three Hundred Dollars (\$300.00) per Living Unit on each Lot.

(a) The maximum annual assessment for the calendar year immediately following the year of the conveyance of the first Lot to an Owner, and for each calendar year thereafter shall be established by the Board of Directors, and such maximum annual assessment may be

increased by the Board of Directors for any calendar year by an amount not to exceed ten (10%) percent of the maximum annual assessment for the previous year. Such an increase may be made without approval by the membership.

(b) The maximum annual assessment for the calendar year immediately following the year of the conveyance of the first Lot to an Owner and for each calendar year thereafter may be increased without limit by a vote of two-thirds (2/3) of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose.

Section 4. Payable Annual Assessment. The Board of Directors shall fix the payable annual assessment at an amount not in excess of the maximum annual assessment, subject to the provisions of Sections 7 and 8 of this Article.

Section 5. Special Assessments for Capital Improvements. In addition to the annual assessment authorized above, the Association may levy, in any calendar year, a special assessment for the purpose of defraying the whole or in part, the costs of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose. All special assessments shall be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 6. Notice and Quorum for Any Action Authorized Under Sections 3 and 5. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3(b) and/or 5 shall be sent to all Members not less than 15 days nor more than 60 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 of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 7. Rate of Annual Assessment. With the exceptions set forth in subsections (a) and (b) of this Section 7, annual assessments must be fixed at a uniform rate for all Lots and shall be collected on a monthly basis. The books and records of the Association will be kept in such a manner that it is possible to determine and ascertain (i) such sums as are expended by the Association for development, improvement, maintenance and upkeep of all recreational facilities of the Association, and (ii) such sums as are expended for the development, improvement, maintenance and upkeep of the exterior of Living Units on Lots and the Common Area.

(a) During the calendar years 1976 and 1977 Declarant shall pay to the Association the total cost of operating the Association during these years; provided that it shall be entitled to deduct from the amount to be paid by it the total amount of assessments paid to the Association by Owners.

(b) From and after January 1, 1978, the annual assessment for each Living Unit on any Lot owned by Declarant and unoccupied as a residence shall be an amount not less than twenty-five (25%) percent, nor more than fifty (50%) percent, of the regular assessment for all other Lots.

Section 8. Date of Commencement of Annual Assessments: Due Dates  
The annual assessments provided for herein shall be collected on a

monthly basis and shall commence for each Lot conveyed by the Declarant to an Owner on the first day of the month following the conveyance of such Lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. During the calendar years 1976 and 1977 Declarant shall pay annual assessments in accordance with the provisions of Section 7(a) above. After January 1 1978, the annual assessments for Lots owned by the Declarant shall be in the amount to be fixed in accordance with the provisions of Section 7(b) and shall commence as to a particular Lot upon the "Completion of the Living Unit situated on that Lot. "Completion" is defined as the point in time when the interior trim work on the Living Unit is commenced.

At least thirty (30) days in advance of each annual assessment, the Board of Directors shall affix the amount of the annual assessment against each Lot and shall send written notice of each assessment to every Owner subject thereto. The due date shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ~~six (6%)~~ <sup>eight (8%)</sup> percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs and reasonable attorney's fees of such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessment provided for herein by nonuse of the Common Area or abandonment of his Lot.

Section 10. Effect of Default in Payment of Ad Valorem Taxes or Assessments for Public Improvements by Association. Upon default by the Association in the payment to the governmental authority entitled thereto of any ad valorem taxes levied against the Common Area or assessments for public improvements to the Common Area, which default shall continue for a period of six (6) months, each Owner of a Lot in the development shall become personally obligated to pay to the taxing or assessing governmental authority a portion of such unpaid taxes or assessments in an amount determined by dividing the total taxes and/or assessments due the governmental authority by the total number of Lots in the development. If such sum is not paid by the Owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the Lot of the then Owner, his heirs, devisees, personal representatives and assigns, and the taxing or assessing governmental authority may either bring an action at law or may elect to foreclose the lien against the Lot of the Owner.

Section 11. Subordination of the Lien to Mortgages. The liens provided for herein shall be subordinate to the lien of any mortgage, mortgages, deed of trust or deeds of trust. Sale or transfer of any Lot shall not affect the assessment lien or liens provided for in the preceding section. 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 become 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 mortgage, mortgages, deed of trust or deeds 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 nonprofit 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.

## ARTICLE V

### ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon any Lot, nor shall any exterior addition to or change or alteration on any Lot be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to 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. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will be deemed denied.

## ARTICLE VI

### PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence, or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose

one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

## ARTICLE VII

### EXTERIOR MAINTENANCE

Section 1. Types of Maintenance. In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Living Unit on each Lot as follows: Paint repair, replace and care of roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, walks, and other exterior improvements. Such exterior maintenance shall not include glass surfaces or screens for windows or doors. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each Lot at all reasonable times to perform maintenance as provided in this Article.

Section 2. Costs Subject to Assessments. In the event that the need for maintenance, repair, or replacement is caused through the willful or negligent act of the Owner, his family, guests, or invitees, or tenants, or is caused by fire, lightning, windstorm, hail, explosion, riot attending a strike, civil commotion, aircrafts, vehicles, and smoke, as the foregoing are defined and explained in North Carolina Standard Fire and Extended Coverage insurance policies, the cost of such maintenance, replacement, or repairs, shall be added to and become a part of the assessment to which such Lot is subject.

## ARTICLE VIII

### USE RESTRICTIONS

Section 1. Land Use and Building Type. No Lot shall be used except for residential purposes.

Section 2. Dwelling Specifications. No dwelling shall be permitted having a ground area of the main structure, exclusive of one-story open porches, of less than 800 square feet for a one-story dwelling nor a ground area of less than 450 square feet for a dwelling of more than one story.

Section 3. Nuisance. No noxious or offensive activity shall be conducted upon any Lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 4. Animals. 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 household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes.

Section 5. Outside Antennas. No outside radio or television antennas shall be erected on any Lot.

## ARTICLE IX

### EASEMENTS

Section 1. Utilities. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of 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.

Section 2. Unintentional Encroachments. In the event that any Living Unit on a Lot shall encroach upon any Common Area or upon any other Lot for any reason not caused by the purposeful or negligent act of the Living Unit Owner or agents of such Owner, then an easement appurtenant to such Living Unit shall exist for the continuance of such encroachment upon the Common Area or other Lot for so long as such encroachment shall naturally exist; and, in the event that any portion of the Common Area shall encroach upon any Lot, then an easement shall exist for the continuance of such encroachment of the Common Area into any such Lot for so long as such encroachment shall naturally exist.

## ARTICLE X

### GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Declaration. Failure by 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. Severability. Invalidation of any one of the covenants or restrictions by judgment or court order shall in no wise affect any provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than eighty (80%) percent of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five (75%) percent of the Lot Owners, provided that no amendment shall alter any obligation to pay ad valorem taxes or assessments for public improvements, as herein provided, or affect any lien for the payment thereof established herein. Any amendment must be properly recorded.

Section 4. Annexation.

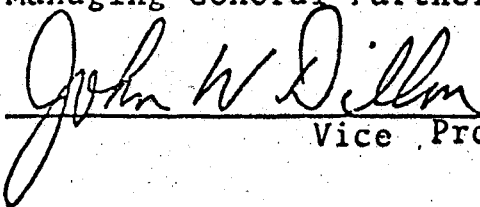
(a) Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

(b) Additional land within the area described in SCHEDULE A attached hereto and incorporated herein by reference may be annexed by the Declarant without the consent of members within ten (10) years of the date of this instrument.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, have caused this instrument to be executed by its duly authorized managing General Partner and its seal affixed this the 2nd day of June, 1976.

CENTRE COURT ASSOCIATES, a Virginia  
General Partnership

BY: COMMONWEALTH REALTY DEVELOPMENT  
CORPORATION, a Virginia corporation,  
Managing General Partner

  
Vice President

  
Secretary