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CINDY M OWNBEY
REGISTER OF DEEDS
BY BETH C LANDRETH
ASSISTANT

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RESTATED DECLARATION
of
COVENANTS, CONDITIONS & RESTRICTIONS
for
WOODWIND
(A PLANNED COMMUNITY DEVELOPMENT)

Drafted: January 1st, 2013

By: Curtis S. Potter, Attorney At Law, P.O. Box 6040, Cary, NC 27519 (919) 297-8411

KNOW ALL MEN BY THESE PRESENTS, that this Restated Declaration of Covenants, Conditions & Restrictions (hereinafter referred to as the "**Declaration**") for Woodwind (hereinafter referred to as the "**Community**"), a planned community development lying and situated in Transylvania County, North Carolina, is hereby made and entered into by the parties identified hereinbelow effective as of the date this Declaration is recorded in the Transylvania County Registry (hereinafter referred to as the "**TCR**") for the purposes more particularly described as follows:

WITNESSETH:

WHEREAS, Woodwind was formed as a planned unit development on or about November 17, 1988 by American Royal Charter, Inc. (hereinafter referred to as the "**Declarant**") by its filing an instrument entitled "Declaration of Covenants, Conditions and Restrictions of Woodwind, A Planned Unit Development" (hereinafter referred to as the "**1988 Declaration**") in Book 311, Page 594, TCR; and

WHEREAS, Declarant on or about October 30, 1990 subsequently executed and filed an amendment thereto in Book 333, Page 605, TCR (hereinafter referred to as the "**1990 Amendment**"); and

WHEREAS, Declarant subsequently executed and filed multiple supplemental declarations thereto, including without limitation those specifically identified as follows:

1. Supplemental Declaration filed on or about 11/09/90 in Book 334, Page 144, TCR
2. Supplemental Declaration filed on or about 05/22/91 in Book 339, Page 241, TCR
3. Supplemental Declaration filed on or about 05/30/91 in Book 339, Page 459, TCR
4. Supplemental Declaration filed on or about 09/10/91 in Book 343, Page 183, TCR
5. Supplemental Declaration filed on or about 04/07/92 in Book 349, Page 490, TCR
6. Supplemental Declaration filed on or about 12/08/92 in Book 357, Page 690, TCR
7. Supplemental Declaration filed on or about 11/22/93 in Book 369, Page 518, TCR
8. Supplemental Declaration filed on or about 05/05/95 in Book 387, Page 356, TCR, and

WHEREAS, Article XIV, section (2) of the 1988 Declaration, as specifically amended and replaced by section (9) of the 1990 Amendment provides in relevant part: *"...this Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of members... representing fifty-one percent (51%) of the total voting power of the Association, and the consent of the Declarant, so long as Declarant has an unexpired option to subject property to this Declaration. However, the percentage of voting power necessary to amend a specific clause shall not be less than the prescribed percentage or affirmative votes required for action to be taken under that clause...; and"*

WHEREAS, Declarant no longer has a unilateral option to add property to the Declaration, has conveyed its right, title and interest in and to the private road system and other common areas to the Association by deed recorded in Book 359, Page 142, TCR, has been administratively dissolved by the NC Secretary of State, and/or no longer owns any interest in the Community as a declarant; and

WHEREAS, not less than fifty-one percent (51%) of the total voting power of the Association hereby desires to amend and fully restate the terms and provisions of the 1988 Declaration, as amended, for the mutual benefit of themselves and all owners within the Community in order to: (i) simplify and set out all the covenants, conditions, and restrictions affecting the Community within this Declaration for convenience and ease of reference hereto, (ii) update and revise the provisions thereof to more adequately reflect the nature and status of the Community in its present form, (iii) comply with and/or address certain applicable laws not addressed by the present covenants, and (iv) provide for the uniform management, operation, and maintenance of the Community as a planned community development by its Association under this Declaration, the Instruments, and the laws of the State of North Carolina (including without limitation the portions of the North Carolina Planned Community Act which apply to the Community pursuant to NCGS § 47F-1-102(c) or are otherwise expressly adopted herein).

NOW THEREFORE, pursuant to the authority cited hereinabove and as otherwise authorized by law, this Declaration, including the Instruments defined herein, are hereby approved and adopted as an amendment to, and full restatement of, the 1988 Declaration, as amended; by not less than fifty-one percent (51%) of the total voting power of the Association as evidenced by the written consent thereof attached hereto, and/or as otherwise stated within any affidavit of the Association reflecting the results of any affirmative vote held at any duly called meeting for purposes of approving and adopting this Declaration.

TABLE OF CONTENTS

ARTICLE I DEFINITIONS.....	5
ARTICLE II RIGHTS & EASEMENTS IN COMMON AREAS	6
2.1 Owner's Easement of Enjoyment.....	6
2.2 No Partition.....	6
2.3 Condemnation/Eminent Domain.....	6
ARTICLE III PROPERTY USE RESTRICTIONS.....	6
3.1 General Application & RRs	6
3.2 Single Family Residential Structure & Usage.....	7
3.3 Use of Common Area	7
3.4 Sight Distance at Intersections	7
3.5 Aerials & Antennas	7
3.6 Utility Lines	7
3.7 Signs.....	7
3.8 Exterior Lighting.....	7
3.9 Vehicle Repair/Restoration, Storage, and Parking.....	7
3.10 Pets.....	8
3.11 Modification of Lot Lines	8
3.12 Exterior Modifications	8
3.13 Temporary Structures.....	8
3.14 Unsightly or Unkempt Conditions	8
3.15 Nuisances Prohibited.....	9
3.16 Firearms/Projectiles	9
3.17 Increased Insurability Risk Prohibited	9
3.18 Lease Restrictions	9
3.19 Business Use	10
ARTICLE IV HOMEOWNER ASSOCIATION.....	10
4.1 Powers.....	10
4.2 Association RRs.....	10
4.3 Mandatory Membership.....	11
4.4 Voting	11
4.5 Suspension of Voting Rights & Other Privileges.....	11
4.6 Management.....	11
4.7 Indemnification	11
ARTICLE V MAINTENANCE & ASSESSMENTS.....	12
5.1 Association Maintenance Responsibilities & Rights	12
5.2 Owner's Maintenance Responsibilities.....	13
5.3 Purpose of Assessments	13
5.4 Assessment Obligations	13
5.5 Computation of General Annual Assessments by Budget	14
5.6 Special Assessments	14
5.7 Specific Assessments	14
5.8 Non Abatement	14

5.9	Delinquent Assessments	14
5.10	Payments Applied	15
5.11	Statement of Account.....	15
5.12	Lien for Assessments	15
ARTICLE VI INSURANCE.....		15
6.1	Insurance	15
6.2	Individual Insurance.....	17
6.3	Disbursement of Proceeds.....	17
6.4	Damage and Destruction	17
6.5	Repair and Reconstruction	18
ARTICLE VII ARCHITECTURAL STANDARDS		18
7.1	Architectural Control Committee.....	18
7.2	Architectural Control	18
7.3	No Waiver by Approval.....	19
7.4	Variances Authorized.....	19
7.5	Limitation of ACC Liability	19
7.6	Completion of Construction.....	19
7.7	ACC Records	20
ARTICLE VIII MORTGAGEE RIGHTS		20
8.1	Eligible Holder Notice	20
8.2	Casualty Protections.....	20
8.3	Amendment.....	20
8.4	FHLMC Provision.....	21
8.5	Non Priority.....	21
8.6	Mortgage Notice	21
8.7	Board Amendments.....	21
8.8	Failure of Mortgagee to Respond.....	21
ARTICLE IX ENFORCEMENT		21
9.1	General	21
9.2	Preservation of Rights.....	21
9.3	Fines, Suspensions, & Self Help.....	22
9.4	Litigation.....	22
ARTICLE X GENERAL PROVISIONS.....		22
10.1	Construction & Duration.....	22
10.2	Amendment.....	23
10.3	Easements for Utilities	23
10.4	Easements of Encroachment	23
10.5	Gender and Grammar	23
10.6	Severability	23
10.7	Captions	24

ARTICLE I DEFINITIONS

As used in this Declaration or any of the "Instruments" defined herein, the following terms, wherever used, regardless of capitalization, shall have the specific meaning ascribed thereto unless the context clearly requires otherwise, or unless expressly stated within the Instrument in which such term is used.

- 1.1 **ACC:** means the Architectural Control Committee as described in Article VII hereof.
- 1.2 **Allocated Interests:** means the Common Expense Liability & Votes in the Association allocated to each Lot as shown within Exhibit "A" attached hereto and incorporated herein by reference.
- 1.3 **Articles:** means the Articles of Incorporation of the Association filed with the NC Sec of State.
- 1.4 **Assessment:** means the financial obligation levied against a Lot or other designated property.
- 1.5 **Association:** means the Woodwind Community Association, Inc., a North Carolina nonprofit corporation, its successors and assigns.
- 1.6 **Board or Board of Directors:** means the executive board/board of directors of the Association.
- 1.7 **Bylaws:** means the Bylaws of the Association as amended and kept on file with the Association.
- 1.8 **Common Area(s):** means any and all real estate in the Community owned or leased by the Association, other than a Lot, and includes any and all improvements located or situated thereon.
- 1.9 **Common Expense(s):** means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.
- 1.10 **Common Expense Liability(ies):** means the liability for Common Expenses allocated to each Lot as required or permitted by this Declaration or otherwise by law.
- 1.11 **Community:** means the entire planned community development of Woodwind, comprised of all real property subject to this Declaration, including all Lots and Common Areas, as may be more particularly described within Exhibit "B" attached hereto and incorporated herein by reference.
- 1.12 **Declarant:** means American Royal Charter, Inc., a NC corporation, its successors and assigns.
- 1.13 **Declaration:** means this Restated Declaration together with the Instruments; as amended.
- 1.14 **Instruments:** means without limitation: This Declaration; the Articles, the Bylaws, the RRs, and any exhibits, plats, maps, plans or other documents attached to or incorporated within any of the foregoing; as all may be subsequently amended and/or adopted from time to time.
- 1.15 **Lot:** means any physical portion of the Community designated for separate ownership or occupancy by an Owner thereof, including any and all residential dwellings, structures or other improvements located or situated thereon, but not including any portion of the Common Areas.
- 1.16 **Majority:** means more than fifty percent (50%).
- 1.17 **Mortgagee:** means without limitation the creditor or lender in a mortgage agreement.
- 1.18 **Member:** means any Person obligated or entitled to Association membership as provided herein.
- 1.19 **Occupant:** means any Person that possesses occupies, leases, visits, or otherwise uses any Lot.
- 1.20 **Owner or Lot Owner:** means any Person who owns a Lot but does not include any Person having an interest in a Lot solely as security for an obligation.
- 1.21 **Person:** means a natural person, corporation, estate, trust, partnership, association, joint venture, government, governmental subdivision/agency, or any other legally recognized entity.
- 1.22 **Property or Properties:** means the Community as defined hereinabove.
- 1.23 **RRs:** means the Rules & Regulations of the Association as may be adopted and/or amended.

ARTICLE II RIGHTS & EASEMENTS IN COMMON AREAS

- 2.1 **Owner's Easement of Enjoyment:** Except as provided hereinbelow or required by law, every lot owner as an appurtenance to each lot passing with title thereto, shall have a general right to use and enjoy the common areas, and an easement for ingress and egress over, and a right to lateral support from, the common areas, subject however to the following limitations:
- (a) The Association's right to adopt, amend, and enforce RRs related to the use of the common areas, which RRs may restrict or limit such use, including by way of example only and not limited to: limiting the manner, purposes, and times for such use, the number and character of authorized users, or charging reasonable fees for the use of any facility now or hereafter situated or built within the common areas; and
 - (b) The Association's right to suspend the right of any owner or occupant to use and enjoy all or part of the common areas (except the right of access to their lot) pursuant to the terms of this Declaration including any RRs adopted in accordance herewith; and
 - (c) The Association's right to encumber, convey, or transfer any part of the common areas, including but not limited to mortgaging the same as collateral for any loan or the granting of permits, licenses and/or public or private easements over common areas for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Community, provided however any such action shall require the approval of at least sixty seven percent (67%) of the membership; and
 - (d) The lawfully valid and enforceable rights of any party now or in the future created by any existing or future easements, rights of way agreements, or other contracts or agreements which are or may become legally binding upon the Association.
- 2.2 **No Partition:** Unless otherwise expressly stated herein, there shall be no physical partitioning of the common areas, nor shall any person acquiring any interest in the Community seek any such partition unless or until the Community is no longer subject to this Declaration.
- 2.3 **Condemnation/Eminent Domain:** The provisions of NCGS § 47F-1-107 are hereby adopted and incorporated within this Declaration by reference as if fully set out herein and shall govern in the event of any partial or complete condemnation of the Community.

ARTICLE III PROPERTY USE RESTRICTIONS

- 3.1 **General Application & RRs:** The restrictions herein are imposed for the mutual benefit and necessary protection of all owners within the Community and shall be binding upon and enforceable against each and every member, lot owner, and occupant.
- The Community shall be used at all times only for such residential, recreational, and related purposes as may be more particularly described herein.
- Subject to Provision 4.2 "Association RRs", in addition to the restrictions expressly stated herein, the Association acting through its Board is hereby authorized to make, adopt, amend, and repeal from time to time, additional reasonable rules and regulations ("RRs") which may: (i) clarify, interpret, or elaborate on restrictions more generally described herein, or (ii) impose new or additional restrictions on the use or occupancy of the Community not otherwise inconsistent with any express provision of this Declaration, the Instruments, or applicable law.

- 3.2 **Single Family Residential Structure & Usage:** Only one (1) single-family residential dwelling structure shall be built or placed upon each lot within the Community, and no duplex houses, apartments, trailers, tents or commercial or industrial buildings of any kind shall be erected or permitted to remain on any lot.
Lots or dwelling structures thereon shall be actually used at all times for single-family residential purposes only, and by not more than one (1) single-family, related by blood, adoption, or marriage together with no more than three additional individuals who must each be domestic servants, companions, friends, or nurses of sick or elderly people residing within such structure.
- 3.3 **Use of Common Area:** No planting or gardening shall be done within, nor shall any items or structures of any kind (including without limitation fences, hedges, walls, signs, or aerials/antennas) be installed, maintained, or used within the common areas except in accordance with the initial construction of any improvements there by Declarant, or except as otherwise approved in writing by the Association. Except for the right of ingress and egress, the lot owners and occupants shall use the common areas outside their respective lots only in accordance with the terms of this Declaration, the Instruments, and any applicable RRs related thereto.
- 3.4 **Sight Distance at Intersections:** All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain, where it would reasonably create a traffic or sight problem or otherwise violate any applicable RRs related thereto.
- 3.5 **Aerials & Antennas:** Except as required by law, no radio, television, or other aerial, antenna, dish, tower or other transmitting or receiving device, structure, or support thereof, shall be installed, maintained, or used on any lot unless so installed, maintained, or used in a manner approved by the Board and at all times in compliance with any applicable RRs related thereto.
- 3.6 **Utility Lines:** No overhead utility lines, including without limitation lines for cable television, shall be permitted in the Community, except for temporary lines as may be reasonably required during construction as the same may be further regulated by the ACC.
- 3.7 **Signs:** Except as otherwise required by law, including without limitation NCGS § 47F-3-121 (American and State flags and political sign displays), and except for customary name and address signs as may be defined and regulated by the ACC, no signs of any kind whatsoever shall be displayed to the public view or otherwise erected, placed, or permitted to remain on any part of the Community including any lots or common areas therein without prior written approval of the Board, and without complying at all times with any applicable RRs related thereto which may regulate matters such as but not limited to the types of signs that can be displayed, and the times and manner of installing, maintaining, displaying, and removing any such signs.
- 3.8 **Exterior Lighting:** No exterior lights or lighting fixture (other than standard fixtures approved by the ACC or originally installed by Declarant) shall be installed, maintained, or used on any lot without adequate and proper shielding of the fixture in accordance with any applicable ACC policies or RRs related thereto. In addition to the foregoing, no lighting fixture shall be installed, maintained, or used on any lot which constitutes an unreasonable annoyance or nuisance to owners or occupants of any other lots within view thereof.
- 3.9 **Vehicle Repair/Restoration, Storage, and Parking:** Unless otherwise approved in writing by the Board (with the exception of any trucks, construction vehicles, or commercial vehicles being utilized by any owner or occupant in connection with any approved construction or repair of any improvement on their lot in compliance with any ACC regulations related thereto) there shall be no outside storage or parking within the Community of any automobile, motor vehicle,

commercial vehicle, truck, tractor, mobile home or trailer (with or without wheels), camper, camper trailer, boat or other watercraft, boat trailer, or any other transportation device of any kind, except within the respective garage of any lot, and otherwise for personal automobiles only, in no more than two (2) additional parking spaces located within the driveway of any lot.

The Association may adopt additional RRs related to the use of garages and/or driveways on lots for parking purposes and more generally for the use of the roads and common areas throughout the Community with respect to parking, vehicle weight limits, commercial delivery/service vehicles, or other traffic/vehicle related matters.

- (a) Temporary Repair/Restoration Only: No lot owner or occupant shall repair or restore any vehicles of any kind upon any lot or common area, except for short term (not longer than 48 hours maximum) emergency repairs only, and then only to the extent necessary to enable movement thereof to a proper repair facility within such time.
 - (b) Heavy Vehicles Prohibited: Personal vehicles owned by a lot owner or occupant with more than two axles or weighing more than five (5) tons in gross weight are prohibited.
 - (c) Garage Reduction Prohibited: Unless approved in writing by the Board, no garage may be altered in such a manner that the number of automobiles which may reasonably be parked therein after such alteration, is less than the number of automobiles that could have been reasonably parked in the garage before such alteration. In considering any approval under this provision, the Board shall determine that the reduction is not likely to materially interfere with the use of any roads or common areas within the Community as a result of reducing the amount of available parking space appurtenant to any lot.
 - (d) Roadway Obstruction: No lot owner or occupant shall park in any road, common area or otherwise in any way that materially interferes with the flow of traffic in the Community.
- 3.10 Pets: No animals, livestock, or poultry of any kind shall be raised, bred, or kept within the Community, including the lots therein, except that a reasonable number of dogs, cats, or other normal household pets, may be kept within a residential dwelling only, subject to any and all applicable RRs related to such animals which may impose additional restrictions thereon including without limitation: limits on the number, size, and types of pets, regulating pet restraint outside residential dwellings, or regulating the use of common areas for pet related purposes.
- 3.11 Modification of Lot Lines: No lot shall be subdivided, combined, or its boundary lines otherwise changed except with the prior written approval of the Association, and in compliance with any applicable subdivision and zoning regulations or applicable RRs related thereto.
- 3.12 Exterior Modifications: No additions, alterations, or modifications to the exterior portions of any lot, dwelling, or other structure, or to any portion of the common areas shall be made unless approved in writing by the Board, and all additions, alterations, or modifications shall be made and maintained at all times in compliance with any applicable RRs related thereto.
- 3.13 Temporary Structures: Except as expressly stated herein or approved in writing by the Board, and subject to any applicable RRs related thereto, no trailer, tent, shack, barn or other out building shall be erected or placed upon any lot, either temporarily or permanently.
- 3.14 Unsightly or Unkempt Conditions: Subject to provision 3.9(a) hereinabove, the pursuit of hobbies or other activities, including specifically, and without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken within the Community, including the lots and common areas therein. All rubbish,

trash, and garbage shall be regularly removed from each lot and shall not be allowed to accumulate thereon.

Except as expressly stated herein or approved in writing by the Board, and subject to any applicable RRs related thereto, no bedding or clothing of any type, nor any towels, clothes or other items of wearing or cleaning apparel, or any mops, brushes, brooms or other types of cleaning apparatus, nor any clotheslines, garbage cans, above-ground tanks, woodpiles, and/or other similar items of any kind whatsoever shall be hung, placed, located, or kept outside of any structure located on the Community in such a manner as to be visible from any street or other lot located in the Community.

- 3.15 **Nuisances Prohibited:** Any activity which is noxious, destructive, offensive, or which constitutes an unreasonable source of embarrassment, discomfort, annoyance, or otherwise constitutes a nuisance, or otherwise violates any applicable RRs related thereto, is prohibited and shall not be conducted on any part of the Community including the lots and common areas therein.
- 3.16 **Firearms/Projectiles:** Unless approved in writing by the Board, subject to any applicable RRs related thereto, the discharge of any firearm, including without limitation any device that propels bullets, arrows or other projectiles through the air using any method of propulsion is prohibited.
- 3.17 **Increased Insurability Risk Prohibited:** Unless approved in writing by the Board, subject to any applicable RRs related thereto, nothing shall be done or kept within the Community by any lot owner or occupant that causes any insurance premium for the Association to increase. If such an increase occurs, the Board may specifically assess the amount thereof to the responsible owner.
- 3.18 **Lease Restrictions:** Every lease of any lot or any residential dwelling thereon shall be subject to this Declaration, the Instruments, and any applicable RRs related thereto. Every lease of any portion of the Community shall include this provision as part of its terms and shall include a copy of this Declaration and any applicable RRs, provided however that any failure to include this provision or provide such copies shall not relieve any owner or occupant from record notice of, or compliance with this provision, this Declaration, or any applicable RRs.
- (a) An owner may lease or rent their lot and/or the residential dwelling thereon for use as a single-family residence only as more particularly described herein, but no portion of any lot or residential dwelling shall be leased or sublet separately from the whole thereof.
 - (b) Additional RRs which further regulate or restrict leasing activity within the Community may be adopted or amended from time to time by the Board in its sole discretion and may by way of illustration only and without limitation: (i) require that certain notices be given to or received by the Association, owner, and/or tenant in connection with such leases; or (ii) establish minimum lease terms and/or periods for permitted leases (but no RRs shall reduce the length of any lease period entered into prior to the enactment thereof).
 - (c) Failure by any owner, occupant, or lessee to comply with this Declaration (including without limitation this provision) or the Instruments shall be deemed a default under such lease for which the Association shall have the following non-exclusive rights in addition to any and all other available remedies: (i) to require that the owner, occupant, or lessee of such lot terminate such lease because of such default and treat any failure to do so as a violation of this Declaration subject to the enforcement provisions hereof; (ii) to evict the tenant on behalf of the owner through summary ejectment proceedings or any other lawful procedure for such eviction, and (iii) to specifically assess all costs associated therewith against the owner and the owner's lot.
 - (d) Notwithstanding anything herein to the contrary, no owner shall lease, rent or otherwise permit the occupancy of their lot, in whole or in part, for any use or purpose that would be subject to the North Carolina Vacation Rental Act (NCGS 42A *et. seq.*).
 - (e) Time sharing or timeshares as defined in the North Carolina Time Share Act (NCGS 93A-39 *et. seq.*) are strictly prohibited.

- 3.19 **Business Use:** No trade or business may be conducted on or from any lot, except that an owner or occupant residing in a residential dwelling may conduct business activities therein so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, smell, or vibrations from outside the dwelling; (b) the business activity conforms to all zoning requirements for the Community; (c) the business activity is consistent with the residential character of the Community and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Community as may be determined in the sole discretion of the Board.

The terms, "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefore. Notwithstanding the above, the leasing of a lot shall not be considered a trade or business within the meaning of this section.

- 3.20 **Community Boundary Access:** Except for existing roadways within the Community to which all owners have an equal right of access, no portion of the common areas or any lot(s) may be used to provide access to or from any property situated outside the Community, subject however to any validly enforceable easements for such access, if any, existing as of the effective date hereof.

ARTICLE IV HOMEOWNER ASSOCIATION

- 4.1 **Powers:** Woodwind Community Association, Inc., (referred to herein as the "Association") a North Carolina non-profit corporation, created as the lot owners association for the planned community development of Woodwind, and subject to the rights of the owners expressly set forth herein, shall have full power, authority, and responsibility to administer, operate, sustain, maintain, and govern said Community including but not limited to, the powers and responsibilities to make investments of funds held by it; to adopt, amend, and repeal reasonable rules and regulations; to borrow money (only if approved by sixty seven percent (67%) of the membership); to make assessments; to bring and defend lawsuits; to enter into contracts; and to enforce the provisions of this Declaration and the Instruments relating to the establishment, existence, operation, or alteration of the Community.

The powers of the Association shall be construed liberally and shall include, without limitation, all of the powers of a nonprofit corporation under Chapter 55A of the North Carolina General Statutes, and all those powers more specifically set forth in NCGS § 47F-3-102 of the Planned Community Act which are hereby adopted and incorporated within this Declaration by reference as if fully set out herein.

- 4.2 **Association RRs:** The Association acting through its Board may adopt, amend, and repeal from time to time reasonable rules and regulations (referred to herein as "RRs") related to all aspects of the Community, and to the Association's rights, activities, and duties under this Declaration.

- (a) Without limiting the generality of the foregoing, RRs may further govern all aspects of the use and occupancy of the entire Community, including the lots and common areas therein, and may: clarify, interpret, or elaborate on restrictions more generally stated herein, impose new or additional restrictions in addition thereto, and/or establish procedures for the Association's operation or its administration of this Declaration.

- (b) RRs shall be binding on all owners and occupants unless and until overruled, repealed, or amended by the Association acting through its Board or otherwise by a majority of its membership voting in favor thereof at any duly called meeting for such purpose. The membership in their discretion may impose additional limitations on the Board's ability to take further action regarding any RRs voted on by the membership by requiring their majority consent prior to further Board action related to such RRs.
- (c) A current copy of all RRs shall be maintained in the office of the Association and shall be available to each owner or occupant upon request.
- (d) Violations of RRs shall be deemed a violation of this Declaration and shall be enforceable in the same manner as a violation hereof, and otherwise as allowed by law.
- (e) Notwithstanding anything herein to the contrary, no RRs shall be adopted or enforceable which conflict with any express provision of this Declaration, the Instruments, or which are otherwise prohibited by law.

4.3 **Mandatory Membership:** Every person who is the record owner of a fee or undivided fee interest in any lot that is subject to this Declaration shall be deemed to be a member in the Association, which membership shall be appurtenant to and inseparable from such ownership, provided however only one (1) aggregate membership shall exist and be owned with respect to each lot, whether such lot is owned by one or more persons. The foregoing is not intended to include persons who hold an interest in a lot merely as security for the performance of an obligation, and the giving of a security interest shall not terminate any owner's membership.

4.4 **Voting:** Each aggregate membership shall be entitled to cast one (1) single vote with respect to each lot owned thereby. If only one of the multiple owners of a lot is present at a meeting of the Association, the owner present is entitled to cast the vote allocated to that lot. If more than one of the multiple owners are present, the vote allocated to that lot may be cast only in accordance with the agreement of a majority in interest of the multiple owners. Furthermore, majority agreement shall be conclusively presumed if any one of the multiple owners casts the vote allocated to that lot without protest being made promptly to the person presiding over the meeting by any of the other owners of that lot. Any lot which is not subject to assessment under this Declaration shall not be entitled to vote. A vote may be cast by proxy as provided for within the Bylaws.

4.5 **Suspension of Voting Rights & Other Privileges:** Following notice, and an opportunity to be heard pursuant to NCGS § 47F-3-107.1 (and any other applicable provisions of the Instruments not inconsistent therewith), the Association may suspend all voting rights, if any, and all rights to use the common areas of any owner or occupant for any period during which any Association assessment against such owner remains unpaid, or during the period of any continuing violation of the provisions of this Declaration, the Instruments, or any RRs adopted hereunder by such owner or occupant after such violation has been declared by the Association. Notwithstanding the foregoing, the right of ingress and egress to such owner's lot shall not be affected by any suspension of privileges notwithstanding anything herein to the contrary.

4.6 **Management:** The Board, and such officers as may be elected or appointed in accordance with the Instruments shall manage and conduct the Association's affairs, provided the Board may also appoint committees and hire managers, employees, or agents, who may be responsible for Association operations delegated thereto subject to general Board supervision and direction.

4.7 **Indemnification:** The Association shall indemnify every officer and director against any and all expenses, including counsel fees, reasonably incurred by or imposed upon any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable

for any mistake or judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available. The provisions of this section shall also be applicable to the members of any committee as provided for under the "Architectural Standards" Article of this Declaration with respect to their liability in connection therewith as members of such committee.

ARTICLE V MAINTENANCE & ASSESSMENTS

5.1 Association Maintenance Responsibilities & Rights:

- (a) Except as otherwise expressly provided in this Declaration, the Association is responsible for causing the common areas to be maintained, repaired, and replaced when necessary (including without limitation all landscaping and other flora, roads, structures and improvements properly situated on common areas, but not including any of the foregoing installed by any owner or occupant regardless of whether permission was granted by the Association for such installation); and to assess the lot owners as necessary to recover the costs of such maintenance, repair, or replacement.

The Association may, at the Board's discretion, assume the maintenance responsibilities set out in any declaration or subsequent amendment or supplement thereto applicable to all or any portion of the Community creating any residential association or area or designating a separate parcel status for any portion of the Community, provided however all costs of such maintenance shall be assessed only against the members residing in that association, area or parcel to which the services are provided. Such assumption may take place either by contract or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the community-wide standards of Woodwind. The provision of services pursuant to this section shall not be discrimination within a class.

- (b) If the Association determines: (i) any owner or occupant has failed to comply with any obligations regarding the maintenance, repair, or replacement of items they are responsible for under this Declaration or the Instruments; or (ii) any necessary maintenance, repair, or replacement of any common area is caused by the willful or negligent act of any owner or occupant which is not covered by insurance; the Association may, but is not obligated, to provide such maintenance, repair, or replacement at the owner's sole expense and specifically assess the owner therefore.

Except as stated in the immediately following paragraph, prior to taking such action, the Association shall give the owner prior written notice of its intent to do so and set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Association, and shall provide such owner an opportunity to be heard in the same manner required by NCGS § 47F-3-107.1 (and any other applicable provisions of the Instruments not inconsistent therewith) for imposition of fines, and shall allow a

period of ten (10) days following such notice or any hearing requested pursuant thereto, to adequately provide the maintenance, repair, or replacement deemed necessary by the Board. The Board within its sole discretion may extend said period for good cause.

Notwithstanding anything herein to the contrary, if any owner has failed to comply after the foregoing situation, or if the Board determines in its sole discretion that an emergency exists, or if the need for such maintenance, repair, or replacement is within any common area as described in subsection (ii) of this section, then the Association shall not be required to provide any notice prior to taking any action otherwise authorized by this section, and shall have a right of entry upon any lot (including any dwellings thereon) and within the common area, as reasonably necessary to perform such work and shall not be liable for any trespass for exercising such rights incident thereto. If damage is inflicted on any lot by any agent of the Association in the scope of their activities as such agent, the Association is liable to repair such damage or to reimburse the lot owner for the cost of repairing such damages.

- (c) In addition to the foregoing, the Association, Board, officers, agents, employees, managers, and all police officers, firefighters, ambulance personnel, and similar emergency personnel shall have the right to enter upon any lot for emergency, security, or safety purposes reasonably necessary to the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after reasonable notice to the lot owner or occupant.

5.2 Owner's Maintenance Responsibilities: Except as otherwise provided in this Declaration, each lot owner is responsible for the maintenance and repair of their respective lot and any improvements thereon, and shall keep and maintain the same in good repair. Each lot owner shall afford to the Association and when necessary to another lot owner access through the lot owner's lot reasonably necessary for any such maintenance, repair, or replacement activity.

5.3 Purpose of Assessments: The assessments provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the lot owners and occupants, including without limitation funding the Association maintenance obligation, as authorized from time to time by the Board, or as otherwise required by law.

5.4 Assessment Obligations: Each owner of each lot, by virtue of acquiring ownership thereof or by acceptance of a deed thereof, whether or not it shall be so expressed in any instrument or deed, hereby covenants and agrees to pay to the Association: (a) general annual assessments allocated equally among the lots in accordance with their Allocated Interests reflected in Exhibit "A" attached hereto and incorporated herein by reference; (b) special assessments, levied and collected as more particularly described herein; and (c) specific assessments levied against particular lot(s) pursuant to this Declaration, including without limitation reasonable fines imposed hereunder.

All assessments, together with any applicable late fees, interest, collection costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the lot against which each assessment is made, and additionally shall be the personal obligation of each member at the time of the assessment, and their grantees shall be jointly and severally liable for such portion of the assessment due and payable at the time of conveyance, to the extent expressly assumed; provided however, no first mortgagee who obtains title to a lot pursuant to the remedies provided in the mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title. (See also NCGS § 47F-3-116(f))

Assessments shall be payable in any manner and upon dates fixed by the Board, which may accelerate any assessments otherwise payable in installments for delinquent payments.

- 5.5 **Computation of General Annual Assessments by Budget:** It shall be the duty of the Board to prepare annually a budget covering the estimated costs of operating the Association during the coming year and including as a part thereof any capital reserves contributions necessary to establish and maintain adequate reserve funds in accordance with a separately prepared capital reserves budget which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost thereof. The Board shall set the required capital reserves contributions, if any, in an amount sufficient to permit meeting the projected capital reserves needs of the Association as shown on the capital reserves budget. The Board shall cause a copy of both the operating and capital reserves budget, and the amount of the assessments to be levied against each lot for the following year to be delivered to the voting members at least thirty (30) days prior to the end of the current fiscal year. The budgets and assessment shall become effective unless disapproved at a meeting by a vote of voting members representing at least a majority of the total membership. Notwithstanding the foregoing, in the event a budget is disapproved or the Board fails for any reason to adopt a budget for a succeeding year, and until such time as a new effective budget is adopted as provided in this section, the Association shall continue to operate upon the periodic budget last approved by the lot owners.
- 5.6 **Special Assessments:** In addition to any other assessments authorized herein, the Board may levy special assessments in any fiscal year and may permit installment payments extending beyond such year, but unless otherwise expressly stated herein, no special assessment shall be levied without the approval thereof by a majority of the membership.
Notwithstanding the foregoing, the Board without such membership approval may authorize, levy, and collect a special assessment if: (i) assessed equally against all lots in a total amount allocable to each lot not exceeding Five Hundred (\$500) Dollars in any one fiscal year; or (ii) authorized pursuant to provision 6.5 of this Declaration regardless of the total amount allocable to each lot therefore.
- 5.7 **Specific Assessments:** The Board shall have the power, but not the obligation, to make specific assessments from time to time pursuant to this section as it deems appropriate and equitable within its sole discretion, provided any failure to exercise its authority under this section shall not be grounds for any action against the Association or Board, and shall not waive the Board's right to exercise such authority in the future. Except as otherwise provided herein, the Board may make specific assessments for:
- (a) Association expenses benefitting less than all lots may be specifically assessed equitably among those lots benefitted according to the benefit received.
 - (b) Association expenses benefitting all lots, but in an unequal manner, may be specifically assessed equitably among all lots according to the benefit received.
- 5.8 **Non Abatement:** No owner may waive or otherwise exempt themselves from compliance with this Declaration or the Instruments, or from their liability for the assessments provided for herein, including without limitation, by non-use of common areas, or abandonment of their lot. The obligation to pay assessments is a separate and independent covenant on the part of each owner. No diminution or abatement of any assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association to take any action required to be taken under this Declaration or the Instruments, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any applicable lawful ordinance, order or directive of any governmental authority.
- 5.9 **Delinquent Assessments:** Any assessment not paid when due shall be deemed delinquent, and after being delinquent for more than thirty (30) days shall incur a late charge in an amount determined by the Board from time to time, but not exceeding any maximum amount set out

within NCGS § 47F-3-102(11), and shall incur interest on the principal balance thereof from the delinquency date at the legal rate until paid in full.

Failure to pay any assessment for more than thirty (30) days together with any applicable late fees, interests, costs, and attorneys fees, shall constitute a default under this Declaration, and shall entitle the Association in addition to any other available enforcement remedies, to pursue the collection thereof by filing and foreclosing upon a lien for such amounts in the same manner as a mortgage as described herein, or as otherwise authorized by law, and/or alternatively without waiving such rights, to file a lawsuit for breach of this Declaration as a contract in a court of competent jurisdiction seeking a judgment including all unpaid assessments together with all late fees, interest, costs, and attorneys' fees against any party obligated to pay the same hereunder.

- 5.10 **Payments Applied:** All payments shall first be applied to any costs and attorney's fees, and then to late charges, interest, and delinquent principal, in that order; and if any excess funds remain, then to any future regular, special, or specific assessments as the same become due.
- 5.11 **Statement of Account:** In accordance with NCGS § 47F-3-118(b) the Association, within ten (10) business days of receipt of a written request for the same, shall furnish to a lot owner or their authorized agents a statement setting forth the amount of unpaid assessments and other charges against a lot which shall be binding on the Association, Board, and owners. The Association may charge a reasonable processing fee not exceeding Fifty Dollars (\$50) per such request.
- 5.12 **Lien for Assessments:** Any assessment levied against a lot that remains unpaid shall constitute a lien against such lot upon the filing of a claim of lien in the manner provided in NCGS § 47F-3-116, which lien may be foreclosed upon by the Association as provided therein without limiting any other remedies provided for hereunder or by law. The Association, acting on behalf of the owners, shall have the power to bid for the lot at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be assessed or levied on it; and (c) each other lot shall be charged, in addition to its usual assessment, its equal pro-rata share of the assessment that would have been charged such lot had it not been acquired by the Association as a result of foreclosure.

ARTICLE VI INSURANCE

- 6.1 **Insurance:** The Board, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk insurance, if reasonably available, for all insurable improvements on the common area. If blanket all-risk insurance is not reasonably available, then at a minimum, a policy providing fire and extended coverage shall be obtained. This insurance shall be in an amount sufficient to cover one hundred (100%) percent of the replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

The Board shall also obtain a public liability policy covering the common area, the Association, and its members for all damage or injury caused by the negligence of the Association or any of its members or agents. The public liability policy shall have at least a One Million Dollar (\$1,000,000.00) single person limit as respects bodily injury and property damage, a Three Million Dollar (\$3,000,000.00) limit per occurrence, if reasonably available; and a Five Hundred Thousand Dollar (\$500,000.00) minimum property damage limit. Premiums for all insurance on the common area shall be common expenses of the Association. The policy may contain a reasonable deductible, and the amount of the deductible shall be added to the face amount of the policy in determining whether the insurance equals at least one hundred per cent (100%) of the replacement cost. The deductible shall be paid by the party who would be

responsible for the repair in the absence of insurance or, in the event of multiple parties, shall be allocated in relation to the amount each party's loss bears to the total.

All such insurance coverage obtained by the Board shall be written in the name of the Association as Trustee for the respective benefitted parties, as further identified in 6.1(b) below, and shall be governed by the provisions hereinafter set forth:

- (a) All policies shall be written with a company licensed to do business in North Carolina holding a rating of AAA or better in the Financial Category XI as established by A.M. Best Company, Inc., if reasonably available, or if not, the closes equivalent rating.
- (b) All policies on the common area shall be for the benefit of the Association or its mortgagees as their interests may appear; all policies on lots shall be for the benefit of the owners thereof and their mortgagees as their interests may appear.
- (c) Exclusive authority to adjust losses under policies in force on the Community obtained by the Association shall be vested in the Board; provided, however, no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- (d) In no event shall the insurance coverage obtained and maintained by the Board hereunder be brought into contribution with insurance purchased by individual owners, occupants, or their mortgagees.
- (e) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Transylvania County area.
- (f) The Board shall be required to make every reasonable effort to secure insurance policies providing for the following: (i) a waiver of Subrogation by the insurer as to any claims against the Board, its manager, the owners, and their respective tenants, servants, agents, and guests; (ii) a waiver by the insurer of its rights to repair, and reconstruct, instead of paying cash; (iii) that no policy may be cancelled, invalidated, or suspended on account of any one or more individual owners; (iv) that no policy may be cancelled, invalidated, or suspended on account of the conduct of any Director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of reasonable time thereafter within which the defect may be cured by the Association, its manager, any owner, or mortgagee; (v) that any "other insurance" clause in any policy exclude individual owners' policies from consideration; and (vi) that no policy may be cancelled or substantially modified without at least thirty (30) days prior written notice to the Association.

In addition to the other insurance required by this section, the Board shall obtain, as a common expense, worker's compensation insurance, if and to the extent necessary, and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds. The amount of fidelity coverage shall be determined in the directors' best business judgment, but may not be less than three (3) months' assessments, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be cancelled or substantially modified without at least thirty (30) days prior written notice to the Association.

- (g) Each owner may obtain additional insurance at his or her own expense; provided, however, that no owner shall be entitled to exercise his or her right to maintain insurance coverage in such a way as to decrease the amount which the Association, on behalf of all the owners and their mortgagees, may realize under any insurance policy which the Board may have in force on the property at any particular time.

- (h) It shall be the individual responsibility of each owner, at his or her own expense, to provide, as he or she sees fit, title insurance on his or her individual lot or unit, insurance on improvements and betterments, and such other insurance as is not provided by the Association pursuant to the provisions of this Article.

6.2 **Individual Insurance:** By virtue of acquiring title to any lot subject to this Declaration, each owner covenants and agrees with all other owners and the Association that each individual owner shall carry blanket all risk casualty insurance on their lot. Each individual owner further covenants and agrees that in the event of a partial loss or damage and destruction resulting in less than total destruction, the individual owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction. In the event that the structure is totally destroyed and the individual owner determines not to rebuild or to reconstruct, the individual owner shall clear the lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction. In the event the owner decides not to rebuild or reconstruct, the Association may impose more stringent requirements regarding the standards for rebuilding or reconstructing structures on the lot and the standard for returning the lot to its natural state.

6.3 **Disbursement of Proceeds:** Proceeds of insurance policies shall be disbursed as follows:

- (a) If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repairs or reconstruction to the common area or, in the event no repair or reconstruction is made, after making such settlement as is necessary and appropriate with the affected owner(s) and their mortgagee(s) as their interests may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of any mortgagee of a lot and may be enforced by such mortgagee.
- (b) If it is determined, as provided for in section 6.4 of this Article, that the damage or destruction to the common area for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed in the manner as provided for excess proceeds in section 6.3(a) of this Article.

6.4 **Damage and Destruction:**

- (a) Immediately after the damage or destruction by fire or other casualty to all or any part of the Community covered by insurance written in the name of the Association, the Board, or its duly authorized agent, shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Community. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Community to substantially the same condition in which it existed prior to the fire or other casualty.
- (b) Any damage or destruction to the common area shall be repaired or reconstructed unless the voting members representing at least seventy-five per cent (75%) of the total vote of the Association shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No mortgagee shall have the right to participate in the determination of whether the common area damage or destruction shall be repaired or reconstructed.

- (c) In the event that it should be determined by the Association in the manner described above that the damage or destruction of the common area shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the area of the Community on which the damage or destruction occurred shall be restored to its natural state and maintained as an undeveloped portion of the common area by the Association in a neat and attractive condition.

6.5 **Repair and Reconstruction:** If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost of repair or reconstruction, the Board, without the necessity of a vote of the voting members, shall levy a special assessment against all owners as permitted within the "Special Assessments" provision of this Declaration. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

ARTICLE VII ARCHITECTURAL STANDARDS

The Association acting through its Board shall have the authority and standing to enforce in courts of competent jurisdiction decisions of any committee established under this Article.

- 7.1 **Architectural Control Committee:** The term ACC means an Architectural Control Committee comprised of not less than three (3) representatives appointed by the Board, if any, and if such ACC is not appointed, shall mean the Board itself. The ACC is intended to and shall take the place of and replace both the "New Construction Committee" and "Modification Committee" as otherwise described within the original 1988 Declaration.
- 7.2 **Architectural Control:** Except as otherwise expressly provided herein, unless and until approved in writing by the ACC, no modification or alteration of any existing residential dwelling, building, structure, fence, tree, drive, or other structure or improvement of any kind whatsoever (including without limitation anything attached thereto or externally visible therefrom, including exterior colors), nor any new or original construction of the same (including without limitation any staking, clearing, excavation, grading, and/or other site work), shall be made, erected, placed, altered, or maintained within the Community including the lots therein.
- (a) The ACC shall prepare, adopt, and amend as it deems necessary or desirable from time to time, design guidelines and detailed standards and procedures governing its areas of responsibility hereunder to be used by owners or their agents seeking ACC approval pursuant to this Declaration, which shall be deemed Board established RRs hereunder.
- (b) Without limiting the generality of the foregoing provision, such detailed standards and procedures shall require that plans and specifications showing the nature, kind, shape, color, size, materials, and location of any modifications, additions, or alterations shall be submitted to the ACC for approval as to design and harmony of external design with existing structures, and as to location in relation to surrounding structures, topography, and finish grade elevation. One copy of all plans, specifications and related data shall be furnished to the ACC, and no alterations shall be made after ACC approval except with the prior written consent thereof.
- (c) To the extent reasonably possible, new construction of residential dwellings shall have:
- i. No more than two (2) stories in height, excluding any basement, with an entry being no more than forty (40) inches above finished grade at the finished floor level. Attics

- containing seven (7) feet of height clearance over more than fifty percent (50%) of the floor area immediately below such attic shall be considered a story hereunder;
- ii. At least fifteen hundred (1500) square feet (excluding open porches, garages, and basements, with at least one thousand (1000) square feet thereof located on the ground level for a two (2) story dwelling; and
 - iii. A structural footprint of no more than ten percent (10%) of any lot.
- (d) ACC disapproval of plans and specifications as submitted may be based upon any reasonable grounds, including, without limitation, lack of harmony of external design, color, location, or relation to surrounding structures or topography, or purely aesthetic considerations, as may be deemed sufficient within the discretion of the ACC.
 - (e) Notwithstanding the foregoing provisions, no permission or approval shall be required to repaint in accordance with an originally approved color scheme, or to rebuild in accordance with originally approved plans and specification. Nothing contained herein shall be construed to limit the right of an owner to remodel the interior of their residential dwelling, or to paint the interior of their residential dwelling any color desired.
 - (f) Failure of the ACC to approve or disapprove a valid application made hereunder and in compliance with any application procedures existing at the time of submission within thirty (30) days thereof shall be deemed approval of the submitted application unless it clearly violates of any express provision of this Declaration or the Instruments.
- 7.3 **No Waiver by Approval:** No ACC approval of any application/variances shall be binding upon or waive the continuing right of the ACC to review all future applications/variances and approve or deny each independently, pursuant to their discretion given hereunder and regardless of whether the same are substantially similar or identical to applications/variances previously granted.
- 7.4 **Variances Authorized:** The ACC within its sole discretion, may grant variances from the strict compliance with community design guidelines or specifications only if such variances: (i) would not materially alter the general character or harmony of design within the community, (ii) does not conflict with any provision of this declaration, and (iii) is reasonably required to prevent an undue hardship to a lot owner that would be caused by strict compliance due to the unique circumstances of their lot such as, but not limited to: topography, natural obstructions, or environmental considerations. Variances must be in writing to be effective, shall be subject to any conditions imposed by the ACC in its sole discretion, and shall comply with any applicable RRs related thereto. Inability to obtain approval of any governmental agency, issuance of any permit, or adequate terms of financing shall not be considered a hardship warranting a variance.
- 7.5 **Limitation of ACC Liability:** Any and all parties making any addition, alteration, or modification within the Community do so at their own risk and shall be deemed solely responsible and liable at all times for ensuring that the same complies with this Declaration and the Instruments together with any and all applicable local, state, or federal laws, and is designed and/or constructed in a good and workmanlike manner free from design, structural, or other defects. No ACC approval shall be deemed or construed in any way as an endorsement thereof by the Association, Board, ACC, or any agents or representatives thereof, nor shall any ACC approval create any warranties of any kind whatsoever whether express or implied, which warranties are hereby expressly disclaimed. The ACC, and its members, agents and representatives shall be defended and indemnified by the Association in the same manner and to the same extent as officers and directors under this Declaration and the Instruments.
- 7.6 **Completion of Construction:** Once the construction of a particular building or other structure on a lot shall have commenced, the exterior of such building or other structure must be completed within twenty-four (24) months after the construction thereof shall have commenced, except

where such completion is not reasonably possible or would result in great hardship to the lot owner or builder due to strikes, fires, national emergency or natural calamities. Dwelling structures may not be temporarily or permanently occupied until a certificate of occupancy has been issued by the Building Department of Transylvania County. Substantially all landscaping shown on plans submitted to the ACC must be completed within one year of initial occupancy.

- 7.7 ACC Records: The Chair of the ACC shall maintain written records of all ACC requests and their resolutions. This information shall be presented, verbally or written, at each Board meeting and become part of the minutes thereof. If no action was taken, a report of no action shall be made.

ARTICLE VIII MORTGAGEE RIGHTS

The following provisions are intended solely for the benefit of holders, insurers, or guarantors of first mortgages on lots, and only to the extent necessary to comply with any applicable underwriting requirements of the Federal National Mortgage Association and/or the Federal Home Loan Mortgage Corporation, and shall apply to both the Declaration and the Instruments, provided nothing herein shall be construed to reduce the percentage voting requirements otherwise set forth within this Declaration or the Instruments, or required by law, for any of the acts described in this Article.

- 8.1 Eligible Holder Notice: An institutional holder, insurer, or guarantor of a first mortgage on a lot who requests notice from the Association hereunder in writing identifying such lot and their interest therein shall be deemed an "eligible holder" entitled to timely notice of: (i) any proposed termination of the Association; (ii) any material condemnation or casualty event of the relevant lot or the common areas; (iii) any delinquency in the payment of assessments or charges owed by the relevant lot for more than sixty (60) days; (iv) any lapse, cancellation, or material modification of any Association insurance policy or fidelity bond; or (v) any proposed action requiring the consent of eligible holders pursuant hereto.
- 8.2 Casualty Protections: To the extent allowed under NC law, any restoration or repair of the Community after partial condemnation or damage due to an insurable hazard shall be substantially in accordance with this Declaration and the original plans and specification, and any election to terminate the Association shall not be made unless approved by a majority of the eligible holders of lots within the Community at such time.
- 8.3 Amendment: Except for amendments necessitated as a result of any condemnation or damage:
- (a) The termination of the Association shall require the approval of at least sixty seven percent (67%) of both: (i) the total Association voting power, and (ii) the voting power of those lots subject to any first mortgage.
 - (b) The approval of at least sixty seven percent (67%) of the total Association voting power, and of a majority of the voting power of those lots subject to any first mortgage shall be required to amend or add any material provisions to the Declaration or the Instruments which establish, provide for, govern, or regulate the following: (i) voting; (ii) assessments, liens, lien subordination; (iii) reserves for maintenance, repair, and replacement of common areas; (iv) insurance or fidelity bonds; (v) rights to use of the common area; (vi) responsibility for Community maintenance; (vii) modification of the Community boundaries; (viii) modification of lot boundaries; (ix) leasing of lots; (x) imposition of any rights of first refusal upon any lot; (xi) establishment of self management if professional management has been lawfully required by an eligible holder; or (xii) modification of any provision for the express protection of holders, guarantors, or insurers of first mortgages on lots.

- 8.4 **FHLMC Provision:** In addition to the foregoing, and to the extent required by the FHLMC, unless sixty seven percent (67%) of the first mortgagees or owners consent, the Association shall not: (i) by act or omission seek the abandonment, partition, subdivision, encumbrance, sale, or transfer of the common areas, provided granting of easements for public utilities or other public purposes consistent with the intended use of the Community shall not be prohibited; (ii) change the method of determining assessments; (iii) change, waive, or abandon any scheme of architectural control; (iv) fail to maintain fire and extended coverage insurance as required herein; or (v) use hazard insurance proceeds for any common area losses except to repair, replace, or reconstruct the same.
- First mortgagees may pay taxes and charges constituting a lien on the common area and overdue premiums on any common area insurance policy, or secure a new policy upon any lapse thereof, and shall be entitled to immediate reimbursement from the Association for the same.
- 8.5 **Non Priority:** No provision of this Declaration or the Instruments shall be construed as giving any owner or other party priority over a first mortgagee of any lot in the case of distribution of insurance proceeds or condemnation awards for losses to or takings of the common area.
- 8.6 **Mortgage Notice:** Each owner, upon request, shall furnish to the Association the name and address of the holder of any mortgage encumbering their lot.
- 8.7 **Board Amendments:** Should the FNMA or FHLMC subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the owners, may cause an amendment to this Article to be recorded to reflect such change.
- 8.8 **Failure of Mortgagee to Respond:** Any mortgagee who receives a written request from the Association to respond to or consent to any action shall be deemed to have approved such action if no written response is received from such mortgagee within thirty (30) days thereof.

ARTICLE IX ENFORCEMENT

- 9.1 **General:** This Declaration and the Instruments may be enforced by the Association and/or any owner or mortgagee through any proceeding at law or in equity, either to restrain or enjoin such violation, or to recover damages, against any person(s) violating or attempting to violate any portion thereof and against the land to enforce any lien created hereunder. Any party successfully enforcing this Declaration against another party in a court of competent jurisdiction shall be entitled to seek as part of any award reimbursement of their reasonable attorneys' fees. Nothing herein shall be construed to provide any party which is not an owner of an interest in the Community with any right or cause of action against any party subject to this Declaration.
- 9.2 **Preservation of Rights:** Failure of any party to seek enforcement of this Declaration or the Instruments shall not be deemed a waiver of the right to do so thereafter. In any lawsuit filed to enforce this Declaration by injunction or restraint there is hereby created and declared to be a conclusive presumption that threatened or actual breach of any portion of this Declaration or the Instruments cannot be adequately remedied by action at law or by recovery of damages.

- 9.3 **Fines, Suspensions, & Self Help:** In addition to any other available remedies, the Association, after first providing notice and an opportunity to be heard pursuant to NCGS § 47F-3-107.1 (and any other applicable provisions of the Instruments not inconsistent therewith) to any owner violating any provision of this Declaration or the Instruments may: (i) suspend such owner's privileges (including without limitation the right to vote or to receive Association services), and/or (ii) specifically assess a reasonable fine not exceeding \$150.00 (or any higher amount allowed by law) per day, per violation, against such owner, and/or (iii) enter upon any lot or other portion of the Community to abate or remove any erection, thing or condition violating this Declaration or the Instruments, using such force as may be reasonably necessary, provided no notice or hearing shall be required under this subsection in an emergency situation.
- The Association may specifically assess the costs it incurs, including reasonable attorney's fees, in connection with exercising any of the foregoing remedies or otherwise bringing any owner or their lot into compliance with this Declaration or the Instruments.
- 9.4 **Litigation:** No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of seventy-five (75%) percent of the Board. This section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association, in proceedings instituted against it. This section shall not be amended unless such amendment is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

ARTICLE X GENERAL PROVISIONS

- 10.1 **Construction & Duration:** The provisions of this Declaration and the Instruments are intended to be, and shall be liberally construed in order to give full force and effect to the covenants, conditions, and restrictions set forth herein to bring about the stated purpose of providing for the uniform management, operation, and maintenance of the Community as a planned community development by its Association under this Declaration, the Instruments, and the laws of the State of North Carolina including without limitation those portions of the North Carolina Planned Community Act which apply to the Community pursuant to NCGS § 47F-1-102(c) or are otherwise expressly adopted herein, provided it is not the intent hereof to adopt that entire statute.
- The covenants and restrictions of this Declaration shall run with and bind the land that comprises every part of the Community, and shall inure to the benefit of and shall be binding upon and enforceable by the Association and by the owner of any interest in the Community subject to this Declaration, together with 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 they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then owners, has been recorded in accordance with the "Amendment" provision of this Declaration agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same.
- If there are conflicts or inconsistencies between the provisions of North Carolina law, this Declaration, the Articles of Incorporation, the Bylaws, the RRs, or any other Instruments; the provisions thereof, and in that order, shall control and prevail. If there are conflicts or inconsistencies within any single Instrument, the more restrictive provision shall be deemed to control and prevail.

- 10.2 **Amendment:** This Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of members representing fifty-one percent (51%) of the total voting power of the Association, provided the percentage of voting power necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. This Declaration may also be amended unilaterally by the Board only to the extent reasonably necessary to bring the provisions hereof into compliance with any applicable and validly enforceable local, state, or federal laws, or to comply with any validly enforceable provisions protecting any first mortgage holders, guarantors, or insurers under the 1988 Declaration, as subsequently amended, if it is determined this Declaration violates the same. Amendments to this Declaration shall become effective upon recordation in the office of the Register of Deeds for Transylvania County, North Carolina, unless a later effective date is specified therein.
- 10.3 **Easements for Utilities:** There is hereby reserved to the Association blanket easements upon, across, above, and under all property within the Community for access, ingress, egress, installation, repairing, replacing and maintaining all utilities serving the Community or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone, and electricity, as well as storm drainage and any other service such as, but not limited to, a master television antenna system, cable television system, or security system which the Association might decide to have installed to serve the Community. It shall be expressly permissible for the Association or its designee, as the case may be, to install, repair, replace, and maintain or to authorize the installation, repairing, replacing, and maintaining of such wires, conduits cables, and other equipment related to the providing of any such utility or service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the Board shall have the right to grant such easement.
- 10.4 **Easements of Encroachment:** There shall be reciprocal appurtenant easements of encroachment as between each lot and such portion or portions of the common area adjacent thereto or as between adjacent lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than one (1) foot, as measured from any point on the common boundary between each lot and the adjacent portion of the common area or as between said adjacent lots, as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of an owner, tenant, or the Association.
- 10.5 **Gender and Grammar:** The singular, wherever used herein, shall be construed to mean the plural when applicable, and vice versa, and the use of the masculine pronoun shall include the neuter and/or feminine when applicable and vice versa.
- 10.6 **Severability & Savings:** The provisions of this Declaration and the Instruments are intended to be and shall be severable and invalidation of any provision (or portion thereof) of this Declaration or the Instruments by judgment, court order, or otherwise shall in no way affect the remaining provisions (or portions thereof), which shall remain in full force and effect notwithstanding.
- In addition to the foregoing, if this Declaration or any Instruments incorporated herein is determined by a court of competent jurisdiction to be in violation of any term or provision of the 1988 Declaration, as amended, due to its amending or deleting any term or provision thereof without first obtaining the express consent of any necessary party thereto, including without limitation the consent of any certain percentages of any mortgagees or lot owners expressly required thereunder to amend or delete any such terms or provisions, this Declaration or such Instrument shall survive and continue in force to the fullest extent allowed by law notwithstanding such determination, provided however that in any such event the terms or provisions violated shall be deemed to be a part hereof and shall continue to operate in full force

and affect, controlling and prevailing over any inconsistent or conflicting provisions of this Declaration or such Instrument, and the Association shall promptly cause an amendment to this Declaration or such Instrument to be made and recorded or published without the necessity of any additional consent thereto.

- 10.7 Captions: The captions of provisions used throughout this Declaration and the Instruments are inserted only for convenience purposes and shall not be relied upon in construing the meaning of any provisions thereof.

IN WITNESS WHEREOF, pursuant to the authority cited hereinabove and as otherwise authorized by law, this Declaration, including the Instruments defined herein, is hereby adopted, effective upon its being duly recorded in the Transylvania County Registry, by the undersigned lot owners, and otherwise by those lot owners casting an affirmative vote in favor of such adoption at any duly called meeting held for such purpose as stated within any affidavit of the Association reflecting such votes that may be attached hereto; the aggregate voting power thereof being not less than fifty-one percent (51%) of the total voting power of the Association.

**EXHIBITS REFERRED TO HEREIN
MULTIPLE SIGNATURE PAGES
& ASSOCIATION AFFIDAVIT(S) CERTIFYING MEMBERSHIP APPROVAL
FOLLOW THIS PAGE OF THE RESTATED DECLARATION**

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed the foregoing instrument(s) by setting their hand(s) and legal SEAL(S) hereunto intending to be bound by the terms hereof as of the day and year first stated above:

Richard E. McClure (SEAL)

x Richard E. McClure
PRINT NAME OF OWNER (PERSON OR ENTITY)

BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

Diana L. McClure (SEAL)

Diana L. McClure
PRINT NAME OF OWNER (PERSON OR ENTITY)

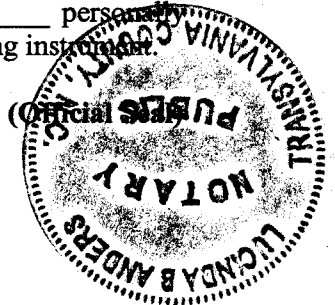
BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

STATE OF North Carolina
COUNTY OF Transylvania

I, Lucinda B. Anders, a Notary Public for said County and State, do hereby certify that Richard E. McClure and Diana L. McClure as the _____ personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the 12 day of March, 2013

Lucinda B. Anders
Notary Public,
My Commission Expires: July 12, 2016



STATE OF _____
COUNTY OF _____

I, _____, a Notary Public for said County and State, do hereby certify that _____ as the _____ personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the _____ day of _____, 2013 (Official Seal)

Notary Public,
My Commission Expires: _____

This document is submitted for clarification purposes regarding the following signature page of Eric N. Caldwell and Connie E. Caldwell, as the owners of Lot 5E.

Said signature page was actually signed and submitted to the Woodwind Community Association prior to the applicable deadline for voting by written ballot to cast and reflect their unanimous vote by such written ballot in favor of adopting the: Restated Declaration of Covenants, Conditions & Restrictions for Woodwind (A Planned Community Development) Drafted January 1st, 2013; the Bylaws of Woodwind Community Association Revised January 1st, 2013; and the Woodwind Community Association Rules and Regulations – 2013.

Said signature page was submitted without being properly notarized at the time of its original submission but upon the request of Woodwind Community Association to correct such notarization prior to recording the instruments described above, the signature page has been properly notarized and is attached to this document for inclusion with the other signature pages of the owners approving said instruments.

Affirmed and attested to by:

A handwritten signature in black ink, appearing to read "Eric N. Caldwell", written over a horizontal line.

Eric N. Caldwell

A handwritten signature in black ink, appearing to read "Connie E. Caldwell", written over a horizontal line.

Connie E. Caldwell

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed the foregoing instrument(s) by setting their hand(s) and legal SEAL(S) hereunto intending to be bound by the terms hereof as of the day and year first stated above:

[Signature] (SEAL)
Eric N Caldwell
PRINT NAME OF OWNER (PERSON OR ENTITY)

BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

[Signature] (SEAL)
Connie E. Caldwell
PRINT NAME OF OWNER (PERSON OR ENTITY)

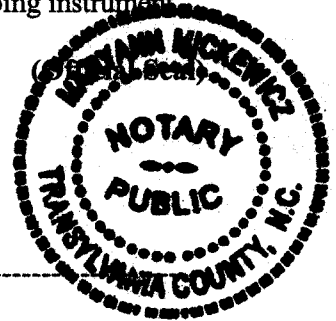
BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

STATE OF North Carolina
COUNTY OF Transylvania

I, Maryann Mickewicz, a Notary Public for said County and State, do hereby certify that Eric N. Caldwell as the owner personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the 19th day of June, 2013

Maryann Mickewicz
Notary Public,
My Commission Expires: 8/8/2014

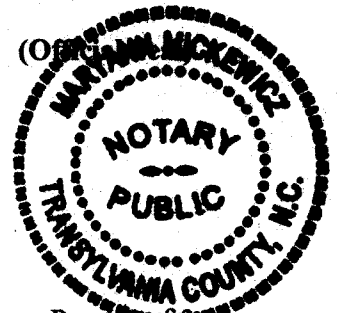


STATE OF North Carolina
COUNTY OF Transylvania

I, Maryann Mickewicz, a Notary Public for said County and State, do hereby certify that Connie E Caldwell as the owner personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the 19th day of June, 2013

Maryann Mickewicz
Notary Public,
My Commission Expires: 8/8/2014



IN WITNESS WHEREOF, the undersigned have executed or caused to be executed the foregoing instrument(s) by setting their hand(s) and legal SEAL(S) hereunto intending to be bound by the terms hereof as of the day and year first stated above:

Sharon L King (SEAL)

Sharon L King
PRINT NAME OF OWNER (PERSON OR ENTITY)

BY ITS: owner
TITLE (IF SIGNING FOR AN ENTITY)

(SEAL)

PRINT NAME OF OWNER (PERSON OR ENTITY)

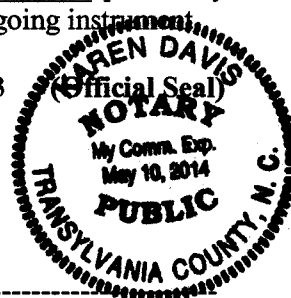
BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

STATE OF NC
COUNTY OF Transylvania

I, Haren Davis, a Notary Public for said County and State, do hereby certify that Sharon L King as the owner personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the 13 day of March, 2013

Haren Davis
Notary Public,
My Commission Expires: May 10, 2014



STATE OF _____
COUNTY OF _____

I, _____, a Notary Public for said County and State, do hereby certify that _____ as the _____ personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the ____ day of _____, 2013 (Official Seal)

Notary Public,
My Commission Expires: _____

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed the foregoing instrument(s) by setting their hand(s) and legal SEAL(S) hereunto intending to be bound by the terms hereof as of the day and year first stated above:

Ruth S. Unger (SEAL)

Ruth S. Unger
PRINT NAME OF OWNER (PERSON OR ENTITY)

BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

(SEAL)

PRINT NAME OF OWNER (PERSON OR ENTITY)

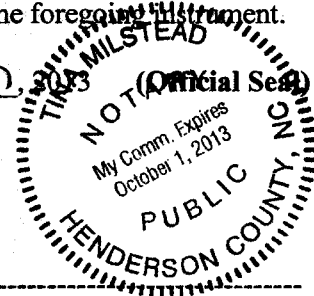
BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

STATE OF North Carolina
COUNTY OF Henderson

I, Tina Milstead, a Notary Public for said County and State, do hereby certify that Ruth S. Unger as the owner personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the 15th day of March, 2013

Tina Milstead
Notary Public,
My Commission Expires: October 1, 2013



STATE OF _____
COUNTY OF _____

I, _____, a Notary Public for said County and State, do hereby certify that _____ as the _____ personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the _____ day of _____, 2013 (Official Seal)

Notary Public,
My Commission Expires: _____

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed the foregoing instrument(s) by setting their hand(s) and legal SEAL(S) hereunto intending to be bound by the terms hereof as of the day and year first stated above:

Burton W Potter (SEAL)

BURTON W POTTER
PRINT NAME OF OWNER (PERSON OR ENTITY)

BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

Jean B. Potter (SEAL)

Jean B. Potter
PRINT NAME OF OWNER (PERSON OR ENTITY)

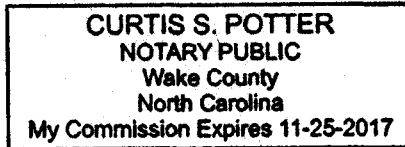
BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

STATE OF North Carolina
COUNTY OF Wake

I, Curtis S Potter, a Notary Public for said County and State, do hereby certify that Burton W Potter & Jean B. Potter as the _____ personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the 5th day of April, 2013 (Official Seal)

Curtis S. Potter
Notary Public,
My Commission Expires: 11-25-2017



STATE OF _____
COUNTY OF _____

I, _____, a Notary Public for said County and State, do hereby certify that _____ as the _____ personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the _____ day of _____, 2013 (Official Seal)

Notary Public,
My Commission Expires: _____

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed the foregoing instrument(s) by setting their hand(s) and legal SEAL(S) hereunto intending to be bound by the terms hereof as of the day and year first stated above:

David Warinner (SEAL)

David Warinner
PRINT NAME OF OWNER (PERSON OR ENTITY)

BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

Christine Schmidt (SEAL)

Christine Schmidt
PRINT NAME OF OWNER (PERSON OR ENTITY)

BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

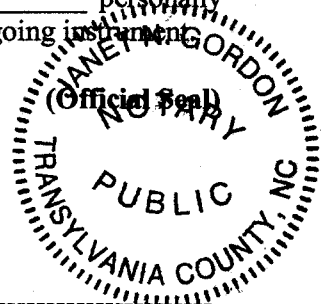
STATE OF NC

COUNTY OF Transylvania

I, Janet N. Gordon, a Notary Public for said County and State, do hereby certify that David Warinner as the Owner personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the 5 day of April, 2013

Janet N. Gordon
Notary Public,
My Commission Expires: August 5, 2017



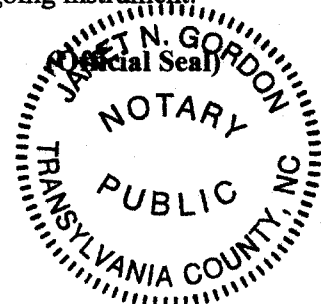
STATE OF NC

COUNTY OF Transylvania

I, Janet N. Gordon, a Notary Public for said County and State, do hereby certify that Christine Schmidt as the Owner personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the 5 day of April, 2013

Janet N. Gordon
Notary Public,
My Commission Expires: August 5, 2017



IN WITNESS WHEREOF, the undersigned have executed or caused to be executed the foregoing instrument(s) by setting their hand(s) and legal SEAL(S) hereunto intending to be bound by the terms hereof as of the day and year first stated above:

[Signature] (SEAL)
John D Hadacek
PRINT NAME OF OWNER (PERSON OR ENTITY)

BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

[Signature] (SEAL)
Kristina M Hadacek
PRINT NAME OF OWNER (PERSON OR ENTITY)

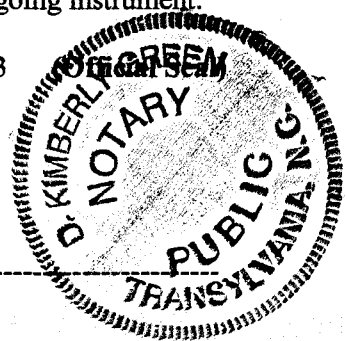
BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

STATE OF North Carolina
COUNTY OF Transylvania

I, D Kimberly Green, a Notary Public for said County and State, do hereby certify that John D Hadacek + Kristina M Hadacek as the _____ personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the 29th day of March, 2013

[Signature]
Notary Public,
My Commission Expires: 2/8/17



STATE OF _____
COUNTY OF _____

I, _____, a Notary Public for said County and State, do hereby certify that _____ as the _____ personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the _____ day of _____, 2013 (Official Seal)

Notary Public,
My Commission Expires: _____

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed the foregoing instrument(s) by setting their hand(s) and legal SEAL(S) hereunto intending to be bound by the terms hereof as of the day and year first stated above:

Mary Miller (SEAL)
MARY MILLER
PRINT NAME OF OWNER (PERSON OR ENTITY)

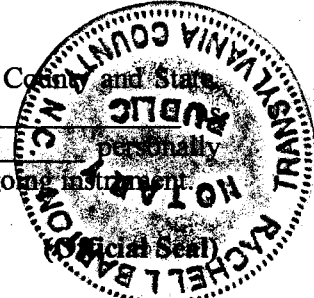
BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

Geran Miller (SEAL)
GERAN MILLER
PRINT NAME OF OWNER (PERSON OR ENTITY)

BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

STATE OF NC
COUNTY OF Transylvania

I, Rachel L. Barton, a Notary Public for said County and State
do hereby certify that Mary Miller
the Geran Miller
appeared before me this day and acknowledged their due execution of the foregoing instrument



Witness my hand and official seal, this the 2nd day of April, 2013

Rachel L. Barton
Notary Public,
My Commission Expires: 11/16/2016

STATE OF _____
COUNTY OF _____

I, _____, a Notary Public for said County and State,
do hereby certify that _____ as
the _____ personally
appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the ____ day of _____, 2013 (Official Seal)

Notary Public,
My Commission Expires: _____

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed the foregoing instrument(s) by setting their hand(s) and legal SEAL(S) hereunto intending to be bound by the terms hereof as of the day and year first stated above:

Michael J. Kaczmarek, Jr. (SEAL)

Michael J. Kaczmarek, Jr.
PRINT NAME OF OWNER (PERSON OR ENTITY)

BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

Susan A. Kaczmarek (SEAL)

Susan A. Kaczmarek
PRINT NAME OF OWNER (PERSON OR ENTITY)

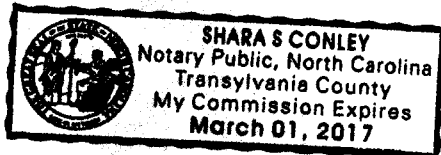
BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

STATE OF North Carolina
COUNTY OF Transylvania

I, Shara S. Conley, a Notary Public for said County and State, do hereby certify that Michael J. Kaczmarek Jr + Susan A. Kaczmarek as the Owners personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the 20 day of March, 2013 (Official Seal)

Shara S. Conley
Notary Public,
My Commission Expires: 3/1/2017



STATE OF _____
COUNTY OF _____

I, _____, a Notary Public for said County and State, do hereby certify that _____ as the _____ personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the _____ day of _____, 2013 (Official Seal)

Notary Public,
My Commission Expires: _____

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed the foregoing instrument(s) by setting their hand(s) and legal SEAL(S) hereunto intending to be bound by the terms hereof as of the day and year first stated above:

Katherine G. Stephens (SEAL)

KATHERINE G. STEPHENS
PRINT NAME OF OWNER (PERSON OR ENTITY)

BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

(SEAL)

PRINT NAME OF OWNER (PERSON OR ENTITY)

BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

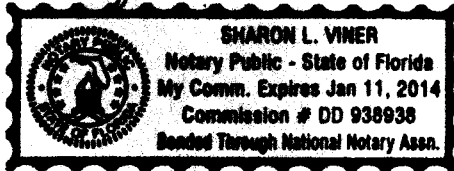
STATE OF Florida

COUNTY OF SARASOTA

I, Sharon L. Viner, a Notary Public for said County and State, do hereby certify that Katherine G. Stephens as the OWNER personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the 2 day of April, 2013 (Official Seal)

Sharon L. Viner
Notary Public,
My Commission Expires: _____



STATE OF _____

COUNTY OF _____

I, _____, a Notary Public for said County and State, do hereby certify that _____ as the _____ personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the ____ day of _____, 2013 (Official Seal)

Notary Public,
My Commission Expires: _____

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed the foregoing instrument(s) by setting their hand(s) and legal SEAL(S) hereunto intending to be bound by the terms hereof as of the day and year first stated above:

William T. Dashiell (SEAL)

William T. DASHIELL
PRINT NAME OF OWNER (PERSON OR ENTITY)

BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

Pamela B. Dashiell (SEAL)

Pamela B. Dashiell
PRINT NAME OF OWNER (PERSON OR ENTITY)

BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

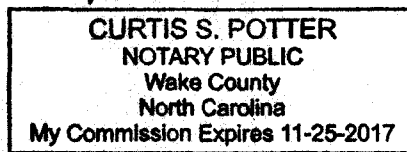
STATE OF North Carolina

COUNTY OF Wake

I, Curtis S. Potter, a Notary Public for said County and State, do hereby certify that William T. Dashiell + Pamela B. Dashiell as the _____ personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the 6th day of April, 2013 (Official Seal)

Curtis S. Potter
Notary Public,
My Commission Expires: 11-25-2017



STATE OF _____

COUNTY OF _____

I, _____, a Notary Public for said County and State, do hereby certify that _____ as the _____ personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the ____ day of _____, 2013 (Official Seal)

Notary Public,
My Commission Expires: _____

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed the foregoing instrument(s) by setting their hand(s) and legal SEAL(S) hereunto intending to be bound by the terms hereof as of the day and year first stated above:

Kevin Brown (SEAL)

KEVIN BROWN
PRINT NAME OF OWNER (PERSON OR ENTITY)

BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

(SEAL)

PRINT NAME OF OWNER (PERSON OR ENTITY)

BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

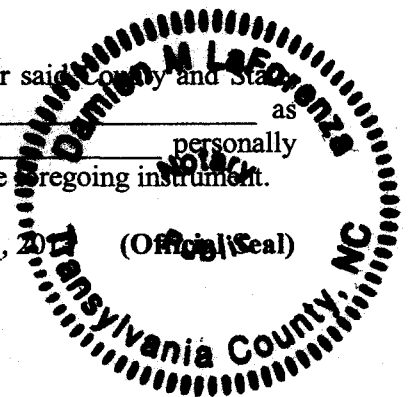
STATE OF North Carolina

COUNTY OF Traill

I, Dominic M. LaFrenza, a Notary Public for said County and State, do hereby certify that Kevin Brown as the owner personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the 11 day of March, 2013 (Official Seal)

Dominic M. LaFrenza
Notary Public,
My Commission Expires: 2/2/13



STATE OF _____

COUNTY OF _____

I, _____, a Notary Public for said County and State, do hereby certify that _____ as the _____ personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the ____ day of _____, 2013 (Official Seal)

Notary Public,
My Commission Expires: _____

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed the foregoing instrument(s) by setting their hand(s) and legal SEAL(S) hereunto intending to be bound by the terms hereof as of the day and year first stated above:

Margaret Madgwick (SEAL)
MARGARET MADGWICK
PRINT NAME OF OWNER (PERSON OR ENTITY)

BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

(SEAL)

PRINT NAME OF OWNER (PERSON OR ENTITY)

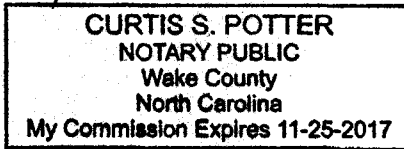
BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

STATE OF North Carolina
COUNTY OF Wake

I, Curtis S. Potter, a Notary Public for said County and State, do hereby certify that Margaret Madgwick as the _____ personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the 6th day of April, 2013 (Official Seal)

Curtis S. Potter
Notary Public,
My Commission Expires: 11-25-2017



STATE OF _____
COUNTY OF _____

I, _____, a Notary Public for said County and State, do hereby certify that _____ as the _____ personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the ____ day of _____, 2013 (Official Seal)

Notary Public,
My Commission Expires: _____

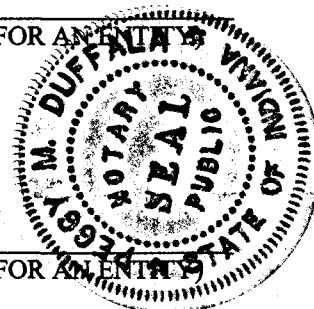
IN WITNESS WHEREOF, the undersigned have executed or caused to be executed the foregoing instrument(s) by setting their hand(s) and legal SEAL(S) hereunto intending to be bound by the terms hereof as of the day and year first stated above:

James N Bushre (SEAL)
JAMES N BUSHRE
PRINT NAME OF OWNER (PERSON OR ENTITY)

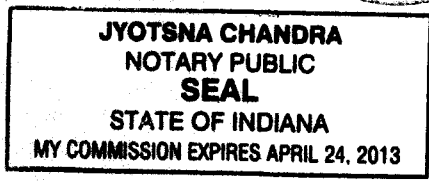
BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY) _____

Linda N. Bushre
Linda N. Bushre (SEAL)
Linda N. Bushre
PRINT NAME OF OWNER (PERSON OR ENTITY)

BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY) _____



STATE OF INDIANA
COUNTY OF HAMILTON



I, JYOTSNA CHANDRA, a Notary Public for said County and State, do hereby certify that JAMES N BUSHRE as the _____ personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the 28 day of March, 2013 (Official Seal)

[Signature]
Notary Public,
My Commission Expires: April 24 2013

STATE OF Indiana
COUNTY OF Hamilton

I, Peggy M Duffala, a Notary Public for said County and State, do hereby certify that Linda N Bushre as the _____ personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the 29 day of March, 2013 (Official Seal)

Peggy M Duffala
Notary Public,
My Commission Expires: _____

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed the foregoing instrument(s) by setting their hand(s) and legal SEAL(S) hereunto intending to be bound by the terms hereof as of the day and year first stated above:

[Signature] (SEAL)
CHARLES BERGSTROM
PRINT NAME OF OWNER (PERSON OR ENTITY)

BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

(SEAL)

PRINT NAME OF OWNER (PERSON OR ENTITY)

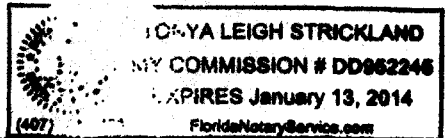
BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

STATE OF Florida
COUNTY OF Lee

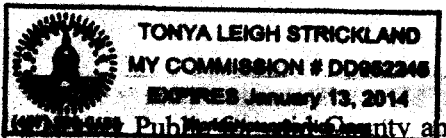
I, Tonya Leigh Strickland, a Notary Public for said County and State, do hereby certify that Charles Bergstrom as the _____ personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the 22 day of March, 2013 (Official Seal)

Tonya Leigh Strickland
Notary Public,
My Commission Expires: 1-13-14



STATE OF _____
COUNTY OF _____



I, _____ do hereby certify that _____ as the _____ personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the _____ day of _____, 2013 (Official Seal)

Notary Public,
My Commission Expires: _____

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed the foregoing instrument(s) by setting their hand(s) and legal SEAL(S) hereunto intending to be bound by the terms hereof as of the day and year first stated above:

Michael E. Wilson (SEAL)

Michael E. Wilson
PRINT NAME OF OWNER (PERSON OR ENTITY)

BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

Gloria M. Wilson (SEAL)

Gloria M. Wilson
PRINT NAME OF OWNER (PERSON OR ENTITY)

BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

STATE OF South Carolina

COUNTY OF Horry

I, Laura A. Connelly, a Notary Public for said County and State, do hereby certify that Michael E. Wilson as the owners of LOT 17 W Windsong, Woodwind Community personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the 25 day of March, 2013 (Official Seal)

Laura A. Connelly
Notary Public,
My Commission Expires: 01-12-2015

STATE OF South Carolina

COUNTY OF Horry

I, Gloria M. Wilson, a Notary Public for said County and State, do hereby certify that Gloria M. Wilson as the owner of LOT 17 W Windsong, Woodwind Community personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the 25 day of March, 2013 (Official Seal)

Laura A. Connelly
Notary Public,
My Commission Expires: 01-12-2015

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed the foregoing instrument(s) by setting their hand(s) and legal SEAL(S) hereunto intending to be bound by the terms hereof as of the day and year first stated above:

Joan M. Battaglia (SEAL)

Joan M. Battaglia
PRINT NAME OF OWNER (PERSON OR ENTITY)

BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

(SEAL)

PRINT NAME OF OWNER (PERSON OR ENTITY)

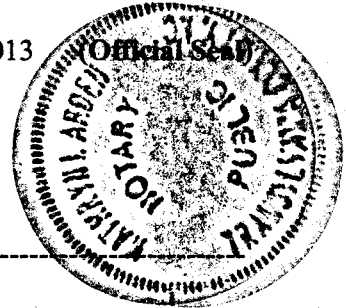
BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

STATE OF North Carolina
COUNTY OF Transylvania

I, Kathryn I. Arden, a Notary Public for said County and State, do hereby certify that Joan M. Battaglia as the Owner personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the 18 day of March, 2013

Kathryn I. Arden
Notary Public,
My Commission Expires: 10/7/17



STATE OF _____
COUNTY OF _____

I, _____, a Notary Public for said County and State, do hereby certify that _____ as the _____ personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the ____ day of _____, 2013 (Official Seal)

Notary Public,
My Commission Expires: _____

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed the foregoing instrument(s) by setting their hand(s) and legal SEAL(S) hereunto intending to be bound by the terms hereof as of the day and year first stated above:

William H. Briggs (SEAL)

WILLIAM H. BRIGGS
PRINT NAME OF OWNER (PERSON OR ENTITY)

BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

Sandra B. Briggs (SEAL)

Sandra B. Briggs
PRINT NAME OF OWNER (PERSON OR ENTITY)

BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

STATE OF North Carolina
COUNTY OF Henderson

I, Tina Milstead, a Notary Public for said County and State, do hereby certify that William H. Briggs & Sandra B. Briggs as the Owners personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the 12th day of March, 2013

Dynamis
Notary Public,
My Commission Expires: October 1, 2013



STATE OF _____
COUNTY OF _____

I, _____, a Notary Public for said County and State, do hereby certify that _____ as the _____ personally appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the ___ day of _____, 2013 (Official Seal)

Notary Public,
My Commission Expires: _____

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed the foregoing instrument(s) by setting their hand(s) and legal SEAL(S) hereunto intending to be bound by the terms hereof as of the day and year first stated above:

Henry F. Hath (SEAL)

Henry F. Hath
PRINT NAME OF OWNER (PERSON OR ENTITY)

BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

Linda J. Hath (SEAL)

LINDA J. Hath
PRINT NAME OF OWNER (PERSON OR ENTITY)

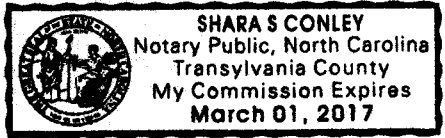
BY ITS: _____
TITLE (IF SIGNING FOR AN ENTITY)

STATE OF North Carolina
COUNTY OF Transylvania

I, Shara S. Conley a Notary Public for said County and State,
do hereby certify that Henry F. Hath as
the owner personally
appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the 15 day of March, 2013 (Official Seal)

Shara S. Conley
Notary Public,
My Commission Expires: 3/1/2017



STATE OF North Carolina
COUNTY OF Transylvania

I, Shara S. Conley a Notary Public for said County and State,
do hereby certify that Linda J. Hath as
the owner personally
appeared before me this day and acknowledged their due execution of the foregoing instrument.

Witness my hand and official seal, this the 15 day of March, 2013 (Official Seal)

Shara S. Conley
Notary Public,
My Commission Expires: 3/1/2017

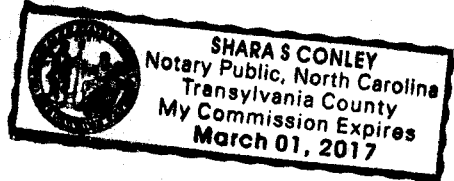


Exhibit "A"
 to
RESTATED DECLARATION
 of
COVENANTS, CONDITIONS & RESTRICTIONS
 for
WOODWIND
 (A PLANNED COMMUNITY DEVELOPMENT)
 Drafted: January 1st, 2013

The share of Association Votes and Common Expenses shall be allocated among all Lots within the Community equally unless otherwise expressly stated within the Declaration or required by law. For purposes of illustration only and without limiting the generality of the foregoing statement or formula for calculating such Allocated Interest, the Allocated Interest of the Community as of the date first stated hereinabove is described as follows:

Lot No.	Property Owner's Last Name	Street Number	Street Name	Allocated Share of Association Votes	Allocated Share of Association Common Expenses
1E	Mulcare		Woodwind Drive	1	2.78%
2E	Menerey		Woodwind Drive	1	2.78%
3E	Menerey		Woodwind Drive	1	2.78%
4E	McClure	176	Woodwind Drive	1	2.78%
5E	Caldwell	172	Woodwind Drive	1	2.78%
6E	Bean	27	Birch Lane	1	2.78%
7E & 8E	King	20	Ash Lane	1	2.78%
9E	Unger	40	Ash Lane	1	2.78%
10E	Potter	64	Ash Lane	1	2.78%
11E	Warinner	80	Ash Lane	1	2.78%
12E & 13E	Hadacek	330	Woodwind Drive	1	2.78%
14E	Miller	308	Woodwind Drive	1	2.78%
15E	Kaczmarek	284	Woodwind Drive	1	2.78%

16E	Stephens	34	Beechwood Lane	1	2.78%
17E	Hombardy / Gorman	20	Beechwood Lane	1	2.78%
18E	Dashiell	21	Beechwood Lane	1	2.78%
19E	Brown	99	Laurelwood Lane	1	2.78%
2W	Baltzer / Wilkins	53	Palisades Drive	1	2.78%
3W	Mudd		Palisades Drive	1	2.78%
4W	Madgwick	105	Palisades Drive	1	2.78%
5W & 6W	Oskorip	125	Palisades Drive	1	2.78%
7W & 8W	Redwing	62	Palisades Drive	1	2.78%
9W	Baltzer		Palisades Drive	1	2.78%
11W	Bushre		Windsong Lane	1	2.78%
12W & 13W	Jarlowe	123	Windsong Lane	1	2.78%
14W	Walker		Windsong Lane	1	2.78%
15W	Walker		Windsong Lane	1	2.78%
16W	Bergstrom / Bailey		Windsong Lane	1	2.78%
17W	Wilson		Windsong Lane	1	2.78%
18W	McDowell		Windsong Lane	1	2.78%
19W	Mudd		Woodwind Drive	1	2.78%
20W	Mudd		Windsong Lane	1	2.78%
21W & 22W	Battaglin	22	Windsong Lane	1	2.78%
23W & 24W	Briggs	19	Staghorn Lane	1	2.78%
25W	Huth		Woodwind Drive	1	2.78%
26W	Huth	488	Woodwind Drive	1	2.78%

Total Number of Lots: 36

Total Number of Votes: 36

Total Allocated Interest in Common Expenses: 100%

Woodwind Restated Declaration 1/1/13

Exhibit "B"
to
RESTATED DECLARATION
of
COVENANTS, CONDITIONS & RESTRICTIONS
for
WOODWIND
(A PLANNED COMMUNITY DEVELOPMENT)
Drafted: January 1st, 2013

BEING ALL OF THAT PROPERTY heretofore subjected to the Declaration of Covenants, Conditions and Restrictions of Woodwind, A Planned Unit Development recorded in Book 311 Page 594 in the Transylvania County Registry, as the same has been subsequently amended including without limitation those amendments made by the following non exclusive list of amendments thereto recorded in the Transylvania County Registry and including the property more particularly described within each such amendment:

1. Supplemental Declaration filed on or about 10/30/90 in Book 333, Page 605, TCR
1. Supplemental Declaration filed on or about 11/09/90 in Book 334, Page 144, TCR
2. Supplemental Declaration filed on or about 05/22/91 in Book 339, Page 241, TCR
3. Supplemental Declaration filed on or about 05/30/91 in Book 339, Page 459, TCR
4. Supplemental Declaration filed on or about 09/10/91 in Book 343, Page 183, TCR
5. Supplemental Declaration filed on or about 04/07/92 in Book 349, Page 490, TCR
6. Supplemental Declaration filed on or about 12/08/92 in Book 357, Page 690, TCR
7. Supplemental Declaration filed on or about 11/22/93 in Book 369, Page 518, TCR
8. Supplemental Declaration filed on or about 05/05/95 in Book 387, Page 356, TCR