

Return to: House & Blanco, P.A. - Box
Prepared by: Ronald A. Matamoros, Esquire

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STATE OF NORTH CAROLINA)
)
COUNTY OF FORSYTH)

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF LOCHURST

KNOW ALL MEN BY THESE PRESENTS that this Declaration of Covenants, Conditions and Restrictions, made and entered into on this 1st day of ~~February~~ ^{March}, 1989, by LOCHURST LIMITED PARTNERSHIP, a North Carolina limited partnership, with its office and principal place of business in Winston-Salem, Forsyth County, North Carolina (hereinafter referred to as the "Developer").

W I T N E S S E T H :

WHEREAS, Developer is assignee of the rights of Pfafftown Village Partnership, Developer's predecessor in title, as evidenced by a Warranty Deed recorded in Book 1626 at Page 437, Forsyth County Registry of Deeds; and

WHEREAS, the property which will be the subject of this Declaration is property which was previously subjected to a certain Declaration of Covenants, Conditions and Restrictions as recorded in Book 1616 at Page 245, Forsyth County Registry of Deeds (hereinafter referred to as the "Initial Declaration") except for Lots 13, 24, 27 and 28, along with the real property described in Plat Book 33 at Pages 95 & 96, Forsyth County Registry of Deeds; and

WHEREAS, in accordance with the terms and conditions of the Initial Declaration, Developer intends the following act as an amendment and modification of the Initial Declaration as relates to the property described herein; and

WHEREAS, Developer is the owner of the real property described in Article One of this Declaration and desires to create thereon a residential community (hereinafter referred to as the "Community"), together with entrances, site lighting, signs and any other common facilities (hereinafter referred to as "Facilities") for the benefit of the Community; and

WHEREAS, Developer desires to subject the real property described in Article One to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is, and are, for the benefit of said real property and each owner thereof.

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NOW, THEREFORE, Developer declares that the real property described in Article One is and shall be held, transferred, sold, conveyed and occupied subject to the terms and provisions of the covenants, conditions, restrictions, charges and liens (sometimes referred to herein as "covenants and restrictions" or "this Declaration") as hereinafter set forth.

ARTICLE ONE

Property Subject to This Declaration

Section 1. Existing Property. The real property which is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration (the "Existing Property") is located in Forsyth County, North Carolina, and is more particularly described as follows:

- (a) The real property described in Plat Book 31 at Pages 161-163, Forsyth County Registry of Deeds (except for Lots 13, 24, 27 and 28 as shown thereon); and
- (b) The real property described in Plat Book 33 at Pages 95 & 96, Forsyth County Registry of Deeds.

Section 2. Additions to Declaration. Any real property herein referred to as "additional units" may become subject to this Declaration by recordation of any supplemental declaration(s) by Developer (or by any other individual, firm or entity who submit such Additional Lots to this Declaration with the written consent of Developer), wherein any such Additional Lots are specifically made subject to and governed by all or a portion of this Declaration and such other covenants, conditions, restrictions, rights and obligations as Developer, in its sole discretion, shall deem appropriate.

Section 3. Amendment and Modification of Initial Declaration. Developer does hereby amend and modify the Initial Declaration in accordance with Paragraph 18 of the Initial Declaration by deleting the Initial Declaration in its entirety and incorporating by reference the terms and conditions of this Declaration, except as to Lots 13, 24, 27 and 28 which remain subject to the Initial Declaration.

ARTICLE TWO

Definitions

Section 1. Definitions. The following words, when used in this Declaration or any amended or supplemental declaration, (unless the context shall require otherwise) shall have the following meanings:

- (a) "Assessments" or "Common Charges" shall mean and refer to the assessments and charges levied against the Owners of Lots in The Properties, as hereinafter defined, pursuant to Article Six of the Declaration; and the word "Assessments" shall be and mean the same thing as "Common Charges".
- (b) "Association" shall mean and refer to the Lochurst Recreational and Maintenance Association Inc.
- (c) "Board" shall mean and refer to the Board of Directors of Lochurst Recreational and Maintenance Association Inc.
- (d) "By-Laws" shall mean and refer to the By-Laws of the Association.
- (e) "Common Expenses" shall mean and refer to:
 - (1) Expenses of administration, maintenance, repair and replacement of the Common Properties;
 - (2) Expenses declared Common Expenses by the provisions of this Declaration or the By-Laws;
 - (3) Expenses agreed upon as Common Expenses by the Association and lawfully assessed against Owners of Lots in accordance with the By-Laws or this Declaration; and
 - (4) Any valid charge against the Association or against the Common Properties as a whole.
- (f) "Common Properties" shall mean and refer to those entrance areas, signs and street lights specifically designated as Common Properties by deed from Developer to the Association and as such intended to be devoted to the use and enjoyment of the Owners of the Lots.
- (g) "Developer" shall mean and refer to Lochurst Limited Partnership, and any person or entity who is specifically assigned all or a portion of the rights and interests of Developer hereunder.
- (h) "Living Area" shall mean and refer to those heated and/or air-conditioned areas within a Living Unit which shall not include garages, carports, porches, patios, storage areas, breezeways, terraces or unfinished basements.
- (i) "Living Unit", "dwelling" or "building" shall mean and refer to any building or portion of a building situated upon any Lot which is a part of The Properties, designed and intended for use and occupancy as a residence by a single family.

- (j) "Lot" shall mean and refer to any plot of land within The Properties shown upon any recorded subdivision plat of The Properties or any portion thereof, with the exception of Common Properties as heretofore defined.
- (k) "Member" shall mean and refer to all those Owners who are members of the Association.
- (l) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot situated upon The Properties; but notwithstanding any applicable theory of any lien or mortgage law, shall not mean or refer to any mortgagee or trust beneficiary unless and until such mortgagee or trust beneficiary has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
- (m) "The Properties" shall mean and refer to all the Existing Property and any additional lots of Developer or others as are made subject to this Declaration by any supplemental declaration under the provisions of Article One of this Declaration.

ARTICLE THREE

General Provisions

Section 1. Duration. The covenants and restrictions of this Declaration shall run with the land and shall inure to the benefit of, and be enforceable by, the Association or any Owner, its and their respective legal representatives, heirs, successors and assigns, for a term of forty (40) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by the then Owners of two-thirds (2/3) of the Lots has been recorded, agreeing to change said covenants and restrictions in whole or in part; provided however, that no such agreement to change shall be effective unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken.

Section 2. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing. Notice to any one of the Owners, if title to a Lot is held by more than one, shall constitute notice to all Owners of such Lot.

Section 3. Enforcement. Enforcement of these covenants and restrictions shall be by an appropriate civil proceeding against any

person(s) violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, or both; and failure by any Owner to enforce any covenant or restriction herein contained shall not be deemed a waiver of the right to do so thereafter.

Section 4. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provision, which shall remain in full force and effect.

ARTICLE FOUR

Restrictions on Use and Rights of the Owners

Section 1. Restriction on Use and Rights of the Owners.

- (a) Permissible Uses - No Lot shall be used except for residential purposes and no building of any type shall be erected, altered, placed or permitted to remain on any Lot other than one single-family dwelling, including a garage and any other appurtenances customary to a single-family dwelling which shall comply with any applicable zoning regulations. All dwellings shall be constructed on a Lot and be of new materials. When construction of any building, structure, improvement or addition has once begun, work thereon shall be prosecuted diligently and continuously until the full completion thereof. No Living Unit shall be built which contains cement or cinder blocks which are visible from the outside of the Living Unit, nor may any outside, above-ground fuel storage be used.
- (b) Division of Lots - No Lot shall be further divided, except (i) any two Owners may divide a Lot between them if such Lot is adjacent to the Lots owned by each Owner and provided further that only one single-family dwelling may be constructed on the Lot as subdivided and combined and (ii) Developer may subdivide or replat any Lot or Lots.
- (c) Utilities and Easements - All utility lines of every type, including but not limited to water, electricity, telephone, gas, sewage and television cables, running from the main trunk line or service location to any Living Unit, must be underground. Developer reserves unto itself, its successors and assigns, a perpetual alienable and releasable easement and right on, over and under the ground to erect, maintain and use water, sewer, electric, gas, television cable and telephone systems, wires, cables and conduits for the purpose of bringing public services to The Properties, for the installation of street lights and for surface and piped drainage on, in or over ten feet (10') of

each Lot line fronting on a street, seven and one-half feet (7.5') along the side lines of each Lot and fifteen feet (15') along the rear line of each Lot, and such other areas as are shown on any recorded plats of The Properties; provided further that the Developer reserves such other easements for drainways for surface water wherever and whenever such action is required by applicable health or sanitation authorities in order to maintain reasonable standards of health, safety and appearance. In the event of any additions to The Properties, as provided in Article One, by Developer or others with the consent of Developer, the easements created hereby shall exist on the Lots in such additions to The Properties. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, take or add any soil, or to take any other similar action reasonably necessary to provide economical and safe utility or drainage installation or to maintain reasonable standards of health, safety or appearance.

(d) Minimum Square Footage and Setback Lines - In no event shall any Living Unit contain less than:

- (1) 1,800 square feet of Living Area on (i) the main floor if it is a one-story Living Unit, (ii) the main level if a split-foyer residence or (iii) the upper two floors if a split-level design;
- (2) 2,400 square feet of Living Area if the Living Unit has two or more floors, with a minimum of 1,200 square feet on the first floor; and
- (3) 1,500 square feet of Living Area on the first floor if it is a one and one-half (1-1/2) story Living Unit, with a total of 2,400 square feet within the Living Unit.

No building shall be located on any Lot nearer than (i) forty feet (40') to the front property line, and (ii) thirty five feet (35') from the rear property line or the edge of any lake as shown on any recorded plat of The Properties. Further, no building shall be located on any Lot nearer than a total of twenty five feet (25') from the side lines of said Lot, with any one side line being no closer than ten feet (10'). No building shall exceed thirty five feet (35') in height, except as permitted or required by applicable zoning regulations or any recorded plat of The Properties. Measurements shall be made to the exterior walls. Developer may, in the exercise of reasonable judgment, waive any inadvertent violation of the provisions of this Subparagraph (d).

(e) Temporary Structures - No structure of a temporary character shall be placed upon any portion of The Properties at any time; provided however, this prohibition shall not apply to shelters

or huts used by contractors during the construction of a Living Unit or improvements or additions thereto on any Lot. Temporary shelters, tents, recreational vehicles and trailers/mobile homes (whether attached or unattached to the realty) may not, at any time, be used as a temporary or permanent residence or permitted to remain on any portion of The Properties.

(f) Other Prohibitions or Requirements:

- (1) Any Living Unit shall comply with all applicable building, plumbing, electrical or other codes;
 - (2) No vent or other pipes or appendages may extend from the front of any Living Unit, unless screened from public view by a screening material or shrubbery approved by Developer;
 - (3) Any exterior air-conditioning or heating equipment must be screened from public view by a screening material or shrubbery approved by Developer;
 - (4) Downspouts and gutters must be so constructed as not to promote erosion of the soil of any Lot;
 - (5) Any tennis court or swimming pool constructed on a Lot must be screened from public view by a screening material approved by Developer; moreover, any lighting used to illuminate such facilities must be so lighted as to cast no direct light upon adjacent Lots;
 - (6) Unless approved by Developer in writing, all exposed portions of foundations shall be constructed of brick; and
 - (7) There shall be no flat roof construction.
- (g) Screening - Erection of clothes lines and the maintenance of any exterior garbage containers shall not be permitted unless stored or placed in a screened enclosure, either man-made or natural.
- (h) Debris - No leaves, trash, garbage or similar debris shall be burned except as permitted by the appropriate governmental authority. No garbage, trash, construction debris or other unsightly or offensive materials shall be placed upon any portion of The Properties, except that which is temporary and incidental to the bona fide improvement of any portion of The Properties.
- (i) Antennas - Television antennas may be attached to or installed on the exterior portion of a Living Unit subject to the following provisions and limitations. The term "television antenna"

shall be strictly defined as an antenna system utilized for purposes of enhancing the reception of "local" television broadcasts and shall specifically exclude satellite reception dishes, radio receiver or sender devices or such other devices that are not specifically limited for the enhancement of television reception. Further, television antennas shall be allowed only to the extent that the Properties are not served by a master antenna system or cable television company. At such time as the Developer determines that such alternative is available to the Properties, all Owners shall have two (2) years from the date of receipt of such notice, to remove any television antennas previously installed.

- (j) Streets - All streets in The Properties have been constructed as public streets, meeting the standards of the North Carolina Department of Transportation ("NCDOT") for subdivision streets. Developer has dedicated a right-of-way as shown on the recorded map referred to herein, having varying widths. As of the date of recording of this map, the streets have been inspected by the District Engineer of the NCDOT and certified as having been planned and constructed according to NCDOT standards, including those relating to grading, roadbed, paving and drainage.

The streets may be accepted by the NCDOT for addition to the State Highway System as state-maintained roads upon petition by affected Lot Owners when a sufficient percentage of the Lots are individually owned and when there are a sufficient number of occupied Living Units for each applicable segment of street. Reference is made to the regulations of the NCDOT for a more complete discussion of procedures regulating the admission of streets to the state system.

Following such a petition, the streets will be re-inspected by the NCDOT to insure that they continue to meet all state standards including condition of right-of-way and drainage ditches and swales, failing which the streets may not be admitted to the state system.

Nothing, including but not limited to walls, fences, gates, timbers, trees or plants, shall be erected, placed or permitted to remain in any portion of the street right-of-way or related sight or drainage easements as shown on any recorded map of The Properties. No drainage ditch or swale shall be filled, tiled or altered in any way except in accordance with the standards of the NCDOT.

- (k) Unightly Conditions - It is the responsibility of each Owner to prevent any unclear, unsightly or unkept conditions of the Living Unit on, or grounds of, a Lot of any Owner which shall tend to substantially decrease the beauty of The Properties specifically and as a whole.

- (l) No Offensive Activity - No noxious or offensive activity shall be carried on upon any portion of The Properties nor shall anything be done tending to cause embarrassment, discomfort, annoyance or nuisance to any Owner, tenant or guest thereof in any portion of The Properties.
- (m) Animals and Pets - Except as otherwise permitted herein or in any supplementary declaration hereto, no animal, plant, device or thing of any sort whose normal activity or existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of other Lots by any Owner, tenant or guest thereof, may be maintained. No animal, livestock or poultry of any kind shall be raised, bred or kept on any Lot except that dogs, cats or other household pets may be kept, provided that they are not (i) kept, bred or maintained for any commercial purpose or (ii) permitted to become a nuisance to the neighborhood. Further, any such household pet shall be restrained on the Owner's Lot or maintained on a leash at all times.
- (n) Driveways and Fences - Any driveway located on a Lot must be paved. No fencing may be located closer to any street than the closest point of the Living Unit to any such streets. No chain link or wire fencing shall be used.
- (o) Discharge of Firearms - Hunting and trapping of wild animals, fowl and game and the discharge of firearms and/or bows and arrows within The Properties is prohibited unless required for public safety.
- (p) Motorized Vehicles - All motorized vehicles operating within The Properties must be properly muffled so as to eliminate noise which might be offensive to others. No "off-road" or unlicensed motor vehicles may be used or operated on or within The Properties.
- (q) Signage - No sign of any kind shall be displayed to the public view on any Lot except one (1) sign with dimensions of not more than two feet by three feet (2' x 3') advertising any Lot for sale or rent.

ARTICLE FIVE

Lakes

Section 1. Lakes. The Existing Property and any Additional Lots which may be added by Developer may contain lakes which may be provided by Developer for visual enhancement. The use of the lakes shall be as expressly provided in this Declaration. Further, the

maintenance of the lakes and dams which have been constructed for purposes of creation of said lakes shall be as expressly imposed herein.

Section 2. Maintenance of Lakes and Dams. Maintenance of the lakes and dams shall be administered and enforced by the Association but shall be the financial responsibility of the Owners on whose Lot(s) the lakes and dams are located (hereinafter referred to as "Lake Lot Owners"). Said responsibility shall be on a percentage basis as set out below (hereinafter referred to as "Percentage of Responsibility"). The location of the lakes shall be as identified on the plats recorded by Developer for purposes of describing The Properties. As future plats are recorded in conjunction with the provision of Additional Lots, Developer shall file amendments to this Declaration to specifically designate the Lots which shall be subject to this Article. A "dam" shall be defined as the physical structure used for the impoundment or diversion of waters and which creates the lakes described on the above-referenced plats.

Section 3. Location and Lot Designation of Lakes 1 - 3. The responsibility for the lakes designated as Lake 1, 2 and 3, shall be as follows:

<u>Lake Number</u>	<u>Lot Number</u>	<u>Percentage of Responsibility</u>
1	8	10.0%
1	9	10.0%
1	10	10.0%
1	11	5.0%
1	13	10.0%
1	14	10.0%
1	15	10.0%
1	16	10.0%
2	41	5.0%
2	42	10.0%
2	43	2.5%
2	52	2.5%
2	53	10.0%
2	54	2.5%
2	60	5.0%
3	18	10.0%
3	20	10.0%
3	21	10.0%
3	22	10.0%
3	23	10.0%
3	24	5.0%

Section 4. Maintenance of Lakes and Dams by Developer. Developer shall initially share in the maintenance of Lakes 1, 2 and

3 and the dams creating them in accordance with the following percentages:

<u>Lake Number</u>	<u>Initial Percentage of Responsibility</u>
1	25.0%
2	62.5%
3	45.0%

Developer's responsibility for maintenance shall be reduced upon the incorporation into the development of Additional Lots. Developer shall provide in each subsequent amendment to this Declaration, the Additional Lots to be subject to this Article and the re-allocation of maintenance responsibility. Upon the sale of all Lots, a part of which comprise a lake or dam, Developer shall have no further responsibility in the upkeep and repairs thereof.

Section 5. Specific Maintenance Requirements. Each Lake Lot Owner, at his sole cost, shall maintain the area of his Lake Lot which borders on the edge of the impounded water and/or encompasses a part of the dam of any lake in a clean, tidy and trim manner at all times after a dwelling is constructed on the Lot which borders a part of the lake or dam. The expense of any action, work, repair or replacement required by the Association or any local, state or federal governmental authority having jurisdiction over lakes and dams which affects the general existence of the elements of the lake, such as, but not to the exclusion of other items, repair, installation or replacement of standpipes, trash guards, spillways, grading, seeding, clearing or other repair, maintenance and replacement to a dam or other elements of the impounding of water (hereinafter collectively referred to as "Work") shall be a common expense shared by the Lake Lot Owners in accordance with the percentages set forth in Section 2 as the same may be amended, such percentages being based on the approximate frontage of the Lot or tract at the water's edge and/or dam's edge. The Association shall be charged with the administrative responsibility to monitor the condition of the lakes and dams and to determine the need for repair, replacement and maintenance and the Lake Lot Owners shall be charged with the responsibility to report conditions needing attention to the Association.

Section 6. Limitations of Use. The lakes shall be used solely for recreational purposes by the Lake Lot Owners adjoining each lake, their guests, invitees, successors and assigns. No person shall:

- (a) Construct any pier or other improvement within or abutting the boundary of any lake;

- (b) Use any boat or other mode of conveyance which contains or utilizes a combustible engine;
- (c) Use or affect the lakes in any way which could cause the water level therein to rise above or fall below existing standpipe or spillway levels, whichever exit for excess runoff is in use, except as may be required to comply with law. Developer reserves the right to make such adjustments in water level as necessary in developing the land; and
- (d) Take any act or omission which would tend to adversely affect the structural integrity of any dam.

Section 7. Easement Rights. An easement for the impoundment of water and use of the impounded water of the lake by only the Owners adjoining such lake for recreational purposes is imposed. Such use shall be at the sole risk of the user. Access to the water shall be over the Lot of the Owner making use thereof. No easement exists for access to or exit from the lake or dam or for use of the ground beyond the water's edge, except over the Lot of the Owner making such use.

Easement(s) are reserved for access to and from the lakes and dam over any Lot adjoining the lake or dam for the purpose of getting workmen and equipment to the lakes and dam for maintenance, repair and replacement work (as "work" is defined in Section 5 of this Article). Damage caused to any Lot in gaining such access shall be reasonably repaired and the costs thereof shall be a part of the cost of the work to be assessed each Owner adjoining the lake or dam in the percentages set forth and as they may be amended by Developer.

Section 8. Representations of Developer. Developer makes no representations, express or implied, as to any continued water level of any lake, nor does Developer undertake any liability or responsibility for maintaining any such lake levels.

ARTICLE SIX

Covenant for Payment of Assessments

Section 1. Creation of the Lien and Personal Obligation for Assessments. Developer, for each Lot owned by it within The Properties, hereby covenants, and each Owner of any Lot, by acceptance of a deed therefor (whether or not it shall be so expressed in any such deed or other conveyance) shall be deemed to and does hereby covenant and agree to pay to the Association:

- (a) Annual assessments or charges as herein, or in the By-Laws, provided;

- (b) Special assessments for capital improvements, such annual or special assessments to be fixed, established and collected from time to time as herein or in the By-Laws provided; and
- (c) Any liquidated damages or summary charges imposed under authority contained in the By-Laws;

together with costs, fees and expenses (including reasonable attorney fees) incurred by the Association incidental to the enforcement of any Rules and Regulations, collection of assessments (both annual and special) or collection of damages or charges arising under the By-Laws. The annual and special assessments and any liquidated damages or summary charges as herein or in the By-Laws provided, together with such interest thereon and costs of collection thereof as herein provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as herein provided, shall also be the personal obligation of the person who is the Owner of such Lot at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be for the purpose of promoting the health, enjoyment, safety and welfare of the residents of The Properties and, in particular, for the improvement and maintenance of the properties and facilities located in and related to the use and enjoyment of the Common Properties and the lakes and dams, and specifically:

- (a) The payment of taxes and insurance on the Common Properties and repair, replacement and additions thereto, and the cost of utilities, labor, equipment, materials, management and supervision thereof;
- (b) The payment of all charges associated with the installation and operation of the street lights, it being specifically agreed that the Association assumes all responsibility for street lighting supplied by Duke Power Company; and
- (c) Maintenance, repair and replacement of lakes and dams.

Section 3. Classification of Membership. Members of the Association shall be assigned to the following categories of membership subclasses ("Special Classifications"):

- (a) Class A - All Owners of Lots (membership mandatory)
- (b) Class B - Lake Lot Owners (membership mandatory)

- (c) Class C - Individuals who are either Owners of Lots or not who are allowed by the Association to use certain recreational areas which may, in the future, be owned by the Association (membership optional)

Membership distinction derives from the obligation of designated membership classifications to pay assessments which differ from those required of other Special Classifications based, among other reasons, on the obligation upon the Association to provide differing degrees of care and maintenance to the different classifications of Members. Further, an Owner of a Lot may, in fact, be classified with multiple classifications. For example, a Lake Lot Owner who uses the recreational areas will be designated as a Class A, B and C Member.

Section 4. Maximum Annual Assessment. The maximum annual assessment shall be established by the Board of Directors and may be increased by the Board without approval of the membership by an amount not to exceed the higher of ten percent (10%) of the maximum annual assessment of the previous year or the percentage increase shown in the U.S. Bureau of Labor Statistics Consumer Price Index for Urban Wage Earners (All Items) or, if such index shall cease to be published, then the index most nearly comparable thereto. The maximum annual assessment may be increased without limit by a vote of two-thirds (2/3) of the votes of Members who are voting, in person or by proxy, at a meeting duly called for this purpose.

Section 5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any calendar year, a special assessment for the purpose of defraying, in whole or in part, the cost of construction, reconstruction, repair or replacement of a capital improvement upon the Common Properties, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of Members who are voting, in person or by proxy, at a meeting (or by written consent to the action delivered to an officer of the Association at or prior to any such meeting) duly called for this purpose.

Section 6. Date of Commencement of Class A Annual Assessments. The annual assessments for Class A members provided for herein shall be collected on an annual basis and shall commence January 1st, 1990. Upon commencement of the annual assessments and until the Board determines otherwise, the amount of the annual assessments shall be Twenty Five and XX/100 Dollars (\$25.00).

Section 7. Date of Commencement of Class B and C Annual Assessments. The annual assessments for Class B and C members shall commence upon the future determination by the Board. Prior to such determination, there shall be no annual assessment due from either Class B or Class C members.

Section 8. Due Dates. At least thirty (30) days in advance of each annual assessment period, the Board shall fix the amount of the annual assessment against each Class of members and send written notice of each assessment to every member subject thereto. The due dates shall be established by the Board.

The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specific Lot have been paid.

The due date of any special assessment under Section 5 hereof, or any assessments against any particular Lot(s) permitted by this Declaration, shall be fixed in the resolution authorizing such assessment.

Section 9. Effect of Non-Payment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the highest rate permitted by law. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot and any Living Unit thereon, and interest, costs and reasonable attorney fees of such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for any of the assessments provided for herein by non-use of the Common Properties or abandonment of his Lot.

Section 10. Subordination of Lien to a Deed of Trust. The liens provided for herein shall be subordinate to the lien of any first deed of trust. Sale or transfer of any Lot shall not affect the assessment liability or lien provided for in the preceding section. However, the sale or transfer of any Lot which is subject to any first deed of trust, pursuant to a foreclosure thereof, shall extinguish the lien of such assessments which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first deed of trust.

Section 11. Quorum. The quorum required for any action authorized by Sections 4 and 5 of this Article shall be as follows: At the first meeting called, as provided in Sections 4 and 5 of this Article, the presence at meetings of Members or of proxies, entitled to cast a majority of all votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at such meeting, another meeting may be called subject to the notice requirements set forth in the By-Laws, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that such subsequent meeting shall be

held within sixty (60) days following the preceding scheduled meeting.

Section 12. Duties of the Board of Directors. Commencing with the first annual assessment, the Board shall prepare a roster of Lots and assessments applicable thereto, which shall be kept in the office of the Association, or at any other place designated by the Board upon notice to the Members, and shall be open to inspection by any Owner. Written notice of an assessment thereupon shall be sent to every Owner subject thereto.

The Association shall, upon demand, furnish at any time to any Owner liable for said assessment, a certificate in writing, signed by an officer of the Association setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 13. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments, charges and liens created herein:

- (a) All Common Properties as defined in Article Two hereof; and
- (b) All properties exempt from taxation by the laws of the State of North Carolina, upon the terms and to the extent of such legal exemption.

Homestead exemptions shall not be considered an exemption. Notwithstanding any provisions of this Section 13, no Lot or any Living Unit located thereon shall be exempt from said assessments, charges or liens.

ARTICLE SEVEN

Amendment of Declaration

Section 1. Amendment. This Declaration may be amended during the first ten (10) year period by Developer or its assigns. This Declaration may also be amended by a two-thirds (2/3) vote of each class of members.

ARTICLE SEVEN

Captions, Introductions and Gender

Section 1. Captions and Introductions. The captions and introductory material herein are inserted only as a matter of convenience and reference and in no way define, limit or describe the scope of this Declaration, nor the intent of any provision hereof.

Section 2. Gender. The use of the masculine gender in this Declaration shall be deemed to refer to the feminine and neuter genders, and the use of the singular shall be deemed to refer to the plural, and the use of the plural shall be deemed to refer to the singular, wherever the context so requires.

IN WITNESS WHEREOF, Lochurst Limited Partnership, a North Carolina limited partnership, has caused this Declaration of Covenants, Conditions and Restrictions to be executed and sealed by all of its general partners, as of the day and year first above written.

/ LOCHURST LIMITED PARTNERSHIP,
a N. C. Limited Partnership (SEAL)

BY: *Hubert B. Parks*
HUBERT B. PARKS,
General Partner

BY: / GFS INVESTMENTS INC.,
General Partner

By *Grown Sluoff*
President

Attest *Per A M*
Asst. Secretary

(Corporate Seal)

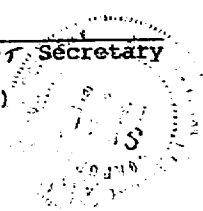
THE UNDERSIGNED HEREBY JOINS in this Declaration of Covenants, Conditions, and Restrictions by signing below.

/ CENTRAL CAROLINA BANK & TRUST COMPANY,
as Mortgagee of Developer

By *Paul*
Sr. Vice President

Attest *J. J. Schuman*
Asst. Secretary

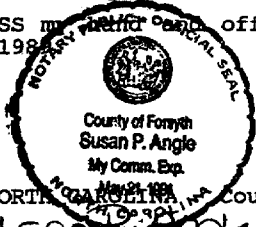
(Corporate Seal)



STATE OF NORTH CAROLINA - County of Forsyth) :

I, Susan P. Angle, a Notary Public of Forsyth County, State of North Carolina, do hereby certify that HUBERT B. PARKS, as General Partner of LOCHURST LIMITED PARTNERSHIP, a North Carolina Limited Partnership, personally appeared before me and acknowledged the due execution of the foregoing instrument on behalf of said Limited Partnership.

WITNESS my hand and official seal this the 1 day of March, 1989



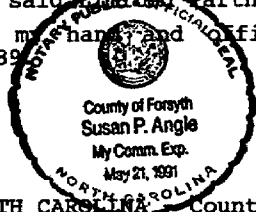
Susan P. Angle
Notary Public

My Commission Expires: 5-21-91

STATE OF NORTH CAROLINA - County of Forsyth) :

I, Susan P. Angle, a Notary Public of Forsyth County, North Carolina, certify that Ronald A. Motomiro personally appeared before me this day and acknowledged that (s)he is the Asst. Secretary of GFS INVESTMENTS INC., a North Carolina corporation, as General Partner of LOCHURST LIMITED PARTNERSHIP, a North Carolina limited partnership, and that by authority duly given and as the act of the Corporation the foregoing instrument was signed in its name by its President, sealed with its Corporate Seal and attested by him/her as its Asst. Secretary, on behalf of said Limited Partnership.

WITNESS my hand and official seal this the 1 day of March, 1989



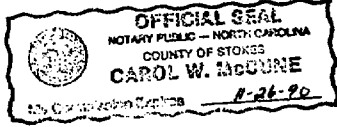
Susan P. Angle
Notary Public

My Commission Expires: 5-21-91

STATE OF NORTH CAROLINA - County of Forsyth) :

I, Carol W. McCune, a Notary Public of ^{Stokes} Forsyth County, North Carolina, certify that Frank A. Bahson personally appeared before me this day and acknowledged that (s)he is the Asst. Secretary of CENTRAL CAROLINA BANK & TRUST COMPANY, a National banking corporation, and that by authority duly given and as the act of the Corporation, the foregoing instrument was signed in its name by its Se. Vice President, sealed with its Corporate Seal and attested by him/her as its Asst. Secretary.

WITNESS my hand and official seal this the 2nd day of February, 1989.
MARCH



Carol W. McCune
Notary Public

My Commission Expires: 11-26-90

STATE OF NORTH CAROLINA - County of Forsyth) :

The foregoing certificates of Susan P. Angle NP, Forsyth Co
NC - Carol W. McCune, NP, Stokes Co &c

are certified to be correct. This the
2 day of March, 1989.

L. E. SPEAS, Register of Deeds

By

[Signature]
Deputy / ~~Assistant~~

PRESENTED FOR
REGISTRATION
AND RECORDED

A:Lochurst/Declar.LLP/kd MAR 2 12 13 PM '89

\$42.00 pd.
Jd

L. E. SPEAS
REGISTER OF DEEDS
FORSYTH CO, N.C.

1662P0190