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**DECLARATION OF COVENANTS,**

**CONDITIONS AND RESTRICTIONS**

**FOR**

**BARRINGTON**

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### EXHIBITS

- A Description of Barrington
- B Description of Additional Land

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
BARRINGTON**

This Declaration is made as of the 13 day of September, 2005, by CENTEX HOMES, a Nevada general partnership ("Declarant"), with reference to the following facts:

**RECITALS**

A. Declarant is the owner of certain real property ("Barrington") in Guilford County, North Carolina, which is more particularly described on Exhibit A attached hereto and made a part hereof.

B. Declarant owns or may acquire certain real property (the "Additional Land") in Guilford County, North Carolina, located adjacent to the Property. Declarant may, in its sole discretion and without obligation, by one or more supplemental filings pursuant to Article 15 hereof, make all or any portion of the Additional Land subject to this Declaration and part of the Property. Declarant intends to improve the Property as a planned development by dividing the Property into Lots appropriate for single-family dwellings.

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

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

E. Declarant deems it desirable for the management and administration of the planned development and for the preservation of the values and amenities of the planned development to incorporate the Barrington Property Owners Association, Inc. as a nonprofit corporation under the laws of the State of North Carolina for the purposes of administering and enforcing the limitations, covenants, conditions, restrictions, easements, liens and equitable servitudes created by or imposed in accordance with the provisions hereof, collecting and disbursing the assessments and charges imposed in accordance with the provisions hereof, and of exercising such other powers as may be authorized by this Declaration, by law, or by its Articles of Incorporation and Bylaws.

NOW, THEREFORE, Declarant hereby declares as follows:

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## ARTICLE 1 DEFINITIONS

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

1.01. Act. "Act" means and refers to the North Carolina Planned Community Act, Chapter 47F, North Carolina General Statutes.

1.02. Additional Land. "Additional Land" means the real property described in Exhibit B, all or any portion of which may from time to time be made subject to this Declaration pursuant to the provisions of Article 15 hereof and which, when so subjected, shall become a part of the Property.

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

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

1.05. Association. "Association" means the Barrington Property Association, Inc., a North Carolina nonprofit corporation, its successors and assigns.

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

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

1.08. Barrington. "Barrington" means the real estate described on Exhibit A, which is to be designated either The Estates of Barrington or The Woods at Barrington, said Property being comprised of 114.80 acres, more or less, and is to be subdivided into (i) 190 single-family lots, (ii) Common Elements (iii) entryways and rights-of-way and (iv) Wetlands.

1.09. City. "City" means the City of High Point in Guilford County in the State of North Carolina.

1.10. Common Elements. "Common Elements" means all real property owned by or held in trust for the benefit of the Association for the common use and enjoyment of its Members, and all improvements and facilities constructed thereon for such purposes, including, but not limited, to any signage, irrigation and/or drainage facilities, wetlands, permanent dry detention pond, pump station and related facilities, fountain, water feature, landscaping, lighting, green, natural or tree conservation area, swimming pool or other amenity constructed on portions of the Property designated "Common Elements", or other similar designation on Map(s) of the Property recorded in the County but does not include real property over which the Association has only an easement. "Common Elements" shall

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also include (i) any public road, right-of-way or cul-de-sac in the Property which has been dedicated to the public on Map(s) of the Property recorded in the County but not accepted for public maintenance by the appropriate governmental entity, including areas designated "landscape islands" and (ii) any median or planting area and related signage, irrigation facilities and lighting constructed by Declarant within rights-of-way within the Property. Declarant hereby grants to the Association an easement over any road, right-of-way or cul-de-sac within the Property, which shall automatically terminate upon dedication to and acceptance for public maintenance by the appropriate governmental entity.

1.11. Completion of Sales. "Completion of Sales" means the earlier of (1) conveyance by Declarant of all Lots in the Property or (2) expiration of the earliest of (x) ten (10) years from the closing of the first sale by Declarant of a Lot or (y) three (3) years from the conveyance by Declarant of the first Lot in the Phase most recently made subject to this Declaration (provided, if Declarant is delayed in developing the Property or selling Lots due to strikes or work stoppages; shortages of materials, supplies, fuel, power, or energy; moratoria or suspensions on issuance of land use permits and approvals or affecting the availability of water, sewer, power or other utilities or necessary services; inclement weather; civil strife; major disaster or other cause beyond Declarant's reasonable control, said ten (10) year period shall be extended by the period of any such delay); or (z) the date on which Declarant records a Notice of Termination of Sales in the public records of Guilford County.

1.12. County. "County" means Guilford County in the State of North Carolina.

1.13. CPI. "CPI" means The Consumer Price Index for All Urban Consumers of the United States Bureau of Labor Statistics (all Items) for the City of Greensboro, Guilford County, North Carolina.

1.14. Declarant. "Declarant" means Centex Homes, a Nevada general partnership, and any successor or assign to whom Centex Homes assigns its interest as Declarant hereunder, in whole or in part, by instrument recorded in the official records of the County.

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

1.16. FHA. "FHA" means the Federal Housing Administration.

1.17. Insurance Trustee. "Insurance Trustee" means such national banking association or title company licensed to do business in North Carolina as may be designated by the Association to hold and disburse funds as trustee for the Association and the Owners, as provided in this Declaration.

1.18. Lot. "Lot" means any numbered lot or plot of land, together with any improvements thereon, which is shown upon any recorded final subdivision map of the Property or of a part thereof.

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



1.20. Mortgage. "Mortgage" means a mortgage or deed of trust which constitutes a first lien upon a Lot given to a bank, savings and loan association or other institutional lender for the purpose of securing indebtedness incurred to purchase or improve a Lot.

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

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

1.23. Owner. "Owner" means the record owner, whether one or more persons or entities, of a fee simple title to any Lot, and shall include Declarant and Declarant as to any Lot owned by such Person. "Owner" shall not include any person or entity that holds an interest in a Lot merely as security for the performance of an obligation or as a tenant.

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

1.25. Property. "Property" means collectively Barrington, which is to be designated either The Estates of Barrington or The Woods at Barrington, and, when and if subjected to the terms and provisions of the Declaration, the real property described in Exhibit B. The Property may contain a total of 114.80 acres, more or less, which is comprised of (i) Barrington, and (ii) any Additional Land that shall be obtained by Declarant.

1.26. Phases. "Phase 1" means the real estate shown on the map of the initial Property (Barrington, as it is recorded in the Guilford Public Registry). "Phase Two" (and sequentially numbered Phases, if applicable) means the real estate shown on Maps to be prepared and recorded, if any, which depict all or a portion of the Additional Land that are subjected to this Declaration by a Supplemental Declaration recorded pursuant to Section 15.02 of this Declaration.

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

1.28. Special Declarant Rights. "Special Declarant Rights" means, without limitation, the rights as defined in Section 47F-1-103(28) of the Act for the benefit of a Declarant, including, but not limited to the following: the right to complete, repair, maintain, replace and operate improvements indicated on plats or plans filed with or referenced in the Declaration; to exercise any development right; to maintain sales offices, manage offices, models and signs advertising Barrington; to use easements through the Common Elements and through any Lot or Lots for the purpose of making, repairing, maintaining, replacing and operating improvements within Barrington or within real estate,

including Additional Land, which may be added to Barrington by Supplemental Declaration signed and recorded by Declarant pursuant to Section 15.01 of this Declaration; and to elect, appoint or remove any officer or Board member of the Association during any period of Declarant control.

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

1.30. Map. "Map" means a recorded subdivision plat of a portion of the Property recorded in the Guilford Public Registry.

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

## ARTICLE 2 SUBMISSION AND TERM

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

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

2.03. Term. This Declaration shall remain in force until terminated by the affirmative vote of eighty percent (80%) of the total Voting Power of the Association and the written consent of eighty (80%) of the Mortgagees, or such lesser percentage as may be required by the Act; provided however that if a two-class voting structure is in effect such action shall require the written approval of FHA.

### **ARTICLE 3**

#### **COMPLIANCE WITH MANAGEMENT DOCUMENTS**

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

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

### **ARTICLE 4**

#### **PROPERTY RIGHTS**

4.01. Common Elements Easements. Each Owner shall have a non-exclusive right and easement of use and enjoyment in and to the Common Elements and of access to and from his or her Lot over any streets comprising a portion of the Common Elements (if any), which rights and easements shall be appurtenant to and shall pass with the title to such Owner's Lot and subject to the following rights and restrictions:

(a) The right of the Association, after Notice and Opportunity for Hearing, to limit the number of guests of an Owner and to charge reasonable fees with respect to the use of Common Elements facilities, if any, and to limit the use of said facilities to Owners who occupy a residence in the Property.

(b) The right of the Association to suspend the right of an Owner to use any Common Elements facilities (1) for any period during which any fine against a Member or any assessment against such Owner's Lot remains unpaid and (2), after Notice and Opportunity for Hearing, for a period not to exceed thirty (30) days for any infraction of the Rules and Regulations;

(c) The right of the Association, subject to the provisions of the Act (Section 3-112) to encumber or convey all or any part of the Common Elements, provided however that if a two-class voting structure is in effect such action shall require the written approval of FHA.

(d) The right of the Association to grant easements, leases, licenses and concessions through or over the Common Elements.

(e) The right of the Association, subject to the provisions of the Act (Section 3-112), to borrow money to improve, repair, restore and reconstruct the Common Elements and to place liens on the Common Elements and otherwise encumber the Common Elements for such purposes, provided however that if a two-class voting structure is in effect such action shall require the written approval of FHA.

(f) The right of the Association to adopt Rules and Regulations governing use and enjoyment of the Common Elements.

(g) The rights of the Association and of Declarant to the use of easements for ingress and egress over, in, to and throughout the Common Elements.

4.02. Delegation. Any Owner may delegate his or her rights of use and enjoyment of the Common Elements and any facilities thereon to the members of such Owner's family or household residing on his or her Lot and to his or her guests and invitees while in possession of his or her Lot, subject, however, to reasonable restrictions imposed by the provisions of this Declaration, the Bylaws and the Rules and Regulations. Provided the notice required by Section 4.03 of this Declaration has first been given to the Association, a tenant of an Owner, while residing on such Owner's Lot, shall be entitled to use and enjoy the Common Area and any facilities thereon and to delegate rights of use and enjoyment in the same manner as if such tenant were the Owner of such Lot. No such delegation shall release an Owner from his or her obligations hereunder, including, without limitation, the obligation to pay regular and special assessments.

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

#### 4.03. Tenants.

(a) Any Owner who rents or leases his or her Lot to a tenant shall not be entitled to use and enjoy any common facilities on the Common Elements during the period the Lot is occupied by such tenant.

(b) No Owner shall lease or rent less than an entire Lot and no more than one family shall live in any one Lot. Except as provided in Section 7.32, the Lots

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

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

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

(d) In no event shall any lease or rental agreement release or relieve an Owner from the obligation to pay regular and special assessments to the Association, regardless of whether the obligation to pay assessments has been assumed by the tenant in such lease or rental agreement.

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

4.05. Utility Easements. Any easements for installation, maintenance, use or repair of public utilities or drainage facilities which are dedicated on any final subdivision map of the Property or created in some other way shall be kept free of buildings, and within such easements no structure shall be placed or permitted to remain which may damage or interfere with the installation, maintenance, use or repair of such public utilities or drainage facilities, or which may damage, interfere, or change the direction or flow of drainage in the easements. All such easements at all times shall be accessible to Declarant until the Property development is completed and at all times shall be accessible to all persons installing, repairing, using or maintaining such utilities and drainage facilities.

4.06. No Subdivision of Lots; No Time-Sharing. Other than that effected by Declarant in preparing and recording Maps, there shall be no subdivision or partition of any Lot, nor shall any Owner or any other person acquiring any interest in a Lot, seek any partition or subdivision thereof. There shall be no time-sharing or other co-ownership, which allows multiple Owners sequential possessory interests in a Lot.

4.07. Sale of Common Elements. No sale, transfer, dedication, hypothecation, partition, subdivision, abandonment, release or alienation of the Common Elements shall, or may be, effected except as provided in the Act, provided further however that if a two-class voting structure is in effect written approval of FHA shall also be required.

4.08. Rules and Regulations. The Association shall have the right to adopt, publish and enforce Rules and Regulations governing the Property, the use and enjoyment of the Common Elements, and any facilities thereon, and the personal conduct thereon of the Owners, their guests, invitees, members of their families or households and tenants. Such Rules and Regulations shall be reasonable, shall not discriminate against Declarant, must comply with the Act and must be consistent with this Declaration, the Articles and the Bylaws. Rules and Regulations shall not be effective until written notice thereof has been given by mailing a copy thereof, postage prepaid, at least ten (10) days before the effective date of the Rules and Regulations, to each Owner addressed to the Owner's address last appearing in the books of the Association.

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

## ARTICLE 5 COMMON ELEMENTS EASEMENTS AND RIGHTS OF WAY; ENCUMBRANCES

5.01. Dedications. The Association shall have the power to grant easements in, on, over, through and across the Common Elements for any public or quasi-public improvements or facilities and their appurtenances, including, without limitation, street, sewer, drainage, water, gas and sprinkler improvements and facilities, provided (i) any such easement does not unreasonably interfere with the use and enjoyment of the Common

Elements or any Lot, (ii) the prior written consent of Declarant shall be obtained so long as Declarant owns any Lot, and (iii) as long as there are two (2) classes of memberships in the Association, prior approval of FHA shall be obtained. Each Owner, by accepting a deed to a Lot, expressly grants to the Association an irrevocable power of attorney for the purpose of granting such easements in, on, over, through and across the Common Elements. The President or other duly designated officer of the Association may execute, acknowledge and record in the official records of the County a certificate stating that the Board is the attorney in fact for the Owners for the purpose of such grant and that such power of attorney is properly exercisable in accordance with this Declaration. The acts of the Board in exercising its power of attorney shall be conclusively binding on all Owners. The power of attorney herein granted shall include authority to do such acts incidental to such grant and to incur such expenses as may be necessary or convenient in connection therewith. The Board, by resolution, shall instruct the appropriate officers of the Association to make, execute and deliver on behalf of any Owner, as his or her interest may appear, any and all instruments, certificates and documents, including but not limited to, releases, waivers, deeds, escrow instructions and conveyances of every kind and nature, as may be deemed necessary or convenient for such dedication or grant.

5.02. Encumbrances. The Association shall have the right to borrow money to improve, repair, restore and reconstruct the Common Elements and to place liens on the Common Elements and otherwise encumber the Common Elements for such purposes (i) if a two-class voting structure is in effect, upon the written consent of eighty percent (80%) of the Voting Power of each class of Members of the Association, or (ii) if a two-class voting structure is not in effect, upon the written consent of eighty percent (80%) of the total Voting Power of the Association and the written consent of eighty percent (80%) of the Voting Power of the Association residing in Members other than Declarant. As long as there are two (2) classes of membership in the Association, any mortgaging of the Common Elements shall require the approval of FHA.

## ARTICLE 6 COMMON ELEMENTS AND LOT MAINTENANCE

6.01. Maintenance by Association. The Association shall be responsible for the maintenance of any required landscape plant material. The Association shall repair and maintain the Common Elements and any improvements, utilities and facilities located on the Common Elements, and shall be responsible for payment of assessments and/or local ad valorem taxes for public and private improvements made to or for the benefit of the Common Elements. Upon default by the Association in the payment to the jurisdiction entitled thereto of any assessments for public improvements or ad valorem taxes levied against the Common Elements, 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 jurisdiction a portion of the taxes or assessments in an amount determined by dividing the total taxes and/or assessments due to the jurisdiction by the total number of lots in the Development. If the sum is not paid within thirty (30) days following receipt of notice of the amount due, the sum shall become a continuing lien on the property of the owner, his heirs, devisees, personal representatives and assigns. The taxing or assessing jurisdiction may either bring an action at law to against the owner personally obligated to pay the same,

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or may elect to foreclose against the property of the owner. The Association is responsible for maintaining the wetlands as directed by the government office having jurisdiction for watershed protection. Any amendments to these Declaration of Covenants, Conditions and Restrictions or Bylaws which relate to the maintenance and/or ownership of the wetlands as shown on any plat(s) shall not be permitted without review and approval by the governmental office having jurisdiction for watershed protection. If the association should be dissolved or should cease to exist, then in that event all the owners of record at the time of required maintenance shall be jointly and severally liable for any and all costs attendant thereto. The Association may, but shall not be obligated to, provide enhanced landscaping and maintenance to those areas and medians located within the rights-of-way for major streets located within the Property. Any maintenance or enhancement called for herein shall be subject to governmental authorities' rules and regulations in the County or any other governmental entity.

6.02. Maintenance by Owners. Each Owner at all times, shall maintain, repair and otherwise be responsible for his or her Lot and the improvements thereon. Without limiting the generality of the foregoing, and subject to the requirements of Section 13.02 of this Declaration, an Owner shall be responsible for replacement and reconstruction of improvements on his or her Lot required because of damage or destruction by fire or other casualty, and each Owner shall maintain, repair and replace the surface and subsurface drainage facilities and appurtenances located on his or her Lot as may be necessary to maintain good and proper drainage of the Lot and other real property in the vicinity, except for such facilities the maintenance of which has been assumed by the County or other governmental entity. If any Owner, after Notice and Opportunity for Hearing, fails to maintain, repair and replace such drainage facilities and appurtenances as required herein, the Association, at the expense of such Owner, shall maintain, repair or replace such drainage facilities and appurtenances at the sole cost and expense of such Owner, and the Board, without the vote or written consent of Members, may levy a special assessment against such Owner to obtain reimbursement therefor as provided in Section 9.07.

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



facilities as may be shown in such instrument.

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

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

## ARTICLE 7 USE RESTRICTIONS

For purposes of this Article 7, unless the context otherwise requires, Residential Owner shall also include the family, invitees, guests, licensees, lessees and sublessees of any Residential Owner, and any other permitted occupants of a Living Unit. In addition to any other restrictions set forth in this Declaration, all the Lots and Living Units shall be held, used and enjoyed subject to the following limitations and restrictions, subject to the exemption of Declarant as provided in this Article and elsewhere in this Declaration.

7.01. Residential Use. The Lots and Living Units shall be for single-family residential use only. No trade, business, profession or commercial occupation or activity may be carried on in the Project Land without the consent of the Board except for such occupation or activity permitted to be carried on by Declarant or as is expressly permitted below. In addition, temporary guests are permitted so long as they do not create an unreasonable source of noise or annoyance to the other residents of the Project.

7.02 Non-Residential Activities or Uses. No trade, business, profession or commercial activity, or any other non residential use shall be conducted on the Property or within any Lot or Living Unit without the consent of the Board except that a Residential Owner or occupant residing in a Living Unit may conduct business activities within the Living Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Living Unit; (ii) the business activity conforms to all zoning requirements for the Property; (iii) the business activity does not involve door-to-door solicitation of residents noticeably greater than that which is typical of Living Units in which no business activity is being conducted; and (v) the business activity is consistent with the character of the Project, and does not constitute a nuisance, a hazardous or offensive use, or a threat to the security or safety of others, (iv) the business activity does not, in the Board's judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles being parked in the Project which is beyond the level of traffic and vehicular parking that occurs in residential developments similar to the Project, as the Board determines in its sole discretion. The foregoing limitations shall not preclude occasional garage sales, moving sales, rummage sales, or similar activities, provided that such activities may not be held on any one Lot more than once in any three-month period

and, when held, may not exceed three consecutive days in duration. The foregoing shall not prohibit a Residential Owner from leasing his Living Unit.

7.03. Nuisances. No obnoxious or offensive activity shall be carried on about the Lots or in or about any Improvements, Living Units, or on any portion of the Property nor shall anything be done therein which may be or become an unreasonable annoyance or a nuisance to any Residential Owner. No use or practice shall be allowed in or around the Living Units and Lots which is a source of annoyance to Residential Owners or occupants of Living Units or which interferes with the peaceful possession or proper use of the Living Units or the surrounding areas. No loud noises or noxious odors shall be permitted in any Improvements, Living Units or Lots.

7.04. Outside Storage of Personal Property. The personal property of any Residential Owner shall be kept inside the Residential Owner's Living Unit or a fenced-in yard, except for patio furniture and accessories, and other personal property commonly kept outside, which must be kept in the rear of the Lot and must be neat appearing and in good conditions.

7.05. Parking and Vehicular Restrictions. Vehicles may be parked or stored only on portions of a Lot improved for that purpose, i.e., garage, driveway, carport or parking pad. No unenclosed parking shall be constructed or maintained on any Lot except a paved driveway and an attached paved parking pad, which pad shall be designed for the parking of not more than 2 vehicles. Any driveway or parking pad constructed upon any Lot shall have either an asphaltic concrete surface, a cement concrete surface, or brick pavers.

No mobile house trailer (whether on or off wheels), vehicle or enclosed body of the type which may be placed on or attached to a vehicle (known generally as "campers"), or commercial vehicle of any kind shall be parked on the street within the Subdivision, nor shall any such vehicle be parked or kept on any Lot. Furthermore, no boat or boat trailer shall be parked on the street within the Project. No tractor trailer trucks or cabs shall be parked on any street or Lot within the Project.

No vehicle of any type which is abandoned or inoperative shall be stored or kept on any Lot in such manner as to be seen from any other Lot, any street within the Project or any Association Property and no automobiles or mechanical equipment may be dismantled or allowed to accumulate on any Lot.

7.06. No Improper Uses. No improper, offensive, hazardous or unlawful use shall be made of any Living Unit or Lot nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to any Residential Owner or occupant of the Project. Residential Owners shall observe and obey all valid laws, zoning ordinances and regulations of all Governmental Authorities. Violations of laws, orders, rules, regulations or requirements of any Governmental Authority, relating to any Living Unit or Lot shall be corrected by, and at the sole expense of the Residential Owner of the Living Unit or Lot.

7.07. Trash and Other Materials. Each Residential Owner shall regularly pick up all

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garbage, trash, refuse or rubbish on his Lot, and no Residential Owner or resident shall place or dump any garbage, trash, refuse, rubbish or other materials on any other portions of the Project Land. Garbage, trash, refuse or rubbish that is required to be placed at the front of a Lot in order to be collected may be placed and kept at the front of the Lot after 5:00 p.m. on the day before the scheduled day of collection, and any trash facilities must be removed on the collection day. All garbage, trash, refuse or rubbish must be placed in appropriate trash facilities or bags. All containers, dumpsters or garbage facilities shall be stored inside a Living Unit and kept in a clean and sanitary condition. No noxious or offensive odors shall be permitted.

7.08. Leases. No portion of a Living Unit (other than an entire Living Unit) may be rented. All leases must be in writing and shall provide that the Association shall have the right to terminate the lease upon default by the tenant in observing any of the provisions of this Declaration, the Articles, Bylaws, of applicable rules and regulations, or of any other agreement, document or instrument governing the Lots or Living Units. No lease shall be for a period of less than six (6) months without the approval of the Board. A copy of the proposed lease must be delivered to the Association prior to occupancy by the tenant. The Residential Owner of a leased Living Unit shall be jointly and severally liable with his tenant to the Association to pay any claim for injury or damage to property caused by the negligence of the tenant. Every lease shall be subordinated to any lien filed by the Association whether before or after such lease was entered into.

7.09. Temporary Buildings; Accessory Buildings; Play Structures. No tents, trailers, shacks or other temporary buildings or structures shall be constructed or otherwise placed upon the Project Land except in connection with construction, development, leasing or sales activities permitted by the Committee or performed by Declarant. No temporary structure may be used as a Living Unit. No garden shed, storage shed, out-building, play structure, or other permanent structures which are detached from the Living Unit shall be constructed or placed upon the Project Land unless approved by the Committee.

7.10. Garages. No garage shall be permanently enclosed so as to make such garage unusable by an automobile, and no portion of a garage originally intended for the parking of an automobile shall be converted into a living space or storage space and no garage opening shall have a screen covering without the consent of the Committee. All garage doors shall remain closed when vehicles or Persons are not entering or leaving the garage. The foregoing shall not include any garages used or formerly used by Declarant as an office or other area in connection with the sale of Living Units, which are Declarant Improvements and not subject to the restrictions in this Article 11. All garage doors shall remain closed when vehicles are not entering or leaving the garage.

7.11. Animals and Pets. Only common domesticated household pets may be kept on any Lot or in a Living Unit, but in no event for the purpose of breeding or for any commercial purposes whatsoever. No other animals, livestock, reptiles or poultry of any kind shall be kept, raised, bred or maintained on any portion of the Project Land. Permitted pets shall only be kept subject to and in accordance with such rules and regulations as shall be promulgated from time to time by the Board. The Board shall have the right to forbid or

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prohibit certain breeds or types of animals. Any pet must not be an unreasonable nuisance or annoyance to other residents on the Project Land. The Board may adopt rules and regulations concerning animals which are more restrictive than the provisions of this Declaration including rules requiring that all animals be kept on a leash when on the Association Property or outside a fenced yard and that animals be restricted to designated areas within the Association Property and that Residential Owners are responsible for cleaning up any mess that a pet created within any Lot or the Association Property. The Board may require any pet to be immediately and permanently removed from the Project Land due to a violation of this Section. Each Residential Owner who keeps or intends to keep a pet agrees to indemnify the Association and Declarant and hold them harmless against any loss or liability of any kind or character whatsoever arising from he or she having any animal on the Project Land.

7.12. Additions and Alterations. No Living Unit shall be enlarged by any addition thereto or to any part thereof, and no Residential Owner shall make any improvement, addition, or alteration to the exterior of his Living Unit, including, without limitation, the painting, staining, or varnishing of the exterior of the Living Unit or re-roofing with shingles of a different color or material, without the prior written approval of the Committee, which approval may be withheld for purely aesthetic reasons.

7.13. Increase in Insurance Rates. No Residential Owner may engage in any action that may reasonably be expected to result in an increase in the rate of any insurance policy or policies covering or with respect to any portion of the Project Land not owned by such Residential Owner.

7.14. Air Conditioning Units. Only central air conditioning units are permitted, and no window, wall, or portable air conditioning units are permitted. No air-conditioning or heating apparatus, unit or equipment shall be installed on the ground in front of, or attached to, any front wall of any Living Unit.

7.15. Clotheslines and outside Clothes Drying. No clotheslines or clothespoles shall be erected, and no outside clothes-drying is permitted, except where such activity is advised or mandated by Governmental Authorities for energy conservation purposes, in which event the Committee shall have the right to approve the portions of any Lot used for outdoor clothes-drying purposes and the types of devices to be employed, which approval must be in writing

7.16. Outside Antennas and Satellite Dishes. No Residential Owner may erect or maintain a television or radio receiving or transmitting antenna, satellite dish or similar apparatus or equipment unless: (i) such apparatus is two (2) feet or less in diameter, (ii) the apparatus is screened from public view and located behind the Living Unit either in the rear yard or affixed to the rear roof, (iii) the apparatus is not visible while standing at any point along the property boundary line in front of the house that abuts or is adjacent to a street, right-of-way or sidewalk, and (iv) the Committee has approved the apparatus, its location and the type of screening.

7.17 Flagpoles. No Residential Owner may erect or install a flagpole or decorative banner on any portion of a Lot or Living Unit, including freestanding detached flagpoles or

banners, and those that are attached to a Living Unit, without the prior written approval of the Committee.

7.18. Oil and Gas Tanks. All oil tanks, bottled gas tanks, and similar apparatuses and housing shall be underground or placed in walled-in or landscaped areas as approved by the Committee so that they shall be substantially concealed or hidden from any eye-level view from any street or adjacent property.

7.19. Signs. Except as otherwise required by the Town, no sign of any kind shall be displayed to the public view on any Lot except signs used by Declarant to advertise Living Units for sale during the construction and sales period, and one sign of not more than six (6) square feet advertising the property for sale, and signs of not more than six (6) square feet expressing support of or opposition to political candidates or other issues which will appear on the ballot of a primary, general or special election, provided that such political signs shall not be placed on a Lot earlier than sixty (60) days before such election and shall be removed within two (2) days after such election. No signs advertising a Living Unit "for rent" or "for lease" shall be permitted within the Properties without the prior written consent of Declarant (until the Termination of Declarant Control of the Committee) and the Committee

7.20. Window Treatments. Window treatments shall consist of drapery, blinds, decorative panels, or other tasteful window covering, and no newspaper, aluminum foil, sheets or other temporary window treatments are permitted, except for periods not exceeding one (1) week after a Residential Owner or tenant first moves into a Living Unit or when permanent window treatments are being cleaned or repaired.

7.21. Swimming Pools. No swimming pools, spas, or the like, shall be permitted in the Project, except that small, inflatable wading pools shall be permitted.

7.22. Fences and Walls. No fence or wall shall be erected on any Lot without the prior written approval of the Committee. Nothing in this Section shall be deemed to apply to or regulate retaining walls made necessary by the slope or grade of any Lot or Lots, nor shall anything in this Section apply to any fence installed by the Declarant at any entrance to or along any street within the Project.

Fences may either be naturally treated wood fences or vinyl. Wooden fences may be treated with a natural wood or white tone stain. For maintenance purposes, it is preferred that fences are not painted. Fences must enclose all or part of the backyard, and should extend no farther forward than 10' (10 feet) from the back corners of the house (variations will be considered for specific lot shapes and/or items you are intending to screen with the fence). No wire, plastic, or chain-link fences (including dog enclosures) shall be considered. Construction will consist of vertical members (pickets) supported on horizontal members (rails) with the pickets on the outward side of the fence. No fence shall have more than eighty percent (80%) of any of its surface closed as viewed from a point on a line of sight perpendicular to the line formed by the line of the fence. Evergreen shrubs on the street side of the fence at 5ft spacing will be required. Required fence height is a minimum of 4ft (42" at lowest point, if scalloped design) and shall not exceed 6ft in height. Fences must be maintained and kept in good repair.

The Standards published by the Committee may contain specific requirements regarding the design, maintenance, location, and use of any fences or walls proposed to be installed upon a Lot, including, but not limited to, the location, number and design of the gates. In addition, the rules and regulations published by the Board may contain specific requirements regarding fences and walls installed by a Residential Owner on a Lot. In general, any fence installed upon a Lot shall be designed and used in a manner that will allow access to and from the rear yard of such Lot to allow the Association to perform maintenance of the Yard Improvements, if any, for such Lot, and to allow public utility companies to inspect, maintain and repair any utility facilities located within the boundary of the Lot. If a Residential Owner who is permitted by the Committee to install a fence upon such Owner's Lot, fails to comply with any of the requirements in this Section on the scheduled day for the Association's maintenance of the Yard Improvements on the Lot, then the Association shall have no responsibility to perform the scheduled maintenance on such day. If a Residential Owner continues to prevent access to the rear yard of such Owner's Lot, the Association shall have the right to levy a fine on the Residential Owner, in addition to the right to remove the obstructing Improvement(s) as provided in Article 9. The Residential Owner of a Lot upon which a fence or wall is installed shall be solely responsible for providing and maintaining access to and from the rear yard of such Lot.

7.23. Surface Water Management. No Residential Owner or any other person shall do anything to adversely affect the Master Drainage System and the general surface water management and drainage of the Project Land, without the prior written approval of the Committee, the Master Association and any controlling Governmental Authority, including, but not limited to, the excavation or filling in of any Lot. Provided, however, the foregoing shall not be deemed to prohibit or restrict the initial construction of Improvements upon the Project Land by Declarant in accordance with permits issued by controlling Governmental Authorities. In particular, no Residential Owner shall install any landscaping or place any fill on the Residential Owner's Lot which would adversely affect the drainage of any contiguous Living Unit or Lot. No Residential Owner shall be permitted to reshape or alter the topographical features or area within any drainage easement, nor shall any Residential Owner be permitted to install fences or other Improvements or structures within a drainage easement, including the installation of landscaping, plants, trees or other vegetation, except for low growing grass. The application of herbicide to the portions of the Project Land within any drainage easement is prohibited.

7.24. Wetland Areas. No Residential Owner shall remove native vegetation that becomes established within any wetland areas located on or adjacent to any portion of the Project Land. Removal includes dredging, the application of herbicide, and cutting. No Residential Owner shall add or introduce additional vegetation or other forms of plantlife or landscaping within any wetland areas located on or adjacent to any portion of the Project Land. Residential Owners should address any question regarding authorized activities within any wetland areas to the applicable Governmental Authorities. No Residential Owner may construct or maintain any building, residence, or structure, or undertake or perform any activity in any wetland areas without the prior approval of the Association and the applicable Governmental Authorities and utility providers.

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7.25. Building Location. Any Living Unit erected on a Lot other than a corner Lot shall face the street on which the Lot abuts. On corner Lots, a Living Unit may be erected so as to face the intersection of the 2 streets on which the Lot abuts.

7.26. Damage and Destruction. If any Improvement contiguous with a Living Unit is damaged or destroyed by casualty or for any other reason, the Residential Owner of the Living Unit shall repair and restore the damaged Improvement as soon as is reasonably practical to the same condition that the Improvement was in prior to such damage or destruction, unless otherwise approved by the Committee.

7.27. Subdivision and Partition. No Lot on the Residential Land shall be subdivided without the Committee's prior written consent except by Declarant.

7.28. Construction. All construction, landscaping or other work which has been commenced on any Lot shall be continued with reasonable diligence to completion and no partially completed Living Unit or other Improvement shall be permitted to exist on any Lot, except during such reasonable time period as is necessary for completion. The Residential Owner of each Lot shall at all times keep contiguous public streets free from any dirt, mud, garbage, trash or other debris resulting from any such construction on the subject Residential Owner's Lot.

7.29. Septic Tanks; Wells. No septic tank shall be installed, used or maintained on any Lot. No well shall be installed, used or maintained on any Lot for human domestic water consumption, nor shall any well be connected in any manner whatsoever to the water mains, laterals and piping serving the Living Unit, which mains furnish domestic water from sources beyond the boundaries of the Lot. No Residential Owner shall be permitted to use water from the Ponds for irrigation or for any other purpose whatsoever.

7.30. Certain Rights of Declarant. The provisions, restrictions, terms and conditions of this Article 7 shall not apply to Declarant.

## ARTICLE 8 MEMBERSHIP AND VOTING RIGHTS

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

8.02. Membership. Membership in the Association shall be composed of and limited to Owners. Each Owner, including Declarant, Declarant and any Person who was formerly Declarant (and remains an Owner) shall automatically be a Member of the Association and entitled to vote as set forth below. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Upon termination of ownership, an Owner's membership shall automatically terminate and be automatically transferred to the new Owner of the Lot.

8.03. Voting. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners with the exception of Declarant; provided, that if then an Owner, Declarant, and any Person who was formerly Declarant shall each become a Class A Member when their Class B membership ceases as provided hereinafter. Class A Members shall be entitled to one (1) vote for each Lot owned. When more than one person holds an ownership interest in any Lot, all such persons shall be Members, but no more than one vote shall be cast with respect to any Lot. The vote for any such Lot shall be exercised as the Members holding an interest in such Lot determine among themselves. In the event of disagreement, the decision of Members holding a majority of interest in such Lot shall govern. Unless otherwise notified by a co-owner as to a dispute between the co-owners regarding their vote prior to the casting of that vote, the vote of any co-owner shall be conclusively presumed to be the majority vote of the Owners of that Lot.

Class B. Class B Members shall be Declarant and any Person who was formerly Declarant and each shall be entitled to three (3) votes for each Lot owned by that Owner; provided that 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: (i) the conveyance by Declarant and any Person who was formerly Declarant to Owners other than Declarant or a former Declarant of seventy-five percent (75%) of all Lots in the Property, or (ii) ten (10) years after the first Lot is conveyed to an Owner for use as a residence.

8.04. Commencement of Voting Rights. Voting rights attributable to an ownership interest shall not vest until the assessment against that interest has been levied by the Association as provided in Article 9; provided, however, that voting rights shall be immediately vested with respect to amendments to this Declaration pursuant to Section 17.11.

8.05. Declarant's Voting Rights. Declarant may cast votes attributable to Lots owned by each of those respective Persons on all matters submitted to a vote of the Members.

## ARTICLE 9 COVENANTS FOR ASSESSMENTS

9.01. Covenant to Pay Assessments; Lien. Declarant, for each Lot owned by Declarant, hereby covenants to pay, and every Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay, to the Association such regular annual assessments or charges and such special assessments or charges as may be levied by the Association pursuant to the provisions of this Declaration. Notwithstanding the foregoing, Centex Homes shall not be obligated to pay assessments on any Lot unless and until such Lot shall have been improved with a single-family residence and sold to a purchaser of such residence. The amount of any such annual or special assessment plus any other charges thereon, such as interest, late charges and costs (including attorneys' fees), as such may be provided in this Declaration, shall be and



become a lien upon the Lot assessed when the Association causes to be recorded in the official records of the County a notice of assessment, which notice shall state:

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

An authorized representative of the Association shall sign such notice. Upon payment of such assessment and charges in connection with which such notice has been so recorded, or other satisfaction thereof, the Association, at the Owner's cost and expense, shall cause to be recorded a further notice stating the satisfaction and the release of the lien thereof. The lien provided for herein shall be prior to all other liens recorded subsequent to the recordation of such notice of assessment except that this lien shall be subject to the lien for real estate taxes and other governmental assessments and charges and subject to the priorities afforded by law to mechanics' and materialmen's liens. The lien may be enforced by foreclosure in accordance with North Carolina law, or in any other manner permitted by law. The Association shall have power to purchase the Lot at a foreclosure sale and to hold, lease, mortgage and convey the same.

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

9.03. Use of Assessments. Regular annual or special assessments paid by Declarant and other Owners shall be used to pay for operation, maintenance, preservation, enhancement, repair and improvement of the Common Elements, other purposes reasonably related to the foregoing, and to promote the recreation, health, safety and welfare of the Owners. In addition, such assessments shall be used to pay the cost of administration of the affairs of the Association, including payment of applicable taxes, and for the preservation of the Association's existence, to the extent properly allocable to the performance and exercise of the Association's duties and powers under this Declaration. The foregoing is intended as an authorization to the Association and shall not be construed to require expenditure of Association funds for any particular purpose. Additionally, assessments shall be used as required or deemed appropriate by the association for the repair and or maintenance of the permanent wet detention pond. Repairs and maintenance shall include but are not limited to the costs of repairs, replacements, and additions, and the cost of labor, equipment, management and supervision. Assessments shall also provide for the procurement and maintenance of liability insurance, the provision of adequate reserves for the replacement of major structures incorporated into the permanent wet detention pond, and such other needs as may arise.

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

9.05. Regular Assessments. The regular annual assessment for each Lot for the first assessment year shall be a maximum of \$420.00 per Lot owned by a Class A Member and \$-0- per Lot owned by a Class B Member; provided, however, that if the first assessment year shall have fewer than twelve months, the foregoing amounts shall be proportionately reduced. On the first day of the month next following the conveyance to the Association of all or part of the Common Elements, the regular annual assessment (prorated for the number of months remaining in such assessment year) may be increased by the Board to an amount equal to the previous year's annual assessments times the greater of (1) ten percent (10%) or (2) the annual percentage increase in the CPI for the most recent twelve (12) month period for which the CPI is available. If the CPI is discontinued, then there shall be used the index most similar to the CPI which is published by the United States Government indicating changes in the cost of living. If the annual assessments are not increased by the maximum amount permitted under the terms of this provision, the difference between any actual increase which is made and the maximum increase permitted for that year shall be computed and the annual assessments may be increased by that amount in a future year, by a vote of the Board of Directors, without a vote of the Members.

The Board shall fix the amount and due date of the regular annual assessment on a yearly basis at least sixty (60) days in advance of each assessment year. The Board may not impose a regular annual assessment which is more than ten percent (10%) greater than the regular assessment for the immediately preceding fiscal year without (i) if a two-class voting structure is in effect, the vote or written consent of not less than sixty-seven percent (67%) of the Voting Power of each class of Members of the Association or (ii) if a two-class voting structure is not in effect, the vote or written consent of sixty-seven percent (67%) of both the Voting Power of the Association and the Voting Power of the Association residing in Members other than Declarant. The ratio of the assessment established for Lots owned by

Class A Members to the assessment established for Lots owned by Class B Members shall be three (3) to one (1). Written notice of the regular annual assessment shall be sent to every Owner who is not present at the time the regular annual assessment is so fixed. If the Board fails to so fix the regular annual assessment, the assessment applicable for the previous assessment year shall remain in effect until the Board shall fix a new regular annual assessment. Regular annual assessments shall be payable annually on the first day of each January or at such other time as the Board may fix. The Association shall, upon demand, and for a reasonable charge, furnish to any person having a legitimate interest a certificate signed by an officer of the Association stating whether the regular annual assessment and special assessments, if any, on a specified Lot have been paid and, if not, the amount due.

9.06. Special Assessments. In addition to the regular annual assessments authorized herein, the Board may levy, in any assessment year, a special assessment against all Owners applicable to that year only for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of capital improvements and related fixtures and personal property on or comprising a part of the Common Elements; provided, however, any such assessment shall be in the ratio of three (3) to one (1) for Lots owned by Class A Members and Class B Members, respectively, as provided in Section 9.05 above, and further provided in any fiscal year, special assessments which exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year may not be levied without (i) if a two-class voting structure is in effect, the vote or written consent of sixty-seven percent (67%) of the Voting Power of each class of Members of the Association or (ii) if a two-class voting structure is not in effect, the vote or written consent of sixty-seven percent (67%) of both the Voting Power of the Association and the Voting Power of the Association residing in Members other than Declarant.

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

9.08. Allocation of Assessments. Except as otherwise provided in this Declaration and except for the reduced assessments on Lots owned by Class B Members, all regular and special assessments shall be levied equally against all Owners.

9.09. Commencement of Assessments. The regular annual assessments provided for herein shall commence as to all Lots in Barrington, on the first day of the month next following the conveyance of the first Lot with a dwelling to a purchaser other than a successor Declarant for use as a residence. The first assessment year shall be the period commencing on the date regular annual assessments commence and ending on the December 31 next following. The regular annual assessment for the first assessment year shall be prorated from the amounts fixed by the Board for a full twelve-month year, based on the number of months to be contained in the first assessment year. Subsequent assessment years shall be each successive calendar year; provided, however, that at any time the Board may change the assessment year to correspond to a fiscal year selected by the Board. Assessments of Lots within each Phase of the Property which is annexed in

accordance with the provisions of Article 15 below shall commence on the first day of the month next following the conveyance of the first Lot with a dwelling to a purchaser, other than a successor Declarant, for use as a residence.

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

9.11. Delinquent Assessments; Fines. Any assessment not paid within ten (10) days after the due date shall be delinquent. The Board may require that any delinquent assessment bear a late charge to cover administrative expenses incurred as a result of the late payment of the assessment. Unless otherwise limited by the Act, late charges on delinquent assessments and fines levied as provided in Section 4.09 shall not exceed the following rates computed on the outstanding balance, which shall include any late charges previously assessed and unpaid, from month to month:

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

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

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

No charge may be imposed more than once each month for the delinquency of the same payment, provided that the imposition of a late charge on any delinquent payment shall not eliminate or supersede charges imposed on prior delinquent payments. When an assessment is paid more than ten (10) days after the due date of the assessment, late charges shall accrue from the first day following the due date of the assessment. The Association may bring legal action against the Owner personally obligated to pay a delinquent assessment or fine and, after Notice and Opportunity for Hearing, the Association may suspend a delinquent Owner's membership right in the Association while the assessment or fine remains unpaid. In any legal action to enforce payment of an assessment or fine, the Association shall be entitled to recover interest, costs and reasonable attorneys' fees.

9.12. Subsidy. Declarant will subsidize the difference between revenues received through annual assessments and all reasonable expenses of the Association as they related to Barrington as recorded in Plat Book 161 Page 82-83, Guilford County Registry until such time as Class B membership ceases to exist, except Declarant will

continue to be responsible for defects, if any, in the original construction of the public roads, curbs, gutters and drainage areas within the public roads as dedicated on maps of the Property as described above until such time as they are accepted for public maintenance by the appropriate governmental authority.

9.13. Capital Contribution. Notwithstanding any provision contained herein or in any other document or instrument to the contrary, every Owner (other than Declarant) who purchases a Lot from Declarant or Declarant improved by a single family residence shall pay to the Association at the time of the closing of such purchase a non-refundable capital contribution fee in the amount of \$210.00, which amount shall be held by the Association in reserve for maintenance, repair, construction and replacement of capital assets and improvements within the Common Elements and easement areas within the Property. It is expressly provided herein that such capital contributions shall not be held in reserve for the benefit of the Owner paying such amount at closing and shall not be required to be held in an interest bearing account.

## **ARTICLE 10 INSURANCE**

10.01 Insurance Requirements under the Act. Section 47F-3-113 of the Act requires certain insurance to be carried by the Association and provides for the distribution of insurance proceeds, requires certain provisions for property and liability insurance and governs insurance repairs. In the event the insurance requirements of this Article 10 conflict with, or fail to incorporate the provisions of Sections 47F-3-113 of the Act, the provisions of the Act shall apply and govern.

### **10.02. Duty to Maintain Insurance.**

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

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

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

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

**10.03. Proceeds of Insurance.** The proceeds of casualty insurance carried by the Association shall be paid as follows:

(a) If such proceeds do not exceed Fifty Thousand Dollars (\$50,000), the proceeds shall be paid to and held by the Association as trustee for the Owners, Declarant and Mortgagees for disbursement in accordance with the provisions of this Declaration; and

(b) If such proceeds exceed Fifty Thousand Dollars (\$50,000), the proceeds shall be paid to and held by the Insurance Trustee in trust for the Association, Owners, Declarant and Mortgagees, for disbursement in accordance with the provisions of this Declaration.

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

## **ARTICLE 11 DAMAGE AND DESTRUCTION**

**11.01. Damage to Lots.** Restoration and repair of damage to any Lot (including, in accordance with the definition of Lot, the improvements thereon) shall be made by and at the expense of the Owner thereof.

**11.02. Damage to Common Elements.** Restoration and repair of damage to any Common Elements shall be made end at the expense of the Association unless, under the provisions of Section 47F-3-113(g), the repair or restoration is not to be effected. If the work is to be accomplished, the Association shall promptly contract for the repair, restoration or reconstruction and, if necessary, collect from the Insurance Trustee any proceeds of insurance as received in accordance with Section 10.03. The difference, if any, between the insurance proceeds payable by reason of such repairs and the cost thereof may be recovered by one or more special assessments levied by the Board equally against all Owners.

Funds collected and held by the Insurance Trustee shall be disbursed by the Insurance Trustee for the purpose of repair, restoration or reconstruction in accordance with the terms and conditions of repair or reconstruction contract(s) between the Association and Persons engaged to perform the work. Funds from any special assessment shall be delivered to and held in trust by the Insurance Trustee and shall be held and

disbursed for repair, restoration and reconstruction in the same manner as insurance proceeds. The Insurance Trustee may invest and reinvest funds held by it in a manner consistent with its duties as trustee. The Insurance Trustee shall be entitled to a reasonable fee for its services.

## **ARTICLE 12 EMINENT DOMAIN**

12.01. Eminent Domain. Notwithstanding any provision contained herein to the contrary, in the event of a taking of all or any portion of a Lot or all any portion of the Common Elements by eminent domain, or by conveyance in lieu thereof, the awards paid on account thereof shall be applied in accordance with Section 47F-1-107 of the Act. If all or any portion of the Common Elements are taken by action in eminent domain (hereinafter called a "taking"), the Association shall give written notice of the proceedings to all Owners and Mortgagees, and the condemnation award shall be fairly and equitably apportioned among the Owners, Mortgagees and the Association as provided in the Act.

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

## **ARTICLE 13 ARCHITECTURAL CONTROL**

13.01. Architectural Control. No building, pool, fence, gazebo, wall, antenna or other structure or improvement on any Lot shall be erected, constructed, demolished, or altered until an application, including plans and specifications showing the nature, kind, shape, height, materials, and location of the same, shall have been submitted to and approved in writing by the Board or an architectural control committee which has been empowered by the Board to approve such applications and comprised of three (3) or more Association Members who have been appointed by the Board; provided, however, that no such approval shall be required for alterations to the interior of any residential structure. The Board may require a reasonable fee to accompany each application for approval. If the Board or such architectural control committee, having not theretofore approved or disapproved an application, fails to approve or disapprove an application within ten (10) days following receipt of written notice of failure to act, which written notice is given at least thirty (30) days following receipt of the initial application, the application shall be deemed approved unless the application calls for construction of improvements which are contrary to specific restrictions or covenants contained in this Declaration, in which event the application shall be deemed denied. Further, the architectural control committee's failure to act within thirty (30) days shall not operate to permit any Owner to construct or maintain any improvement that violates any provision of this Declaration or any applicable legal requirement, the committee at all times retaining the right to object to any improvement

that violates this Declaration or any applicable legal requirement. The Restrictions herein contained shall have no application to the development, improvement, maintenance and repair of the Property by Declarant or the Association, and neither the Board nor the architectural control committee shall have any power or authority to review or require modifications in plans and specifications for construction or installation of improvements by Declarant or the Association.

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

## ARTICLE 14 MORTGAGEE PROTECTION

14.01. Interpretation. In the event any provision of this Article 14 is inconsistent with or contrary to any other provision of this Declaration, the provisions of this Article 14 shall control.

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

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



of all meetings of the Association and to designate a representative to attend all such meetings.

14.04. Damage and Destruction Rights. In the event of substantial damage to or destruction of any Lot (including the improvements thereon) or any part of the Common Elements no provision of any document establishing the Property subdivision shall entitle the Owner of a Lot or other party to priority over such Mortgagee with respect to the distribution to such Owner of any insurance proceeds.

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

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

14.07. Subordination. No provisions contained in this Declaration shall defeat or render invalid the lien of any Mortgage that is made in good faith and for value. The lien of the assessments provided for herein shall be subordinate to the lien of any Mortgage recorded prior to the date any such assessment becomes due. This subordination shall apply only to assessments on a Lot which have become due and payable prior to a sale or transfer of such Lot pursuant to a decree of foreclosure or exercise of power of sale. Any Mortgagee who acquires title to or comes into possession of a Lot pursuant to exercise of remedies provided for in the Mortgage, including foreclosure by judicial action or exercise of a power of sale, and any purchaser at a foreclosure sale, shall take the Lot free of any claims for unpaid assessments or charges against the Lot which have accrued prior to the time such Mortgagee or purchaser acquires title to or comes into possession of the Lot; provided, this exception shall not be applicable to any claim for assessments or charges levied by the Association against all Lots for the purpose of recovering any revenue lost by reason of the nonpayment of past due assessments upon such Lot; and provided further, that except as otherwise provided in this Section, all of the limitations, restrictions, covenants, conditions, easements, liens, charges, assessments, and equitable servitudes contained herein shall be binding upon any Owner whose title is derived through foreclosure sale, trustee's sale or otherwise. Except as provided above, the sale, transfer or conveyance of title to a Lot shall not relieve a selling Owner from personal liability for any assessments which became due and payable prior to such sale, transfer or conveyance, nor relieve such Lot from a duly recorded lien for any such prior unpaid assessment.

14.08. Payments by Mortgagees. Any Mortgagee, after at least ten (10) days' prior written notification to the Association of the items to be paid and the failure of the

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 Association within such time to make payment, may pay, alone or in conjunction with other Mortgagees, delinquent taxes, liens or assessments which may be or become a charge against the Common Elements, or any portion thereof, and any overdue premiums on policies of fire and extended coverage insurance for the Common Elements and in the event of a lapse of such a policy of insurance, may pay premiums to secure a new policy. In the event such payments are made, the Mortgagee making such payment shall be entitled to immediate reimbursement from the Association to the extent of the payment made.

14.09. Professional Management. In the event that Declarant or the Association enters into any contract with any person or entity to provide management or maintenance services to the Property, such contract shall not exceed one (1) year and shall provide that the Association shall have the right to terminate the contract for cause upon thirty (30) days' written notice and without cause upon ninety (90) days' written notice, without payment of a termination fee.

## ARTICLE 15 ANNEXATION

15.01. Right to Annex. Centex Homes, whether or not Declarant at the time of such annexation, reserves and shall have the right to annex to Barrington, thereby bringing within the scheme of this Declaration and subject to the jurisdiction of the Association part or all of the Additional Land; provided, as long as there is at least one FHA insured loan on a Lot within the Property, such annexation is in accordance with the general plan for the Property previously approved by FHA.

Annexation of any other real property shall require the vote or written consent of not less than sixty-seven percent (67%) of the total voting power of the Association residing in Members other than Declarant, provided however that if a two-class voting structure is in effect such action shall require the written approval of FHA. Annexation of additional property may be accomplished in Phases.

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

15.03. Annexed Property. Each Owner of a Lot in an annexed Phase automatically shall be a Member of the Association and such Owners and annexed Additional Land shall

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

#### **ARTICLE 16 TERMINATION OF PLANNED COMMUNITY**

This Declaration shall remain in force until terminated by the affirmative vote of eighty percent (80%) of the total Voting Power of the Association and the written consent of eighty (80%) of the Mortgagees, or such lesser percentage as may be required by the Act; provided however that if a two-class voting structure is in effect such action shall require the written approval of FHA. Notwithstanding any provision contained herein to the contrary, Barrington, a planned community under the Act, may be terminated only in strict compliance with Section 47F-2-118 of the Act.

#### **ARTICLE 17 MISCELLANEOUS PROVISIONS**

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

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

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

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

17.05. Independence of Provisions. The provisions of this Declaration shall be deemed independent and severable. Invalidation or partial invalidation of any provision of this Declaration by judgment or court order shall not affect any other provision of this Declaration, and the remaining provisions shall remain in full force and effect.

17.06. Notices. Notices shall be in writing and shall be addressed as follows: (i) if to an Owner, to the address of his or her Lot; (ii) if to Declarant, to Centex Homes 556 Arbor Road Suite L, Kernersville, North Carolina 27284, (iii) if to the Association, to 556 Arbor Road Suite L, Kernersville, North Carolina 27284. The Association may designate a different address for notices by giving written notice of such change of address to all Owners and to Declarant. Declarant may designate a different address for notices by giving written notice of such change of address to all Owners and to the Association. Any Owner may designate a different address for notices by giving written notice of such change of address to the Association and to Declarant.

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

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

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

17.10. Exhibit. Exhibits A and B, which are attached to this Declaration, are incorporated herein and made a part hereof by this reference.

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

During any period in which a two-class voting structure is in effect, Declarant, by unanimous written agreement, amend this Declaration without the approval of any other Member(s) or Mortgagee(s) provided the amendment does not materially alter or change any Owner's right to the use and enjoyment of such Owner's Lot or of the Common Elements as set forth in this Declaration and the amendment does not adversely affect the title to any Lot. In the event that such amendment would materially and adversely affect the security title and interest of any Mortgagee, such amendment shall be valid only upon the written consent of sixty-seven percent (67%) of the Mortgagees (based on one vote for each mortgage owned).

Should the Department of Veterans' Affairs, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Declaration or make such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Declaration to be recorded to reflect such changes.

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

Notwithstanding anything to the contrary contained in this Declaration, any amendment which establishes, governs, provides for or regulates any one of the following: (i) voting; (ii) assessments, assessment liens or subordination of such liens; (iii) reserves for maintenance, repair and replacement of the Common Elements; (iv) insurance or fidelity bonds; (v) right to use of the Common Elements; (vi) responsibility for maintenance and repair of the Property; (vii) expansion or contraction of the Property or the addition, annexation or withdrawal of property to or from the Property; (viii) the boundaries of any

Lot; (ix) interests in the Common Elements; (x) leasing of ownership interests; (xi) imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey his or her Lot; (xii) any provisions which are for the express benefit of Mortgagees; or (xiii) any other material amendment shall require (i) if a two-class voting structure is in effect, the vote or written consent of sixty-seven percent (67%) of the Voting Power of each class of Members, or (ii) if a two-class voting structure is not in effect, the vote or written consent of sixty-seven percent (67%) of the total Voting Power of the Association, and the written consent of sixty-seven percent (67%) of the Mortgagees (based on one vote for each Mortgage owned). Any Mortgagee who does not respond within thirty (30) days request by the Association for consent to an amendment of this Declaration shall be deemed to have approved such request.

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

**IN WITNESS WHEREOF**, the undersigned, being the Declarant herein, has executed this Declaration as of the date first above set forth.

**DECLARANT:**

CENTEX HOMES  
a Nevada general partnership

{CORPORATE SEAL}

By: [Signature]  
President

**STATE OF NORTH CAROLINA  
COUNTY OF GUILFORD**

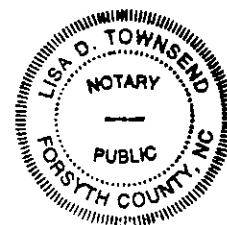
This 13 day of September, 2005, personally came before me Joe Jenkins, who, being by me duly sworn, says that he is \_\_\_\_\_ President of Centex Homes, a Nevada general partnership, that the seal affixed to the foregoing instrument in writing is the corporate seal of the Corporation, and that said writing was signed and sealed by him in behalf of said Corporation. And the said \_\_\_\_\_ President, acknowledged the said writing to be the act and deed of said Corporation.

Witness my hand and seal this the 13th day of September, 2005.

[Signature]  
Notary Public

[Signature]

My Commission Expires: 12-05-2009



**EXHIBIT A**  
**Legal Description of BARRINGTON**

Lying and being in Guilford County, North Carolina, and being more particularly described as follows:

Being all Lots of Barrington – Phase 1 (the “Lots”), a map of which is recorded in Plat Book 161 Pages 82-83 in the Office of the Register of Deeds of Guilford County, North Carolina (the “Plat”); together with and including all right, title and interest of Grantor, if any, in and to any and all dedicated public streets, roads and avenues shown on the Plat and adjoining Lots.

000235

**EXHIBIT B**

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000236



JEFF L. THIGPEN, REGISTER OF DEEDS  
 GUILFORD COUNTY  
 201 SOUTH EUGENE STREET  
 GREENSBORO, NC 27402

\* \* \* \* \*

State of North Carolina, County of Guilford

The foregoing certificate of LISA R. TOWNSEND

A Notary (Notaries) Public is/are certified to be correct. This instrument and this certificate are duly registered at the date and time shown herein.

JEFF L. THIGPEN, REGISTER OF DEEDS

By: Robbin M. Miller  
 Deputy - Assistant Register of Deeds

\* \* \* \* \*

This certification sheet is a vital part of your recorded document.  
 Please retain with original document and submit when re-recording.