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## **HARPS MILL WOODS**

### **DECLARATION OF MASTER COVENANTS, CONDITIONS AND RESTRICTIONS**

NORTH CAROLINA  
WAKE COUNTY

DECLARATION OF MASTER COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
HARPS MILL WOODS

THIS DECLARATION ("Declaration") is made this 4th day of April, 1995, by **HARPS MILL DEVELOPMENT, LLC**, a North Carolina limited liability company with offices in Wake County, North Carolina (the "Declarant");

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Neuse River township, county of Wake, state of North Carolina, all of which is more particularly described on **Exhibit A** attached hereto and incorporated herein by reference (the "Properties"); and

WHEREAS, Declarant will convey the Properties subject to certain protective covenants, conditions, restrictions, reservations, and charges as hereinafter set forth; and

WHEREAS, Declarant desires to create thereon a planned community for residential homes; and

WHEREAS, Declarant desires to provide for the preservation and enhancement of the property values, amenities and opportunities in the community and for the maintenance of the portion of the Properties and improvements thereon, and to this end desires to subject the Properties, together with such additions as may hereafter be made thereto to the covenants, restrictions, easements, charges, and liens hereinafter set forth, each and all of which is and are for the benefit of the Properties and each Owner of a portion thereof; and

WHEREAS, Declarant has deemed it desirable for the efficient preservation of the value and amenities in the Properties to create an association to which should be delegated and assigned the powers of owning, maintaining and administering the community properties and facilities, administering and enforcing the covenants and restrictions, collecting and disbursing the assessments and charges hereinafter created, and promoting the recreation, health, safety, and welfare of the residents; and

WHEREAS, Declarant has incorporated under the laws of the state of North Carolina the Harps Mill Woods Homeowners' Association, Inc. as a non-profit corporation for the purpose of exercising the functions, and aforesaid, among others;

NOW, THEREFORE, Declarant does hereby declare all of the Properties to be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which shall run with the Properties, shall be binding on all parties having or acquiring any right, title, or interest in the Properties or any part thereof, and shall inure to the benefit of each owner thereof.

*ARTICLE 1*  
*DEFINITIONS*

1.1 *Articles of Incorporation:* Articles of Incorporation refers to the articles of incorporation of the Association filed with the North Carolina Secretary of State, as amended or restated from time to time.

1.2 *Association:* Association refers to the Harps Mill Woods Homeowners' Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

1.3 *Board:* Board refers to those persons elected or appointed to act collectively as the directors of the Association.

1.4 *Book of Resolutions:* Book of Resolutions refers to the document containing rules and regulations and policies adopted by the Board and the minutes of meetings of the Board and of Members.

1.5 *Bylaws:* Bylaws refers to the bylaws of the Association as they now or hereafter exist.

1.6 *Common Area:* Common Area refers to (i) all real property and Improvements thereon within the Properties and designated as Common Open Space as shown on a recorded subdivision map of the Properties which has been approved by the Declarant, and (ii) Common Utility Lines. All Common Area is for the common use and enjoyment of all Members. Pedestrian Access Easements shall not be part of the Common Area.

1.7 *Common Utility Lines:* Common Utility Lines refer to water and sanitary and storm sewer lines lying outside of public street rights-of-way or easements dedicated to the city of Raleigh for such purposes and which serve or are intended to serve more than one Lot or Dwelling Unit or serves any Common Area (other than Common Utility Lines).

1.8 *Declarant:* Declarant refers to Harps Mill Development, LLC, and those persons or entities which succeed to Harps Mill Development, LLC as the developer of the Properties and any portion thereof and which is assigned the rights reserved to Declarant hereunder by written instrument recorded in the office of the Register of Deeds of Wake County.

1.9 *Dwelling Unit:* Dwelling Unit refers to a residence containing sleeping and bathroom facilities for one or more persons and a kitchen, which residence is located on a Lot.

1.10 *Improvement:* Improvement refers to all (i) buildings, (ii) Dwelling Units, (iii) outbuildings, (iv) storage sheds or areas, (v) roofed structures, (vi) parking areas, (vii) loading areas, (viii) fences, (ix) walls, (x) hedges, (xi) mass plantings, (xii) poles, (xiii) driveways, (xiv) changes in grade or slope, (xv) lot preparation, (xvi) swimming pools, (xvii) antennae as described in section 3.9 hereof; and (xviii) exterior construction or exterior improvement exceeding \$1,000.00 in cost which is not included in any of the foregoing. The definition of Improvements does not include garden shrub or tree replacements or any other replacement or repair of any magnitude which ordinarily would be expended in accounting practice and which does not change exterior colors or exterior appearances, but does include both original Improvements and all later changes to Improvements.

1.11 *Lot:* Lot refers to any separately numbered lot or plot of land regardless of size as shown on a recorded map of the Properties or on which may be constructed a Dwelling Unit.

1.12 *Member:* Member refers to every person or entity entitled to membership in the Association as provided in this Declaration and in the Bylaws.

1.13 *Owner:* Owner refers to the record owner, whether one or more persons or entities, of a fee simple title to any Dwelling Unit or Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.14 *Pedestrian Access Easement.* Pedestrian Access Easement refers to an area on a Lot which is shown on a recorded subdivision map of the Properties as a pedestrian access easement and upon which all Owners the Association shall have an easement for pedestrian ingress, egress and regress between Common Area and a publicly dedicated road or street, and which shall further be encumbered by an easement prohibiting development within these areas, except as provided herein. This easement shall be appurtenant to each Lot.

1.15 *Properties:* Properties refers to that certain real property described in **Exhibit A** attached hereto, together with any additions as may hereafter be made thereto pursuant to this Declaration.

## ARTICLE 2 COMMON AREA OWNERSHIP AND MAINTENANCE

2.1 *Owner's Easements of Enjoyment:* Every Owner shall have a right of ingress to and egress from the Common Area and the Pedestrian Access Easements, together with a right of enjoyment in and to the Common Area and the Pedestrian Access Easements, which rights shall be appurtenant to and shall pass with the title to every Lot.

2.2 *Delegation of Use:* Any Owner may delegate his rights of enjoyment of the Common Area and the Pedestrian Access Easements to the members of his family, his tenants, contract purchasers who reside on the Lot, or his guests.

2.3 *Rules and Regulations:* The Board shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the Common Area. Such rules and regulations, along with all policy resolutions and policy actions taken by the Board, shall be recorded in a Book of Resolutions, which shall be maintained at the office of the person or entity managing the Common Area on behalf of the Association and available to the Members for inspection during normal business hours.

2.4 *Operating Common Area Facilities:* The Board of Directors shall have the power to limit the number of guests, to regulate hours of operation and behavior, and to curtail any use or uses it deems necessary for either the protection of the facilities or the peace and tranquility of adjoining residents with regard to the facilities located on the Common Area.

2.5 *Suspensions:* The Board of Directors shall have the power to suspend the voting rights and right to the use of any Common Area of a Class A Member (as hereinafter defined) or any person to whom that Member has delegated his right of enjoyment (i) for any period during which any assessment against his Lot remains unpaid, and (ii) for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

2.6 *Declarant's Covenant to Convey Title to Common Area:* The Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title to its property that is and may further be designated Common Area and portions thereof to the Association, at such time as it conveys the first Lot to some person other than Declarant within the specific area to be developed, as contained in a recorded subdivision plat or map, subject to easements of record for greenways, utilities, television antenna, drainage, access or other services. Similarly, Declarant will convey to the Association real estate that will be designated as Common Area which become parts of the Properties as those portions are annexed in the future until all designated real estate has been conveyed to the Association, such conveyance subject to the aforementioned easements. The Association shall accept the conveyance of all such Common Area pursuant to this section 2.6.

2.7 *Common Area Dedication or Transfer:* The Association shall have the right to dedicate or transfer all or any parts of the Common Area that it owns to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument signed by Members entitled to case two-thirds (2/3) of the votes of each class of membership 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 thirty (30) days in advance.

*ARTICLE 3  
LAND USE*

3.1 *Restrictions:* Each Dwelling Unit or Lot and the Common Area shall be subject to both the restrictions herein and those set forth in the Bylaws.

3.2 *Designated Residential Property Restrictions:* All Lots shall be used, improved and devoted exclusively to single-family, detached Dwelling Units for residential use provided that, subject to the Code of Ordinances of the city of Raleigh, nothing herein shall preclude the use of a Lot by Declarant or Declarant's immediate grantee for a model home for marketing or as a temporary sales office in furtherance of the marketing of homes or Lots in the Properties. No Lot may be further subdivided; provided, however, that the Owners of all of a Lot may combine with all or parts or portions of another Lot and the aggregate shall be considered as one Lot for the purposes of this Declaration provided the number of Lots is not thereby increased. No Lot shall have an area of less than 6,000 square feet.

3.3 *Common Area Restrictions:* All Common Area recreational facilities and amenities, if any, shall be used, improved and devoted exclusively to recreational purposes for the benefit of the Owners.

3.4 *Offensive Use:* No immoral, improper, offensive or unlawful use shall be made of the Properties. All ordinances and regulations of all governmental agencies having jurisdiction thereof shall be observed.

3.5 *Common Area Construction or Alteration; Pedestrian Access Easement Obstruction:* No person shall undertake, cause, or allow any alteration or construction in or upon any portion of the Common Area or obstruct any portion of a Pedestrian Access Easement except at the direction of and with the express written consent of the Association.

3.6 *Nuisance or Annoying Activity:* No noxious or offensive activity shall be carried on, in or upon the Properties, nor shall anything be done which may be or may become a nuisance or annoyance to any resident within the Properties. No signs (other than "for sale" signs or signs of a political nature) or billboards shall be erected or maintained on any Lot. No trade materials or inventories may be stored or regularly parked on any Lot. No business activity or trade of any kind whatsoever, which shall include but be limited to the use of any Dwelling Unit as a doctor's office or professional office of any kind, a fraternity house, a rooming house, a boarding house, an antique shop or gift shop shall be carried on upon any Lot. No substance, thing or material shall be kept upon any Lot that has foul or obnoxious odors, or that will cause any noise that will disturb the peace of the Properties. No trash, rubbish, stored materials or similar unsightly items shall be allowed to remain on any Lot outside an enclosed structure; provided, however, that the foregoing shall not be construed to prohibit deposits of trash, rubbish and other debris for pick up by governmental and other similar garbage and trash removal service units. No truck or commercial vehicle in excess of a three-quarter ton load capacity shall be parked or permitted to remain on any Lot. No wrecked or junked motor vehicle or vehicle without current license plates and registration shall be permitted to remain upon any Lot.

3.7 *Parking*: No automobiles, trucks, tractors, boats, campers, or trailers of Owners or their tenants shall be regularly parked within the right-of-way of any street in or adjacent to the Properties. Adequate off-street parking shall be provided by the Owner of each Lot for the parking of automobiles owned by such Owner, and Owners and their tenants shall not be permitted to park their automobiles on the streets or adjoining the Properties on a continuous, repeated or permanent basis.

3.8 *Animals*: No animals of any kind (including horses, livestock or poultry), other than house pets, shall be kept or maintained on any part of the Properties. No animals may be raised for sale, breeding or any other commercial purposes.

3.9 *Antennae*: No television or radio antenna, radio receiver, radio transmitter, radio or television reception dish or disk or satellite dish or disk shall be erected on any Lot or upon any structure on any Lot unless the prior written consent of the Association is first obtained.

#### ARTICLE 4 ARCHITECTURAL CONTROL

4.1 *Plan of Design Approval*: No Improvements shall be undertaken upon any Lot unless the plans and specifications and location of the proposed Improvements shall have been submitted to the Architectural Committee established in section 4.2 hereof and expressly approved by same in writing. No subsequent alteration or modification of any existing Improvements or construction, erection or installation of additional Improvements may be undertaken or allowed to remain on any of the Lots without the review and express written approval of the Architectural Committee, subject to section 4.5 hereof.

#### 4.2 *Architectural Committee*:

4.2.1 Until such time as the Class B membership expires, (i) Declarant shall appoint the members of the Architectural Committee to serve at the pleasure of the Declarant, which committee shall be composed of at least three (3) individuals, the exact number of which Committee being designated by Declarant from time to time; (ii) in the event of the death or resignation of any member of Architectural Committee, Declarant shall have full authority to designate and appoint a successor; (iii) members of the Architectural Committee may be removed and replaced at any time with or without cause, and without prior notice, by Declarant, for so long as Declarant has the right to appoint the members thereof; and (iv) at any time, Declarant may elect not to designate the number of and/or appoint the members of the Architectural Committee and may assign this right to the Board.

4.2.2 Subsequent to the expiration of Class B membership (and earlier if Declarant specifically assigns this right to the Board), (i) the Board shall designate the number of and appoint the members of the Architectural Committee on an annual basis, which number shall be at least three (3) individuals and all of which shall be Members; (ii) in the event of the death, resignation, or removal by the Board (with or without cause) of any member of the Architectural Committee, the Board shall have the full right and authority to designate and appoint a successor to complete the unexpired term of such deceased, resigned or removed member; and (iii) members of the Architectural Committee may be removed and replaced by the Board at any time with or without cause, and without prior notice.

4.3 *Procedure*: No improvement shall be erected, remodeled or placed on any Lot until all plans and specifications therefor and a site plan therefor have been submitted to and approved in writing by the Architectural Committee, as to (i) quality of workmanship and materials, adequacy of site dimensions, adequacy

of structural design, and facing of main elevation with respect to nearby streets; (ii) conformity and harmony of the external design, color, type and appearance of exterior surfaces; (iii) location with respect to topography and finished grade elevation and effect of location and use on neighboring Lots and Improvements situated thereon and drainage arrangement; and (iv) the other standards set forth within this Declaration (and any amendments hereto) or as may be set forth within bulletins promulgated by the Architectural Committee; or matters in which the Architectural Committee has been vested with the authority to render a final interpretation and decision.

Final plans and specifications (including a site plan showing the location of the contemplated Improvements on the Lot) for all Improvements proposed to be constructed on a Lot shall be submitted to the Architectural Committee for approval or disapproval. The Architectural Committee is authorized to request the submission of samples of proposed construction materials. Any modification or change to the Architectural Committee-approved set of plans and specifications (specifically including, but without limitation, the above-described Lot plan) must again be submitted to the Architectural Committee for its inspection and approval. The Architectural Committee's approval or disapproval, as required herein, shall be in writing. Once the Architectural Committee has approved the plans and specifications for the proposed Improvements, the construction of such Improvements must be promptly commenced and diligently pursued to completion, and if such construction is not commenced within six (6) months after such approval, such approval shall be deemed rescinded and before construction of Improvements can thereafter be commenced on the Lot in question, the plans and specifications therefor must again be approved by the Architectural Committee pursuant to this article 4.

The Architectural Committee may from time to time publish and promulgate architectural standards bulletins which shall be fair, reasonable and uniformly applied in regard to the Lots and shall carry forward the spirit and intention of these covenants, conditions and restrictions. Although the Architectural Committee shall not have unbridled discretion with respect to taste, design and any standards specified herein, the Architectural Committee shall be responsive to technological advances or general changes in architectural designs and materials and related conditions in future years and use its best efforts to balance the equities between matters of taste and design (on the one hand) and use of private property (on the other hand). Such bulletins shall supplement this Declaration and are incorporated herein by reference. Current copies of the architectural standards bulletins shall be available to interested persons at the principal office of the Association for a reasonable cost.

4.4 *Enforcement:* The Architectural Committee shall have the specific, nonexclusive right (but no obligation) to enforce the provisions contained in this article 4 and/or to prevent any violation of the provisions contained in this article 4 by a proceeding at law or in equity against the person or persons violating or attempting to violate any such provisions contained herein.

4.5 *Effect of Failure to Approve or Disapprove:* If an Owner erects any Improvement on a Lot and a suit to enjoin the erection of or removal of such Improvement is not brought by any person or entity having standing to sue within three (3) months from the commencement of construction of such Improvements, then this article 4 shall be deemed to have been fully satisfied.

If the Architectural Committee fails to approve or disapprove the design of any proposed Improvements within forty-five (45) days after plans and specifications therefor have been submitted and received, approval will not be required, and the requirements of this Article shall be deemed to have been fully satisfied; provided, that the plans and specifications required to be submitted shall not be deemed to have been received by the Architectural Committee if they contain erroneous data or present inadequate information upon which the Architectural Committee can arrive at a decision. Notwithstanding the foregoing, the Architectural Committee

shall have no right or power, either by action or failure to act, to waive or grant any variance relating to any mandatory requirements specified in the Declaration except as permitted in this Declaration.

4.6 *Right of Inspection:* The Architectural Committee shall have the right, at its election, to enter upon any of the Lots during preparation, construction, erection, or installation of any Improvements to determine that such work is being performed in conformity with the approved plans and specifications.

4.7 *Limitation of Liability:* Neither the Architectural Committee, the members thereof, nor Declarant shall be liable in damages or otherwise to anyone submitting plans and specifications and other submittals for approval or to any Owner by reason of mistake of judgment, negligence or nonfeasance arising out of services performed pursuant to this Declaration. No person or entity shall rely on the approval of the plans and specifications by the Architectural Committee as evidence that such plans and specifications and the Improvement to be constructed in accordance therewith (i) are in or will be in compliance with any building codes, zoning ordinances or any other statute, laws, ordinances or regulations of any governmental or quasi-governmental unit or authority having jurisdiction thereof; or (ii) are consistent with good engineering, architectural or construction standards and procedures.

4.8 *Compensation:* No member of the Architectural Committee shall be entitled to compensation arising out of services performed pursuant to this Article. The Association shall reimburse members of the Architectural Committee for reasonable out-of-pocket expenses incurred by such members in the performance of their duties as members of the Architectural Committee.

4.9 *Exterior Maintenance:*

4.9.1 The maintenance of each Dwelling Unit, Lot, the Pedestrian Access Easement, and the Improvements constructed thereon shall be the duty of each Owner of such Dwelling Unit or Lot (except where specifically provided otherwise) and shall not normally be interfered with by the Association or any person except as provided in this Declaration. If, however, in the opinion of the Association, any Owner shall fail to maintain his Dwelling Unit or Lot in a manner which is reasonably neat and orderly or shall fail to keep Improvements constructed or erected thereon in a state of repair so as not to be unsightly, the Association at its discretion, and following ten (10) days written notice to the Owner, may enter upon and make or cause to be made repairs to such Improvements and perform such maintenance on the Dwelling Unit or Lot such as, but not limited to, the removal of trash, cutting of grass, pruning of shrubbery, and seeding for erosion control. The Association and its agents shall have an easement for the purpose of accomplishing the foregoing. The costs incurred by the Association in rendering all such services plus a service charge of twenty (20%) percent of such costs, shall be added to and become a part of such other assessments to which such Lot is subject.

4.9.2 Maintenance of the Common Area and signage located thereon or adjacent thereto shall be the duty of the Association. The Association shall hereby have the right and easement of ingress, egress and regress over (i) the Pedestrian Access Easements in connection with its right (but not obligation) to plant and maintain flowers, shrubs, or other flora thereon and to erect and maintain lighting and signage thereon and (ii) any Lot in connection with its obligation to maintain Common Utility Lines, if any.



*ARTICLE 5*  
*MINIMUM DWELLING UNIT STANDARDS*

5.1 *Dwelling Unit Size and Design:*

5.1.1 No one-story Dwelling Unit shall be erected or placed or permitted to remain on any Lot which contains less than 1,400 square feet, outside measurement, of enclosed or heated area, exclusive of porches, breeze-ways, steps, basement and garage.

5.1.2 No one and one-half story Dwelling Unit shall be erected or placed or permitted to remain on any Lot which contains less than 1,600 square feet, outside measurement count, of enclosed or heated area, exclusive of porches, breeze-ways, steps, basement and garage. Such Dwelling Unit shall contain not less than 1,000 square feet, outside measurement, of enclosed or heated area on the ground floor, exclusive of porches, breeze-ways, steps, basement and garage.

5.1.3 No two-story or two and one-half story Dwelling Unit shall be erected or placed or permitted to remain on any Lot which contains less than 1,500 square feet, outside measurement count, of enclosed or heated area, exclusive of porches, breeze-ways, steps, basement and garage. Such Dwelling Unit shall contain not less than 800 square feet, outside measurement, of enclosed or heated area on the ground floor, exclusive of porches, breeze-ways, steps, basement and garage.

5.1.4 No Dwelling Unit of more than two and one-half stories shall be erected or placed or permitted to remain on any Lot.

5.2 *Dwelling Quality:*

5.2.1 All Dwelling Units and outbuildings erected upon any Lot shall be constructed of material of good grade, quality and appearance, and all construction performed in a good and workmanlike manner. The outside surface of beams, walls, roofs of any appurtenant structures or outbuildings located on any Lot shall be of material and quality of construction comparable in cost, design and quality to the outside surfaces of the Dwelling Unit located on the Lot.

5.2.2 No slab or cinder block foundations or slab construction is permitted for any Dwelling Unit, excluding garages or unless such Dwelling Unit has a basement.

5.2.3 All foundations of any Dwelling Unit and any garages shall be of brick or brick veneer. No aluminum siding may be used on any Dwelling Unit, garage or outbuilding.

5.2.4 No vinyl windows shall be used on any Dwelling Unit or any garage or outbuilding.

5.2.5 All driveways located on any Lot shall be paved in concrete from the street to each Dwelling Unit, including parking areas.

5.3 *Fences:* No chain link fences shall be permitted on any Lot, and all other fences shall be deemed to be Improvement subject to the prior written approval of the Architectural Committee pursuant to article 4 hereof prior to erection.

5.4 *Building Location:* No building shall be erected or permitted to remain nearer to any street than the street set-back lines as shown on the recorded plat or in conformity with any then existing zoning or subdivision regulations. For purposes of this covenant, eaves, steps, chimneys and stoops shall not be considered part of a building; provided, however, that this shall not be construed to permit any portion of a Dwelling Unit or building on a Lot to encroach upon another Lot.

5.5 *Right of Architectural Committee to Waive Minor Violations:* Notwithstanding anything herein to the contrary, the Architectural Committee is hereby authorized to grant written waivers of minor violations of the minimum square footage requirements found in section 5.1 above and the set-back requirements found in section 5.4 above provided that such variance from such minimum standards does not exceed 10% of the aforesaid standard. The waiver of such minor violations shall be evidenced by a document executed by the Architectural Committee in favor of the Owner of the affected Lot and shall be recorded in the Wake County Registry in order to be effective. A waiver by the Architectural Committee shall not relieve, waive or lessen the requirements imposed upon any Lot by the Code of Ordinances of the city of Raleigh.

5.6 *Accessory Buildings and Structures:* No tent, shack, barn, metal storage shed, or other metal outbuilding shall be erected or be permitted to be placed on any Lot. No garage shall at any time be used for human habitation temporarily or permanently.

## ARTICLE 6 MEMBERSHIP AND VOTING RIGHTS

6.1 *Members:* The Declarant, for so long as it shall be an Owner, and every person or entity who is an Owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessments by the Association shall be a member of the Association. Ownership of a Lot shall be the sole qualification for membership, and no Owner shall have more than one membership, except as expressly provided hereinafter. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. The Board may make reasonable rules relating to the proof of ownership of a Lot to qualify as a Member.

6.2 *Member Classes and Voting Rights:* The Association shall have two (2) classes of voting Members:

*Class A:* Class A Members shall be all Owners, save and except the Declarant; provided, however, that if Class B membership ceases to exist, the Declarant shall be considered a Class A Member. A Class A Member shall be entitled to (1) vote for each lot in which such Owner holds the required ownership interest. When more than one person or entity holds such interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than (1) vote be cast with respect to any Lot, and no fractional vote may be cast with respect to any Lot.

*Class B:* The Class B Member shall be the Declarant. The Class B Member shall be entitled to three (3) votes for each Lot in which it holds the required ownership interest, 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 first: (i) four months after the total votes outstanding in Class A membership equal the total votes outstanding in the Class B membership; provided, that the Class B membership shall be reinstated with all rights, privileges, responsibilities and voting power if, after conversion of the Class B membership to Class A

membership, as provided hereunder, additional lands are annexed to the Properties without the assent of the Members on account of the development of such additional lands by the Declarant, all within the times and as provided in section 9.2 hereof, or (ii) December 31, 2004.

6.3 *Voting Rights Suspension:* The right of any Class A member to vote may be suspended by the Board for just cause pursuant to its rules and regulations and according to the provisions of section 2.5 hereof.

6.4 *Right of Declarant to Representation on Board of Directors of the Association:* Notwithstanding anything contained herein to the contrary, as long as Class B membership exists, and for a period of 9 months thereafter, Declarant shall have the right to designate and select at a minimum a two-thirds majority of the Board. Whenever Declarant shall be entitled to designate and select any person or persons to serve on any Board, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or Bylaws. Declarant shall have the right to remove any person or persons selected by it to act and serve on the Board and to replace such person or persons with another person or other persons to act and serve in the place of any director so removed. Any director designated and selected by Declarant need not be an Owner. The Declarant or any representative of Declarant serving on the Board shall not be required to disqualify himself from any vote or upon entrance into any contract or matter between Declarant and the Association where Declarant may have a pecuniary or other interest.

#### *ARTICLE 7 ASSESSMENTS*

7.1 *Creation of the Lien and Personal Obligation of Assessment:* The Declarant, for each Lot owned, hereby covenants, and every other Owner of any Lot subject to this Declaration, by acceptance of a deed therefor, whether or not expressed in any such deed or other covenant, is deemed to covenant and agrees to pay to the Association:

7.1.1 annual assessments or charges, as determined by the Board; and

7.1.2 special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided.

The annual and special assessments on a Lot, together with interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, late charges, and costs, and reasonable attorney's fees (as provided in North Carolina General Statutes § 6-21.2) incurred by the Association in collecting delinquent assessments shall also be the personal obligation of the person or entity who was the Owner of such Lot at the time when the assessment became due. The personal obligation of an Owner for delinquent assessments shall not pass to his successors or assigns in title unless assessments shall continue to encumber the Lot.

7.2 *Purpose of Assessments:* The assessments levied by the Association shall be used exclusively for the following purposes:

7.2.1 for the promotion of the recreation, health, safety, and welfare of the residents of the Properties;

7.2.2 for the payment of ad valorem taxes and public assessments levied on the Common Area;

7.2.3 for the maintenance and operation of Common Utility Lines, if any, and any signage and lighting located on any Pedestrian Access Easements or Common Area;

7.2.4 for the general use, enjoyment, and maintenance of the Common Area and Pedestrian Access Easements including but not limited to, the cost of labor, materials, and equipment necessary for the proper use, enjoyment and maintenance thereof;

7.2.5 for the acquisition, improvement and maintenance of the services and facilities devoted to the aforesaid purposes;

7.2.6 for the procurement and maintenance of liability and hazard insurance in accordance with the Bylaws and the regulations of the Federal National Mortgage Association, such liability insurance to insure the Association in a minimum amount of \$1,000,000.00 per occurrence; and

7.2.7 for the employment of professionals, such as accountants and attorneys, to represent the Association when necessary.

### 7.3 *Annual Assessment:*

7.3.1 To and including December 31, 1996, the annual assessment shall be shared equally and shall not be in excess of One Hundred Dollars per Lot except as otherwise provided herein, the timing of collection and exact amount of which shall be determined from time to time by the Board.

7.3.2 From and after December 31, 1996,

7.3.2.1 the annual assessment may be increased by the Board effective January 1 of each year, without the vote of the Members, by a percentage which may not exceed the sum of five percent (5%) and the percentage increase reflected in the U.S. City Average, Consumer Price Index-United States (published by the U.S. Bureau of Labor Statistics, Washington, D.C.) or such index as may succeed the Consumer Price Index, for the twelve month period ending the immediately preceding July 1.

7.3.2.2 the annual assessment may also be increased by the assent of two-thirds (2/3) of the votes of all of the Members who are voting in person or by proxy at a meeting called for such purpose. For purposes of this vote, the Class B Member shall be entitled only to one vote for each Lot in which it owns the required ownership interest. Written notice of the meeting shall be given to all Members not less than ten (10) days in advance of the meeting. The provisions of this subsection (b) shall not apply to nor be a limitation upon any change in the annual assessment undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

7.4 *Special Assessment for Repairs:* If any portion of any Common Area is damaged or destroyed by an Owner or any of his guests, tenants, licensees, agents, or family members, such Owner hereby authorizes the Association to repair such damaged area in a good and workmanlike manner. The amount necessary for such repairs, labor and materials, shall become a special assessment upon the Lot of such Owner.

7.5 *Special Assessments for Capital Improvements:* In addition to the annual assessments authorized above, the Association may levy one or more special assessments applicable to that year only for the purpose of defraying the costs of construction or reconstruction, unexpected repair, or replacement of a described capital improvement upon the Common Area or Pedestrian Access Easement, 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 all of the Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than ten (10) days in advance of the meeting. For purposes of this vote, the Class B Member shall be entitled only to one vote for each Lot in which it owns the required ownership interest.

7.6 *Uniform Date of Assessment:* Both annual and special assessments (with the exception of the special assessment authorized by section 6.4 must be fixed at a uniform rate for all Lots and may be collected on a quarterly or annual basis in advance as the Board may determine.

7.7 *Date of Commencement of Annual Assessments:* The annual assessments provided for herein shall commence as to all Lots in a phase on the day that the first Lot in such phase is conveyed from the Declarant, with such annual assessment being prorated as necessary. Notwithstanding anything herein to the contrary, Declarant's assessments for Lots and for which no certificate of occupancy has been issued shall be 25% of the annual assessment applicable to all other Lots. The Board 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 and appropriate penalties for late payment shall be established by the Board. The Association, upon demand at any time, shall furnish a certificate in writing setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificates shall be conclusive evidence of payment status.

7.8 *Remedies for Non-Payment of Assessments:* Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at a rate equal to 18% per annum and the Association may levy a late charge not to exceed the greater of (i) five percent (5%) of the delinquent assessment or (ii) \$20.00. The Board may, in its sole discretion, waive the imposition of interest and late charges as to any delinquent assessment. The Association may bring an action at law against the Owner personally obligated to pay any assessments and interest or foreclose the lien created herein in the same manner as prescribed by the laws of the state of North Carolina for the foreclosure of deeds of trust, including the right to foreclose under a power of sale, in which case the Association shall have the right in its sole discretion to appoint a person or entity to serve in the role of a trustee. Costs, late charges, interest and reasonable attorney's fees (as set forth in this article 7) of any such action shall be added to the amount of such assessment and shall be part of the lien assessed against such Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by the nonuse of the Common Area or abandonment of his Dwelling Unit or Lot.

In the event of such action at law and in the further event that such action results in a judgment being entered against the Owner and in favor of the Association, then the Association shall be further empowered to execute on that judgment in such manner and to the extent provided and permitted by the laws of the state of North Carolina.

7.9 *Subordination of the Lien to Deeds of Trust:* The lien of the assessments provided for herein on any Lot shall be subordinate to the lien of any mortgage or deed of trust representing a first lien on such Lot in favor of any bank, savings and loan association, insurance company or similar financial institution for the

financing of construction or acquisition of Improvements upon such Lot or for the refinancing of such Improvements now or hereafter placed upon any Lot. Sale or transfer of any Dwelling Unit or Lot shall not affect the assessment lien, provided, however, that the sale or transfer of any Lot pursuant to a decree of foreclosure on such a deed of trust or mortgage thereon or any proceeding in lieu of foreclosure 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 Dwelling Unit or Lot from liability or liens arising from assessments thereafter becoming due.

7.10 *Exempt Property:* The Common Area and any portion of the Properties dedicated to, and accepted by, a local public authority shall be exempt from the assessments created herein; provided, however no land or improvements restricted to Dwelling Unit use shall be exempt from such assessments.

7.11 *Annual Budget:* By a majority vote of the directors, the Board shall adopt an annual budget for the subsequent year of operation, which shall provide for allocation of expenses in such a manner that the obligations imposed by the Declaration and any and all amendments hereto shall be met. The annual assessment levied against the Lots shall include a sufficient amount allocated to a reserve fund for the replacement of Improvements on the Common Area.

7.12 *Omission of Assessments:* The omission by 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.

## ARTICLE 8 EASEMENTS

8.1 *Walks, Drives, Parking Areas, Utilities, Etc.:* The Common Areas, shall be subject to such easements for (i) water lines; (ii) sanitary sewers; (iii) storm drainage facilities; (iv) walkways; (v) gas, telephone, cable television and electric power lines; (vi) other utilities; (vii) ingress, egress and regress; and (viii) otherwise as shall be established by the Declarant or by its predecessor in title, prior to the conveyance of the Common Area to the Association; and the Association shall have the power and authority to grant and establish further easements upon, over, under and across the Common Area owned by it for the purposes set forth above.

8.2 *Declarant's Easement to Correct Drainage:* For a period of twenty (20) years from the date of conveyance of the first Lot in each phase, Declarant reserves a blanket easement and right on, over and under the ground within that phase to maintain and to correct drainage or surface water in order to maintain reasonable standards of health, safety and appearance, expressly including the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or take any other similar action reasonably necessary. After such action has been completed, Declarant shall restore the affected property to its original condition to the extent practicable. Declarant shall give reasonable notice of intent to take such action to all affected Owners. These rights and reservations are assignable by the Declarant by written instrument. Nothing in this section shall be deemed to impose an obligation upon Declarant to maintain and correct drainage and surface water conditions.

8.3 *Common Areas and Pedestrian Access Easements:* Common Areas and Pedestrian Access Easements shall be subject to an easement in favor of every Lot and shall be deemed appurtenant to each Lot whereby the Owner of such Lot shall be entitled to use them as a means of ingress, egress and regress and such other uses as shall have been designated.

8.4 *Easement to City of Raleigh and Wake County:* A perpetual easement is hereby established for municipal, state or public or private utilities serving the area, their agents and employees over all Common Area for maintaining and replacing utility connections and acting with other purposes consistent with the public safety and welfare, including, without limitation, police and fire protection.

In no case shall the city of Raleigh be responsible for failing to provide any emergency or regular fire, police or other public service to the Properties or the Owners and occupants of Dwelling Units when such failure is due to the lack of access to such areas due to inadequate design or construction, blocking of access routes, inadequate maintenance, or any other factor within the control of the Declarant, the Association or occupants of Dwelling Units.

8.5 *Greenway Easement:* Notwithstanding any other provision of this Declaration to the contrary, the Association, Owners, tenants, guests and invitees of Owners, or families of Owners shall not, within any portion of the Common Area which is greenway area dedicated to the city of Raleigh, without the prior written consent of the city of Raleigh, do any act that is in violation of the Code of Ordinances of the city of Raleigh as it relates to the greenway system or in violation of the terms of that certain greenway easement (the "Deed of Greenway Easement") in favor of the city of Raleigh recorded in Book 4113, Page 278, Wake County Registry.

It is understood and agreed that within any greenway area, the city of Raleigh may erect trails, trail markets, place litter receptacles, and other convenience facilities and adopt and amend regulations concerning the use of the greenway (including without limitation hours of operation), which shall be equally applicable to the general public and the Owners. The Association and Owners may adopt such other regulations governing the use of the greenway, not inconsistent with those adopted by the city of Raleigh and may enter into such agreements with the city of Raleigh as is deemed appropriate to insure the maintenance and upkeep of the greenway in its natural state, free of litter and unsightly debris. To the extent that this Declaration is in conflict with the Deed of Greenway Easement, the Deed of Greenway Easement shall control.

*ARTICLE 9  
ANNEXATION OF ADDITIONAL PROPERTIES;  
DECLARANT'S RESERVED RIGHTS*

9.1 *Annexation by Members:* Except as provided in section 9.2 hereof, additional lands may be added and annexed to the Properties only if two-thirds (2/3) of each class of all the votes entitled to be cast in such class by Members are cast in favor of annexation. A meeting shall be duly called for this purpose, written notice of which shall be sent to all Members not less than ten (10) days in advance of the meeting.

For the purpose of such meeting, the presence thereof of Members or authorizing proxies entitled to cast sixty (60%) percent of the votes, in the aggregate, of the Members, shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called within sixty (60) days thereafter, subject to the notice requirement set forth above, and the required quorum of such subsequent meeting shall be one-half (1/2) of the required quorum of the preceding meeting.

If a quorum is present and a majority of the votes are cast in favor of the annexation, but the majority is less than the two-thirds (2/3) majority of each class required for approval of the annexation, and it appears that the required two-thirds (2/3) of each class may be achieved if the Members to present or voting by proxy assent to the annexation, then and in that event, the Members not present or voting by proxy may assent to or dissent from the proposed annexation in writing within one hundred twenty (120) days following the date of the

meeting at which he is entitled to vote either in favor of or against the annexation. If the number of votes cast at the meeting in favor of the annexation, together with the votes deemed to have been cast by the Members assenting to the annexation, shall constitute the requisite two-thirds (2/3) majority of each class of all votes entitled to be cast, the annexation shall stand approved.

Additional lands may be annexed to the Properties consistent with this section 9.1 by recording with the Wake County Registry a Declaration of Annexation, duly executed by the officers of the Association describing the lands annexed and incorporating the provisions of this Declaration. The additional lands may be deemed annexed to the Properties on the date of recordation of the Declaration of Annexation, and no other action or consent shall be necessary.

Subsequent to recordation of the Declaration of Annexation pursuant to this section 9.1, the Owners of lands that shall be designated as Common Area within the lands annexed shall deliver to the Association one or more deeds conveying any property that will be designated as Common Area within the lands annexed. Such Common Area shall be conveyed to the Association in the same manner as set forth in section 2.6 hereof.

9.2 *Annexation by Declarant:* The Declarant may annex additional lands to the Properties on or before December 31, 2004, within the boundaries of the property designated as Lot 51 as shown on that certain plat entitled "A Portion of Harps Mill Estates" recorded in Book of Maps 1992, Page 165, Wake County Registry, without the assent of the Members; provided that such annexation of such additional lands referred to in this section 9.2 shall not exceed 117 Lots.

If on or before December 31, 2004, the Declarant should develop, from time to time, an additional tract or tracts of land other than that included within the aforesaid Lot 51 as recorded in Book of Maps 1992, Page 165, Wake County Registry consisting of any property contiguous to the aforesaid Lot 51 as recorded in Book of Maps 1992, Page 165, Wake County Registry or separated therefrom only by a public street or highway, such additional lands may be annexed to the Properties without the assent of Members; provided that the annexation of such additional lands referred to in this paragraph shall not exceed 50 acres in size or 250 Lots, whichever is less.

The Declarant may annex to the Properties the additional land described above by recording with the Wake County Registry a Declaration of Annexation, duly executed by Declarant, which declaration shall describe the lands annexed, shall incorporate the provisions of this Declaration, and may include such other covenants, rules or regulations not inconsistent with this Declaration and which shall be applicable only to the lands annexed. The additional lands may be deemed annexed to the Properties on the date of recordation of the Declaration of Annexation, and no other action or consent shall be necessary.

Subsequent to recordation of the Declaration of Annexation by the Declarant, the Declarant shall deliver to the Association one or more deeds conveying any property that will be designated as Common Area within the lands annexed as such designated property is developed. Such Common Areas shall be conveyed to the Association in the same manner as set forth in section 2.6 hereof.

The maximum number of Dwelling Units and the maximum number of Dwelling Units per acre that may be contained in the Properties or transferred to portions of the Properties without rezoning the Properties is 367 Dwelling Units and 10 Dwelling Units per acre, respectively.

9.3 *Density Transfers:* The Properties are a part of a cluster unit development approved by the city of Raleigh in which residential density transfers are permitted. Therefore, even though some Lots may appear



to contain sufficient land area to construct additional Dwelling Units, prior approved density transfers within the cluster unit development may in fact preclude city of Raleigh approval of additional Dwelling Units.

9.4 *Reserved Declarant Rights:* As long as Class B membership exists, the Declarant reserves the following additional rights: (i) to add real estate to the Property in accordance with section 16 hereof; (ii) to add Common Areas; (iii) to create Dwelling Units or Lots; (iv) to modify or change Dwelling Unit types; (v) to reallocate Dwelling Units or Lots within the property described in the first paragraph of section 9.2 hereof; and (vi) to withdraw real estate from the property described in the first paragraph of section 9.2 hereof. Notwithstanding anything herein to the contrary, Declarant shall have no obligation to annex additional lands to the Properties except as may be required under that certain Declaration of Cluster Unit Development of Harps Mill Woods Subdivision being recorded contemporaneously herewith.

*ARTICLE 10  
AMENDMENT OF DECLARATION*

10.1 *Amendment by Owners:* The covenants, conditions and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants, conditions and restrictions of the Declaration may be amended during the first thirty (30) year period or thereafter by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots, provided, however, that the Board may amend this Declaration to correct any obvious error or inconsistency in drafting, typing or reproduction or amendment requested by the Federal National Mortgage Association, without action or consent of the Owners, and such amendment shall be certified as an official act of the Board and recorded in the Wake County Registry.

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

10.3 *Certification and Recordation of Amendment:* Any instrument amending this Declaration (other than an amendment by the Board to correct an error or inconsistency in drafting, typing, or reproduction or an amendment by Declarant or the Board pursuant to section 10.2 hereof) shall be delivered, following approval by the Owners, to the Board. Thereupon, the Board shall, within thirty (30) days after delivery:

10.3.1 reasonably assure itself that the amendment has been duly approved by the Owners as provided in section 10.1 hereof, and for this purpose, the Board may rely on its roster of Members and shall not be required to cause any title to be examined;

[remainder of page left intentionally blank]

10.3.2 attach to the amendment a certification as to its validity, which certification shall be executed by the Association, and shall be in the following form:

CERTIFICATION OF VALIDITY OF AMENDMENT TO DECLARATION OF MASTER COVENANTS, CONDITIONS, AND RESTRICTIONS FOR HARPS MILL WOODS

By authority of its Board of Directors, the Harps Mill Woods Homeowners' Association, Inc. hereby certifies that the foregoing instrument has been duly executed by the Owners of \_\_\_\_\_ percent of the Lots and is therefore, a valid amendment to the existing Declaration of Harps Mill Woods.

IN WITNESS WHEREOF, the Harps Mill Woods Homeowners' Association, Inc. has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed, the day and year first above written.

HARPS MILL WOODS HOMEOWNERS' ASSOCIATION, INC.

By: \_\_\_\_\_  
President

ATTEST

\_\_\_\_\_  
Secretary  
[Corporate Seal]

10.3.3 within the thirty (30) day period aforesaid, cause the amendment to be recorded in the Wake County Registry; provided that any delay in recording such amendment within the aforesaid thirty (30) day period shall not invalidate the amendment.

10.4 *Effect and Validity of Amendment:* All amendments shall be effective from the date of proper recordation in the Wake County Registry. When any instrument purporting to amend this Declaration has been certified by the Board and recorded as provided in this section, it shall be conclusively presumed that such instrument constitutes a valid amendment as to the Owners. Neither an annexation of lands to the Properties under article 9, an amendment adopted under this article 10, or a termination of this Declaration or the Association shall be effective without the written consent of the Raleigh City Attorney or his designee. If the Raleigh City Attorney or his designee fails to approve or disapprove a document effecting an amendment to this Declaration, or an annexation of additional lands, or the termination of this Declaration or the Association within thirty (30) days after such document to effect same shall have been submitted and received, approval will not be required, and the requirements of this article with regard to the approval by the Raleigh City Attorney or his designee shall have been fully satisfied.

## ARTICLE 11

### GENERAL PROVISIONS

11.1 *Enforcement:* The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of 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. Further, to assist in enforcement, the Association may levy reasonable fines not to exceed \$150.00 per violation for violations of this Declaration, Bylaws and/or other rules and regulations of the Association after notice to the affected Owner and an opportunity for such Owner to be heard. Any fines so paid and collected by the Association shall be deposited in the Association's general fund.

11.2 *Exchange of Common Area:* Notwithstanding any provision herein to the contrary, it is expressly provided that the Association may convey to the Declarant, as well as any other Member, for fair market value (in like real property) any portion of the Common Area theretofore conveyed to the Association consistent with the Articles of Incorporation and in accordance with Part 10, Chapter 3 of the Raleigh City Code. Upon such conveyance, the area conveyed shall cease to be Common Area and shall cease to be subject to the provisions of these covenants relating to the Common Area. Any area purchased by the Association pursuant to the foregoing language shall become Common Area and subject to the provisions of these covenants relating to the Common Area. (The following hypothetical situation is by way of illustration, but not of limitation: Due to a surveying error, an undesirable drainage area is designated for the location of Lots. Under this provision, the Declarant and the Association exchange deeds so that the Lots may be relocated within the Common Area and the area previously designated for Lots may be converted to Common Area.)

11.3 *Protective Covenants for Dwellings:* Nothing herein shall affect the Declarant's right to establish, from time to time, appropriate specific additional covenants for the development and use of Lots for dwelling.

11.4 *Conflicts:* In the event of any irreconcilable conflict between the Declaration and the Bylaws of the Association, the provisions of this Declaration shall control. In the event of an irreconcilable conflict between this Declaration and the Articles of Incorporation, the provision of the Declaration shall control.

11.5 *Severability:* Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

11.6 *Professional Management:* The management and obligations of the Association may be delegated to a professional management organization in the discretion of the Board by a majority vote of same. Such professional management contract shall be reasonable as to term, compensation and termination. During such time that the Declarant controls the Board, all contracts with any professional management organization shall include a right of termination without cause upon ninety (90) days advance notice, without penalty for termination at any time after the transfer of control of the Board.

ARTICLE 12  
DISSOLUTION OR INSOLVENCY OF THE ASSOCIATION

The Association may be dissolved with the assent given in writing and signed by not less than three-fourths (3/4) of each class of Members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate governmental unit to be used for purposes similar to those for which the Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes.

IN WITNESS WHEREOF, the undersigned Harps Mill Development, LLC as the Declarant has caused this instrument to be executed in its name by its manager under seal as of the day and year first above written.

DECLARANT:

HARPS MILL DEVELOPMENT, LLC (SEAL)  
a North Carolina limited liability company

By: William B. Nivison (SEAL)  
William B. Nivison  
Manager

NORTH CAROLINA  
WAKE COUNTY

I, Steven I. Reinhard, a Notary Public, do hereby certify that William B. Nivison, Manager of Harps Mill Development, LLC, a North Carolina limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the limited liability company.

Witness my hand and notarial seal this the 4th day of April, 1995.

Steven I. Reinhard  
Notary Public

My Commission Expires: 3-30-97

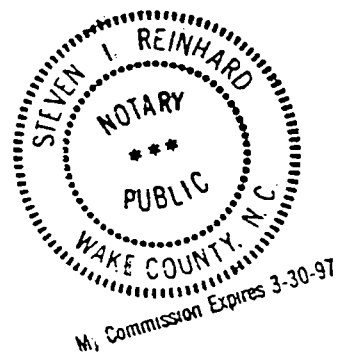


Exhibit A

BEING all of Lots 3 through 20, inclusive, containing 2.7304 acres and all the area designated as "Common Open Space" containing 2.1595 acres, all as shown on a plat entitled "Harps Mill Woods, Phase 1," by Bass, Nixon & Kennedy, Inc. dated March 27, 1995, and recorded in Book of Maps 1995, Page 511, Wake County Registry.