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REGISTER OF DEEDS  
DURHAM COUNTY, NC  
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**SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR TOWNHOME PROPERTY AT CHANCELLOR'S RIDGE**

**THIS DECLARATION**, made on the date hereinafter set forth by **CHANCELLOR'S RIDGE DEVELOPMENT CORPORATION, LLC**, a North Carolina limited liability company, (hereinafter referred to as the "Declarant");

**W I T N E S S E T H:**

**WHEREAS**, the Declarant has purchased certain property located in the City of Durham, Durham County, North Carolina known as Chancellor's Ridge Subdivision (the "Subdivision"), a portion of which is more particularly described as Phase III consisting of 80 Lots (the "Townhome Property"), as the same is shown on the map recorded in Plat Book 150, Pages 39,41,43, Durham County Registry (the "Plat") (and which property is also known as "The Woodlands"); and

**WHEREAS**, although Declarant has imposed a separate declaration of covenants, conditions and restrictions for Chancellor's Ridge Subdivision which have been recorded in Book 2550, Page 467 (herein defined as the Master Declaration), Declarant desires to impose additional easements, covenants and restrictions upon all of the Townhome Property covered by this Declaration, and to establish certain rights for, and impose certain obligations upon, the Owners of the Townhome Property; and

**WHEREAS**, Declarant will convey title to the Townhome Property, subject to certain protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth; and

**WHEREAS**, Declarant desires to provide for the preservation and enhancement of the property values, amenities and conceptual intent of the Townhome Property, for the maintenance of Townhome Common Properties and improvements thereon as described herein, and accordingly desires to subject the Townhome Property, together with such additions and/or deletions as may hereafter be made, to the covenants, restrictions, easements, affirmative obligations, charges, and liens as hereinafter set forth ( herein called the

"Declaration") each and all of which is hereby declared to be for the benefit of the Townhome Property and each and every owner of any and all parts thereof; and

**WHEREAS**, Declarant has deemed it desirable for the efficient preservation of the values and amenities of the Townhome Property to delegate and assign to an agency the power and authority of owning, maintaining and administering the Townhome Common Properties as defined herein, administering and enforcing the covenants and restrictions governing said Townhome Common Properties, collecting and disbursing all assessments and charges necessary for such activities, and promoting the recreation, health, safety, and welfare of the residents;

**NOW, THEREFORE**, Declarant hereby declares that all of the Townhome Property described above shall be held, sold and conveyed subject to the Master Declaration as well as the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Townhome Property. These easements, covenants, restrictions and conditions shall run with the said real property and shall be binding on all parties having or acquiring any right, title or interest in the described properties or any part thereof, and shall inure to the benefit of each owner thereof.

#### **ARTICLE I - DEFINITIONS**

**Section 1.** "Amenities" shall mean the facilities constructed, erected or installed on the Subdivision Common Areas for the use, benefit and enjoyment of all Lot Owners in the entire Subdivision.

**Section 2.** "Additional Property" is defined as all real property subjected to or annexed to this Declaration subsequent to the recording of this Declaration in the Durham County Registry, either by Supplemental Declaration or by merger or consolidation, as provided herein.

**Section 3.** "Architectural Control Committee" shall be referred to herein as the "ACC".

**Section 4.** "Association" shall mean and refer to **CHANCELLOR'S RIDGE HOMEOWNERS ASSOCIATION, INC.** its successors and assigns.

**Section 5. "Board of Directors" or "Board"** means those persons elected or appointed and acting collectively as the Directors of the Association.

**Section 6. "Common Expenses"** shall mean and include:

(a) All sums lawfully assessed by the Association against its members;

(b) Expenses for maintenance of the townhomes forming a part of the Townhome Property, as provided in this Declaration;

(c) Expenses of administration, maintenance, repair, or replacement of the Townhome Common Areas;

(d) Expenses declared to be Townhome Common Expenses by the provisions of this Declaration or the Bylaws;

(e) Hazard, liability, or such other insurance premiums as the Declaration or the Bylaws may require the Association to purchase;

(f) Ad valorem taxes and public assessment charges, if any, lawfully levied against Townhome Common Areas;

(g) Expenses agreed by the members to be Townhome Common Expenses of the Association;

(h) Unpaid assessments resulting from the purchase of a dwelling at a foreclosure sale (such assessment shall be collectible from all members of the Association, including the purchaser at the foreclosure sale, his successors and assigns).

**Section 7. "Townhome Common Property" or "Townhome Common Area"** (the terms being used interchangeably herein) is defined as all real property and improvements thereon owned by the Association for the use, enjoyment and benefit of the Owners of Townhome Lots, and all rights in and to all easements in or on real property together with all associated improvements in or on such easements granted to or reserved by or on behalf of the Association (or by or on behalf of the Declarant for the later transfer or assignment to the Association) for the enjoyment or benefit of the Owners of Townhome Lots. Townhome Common Property typically will be established by the said plat recorded in the Durham County Registry and identified in such instrument as

"Common Area", "Private Street", "Private Open Space", "Common Open Space", "Greenway", "Buffer", "Trail", or some other similarly descriptive term. Common Property also includes all "Landscape Easements" and "Sign Easements" as defined herein.

**Section 8. "Declarant"** shall mean and refer to **CHANCELLOR'S RIDGE DEVELOPMENT CORPORATION, LLC** and its successors and assigns.

**Section 9. "Dwelling"** shall mean and refer to a place of residence constructed upon a Lot within the Property.

**Section 10. "Lot"** shall mean and refer to any plot of land shown upon any recorded subdivision map of the Townhome Property on which such plot appears (provided said map has been approved by Declarant and the City of Durham), with the exception of the Common Area. It is recognized that Common Area and easements may be portions of a Lot.

**Section 11. "Lot in Use"** shall mean and refer to any lot on which a townhome dwelling unit has been substantially constructed and made substantially ready for occupancy as a dwelling unit. It is the intent that when a dwelling is ready for occupancy, excepting final punch list items and decorative items to be selected by a home buyer, that the dwelling be subject to payment of full Association dues. In the event of a dispute, the ruling of the ACC shall be binding. In addition to the foregoing, a Lot may become a Lot in Use by contractual agreement between the Declarant and the Owner of such lot. Any dwelling for which a certificate of occupancy has been issued will be regarded as a "Lot in Use".

**Section 12. "Member"** shall mean and refer to every person or entity who holds membership in the Association.

**Section 13. "Owner"** shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Townhome Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

**Section 14. "Townhome Property "** or **"Property"** shall mean and refer to that certain real property described in the Plat which is incorporated herein by reference, and such additions and/or deletions thereto as may hereafter be brought within or

taken from the jurisdiction of the Association as subjected to this Declaration or any Supplemental Declaration.

**ARTICLE II**  
**PROPERTY AND PROPERTY RIGHTS IN THE TOWNHOME COMMON AREAS**

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

**Section 2. Delegation of Use.** Any Member may delegate in accordance with the By-Laws of the Association, his right to enjoyment to the Common Properties and facilities to the members of his family, his tenants, or contract purchasers who reside on such Members' Lot.

**Section 3. Title to Common Area.** The Declarant hereby covenants, for itself, its successors and assigns that it shall convey fee simple title to the Common Area shown on the Plat to the Association, free and clear of all encumbrances and liens except utility, drainage easements and easements to governmental authorities.

**Section 4. Extent of Members' Easements.** The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association, in accordance with its Articles of Incorporation, to borrow money for the purpose of improving the Common Properties and in aid thereof to mortgage said properties subject to the provisions of Article XI, Section 2 of this Declaration. The right to borrow money must be subordinated to the Declaration. The Association may not use easement property as security for any loan.

(b) The right of the Association to take such steps as are reasonably necessary to protect the Common Properties against foreclosure; and

(c) The right of the Association to give, sell or lease all or any part of the Common Properties to any public agency,

authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such gift, sale or lease shall be effective unless authorized by the vote of two-thirds (2/3) of the members of each class of Members at a duly called meeting and unless written notice of the proposed action is sent to every Member at least twenty (20) days in advance of any action taken. A true copy of such resolution together with a certificate of the result of the vote taken and a certificate of mailing executed by the Secretary of the Association or the managing agent and such certificate shall be annexed to any instrument affecting the Common Properties prior to the recording thereof. Such certificates shall be conclusive evidence of authorization by the membership.

**Section 5. FHA, VA, FNMA Approval.** As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration, the Veterans Administration or the Federal National Mortgage Association: Annexation of Additional Properties, (excepting those properties described in Exhibit B) mergers or consolidations, mortgaging of Common Properties, dedication of Common Properties, and dissolution and amendment of this Declaration.

### **ARTICLE III - MEMBERSHIP**

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject to this Declaration, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership per Lot. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to the Declaration. Ownership of such Lot shall be the sole qualification for membership. The Board of Directors may make reasonable rules as to proof of ownership of a Lot.

### **ARTICLE IV - VOTING RIGHTS**

**Section 1.** Voting rights shall be as defined in the Master Declaration.

**Section 2. Voting Right Suspension.** The right of any Member to vote may be suspended by the Board of Directors for just cause pursuant to its rules and regulations and for any period

during which any assessment of a member remains unpaid according to the provisions of the By-Laws.

## **ARTICLE V - PROPERTY RIGHTS**

**Section 1. Members' Easements of Enjoyment.** Every member shall have a right and easement of enjoyment in and to the Townhome Common Area (including access, ingress, and egress to and from public streets and walkways) and such easement shall be appurtenant to and shall pass with the title to every assessed Lot, subject to the following provisions:

(a) The right of the Association, in accordance with its Articles and Bylaws and with the assent of members entitled to cast two-thirds (2/3) of the votes of the entire Class A membership and two-thirds (2/3) of the entire Class B membership, if any, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property unless prohibited by law, and the rights of such mortgagee in said properties shall be subordinate to the rights of the homeowners hereunder;

(b) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members; provided, however, that no conveyance of any portion of the Common Area shall deprive any Member of the full use thereof. No such dedication or transfer shall be effective unless an instrument signed by Members entitled to cast two-thirds (2/3) of the votes of the Class A membership and two-thirds (2/3) of the votes of the Class B membership, if any, has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every Member not less than 30 days nor more than 60 days in advance.

(c) The right of the Association to transfer portions of the common area to the Declarant under circumstances whereby the Declarant or a builder has inadvertently placed a lot or constructed a townhome which encroaches into the common area. In such cases the Declarant shall deed back to the Association an equal amount of common area.

**Section 2. Exchange of Conveyance of Common Property.** Subject to the applicable legal requirements, the Association,

upon request of the Declarant during the Development Period, shall reconvey portions of the Common Property to the Declarant

**Section 3. Restricted Parking Rights.** No boats, trailers, campers, motor homes, limousines, trucks, tractors or similar personal property owned by a Member, his guests, family members or tenants shall be parked within the right of way of any public or private street in or adjacent to the Townhome Property; nor shall any of these be parked on the Properties except in an enclosed garage, or in areas if any designated by the Association. Members shall keep their garage doors closed at all times excepting ingress and egress into and out of said garage. The Association shall have the right to adopt appropriate rules for the temporary parking of these items on the Properties.

**Section 4. Antennas and Satellite Receiving Devices.** The erection of antennas and/or satellite receiving devices of any kind in excess of twenty inches in width on individual Lots shall be prohibited. The placement of all such devices shall be specifically approved by the ACC. The granting of permission to certain townhome owners to erect an antenna or satellite device shall not be deemed consent or permission for other owners to erect the same or similar devices. The ACC should take into consideration the aesthetics of the placement of any such devices as to other owners and the general public, and the overall effect on the Properties.

#### **ARTICLE VI COVENANT FOR MAINTENANCE ASSESSMENTS**

**Section 1. Creation of the Lien and Personal Obligation of Assessments.** The Declarant, for each Lot owned within the Townhome Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association, in addition to any assessments imposed pursuant to the Master Declaration, the following charges:

1. annual assessments or charges, and
2. special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorneys fees, shall be a charge on the land and shall be a continuing lien upon the property



against which each such assessment is made. Each such assessment, together with interest, cost and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for the delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

**Section 2. Purposes of Assessments.** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Townhome Property and in particular for the acquisition, improvement and maintenance of properties, including the maintenance, repair and reconstruction of any easements situated on the Common Area required by the City of Durham. Assessments are also to be used for services and facilities devoted to this purpose and related to the exterior maintenance of the residences situated upon the Townhome Property or for the use and enjoyment of the Common Area, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes and public assessments assessed against the Common Area.

**Section 3. Exterior Maintenance and Exclusions.** In addition to maintenance of the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replace and care of roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, mailboxes, fences installed by Declarant or the Association, exterior post lights (excluding electricity therefor), and other exterior improvements. Such exterior maintenance shall not include glass surfaces, or the repair or reconstruction of any improvements on any Lot, the cost of which repair or reconstruction would be covered by casualty insurance, whether or not a policy of casualty insurance is in effect. Further, the owner of any Lot may, upon approval from the ACC, plant trees, shrubs, flowers and grass in his rear yard and may also maintain portions or all of his rear yard provided that such maintenance by the owner does not hinder the Association in performing its maintenance of the exterior of the house and the remaining yard spaces. No such maintenance by a Lot owner shall reduce the assessment payable by him to the Association. If, in the opinion of the Association any such owner fails to maintain his rear yard in a neat and orderly manner, the Association may revoke the owner's maintenance rights for a period not to exceed

one year. The Owner shall not plant any vegetation in the front yard except with the prior written approval of the ACC.

In addition to those items excluded from maintenance and repairs by the Association hereinabove described, the maintenance responsibility of the Association shall not include garage doors and all other doors of whatever nature and wherever located, windows, window screens, decks and stairs and driveways in their entirety.

(As a matter of information to future members of this Association, the builder building residences on the Townhome Property has it as a part of the original plan of development to construct a variety of dwellings with a variety of exteriors for the good of the entire subdivision. Some dwellings will require more maintenance than others because of the types of exterior exposures. Nevertheless, in order to avoid monotony and in order to achieve a harmony of design and textures, all of those connected with the design, construction and financing of these townhomes are in accord in their belief that all members of the Association will be benefitted by the variety of exteriors and, therefore, the Association should provide exterior maintenance and make a uniform rate of charge without regard to the actual cost of maintenance of each dwelling.)

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, or guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject.

#### **Section 4. Amount of Assessment.**

**(a) Initial Assessment.** To and including December 31, 2000, the initial annual assessment shall not be in excess of One Hundred Ten & 00/100 Dollars per month per Lot in Use, the exact amount of which shall be determined from time to time as provided in subsection (d) of this Section 4. This initial assessment shall include any assessment required pursuant to the Master Declaration.

**(b) Increase by Association.** From and after December 31, 2000, the annual assessment effective for any year may be increased from and after January 1 of the succeeding year by the Board of Directors, without a vote of the membership, by a

percentage which may not exceed the greater of ten percent (10%) or the percentage increase reflected in the U.S. City Average, Consumer Price Index - United States and selected areas for urban wage earners and clerical workers, all items most recent index and percentage changes from selected dates (published by the U.S. Bureau of Labor Statistics, Washington, DC), or such other Index as may succeed the Consumer Price Index, for the twelve-month period ending the immediately preceding October 1.

**(c) Increase by Members.** From and after December 31, 2000, the annual assessment may be increased by a percentage greater than permitted by this Article by an affirmative vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for such purpose, written notice of which, setting forth the purpose of the meeting, shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. The limitations herein set forth shall not apply to any increase in assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

**(d) Criteria for Establishing Annual Assessment.** In establishing the annual assessment for any subsequent assessment year after the year 2000, the Board of Directors shall consider all current costs and expenses of the Association, any accrued debts, and reserves for future needs, but it may not increase the annual assessment in an amount in excess of the greater of ten percent (10%) or the sums derived by application of the consumer Price Index formula provided in subsection (b) without the consent of the Members required in subsection (c) of this Section 4.

**(e)** Each Lot owner, excepting the Declarant and those persons or entities in the house building business, shall pay the sum equal to two (2) months' Association dues into a working capital fund of the Association at the time of transfer of said Lot to said owner.

**Section 5. Special Assessments for Capital Improvements.** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the costs of construction or reconstruction, unexpected repair, or replacement of a described capital improvement upon the common area, including the necessary fixtures

and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which, setting forth the purpose of the meeting, shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. The amount of the proposed assessment need not be stated.

**Section 6. Uniform Rate of Assessment.** Both annual and special assessments must be fixed at a uniform rate for all Lots and Lots in Use, on a per Lot and per Lot in Use basis, and may be collected on either a monthly, quarterly, semi-annual or annual basis.

**Section 7. Quorum for any action authorized under Sections 4 or 5.** At the first meeting called, as provided in Section 4 or 5 of this Article, the presence at the meeting of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, subsequent meetings may be called, subject to the notice requirement set forth in Sections 4 or 5, and the required quorum at any such subsequent meeting shall be one-half ( $\frac{1}{2}$ ) of the required quorum at the next preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the next preceding meeting.

**Section 8. Date of Commencement of Annual Assessments: Due Dates.** The annual assessments provided herein for Lots in Use may be paid in installments and the payment of such shall commence as to each Lot in Use on the first day of the first month following the date on which the first lot has become a Lot in Use. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors. The Association, upon demand at any time, shall furnish a certificate in writing signed by an officer of the Association or by its management company, setting forth whether the assessments on a specified lot have been paid. A reasonable charge may be made for providing this information. A properly executed certificate of the Association

or its Management Company as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

**Section 9. Effect of Nonpayment of Assessments: Remedies of the Association.** Any assessments or portion thereof which are not paid when due shall be delinquent. The Board of Directors of the Association shall have the power to establish when dues and assessments are delinquent and the late charges or penalties as a result of any delinquencies, and the rate of interest applicable to late payments. The Association may bring an action against the Owner personally obligated to pay the same, and interest, costs, late payment charges and reasonable attorney's fees resulting from any such action shall be added to the amount of such assessment. If any law permits the filing of a lien and the foreclosure of such lien, or other similar action, as a method of enforcement of the Association's right to collect assessments, the Association may use such remedy. No Owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the common area or abandonment of his Lot. In addition, the Association may suspend the enjoyment of the rights of any Owner or any tenant of an Owner for any period during which any assessment remains unpaid, it being understood that such suspension shall not constitute a waiver or discharge of the Owner's responsibility to pay said assessment.

**Section 10. Fines.** The Board may impose a fine against any Lot Owner for violating the provisions of the Master Declaration or this Declaration, in accordance with the provisions of N.C.G.S. §47F-3-107.1 and such fine shall be treated as a Special Assessment otherwise due to the Association, and as such will be a lien against the Owner's Lot. A fine shall be paid not later than thirty (30) days after the decision imposing the fines. The fine shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; provided, however, that any fine paid by the offending Owner(s) shall be deducted from or offset against any damages that the Association may otherwise be entitled to recover by law from such Owner. A fine shall not exceed \$150.00 for each day after the decision that a violation occurs until the violation or delinquency is cured.

**Section 11. Effect of Nonpayment of Assessment.** If an assessment is not paid when due, the Association may bring an action at law against the Owner personally or foreclose the lien against the Lot, and there shall be added to the amount of such

assessment the costs of collection, including reasonable attorneys' fees and expenses, and interest as established by the Board. No Owner may waive or escape liability for the assessments provided for herein by non-use of the Common Property or abandonment of his Lot. Each Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Association, or its agents or assigns, the right and power to bring all actions against such Owner or Member personally liable for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or a deed of trust lien on real property, and such Owner hereby expressly grants to the Association a power of sale in connection with foreclosure of said Lien. The Lien provided for in this action shall be in favor of the Association and shall be for the benefit of all other Owners.

**Section 12. Subordination of the Lien To Mortgages.** The lien of the assessments provided for herein on any Lot shall be subordinate to the lien of any first mortgage on such Lot. The transfer of any Lot pursuant to such mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

**Section 13. Exempt Property.** Any portion of the Property dedicated to, and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein, except no land or improvements devoted to dwelling use shall be exempt from said assessment.

**Section 14. Omission of Assessments.** The omission of the Board, before the expiration of any year, to fix the assessments hereunder for that or the next year, shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay the assessments, or any installment thereof for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment is fixed.

**Section 15. Responsibility for Maintenance of Private Streets and Driveways.** The maintenance responsibility of any private streets and driveways as shown on the aforesaid recorded map and any subsequent recorded maps made subject to prior Declarations shall rest with the Association pursuant to the provisions of the City of Durham Code, which code provided substantially in part that in no case shall the City of Durham be responsible for failing to provide any emergency or regular fire, police, or other public service to the Townhome Property and/or occupants when there is a blocking of access routes, or any other factor within the control of the developer, the Association, or occupants.

#### **ARTICLE VII - PARTY WALLS**

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

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

**Section 3. Destruction by Fire or Other Casualty.** If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions. The Association shall have the option to require all members to utilize the same insurance company for fire and other casualty insurance. In such event, every member shall be responsible for payment of the deductible required under said policy of insurance.

**Section 4.** The owner of any Lot may construct, reconstruct, repair, or extend a party wall in any direction (subject to and within the limitations of architectural control and other

limitations of these Covenants) with the right to go upon the adjoining Lot to the extent reasonably necessary to perform such construction. Such construction shall be done expeditiously. Upon completion of such construction, such owner shall restore the adjoining Lot to as near the same condition which prevailed on it before the commencement of such construction as is reasonably practicable.

**Section 5. Weatherproofing.** Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

**Section 6. Right to Contribution Runs with Land.** The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

**Section 7. Certification by Adjoining Property Owner That No Contribution is Due.** If any Owner desires to sell his property, he may, in order to assure a prospective purchaser that no adjoining property owner has a right of contribution as provided in this Article V, request of the adjoining property owner or property owners a certificate that no contribution exists, whereupon it shall be the duty of each adjoining property owner to certify whether or not a claim of contribution exists.

**Section 8. Arbitration.** In the event of any dispute arising concerning party wall, or under the provisions of this Article, such dispute shall be settled by arbitration as provided by the laws of North Carolina, relating to arbitration as then existing.

#### **ARTICLE VIII - ARCHITECTURAL CONTROL**

**Section 1.** The Architectural Control Committee ("ACC") shall be as defined by the Master Declaration.

Except for the initial dwelling structure constructed on a Lot by Declarant in accordance with Declarant's general plan of development, which initial dwelling structure shall be exempt from the following approval process, so long as the plans and specifications therefor are in strict conformity with those previously approved by the Federal National Mortgage Association, Veterans Administration or Federal Housing Administration, as the



case may be, no building, flags, sign, except builder's signage, fence, outside lighting, hedge, wall, walk, antenna, clothesline or other structure or planting shall be constructed, erected or planted until their plans and specifications showing the nature, kind, shape, height, elevation, materials, floor plans, color scheme, and location with respect to the topography and finished ground elevation shall have been submitted to and approved in writing by the ACC. The ACC shall have the right to refuse to approve any plans and specifications which are not suitable nor desirable, in its sole discretion, for aesthetic or any other reasons, provided such approval is not unreasonably withheld. In approving or disapproving such plans and applications, the ACC shall consider the suitability of the proposed building, improvements, structure or landscaping that is proposed to be erected, the harmony thereof with the surrounding area and the effect thereof on an adjacent or neighboring property. In the event the ACC shall fail to specifically approve or disapprove the plans and specifications submitted in final and complete form within forty-five (45) days after written request for final approval or disapproval, such plans and specifications shall be deemed approved.

There is specifically reserved unto the ACC, the right of entry and inspection upon any Lot for the purpose of determination by the ACC whether there exists any construction of any improvement which violates the terms of any approval by the ACC or the terms of this Declaration or of any other covenants, conditions and restrictions to which its deed or other instrument of conveyance makes reference. The ACC and the Board of Directors is specifically empowered to enforce the provisions of this Declaration by any legal or equitable remedy, and in the event it becomes necessary to resort to litigation to determine the propriety of any constructed improvements, or to remove any unapproved improvements, the prevailing party shall be entitled to recovery of all court costs, expenses and reasonable attorney's fees in connection therewith.

The Association, Declarant, ACC or any officer, employee, agent, director or member thereof shall not be liable for damages to any persons submitting plans and specifications for approval by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval, disapproval or failure to approve any plans and specifications. Every person who submits plans and specifications for approval agrees, by submission of such plans and specifications, that it will not bring any action

or suit against the Association, Declarant or ACC to recover any such damages.

Section 2. If, in the event information submitted to the ACC is, in its opinion, incomplete or insufficient in any manner, it may request and require the submission of additional or supplemental information.

Section 3. Unless specifically excepted by the ACC, all improvements for which approval of the ACC is required under this Declaration shall be completed within a reasonable time from the date of commencement of said improvements or within the time set by ACC in the event that the approval is so conditioned.

Section 4. The ACC shall in all cases have the right to determine and designate building set back lines necessary to conform to the general plan of the project, in order to preserve the integrity of the Townhome Property. In this respect the ACC's judgement and determination shall be final and binding.

Section 5. A majority of the ACC may take any action of the committee and may designate a representative to act for it. In the event of death, disability or resignation of any member of the ACC, the Board of Directors shall designate a successor.

Section 6. The ACC may adopt additional guidelines along with rules and regulations as it deems necessary to carry out its functions and purposes hereunder, provided all such rules and regulations shall be approved by the Board of Directors and made a part of this Association's Book of Resolutions.

Section 7. The Association may impose reasonable fees and charges upon Owners applying for architectural control approval to enable it to carry out its functions.

Section 8. In an instance where a structure has been erected, or the construction thereof is substantially advanced, in such manner that the same violates the restrictions contained in this Declaration or any other covenants which the ACC has the power to enforce, or in such manner that the same encroaches on any easement area or setback line, the ACC reserves the right, but not the obligation, to release the property from the restriction which it violated and to grant an exception to permit the encroachment by the structure over the setback line or on the easement area, so long as the ACC, in the exercise of its sole

discretion, determines that the release or exception will not materially and adversely affect the health, safety and appearance of the Townhome Property.

The ACC has the right, but not the obligation, to grant waivers for minor deviations and infractions of this Declaration. The granting of any waiver for any portion of the Townhome Property may be given or withheld in the ACC's sole discretion and a prior grant of a similar waiver shall not impose upon the ACC the duty to grant new or additional requests for such waivers.

Any exceptions granted by the ACC shall not relieve the property owner from the responsibility from obtaining the consent of easement holders and local governmental authorities.

#### **ARTICLE IX - USE RESTRICTIONS**

**Section 1. Rules and Regulations.** The Board of Directors of the Association shall have the power to formulate, amend, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the front yard space of each Lot and the Townhome Common Area. Such rules and regulations, along with all policy resolutions and policy actions taken by the Board of Directors, shall be recorded in a Book of Resolutions which shall be maintained in a place convenient to the Owners and available to them for inspection during normal business hours.

**Section 2. Use of Property.** Each building, and the Townhome Common Area facilities shall be for the following uses and subject to the following restrictions and, in addition, to those set forth in the Bylaws:

(a) All buildings and the common area and facilities shall be used for residential and related common purposes, except that the Declarant may use one or more buildings for offices and/or models for sales purposes consistent with the Durham City Code.

(b) No waste shall be committed on any portion of the Townhome Common Area and facilities.

(c) No immoral, improper, offensive, or unlawful use shall be made of the Property, or any part thereof, and all valid laws, ordinances and regulations of all governmental agencies having jurisdiction thereof shall be observed. All laws, orders, rules,

regulations or requirements of any governmental agency having jurisdiction thereof, relating to any portion of the Property, shall be complied with, by and at the sole expense of the Owner or of the Association, whichever shall have the obligation to maintain or repair such portions of the Property.

(d) Nothing shall be done which will impair the structural integrity of any building, or portion of the common area and facilities or which would impair or alter the exterior of any building or portion thereof, except in the manner provided in this Declaration.

(e) No industry, business, trade, occupation or profession of any kind, whether commercial or otherwise, shall be conducted, maintained or permitted on any part of the Property, except that the Declarant or its agents may use any unsold buildings for sales or display purposes. The purpose of this prohibition is to maintain the residential nature of the neighborhood.

(f) No owner shall display, or cause or allow to be displayed, to public view any sign, placard, poster, billboard or identifying name or number upon any building or any portion of the Common Area and facilities, except as allowed by the Association pursuant to its Bylaws or as required by the ordinances of the City of Durham; provided, however, that the Declarant may authorize "For Sale" or "For Rent" signs the size and shape of which is commonly displayed by real estate firms in Durham on any unsold or unoccupied dwellings in suitable places on the Common Area; provided, however, that during the development of the Property and the marketing thereof, the Declarant or its agents may maintain a sales office and may erect or display such signs as the Declarant deems appropriate as aids to such development marketing, provided that such signs do not violate any applicable laws.

(g) No person shall undertake, cause or allow any alteration or construction in or upon any portions of the Common Area and facilities except at the direction or with the express written consent of the Association.

(h) The Townhome Common Areas and facilities shall be used only for the purposes for which they are intended and reasonably suited and which are incident to the use and occupancy of the dwelling, subject to any rules and regulations that may be adopted by the Association pursuant to its Bylaws.

**Section 3. Quiet Enjoyment.** No obnoxious or offensive activity shall be carried on upon the Property, nor shall anything be done which may be or may become a nuisance or annoyance to residents within the Property.

#### **ARTICLE X - EASEMENTS**

**Section 1. Walks, Drives, Parking Areas, and Utilities.** All of the Townhome Property, including Lots and Common Area, shall be subject to easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines, cable television lines, and other public utilities as shall be established prior to or subsequent to subjecting the Property to this Declaration by the Declarant, and the Association shall have the power and authority to grant and to establish in, over, upon, and across the Common Area conveyed to it such further easements as are requisite for the convenient use and enjoyment of the Property.

**Section 2. Easement for Government Agencies.** An easement is hereby established over the Common Area for the benefit of applicable governmental agencies, public utility companies and public service agencies as necessary for setting, removing and reading of meters, replacing and maintaining water, sewer and drainage facilities, electrical, telephone, gas, cable television lines, fire fighting, garbage collection, postal delivery, emergency and rescue activities and law enforcement activities.

**Section 3. Easement and Right of Entry for Repair, Maintenance and Reconstruction.** If any dwelling is located closer than five (5) feet from its lot line, the Owner thereof shall have a perpetual access easement over the adjoining Lot to the extent reasonably necessary to perform repair, maintenance or reconstruction of his dwelling. Such repair, maintenance or reconstruction shall be done expeditiously and, upon completion of the work, the Owner shall restore the adjoining Lot to as near the same condition as that which prevailed prior to the commencement of the work as is reasonably practicable. Within such easements, no plantings of shrubs and trees or the erection of structures, including fences, shall be allowed.

#### **ARTICLE XII - RIGHTS OF INSTITUTIONAL LENDERS**

**Section 1. Rights Reserved to Institutional Lenders.**

"Institutional Lender" or "Institutional Lenders" as the terms are used herein, shall mean and refer to banks, savings and loan associations, insurance companies, other reputable mortgage lenders and insurers of first mortgages. So long as any Institutional Lender or Institutional Lenders shall hold any first mortgage upon any Lot, or shall be the owner of any Lot, such Institutional Lender or Institutional Lenders shall have the following rights:

(a) To be furnished with at least one copy of the Annual Financial Statement and Report of the Association, prepared by a Certified Public Accountant designated by the Association, including a detailed statement of annual carrying charges or income collected and operating expenses.

(b) To be given notice by the Association of the call of any meeting of the membership to be held for the purpose of considering any proposed Amendment to the Declaration, or the Articles of Incorporation and Bylaws of the Association, which notice shall state the nature of the amendment being proposed, and to be given permission to designate a representative to attend all such meetings.

(c) To be given notice of default in the payment of assessments by any Owner of a Lot encumbered by a mortgage held by the Institutional Lender or Institutional Lenders, such notice to be given in writing and to be sent to the principal office of such Institutional Lender or Institutional Lenders, or to the place which it or they may designate in writing to the Association.

(d) To inspect the books and records of the Association during normal business hours.

(e) To be given notice by the Association of any substantial damage to any part of the Townhome Common Area.

(f) To be given notice by the Association if any portion of the Townhome Common Area is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority.

Whenever any Institutional Lender desires the benefits of the provisions of this section, such lender shall serve written notice of such fact upon the Association by registered mail or certified mail addressed to the Association and sent to its address stated

herein identifying the Lot upon which any such Institutional Lender or Institutional Lenders hold any mortgage or mortgages or identifying any Lot owned by them, or any of them, together with sufficient pertinent facts to identify any mortgage or mortgages which may be held by it or them, and which notice shall designate the place to which notices are to be given by the Association to such Institutional Lender.

### **ARTICLE XIII - GENERAL PROVISIONS**

**Section 1. Providing for Traffic Flow.** It shall be the responsibility of the Association to maintain uninterrupted traffic flow along any private streets within the Townhome Property. If it is necessary for "no parking" signs to be erected in order to accomplish this, this shall be done at the expense of the Association as a common expense.

In no case shall the municipality or other agency which provides emergency or regular fire, police or other public service for the Townhome Property, be responsible for failing to provide any such service to the Townhome Property or any of its occupants when such failure is due to the lack of access to such areas or any other factor within the control of the developer, Association, or occupants.

**Section 2. Enforcement.** The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**Section 3. Insurance.** The Board of Directors shall procure and maintain adequate liability and hazard insurance on Property owned by the Association, and also Directors and Officers coverage. Liability insurance shall be procured and maintained in the minimum amount of One Million Dollars (\$1,000,000).

**Section 4. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which are hereby declared to be severable and shall remain in full force and effect.

**Section 5. Exchange of Common Area.** The Association, acting through its Board, from time to time may exchange with the Declarant or any member a portion of the Townhome Common Area for a portion of the real property owned by such member within the Townhome Property provided that the real property acquired by the Association in exchange: (a) is free and clear of all encumbrances except the Declaration, and easements for drainage, utilities and sewers; (b) is contiguous to other portions of the Common Area; (c) has approximately the same area and utility as the portion of the Common Area exchanged; and (d) has been approved by the City of Durham Planning Department to assure that the provisions of the City of Durham Code are not being violated. The real property so acquired by the Association shall be a part of the Common Area, and without further act of the Association or membership, shall be released from any provisions of the Declaration except those applicable to the Common Area. The portion of the Common Area so acquired by Declarant or a member, without further act of the Association or membership, shall cease to be Common Area and shall be subject to those provisions of the Declaration that were applicable to the real property conveyed to the Association by the member.

**Section 6. FHA/VA Approval.** Notwithstanding any provision in this instrument to the contrary, as long as there is a Class B membership, and if Declarant desires to qualify sections of this subdivision for Federal Housing Administration, Veterans Administration, Fannie Mae or other similar agencies (but not otherwise), the following actions will require the prior approval of Federal Housing Administration, Veterans Administration, Fannie Mae or other similar agencies: annexation of additional properties, dedication of Common Areas, exchange of Common Area for other portions of the Townhome Property, and amendment of this Declaration of Covenants, Conditions and Restrictions.

**Section 7. Amendment.** The covenants, conditions and restrictions of this Declaration shall run with and bind the land for a duration the same as the Master Declaration, including extensions thereto. This Declaration shall be modified or amended only in compliance with the provisions of the Master Declaration, except that those members eligible to vote thereon shall be limited to the Declarant and Owners of Townhome Lots only. Amendments shall be certified as an official act of the Association and shall forthwith be recorded in the Durham County Registry. All amendments shall become effective upon recordation.



**Section 8.** If any amendment to these covenants, conditions and restrictions is executed, each amendment shall be delivered to the Board of Directors of this Association. Thereupon, the Board of Directors, shall, within thirty (30) days do the following:

(a) Reasonably assure itself that the amendment has been executed by the Owners of the required number of Townhome Lots. (For this purpose, the Board may rely on its roster of members and shall not be required to cause any title to any Lot to be examined);

(b) Attach to the amendment a certification as to its validity, which certification shall be executed by the Association in the same manner that deeds are executed. The following form of certification is suggested.

CERTIFICATION OF VALIDITY OF AMENDMENT TO COVENANTS,  
CONDITIONS AND RESTRICTIONS OF CHANCELLOR'S RIDGE

By authority of its Board of Directors, Chancellor's Ridge Homeowners Association, Inc. hereby certifies that the foregoing instrument has been executed by the owners of \_\_\_\_\_ percent of the Townhome Lots of Chancellor's Ridge Subdivision and is, therefore, a valid amendment to the existing Covenants, Conditions and Restrictions of Chancellor's Ridge Townhomes.

CHANCELLOR'S RIDGE HOMEOWNERS ASSOCIATION, INC.

ATTEST:

BY: \_\_\_\_\_  
PRESIDENT

\_\_\_\_\_  
SECRETARY

(c) Immediately, and within the thirty (30) day period aforesaid, cause the amendment to be recorded in the Durham County Registry.

All amendments shall be effective from the date of recordation in the Durham County Registry, provided, however, that no such amendment shall be valid until it has been indexed in the name of this Association. When any instrument purporting to amend the covenants, conditions and restrictions has been certified by the Board of Directors, recorded and indexed as provided by this Section, it shall be conclusively presumed that such instrument

constitutes a valid amendment as to all persons thereafter purchasing any Lots in the Townhome Property.

**Section 9. Amendment of Declaration Without Approval of Owners.** The Declarant, without the consent or approval of any other Owner, shall have the right to amend this Declaration to conform to the requirements of any law or governmental agency having legal jurisdiction over the Property or to qualify the Property or any Lots and improvements thereon for mortgage or improvement loans made, insured or guaranteed by a governmental of any corporation or agency belonging to, sponsored by, or under the substantial control of, the United States Government or the State of North Carolina, regarding purchase or sale of such lots and improvements, or mortgage interest therein, as well as any other law or regulation relating to the control of the Property, including, without limitation, ecological controls, construction standards, aesthetics, and matters affecting the public health, safety and general welfare. A letter from an official of any such corporation, or agency, including, without limitation, the Veterans Administration, U.S. Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, Government National Mortgage Corporation, or the Federal National Mortgage Association, requesting or suggesting an amendment necessary to comply with the requirements of such corporation or agency shall be sufficient evidence of the approval of such corporation or agency, provided that the changes made substantially conform to such request or suggestion.

No amendment made pursuant to this Section shall be effective until duly recorded in the Register of Deeds of Durham County.

**Section 10. Amendment to Achieve Tax-Exempt Status.** The Declarant, for so long as it shall retain control of the Association, and, thereafter, the Board of Directors, may amend this Declaration as shall be necessary, in its opinion, and without the consent of any owner, to qualify the Association or the Property, or any portion thereof, for tax-exempt status. Such amendment shall become effective upon the date of its recordation in the Durham County Registry.

**Section 11. North Carolina Planned Community Act.** This Declaration shall, in all respects, be governed by Chapter 47F of the North Carolina General Statutes, known as the North Carolina Planned Community Act (the "Act"). If there is any contradiction between this Declaration and the Act or any other governmental

