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**DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
HADLEY PARK**

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**DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
HADLEY PARK**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HADLEY PARK is made this 21st day of June, 2005 by WINDSOR/AUGHTRY COMPANY, INC., a South Carolina corporation (hereinafter referred to as "Declarant").

STATEMENT OF PURPOSE

Declarant is the owner of certain property in Buncombe County, North Carolina, which is more particularly described on the plat recorded in Plat Book 96 at Page 121 in Office of Register of Deeds for Buncombe County, North Carolina, reference to which is hereby made (hereinafter the "Property"). Declarant desires to create thereon an exclusive residential community of single family, duplex and triplex residences to be named "Hadley Park."

Declarant desires to insure the attractiveness of Hadley Park and to prevent any future impairment thereof, to prevent nuisances, to preserve, protect and enhance the values and amenities of the Property and to provide for the maintenance and upkeep of all Association common areas and maintenance and mowing of each lawns on all of the Lots in Hadley Park. To this end the Declarant desires to subject the Property, together with such additions as may hereafter be made thereto, to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Property and each owner thereof. Declarant further desires to create an incorporated homeowners' association (as defined below) for the maintenance and administration of the common areas and for the lawn mowing of each Lot in Hadley Park, and the administration and enforcement of the covenants and restrictions contained herein, in order to efficiently preserve, protect and enhance the values and amenities in Hadley Park to insure the owner's enjoyment of the specific rights, privileges and easements in the common areas.

NOW, THEREFORE, Declarant hereby subjects the Property to the easements, covenants, conditions, restrictions, charges and liens hereinafter set forth and hereby declares that (subject to certain rights of amendment, as hereinafter described) the Property shall be held, sold and conveyed subject to the easements, covenants, conditions, restrictions, charges and liens of this Declaration all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property. Subject to the above described rights of Declarant, such easements, covenants, conditions, restrictions, charges and liens shall run with the Property and shall be binding on all parties having or acquiring any right, title or interest in the Property and shall inure to the benefit of each owner of a Lot located within the Property or any part thereof

**ARTICLE I
DEFINITIONS**

Section 1. "Articles" shall mean the Articles of the Incorporation of Hadley Park Homeowners Association, Inc. as the same may be amended from time to time.

Section 2. "Assessment" shall mean and refer to any and all fees or other charges levied by the Association, as determined by the Board and the Association in accordance with Article VII of the Declaration.

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Section 3. "Association" shall mean and refer to Hadley Park Homeowners Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

Section 4. "Association Documents" shall mean this Declaration, the Articles, the Bylaws, and any other document adopted by the Association as an Association Document.

Section 5. "Association Member" shall mean and refer to any Person who is a member of the Association as set forth in Article V Sections 1 and 2 hereof. Association Members shall include all Owners of Lots in Hadley Park and Declarant so long as Declarant owns any part of the Property.

Section 6. "Bylaws" shall mean and refer to the Bylaws of the Association as they may now or hereafter exist.

Section 7. "Board" shall mean the Board of Directors of the Association

Section 8. "Committee" shall mean the architectural review and control committee established pursuant to Article VIII of this Declaration set forth below.

Section 9. "Common Area" shall mean and refer to all real property now owned or hereafter acquired by the Association for the common use and enjoyment of the owners and other members of the Association.

Section 10. "Completed Residential Structure" shall mean and refer to a home, patio home, or other residential dwelling unit constructed within the Property where a certificate of occupancy has been issued by Buncombe County for the residential structure.

Section 11. "Declarant" shall mean and refer to Windsor/Aughtry Company, Inc., its successors and assigns.

Section 12. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for Hadley Park as it may be amended and/or supplemented from time to time as herein provided.

Section 13. "Improvement" or "Improvements" shall mean and include any and all man-made changes or additions to a Lot, including but not limited to the location, materials, size and design of all buildings (including any exterior devices attached to or separate from buildings, such as heating and air conditioning equipment, solar heating devices, antennae, satellite dishes and clothes lines) storage sheds or areas, roofed structures, parking areas, fences, "invisible" pet fencing, pet "runs," lines and similar tethers or enclosures, walls, landscaping (including cutting of trees), hedges, mass plantings, poles, driveways, changes in grade or slope, site preparation, swimming pools, hot tubs, jacuzzis, tennis courts, tree houses, basketball goals, skateboard ramps, and other sports or play apparatus, signs, exterior illumination and changes in any exterior color or shape.

Section 14. "Lot" shall mean and refer to any plot of land, with delineated boundary lines, appearing on the Plat with the exception of the Common Area, and public roads and streets.

Section 15. "Occupant" shall mean and refer to any person occupying all or any portion of a Lot, for any period of time, regardless of whether such person is a tenant of the Owner of such Lot.

Section 16. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot in Hadley Park, but excluding those having such interest merely as security for the performance of an obligation

Section 17. "Person" shall mean and refer to any natural person, corporation, limited liability company, joint venture partnership (general or limited), association, trust or other legal entity.

Section 18. "Plat" shall mean and refer to any plat of the Property or any part of it which has been recorded in the Office of the Register of Deeds of Buncombe County, North Carolina.

Section 19. "Property" shall mean and refer to that certain real property located in Buncombe County, North Carolina and more particularly described in *Exhibit A* attached hereto and by this reference incorporated herein, as well as such additional property as may be made subject to the provision of this Declaration pursuant to the provisions of Article II, Section 2 hereof.

Section 20. "Supplementary Declaration" shall mean and refer to any Supplementary Declaration of Covenants, Conditions, and Restrictions filed in the Office of the Register of Deeds of Buncombe County, North Carolina to bring additional property within the coverage of this Declaration and any Additional Declaration and the jurisdiction of the Association, as more particularly described in Article II, Section 2 hereof.

Section 21. "Turnover Date" shall have the meaning set forth in Article V, Section 2 hereof.

**ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION
AND WITHIN THE JURISDICTION OF THE
HADLEY PARK HOMEOWNERS ASSOCIATION, INC.**

Section 1. Property Made Subject to this Declaration. The property made subject to this Declaration shall be the Property described in Exhibit A attached hereto and incorporated herein by reference.

Section 2. Additional Property. Declarant shall have the right, at its election without the consent of any Owner or Owners, to bring within the coverage of this Declaration and any Additional Declaration and the jurisdiction of the Association any additional property. Such additions authorized hereby shall be made by the filing of record in the Office of Register of Deeds for Buncombe County, North Carolina, Supplementary Declarations of Covenants, Conditions and Restrictions with respect to such additional property. Each such supplementary declaration shall extend the scheme of this Declaration and any Additional Declaration and the jurisdiction of the Association to such additional property and thereby subject such additional property to assessment for its share of the Association's expenses. Such Supplementary Declarations may contain such additions and modifications of the covenants, conditions, and restrictions contained in this Declaration as may be necessary to reflect a different character of the additional property and as are not inconsistent with the provisions of this Declaration. Nothing contained in this Section 2, however, shall be construed to obligate the Declarant to bring any additional property within the coverage of this Declaration.

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Section 3. Changes to this Declaration or Additional or Supplementary Declarations requiring Declarant's Consent. Notwithstanding anything contained herein to the contrary, it is expressly understood and agreed that, so long as Declarant owns any part of the Property, the prior written consent of the Declarant shall be required for any parties to modify, change and/or amend in whole or in part, the terms and provisions of this Declaration, any Supplementary Declaration and/or any Additional Declaration or to impose new or additional covenants, conditions, restrictions, or easements on any part of the Property.

**ARTICLE III
PROPERTY RIGHTS**

Section 1. Ownership of Common Areas. Declarant shall convey the Common Area to the Association as necessary and appropriate.

Section 2. Owner's Rights to Use and Enjoy Common Areas. Each Owner shall have the right to use and enjoy the Common Area subject to the following:

- (a) the right of the Association, to promulgate and enforce reasonable regulations governing the use of the Common Area to insure the safety and rights of all Owners;
- (b) the right of the Association to suspend the voting rights in the Association, and right to use the Common Areas (except roadways) by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty days for any infraction of its published rules and regulations; and
- (c) the right of the Declarant or the Association to grant utility, drainage and other easements of the type and for the purposes set forth in Article XI across the Common Areas.

Section 3. Right to Use Roadways. Every Lot shall be conveyed with a perpetual, non-exclusive right to use any roadway which may be constructed by the Declarant and conveyed to the Association as part of the Common Area for the purpose of providing access to and from each Lot.

Section 4. Delegation of Use. Any Owner may delegate, in accordance with the rules and regulations enacted by the Association, his right of enjoyment to the Common Area, to the members of his family, his guests, his tenants, or contract purchasers who reside on his Lot.

**ARTICLE IV
ASSOCIATION**

A Corporation named Hadley Park Homeowners Association, Inc. has been formed pursuant to the rules and requirements of the Nonprofit Corporation Act (Chapter 55A) of the General Statutes of North Carolina as an association of Owners of Lots in Hadley Park (the "Association"). Its purposes are to own, manage, maintain, and operate the Common Areas, maintenance areas and facilities located within Hadley Park, and to provide for lawn mowing for each and every Lot within Hadley Park that has a Completed Structure built thereon.

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ARTICLE V
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership in the Association. Each and every Owner of a Lot in Hadley Park shall automatically become and be an Association Member upon the first conveyance by Declarant to an Owner of a Lot within the Property. In addition, for so long as Declarant owns any part of the Property, Declarant shall be an Association Member.

Section 2. Classes of Voting Association Members. The Association shall have two classes of voting Members:

(a) Class A. Class A Members shall be all those Owners with the exception of the Declarant, and the Declarant may become a Class A member after the Turnover Date as defined below. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the required ownership interest. When more than one person or entity holds such interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot and no fractional vote may be cast with respect to any Lot.

(b) Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to ten (10) votes for each Lot in which it holds the required ownership interest. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs first:

- (1) The date on which the Declarant no longer owns any part of the Property;
- (2) The date Declarant shall elect, in its sole discretion, that its Class B membership cease and be converted to Class A membership (which election may be made, if at all, upon Declarant giving written notice of the election to the Association Board); or
- (3) December 31, 2009.

The earlier to occur of 1, 2, or 3 above shall herein be referred to as the "Turnover Date." After the Turnover Date and for so long as Declarant owns any part of the Property, Declarant shall be a Class A Association Member

(c) Notwithstanding the above, the provisions contained in Article VI or otherwise providing for the election of the Board by the Declarant or any other right reserved to the Declarant shall control.

Section 3. Voting, Quorum and Notice Requirements for the Association. Except as may be otherwise specifically set forth in this Declaration or in the Articles or Bylaws, the vote of a majority of all votes entitled to be cast by all classes of the Association Members, present or represented by legitimate proxy at a legally constituted meeting at which a quorum is present, shall be the act of the

Association Members. The number of votes present at a meeting of the Association Members that is properly called and that will constitute a quorum shall be as set forth in the Bylaws. Notice requirements for all actions to be taken by the Association Members shall be as set forth herein or in the Bylaws. Notwithstanding the above, the affirmative vote of no less than two-thirds (2/3) of all votes entitled to be cast by the Association Members shall be required in order for the Association to (1) file a complaint, on account of an act or omission of Declarant, with any governmental agency which has regulatory or judicial authority over the Property or any part thereof; or (2) assert a claim against or sue Declarant.

ARTICLE VI THE BOARD

Section 1. Members of the Board. Until the Turnover Date, the members of the Board shall be appointed by Declarant. The number of members of the Board shall be as set forth in the Bylaws. After the Turnover Date the members of the Board shall thereafter be elected by a vote of the Association Members in accordance with the Bylaws. Provided, however, that Declarant may choose, in its sole discretion, to relinquish its right to appoint the members of the Board prior to the Turnover Date, whereupon the Association Members shall thereafter elect the members of the Board in accordance with the Bylaws.

Section 2. Liability Limitations. Neither Declarant, nor any Association Member, nor the Board, nor the Association, nor any officers, directors, members, managers, agents or employees of any of them shall be personally liable for debts contracted for or otherwise incurred by the Association or for a tort of another Association Member, whether or not such other Association Member was acting on behalf of the Association or otherwise. Neither Declarant, nor the Association, nor their directors, officers, members, managers, agents or employees shall be liable for any incidental or consequential damages for failure to inspect any premises, improvements or portions thereof or for failure to repair or maintain the same. The Declarant, the Association or any other person, firm or association making such repairs or maintenance shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any premises, improvements or portions thereof. The Association shall, to the extent permitted by applicable law, indemnify and defend all members of the Board from and against any and all loss, cost, expense, damage, liability, action or cause of action arising from or relating to the performance by the Board of its duties and obligations, except for any such loss, cost, expense, damage, liability, action or cause of action resulting from the gross negligence or willful misconduct of the person(s) to be indemnified.

ARTICLE VII COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot Owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) Annual assessments or charges, (2) Special Assessments for capital improvements, and costs in excess of insurance proceeds, such assessments to be established and collected as hereinafter provided, and (3) Special Individual Assessments. The Annual Assessments, Special Assessments, and Special Individual Assessments, together with interest, costs, and reasonable attorney's fees, and late fees shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest,

costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The assessment shall be the joint and several obligations of each Owner and the obligation for delinquent assessments shall pass to the Owner(s) herein, his successors and assigns.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used to provide for the cost of the lawn mowing of each Lot that the Association is required to provide to Owners as set forth in Article VIII, Section 3 below and for the maintenance and landscaping of the Common Areas and to promote the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose and for the use and enjoyment of the Common Area, including, but not limited to, the payment of taxes assessed against the Common Area, the procurement and maintenance of insurance related to the Common Area, in accordance with the Bylaws, the employment of attorneys to represent the Association when necessary, costs of construction, reconstruction, repair or replacement in excess of insurance proceeds covering the homes situated on the properties.

Section 3. Payment of Annual Assessments; Due Dates. Each Owner of a Lot shall pay to the Association the annual assessments levied by the Association (the "Annual Assessments") as hereinafter set forth.

(a) The Annual Assessment provided for herein as to any Lot shall commence as of the date the Lot has a Completed Residential Structure built thereon. The Annual Assessment for the first year in which a Lot is subject thereto shall be prorated based upon the number of days remaining in the calendar year from the date of the issuance of the certificate of occupancy.

(b) Subject to the provisions of paragraph (a) of this Section, the Annual Assessments as to each Lot shall be due and payable on the 1st day of each month during the calendar year. Provided that the Board, without the approval of any Association Member or Owner, may provide that the Annual Assessments be paid in instalments due other than monthly (i.e. quarterly or annually), and thereafter the Annual Assessments shall be paid in such manner and on such dates as may be fixed by the Board, in its sole discretion.

Section 4. Amount of Annual Assessments.

(a) It shall be the duty of the Board annually to prepare a budget (the "Annual Budget") covering the estimated costs of operating the Association during the coming year, taking into consideration, among other things, the then current development and/or maintenance costs to be borne by the Association, estimated increases in development and/or maintenance costs and the future needs of the Association (which may include a reasonable contingency fund).

(b) The initial Annual Budget has been set by Declarant and, based upon such Annual Budget, the Annual Assessments until December 31, 2005, shall be the maximum amount of \$660.00 per Lot owned by any Owner. The Annual Assessments for each and every calendar year thereafter shall be set by the Board in accordance with (c) below.

(c) The Annual Assessment to be levied on each Lot for a calendar year shall be in an amount as set by the Board in accordance with the following:

(i) For calendar year 2005 and thereafter for all years before the Turnover Date, the Board, by a vote in accordance with the Bylaws, without a vote of the Association Members, may increase the Annual Assessment to be levied against each Lot by a maximum amount equal to ten percent (10%) of the previous year's Annual Assessment.

(ii) For each calendar year after the Turnover Date, within thirty (30) days of the adoption of any proposed Annual Budget, the Board shall provide all Association Members with a summary of the Annual Budget and notice of a meeting to consider ratification of the Annual Budget. The notice shall be sent not less than ten (10) days nor more than sixty (60) days before the date of such meeting and shall include a statement that the Annual Budget may be ratified without a quorum. The Annual Budget is ratified unless at that meeting a majority of Association Members rejects the Annual Budget. There is no quorum requirement for the meeting. If the Annual Budget is rejected, the periodic budget last ratified by the Association Members shall be continued until such time as the Association Members ratify a subsequent budget proposed by the Board. The Board shall set the amount of the Annual Assessment based on the Annual Budget.

d. At least thirty (30) days in advance of each Annual Assessment period, the Board of Directors shall fix the amount of the Annual Assessment against each Lot and send written notice of each assessment to every Owner subject thereto. The due dates shall be established by the Board of Directors. 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 specified Lot have been paid.

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 Area, 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 each class of members who are voting in person or by proxy at a meeting duly called for this purpose. The limitation in assessments specified in this section shall not apply to any assessment needed for operation, repair and maintenance of wastewater treatment system.

Section 6. Special Individual Assessments. The Board may levy special assessments against individual Owners ("Special Individual Assessments") (i) for the purpose of paying for the costs of any construction, reconstruction, repair or replacement of any damaged component of the Common Areas including the Roadways and other improvements occasioned by the acts of Owner(s) or the Owner's Approved Builder, any subcontractor or any other agent and not the result of ordinary wear and tear or (ii) for payment of fines, penalties or other charges imposed against an individual or separate Owner relative to such Owner's failure to comply with the terms and provisions of this Declaration, the Bylaws or any rules or regulations promulgated hereunder, including without limitation, penalties assessed by the architectural review Committee, and reimbursement to the Association for all expenses incurred in connection with the enforcement of the provisions of Article IX. Provided, however, that Declarant shall not be obligated to pay any Special Individual Assessment except with Declarant's prior written approval. The due date of any Special Individual Assessment levied pursuant to this Section 6 shall be fixed in the Board resolution authorizing such Special Individual Assessment. Upon the establishment of a Special Individual Assessment, the Board shall send written notice of the amount and due date of

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such Special Individual Assessment to the affected Owner(s) at least thirty (30) days prior to the date such Special Individual Assessment is due.

Section 7. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots subject to assessment, unless one of the exceptions set forth in North Carolina General Statute § 47F-3-115(c) applies.

Section 8. Effect of Nonpayment of Assessments. Any assessment, including but not limited to Annual Assessments, Special Assessments, and Special Individual Assessments provided for herein shall be the personal and individual debt of the Owners (as of the due date of the applicable Assessment payment) of the Lots to which such Assessments related. No Owner may exempt himself or herself from liability for such Assessments by non-use of his or her property or the Common Area or otherwise. In the event of default in the payment of any such Assessment, the defaulting Owner shall be obligated to pay interest at the rate of eighteen percent (18%) per annum or the highest rate permitted by the law, whichever is less, on the amount of the Assessment from the due date thereof until the date such Assessment and interest is paid, together with all costs and expenses of collection, including reasonable attorneys' fees. In addition, the delinquent Owner shall also pay such late charges as may have been theretofore established by the Board to defray the costs arising because of late payment. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and late charges, shall be added to the amount of such assessment.

Section 9. Subordination of the Lien to Mortgage. The liens provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien or lien provided for in the preceding section. However, the sale or transfer of any Lot pursuant to a foreclosure of a first mortgage or any conveyance or assignment in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to the payment thereof 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 mortgage.

Section 10. Exempt Property. All property dedicated to, and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein.

**ARTICLE VIII
ARCHITECTURAL AND LANDSCAPING CONTROL**

Section 1. Architectural Committee. After the Association shall have been established in accordance with Article IV hereof, an architectural review and control committee (the "Committee") shall be immediately organized by the Board of Directors of the Association, consisting of three (3) representatives, at least one of whom at all times shall be designated by Declarant and the balance appointed by the Board of Directors of the Association. Prior to the time the Association is organized, the Committee shall be appointed by the Declarant. The terms of the Committee representatives shall extend for two (2) years; provided, however, that the terms of those elected by the board of directors of the Association will be staggered initially so that the terms of two (2) representatives will expire each year. The Committee shall select its own chairman, who shall himself, or upon the request of any representative thereof, call meetings of the Committee with not less than twenty-four (24) hours prior

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notice to each representative. A quorum of the Committee shall consist of a majority of its representatives and a majority of representatives at a meeting at which a quorum is present and voting may act. Other organizational and operations matters shall be determined by the Committee at its meetings.

Section 2. Improvements. No building, fence, wall, Improvements, or other structure or planting or landscaping shall be commenced, erected or maintained upon the Lots, nor shall any exterior addition to or change or alteration therein including, without limitation, any planting or landscaping, be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Association. All proposed plans and specifications shall be submitted first to the Committee who shall review such plans. If within thirty (30) days of its receipt of such notice, together with the plans and specifications for such Improvements, the Committee does not give such Owner or its authorized agent written notice of disapproval stating the reasons for such disapproval, the plans and specifications for such Improvements shall be deemed to be approved. In passing upon such plans, the Committee may take into consideration the suitability and desirability of the proposed construction and the proposed materials to the Lot involved. Refusal to approve the proposed plans may be based by the Committee, in its absolute discretion, for any reason, including purely aesthetic considerations. No alterations in the external appearance of any structure shall be made without approval by the Committee as provided herein. Notwithstanding any language to the contrary herein, no approval by the Committee granted hereunder shall constitute or be construed as approval by Declarant or any other person of the structural suitability or quality of any structure or material.

Section 3. Maintenance. The Association shall maintain the Common Area and shall provide for the lawn mowing of each Lot. Each Owner shall be responsible for the exterior maintenance of his or her dwelling as follows: paint, repair, replace and care of roofs, gutters down spouts, concrete drives and walkways, exterior building surfaces and other exterior improvements. In the event that the Owner neglects or fails to maintain his or her Lot and/or exterior of his or her dwelling in a manner consistent with other Lots and dwellings in Hadley Park, the Association, either upon recommendation of the Board of Directors or otherwise, shall provide such exterior maintenance as provided above. Provided, however, that the Association shall first give written notice to the Owner of the specific items of exterior maintenance the Association intends to perform and the Owner shall have forty-five (45) days from the date of mailing of said notice within which to perform such exterior maintenance himself or herself. A determination as to whether an Owner has neglected or failed to maintain his or her dwelling in a manner consistent with the other dwellings in Hadley Park shall be made by the Association in its sole discretion; provided, however, the Association shall consider all recommendations of the Board of Directors. In order to enable the Association and the Board of Directors to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each Lot at all reasonable times to perform maintenance as provided in this Article. In the event the Association performs such exterior maintenance, repair or replacement, the cost of such maintenance, replacement or repairs shall be added to and become a part of the assessment to which such Lot is subject. No landscaping shall be planted or permanently installed or removed within the boundaries of any Lot without the approval of the Association and, the Association shall be exclusively responsible for maintaining landscaping within the boundaries of Common Areas and shall be exclusively responsible for providing regular lawn mowing services for each Lot. Notwithstanding the foregoing, the Association shall not have any obligation to perform lawn mowing service of any portion of any Lot

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within the perimeter of a fence built by the Owner on a Lot, and in the event the Owner installs a fence the Association shall only be responsible for the lawn mowing on the street side of the fence.

Section 4. Limitation of the Committee's Liability. Neither the Board of Directors, the Declarant, the Association nor any representative(s) thereof, nor its or their successors or assigns, shall be liable in damages to anyone submitting specifications for approval, or to any Owner, by reason of any mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval, disapproval or failure to approve any such plans and specifications. Every person, corporation, partnership or organization which submits plans and specifications to the Board of Directors or the Association for approval agrees, by such act, and every Owner agrees by acquiring title to any Lot or an interest therein, that it will not bring any action, proceeding or suit against the Board of Directors, the Declarant, the Association or any representative to recover any such damages. The Board of Director's and Association's approval of any plans, specifications, landscaping or elevations or any other approvals or consents are given solely to protect and preserve the appearance of the Property, and shall not be deemed a warranty, representation or covenant that the proposed work complies with any applicable laws, rules or regulations or any standard of due care regarding structural design.

ARTICLE IX USE RESTRICTIONS

Section 1. Land Use. All Lots shall be used for single-family residential purposes only and common recreational purposes ancillary thereto and for no other purpose. Only one family may occupy a Lot as a principal residence at any one time. No structure, except as herein provided shall be erected, altered, placed or permitted to remain on any Lot other than one (1) single family dwelling (attached or detached), provided that such building is not used for any activity normally conducted as a business. Provided, however, Declarant or any successor Declarant may construct and use any structure on any Lot as a model for sales purposes and construction office.

Section 2. Nuisance. No noxious or offensive activity shall be conducted upon any Lot or in any dwelling nor shall anything be done thereon or therein which may be or may become an annoyance or nuisance to the Neighborhood.

Section 3. Animals. No animals, livestock, or poultry of any kind shall be kept or maintained on any Lot or in any dwelling except that dogs, cats or other common household pets (limit of two (2) per household), may be kept or maintained provided they are not kept or maintained for commercial purposes.

Section 4. Temporary Structures. No Improvement or structure of a temporary nature shall be erected or allowed to remain on any Lot unless and until permission for the same has been granted by the Association. No outdoor clothes lines shall be permitted to be erected or allowed on any Lot.

Section 5. Use of Common Area. The Common Area shall not be used in any manner except as shall be approved or specifically permitted by the Association; provided, however, that so long as Declarant owns any Lots, Declarant shall have the exclusive right to use parts of Common Area for sales purposes, including, without limitation, promotional activities.

Section 6. Access to Lots. The Association, its agents or employees shall have access to each Lot from time to time during reasonable working hours, upon oral or written notice to the Owner, as

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may be necessary for the maintenance, repair or replacement of any portion of the Common Area, or facilities situate upon such Lot which serve another Owner's Lot. Further, the Association, its agents or employees shall have access to each Lot during reasonable working hours, and without notice to the Owner, to provide the landscape maintenance as required by Article VIII, Section 3. Further, in case of any emergency originating in Improvements located on a Lot which imminently threatens to cause damage to the Improvements on the Lot sharing a common party wall with such Lot, regardless of whether the Owner is present at the time of such emergency, the Association, or any other person authorized by it, shall have the right to enter the improvements on any Lot for the purpose of remedying or abating the cause of such emergency and making any other necessary repairs not performed by the Owners, and such right of entry shall be immediate and shall not be considered a trespass.

Section 7. Signs. No signs or other advertising devices shall be displayed upon any Lot or on the Common Area the Association Common Area or in the facilities thereon, without prior written permission of the Association. Declarant, however, may post temporary "For Sale" or "Model" signs, temporary construction signs or directional signs on the Property until such time as all Lots owned by Declarant have been sold.

Section 8. Plumbing. All plumbing, dishwashers, toilets and sewage disposal systems shall be connected to any central sewer system available to the Lot and all water shall be supplied by central water service available to the Lot.

Section 9. Garbage Containers. All outdoor receptacles for ashes, trash, rubbish or garbage shall either be installed in the ground or screened or placed so as not to be visible from any street, other Lot, or Common Area or Association Common Area.

Section 10. Maintenance and Landscaping. All Owners shall keep their Lots, whether occupied or unoccupied, free of all trash, rubbish, and debris and shall keep all Lots in a neat and attractive condition. All Improvements erected on Lots shall be maintained in a clean, neat, and orderly condition and in a good state of maintenance and repair. Notwithstanding anything to the contrary, the Association shall be exclusively responsible for (i) the installation, planting and maintenance of all landscaping within the Common Areas, and (ii) providing lawn mowing services of each Lot. Notwithstanding the foregoing, the Association shall not have any obligation to perform lawn mowing within the perimeter of a fence built by the Owner on a Lot, and in the event the Owner installs a fence the Association shall only be responsible for the lawn mowing on the street side of the fence.

Section 11. Access. There shall be no overland vehicular access to any Lot except from designated roads lying within the Common Areas or Association Common Areas or as shown on the Plat.

Section 12. Vehicles and Parking. Except for temporary parking: not to exceed three (3) consecutive days, no boats, motor homes, travel trailers or other recreational vehicles may be stored on any Lot, unless the same be within an enclosed garage.

Section 13. Antennas. No radio or television aerial or antenna or any other external electronic equipment or devices may be installed or maintained on any exterior of any structure erected on a Lot. However, 18" satellite dish attached to the home will be permitted.

Section 14. No Above Ground Pools. No above ground swimming pools may be installed, placed, or erected on a Lot.

Section 15. Fence. Privacy fence must meet specific "Fence Requirements" as set forth by Declarant on the attached Exhibit B. Compliance with the Fence Requirements by an Owner shall not relieve the Owner of compliance Article VIII above. Each Owner acknowledges and agrees that the Association shall not have any obligation to perform lawn mowing services within the perimeter of the fence, and in the event the Owner installs a fence the Association shall only be responsible for the lawn mowing and landscape maintenance on the street side of the fence.

Section 16. Reconstruction. Any building on any Lot which is destroyed in whole or in part by fire, windstorm, flood or other Act of God or by any intentional act must be rebuilt, or all debris from such building removed and the Lot restored to the condition it was in prior to commencement of construction of such building with reasonable promptness; provided, however, that any such reconstruction must be commenced within six (6) months from the date of such destruction or if no reconstruction is to occur, then all such debris must be removed and the Lot restored to its prior condition within six (6) months of such destruction.

Section 17. Subdivision. No Lot shall be subdivided or its boundary lines changed without the written consent of the Declarant. However, the Declarant hereby expressly reserves to itself, its successors and assigns, the right to replat any Lots shown on the Plat.

Section 18. Leasing. No building on any Lot may be leased except in accordance with rules and regulations promulgated by the Association.

Section 19. Hazardous Activities. Nothing shall be done or kept on any Lot or in the Common Area which will increase the rate of insurance on the Common Area or Association Common Area or any other Lot without the prior written consent of the Association. No Owner shall permit anything to be done or kept on his Lot or in the Common Area which would result in the cancellation of insurance on any part of the Common Area, or which would be in violation of any law.

Section 20. Regulations. Reasonable regulations governing the use of the Common Area, and external appearance of all structures erected on the Lots may be made and amended from time to time by the Association; provided, however, that all such regulations and amendments thereto shall be approved by a majority vote of the Owners before the same shall become effective. Copies of such regulations and amendments thereto shall be furnished to each Owner by the Association upon request. Notwithstanding the foregoing language, prior to the Turnover Date, the Association shall pass no regulations under this section without the express written approval of the Declarant

Section 21. Compliance. In the event that the Owner of any Lot fails to comply with any of the restrictions set forth in this Article or the rules and regulations subsequently promulgated by the Association, the Association shall have the right, but not the obligation, to enter any Lot and undertake any necessary action in order to cure such Owner's default. All expense and cost incurred by the Association in curing such default shall be, charged to the defaulting Owner and shall be payable by such Owner to the Association immediately upon demand.

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ARTICLE X
SPECIAL RESTRICTIONS AFFECTING COMMON AREAS

Section 1. Purpose. It shall be the intent and purpose of these restrictions and covenants to maintain and enhance the Common Areas or Association Common Areas, to afford and enhance recreation opportunities, and to implement generally Hadley Park master plan for development.

Section 2. Buildings. It is expressly understood and agreed that no building, tent, trailer, or other structure, either temporary or permanent, except as noted elsewhere herein, shall be erected or caused to be placed on the Common Area or Association Common Area except various facilities as may be established by Declarant for the purpose of constructing and selling all Lots in the Development.

Section 3. Declarant's Rights to Protect Land. The Declarant shall have the right to protect the Common Area from erosion by planting trees, plants and shrubs where and to the extent necessary or by such mechanical means as bulk heading, or other means deemed expedient or necessary by Declarant. The right is likewise reserved to the Declarant to take necessary steps to provide and insure adequate drainage ways in the Common Area.

Section 4. Declarant's Right of Entry. The Declarant reserves unto itself, its successors and assigns the right to go on, over and under the ground to erect, maintain and use electric and telephone poles, wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water or other public conveniences or utilities in the Common Area. These reservations and rights expressly include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. The Declarant further reserves the right to locate wells, pumping stations and tanks within the Common Area. Such rights may be exercised by any licensee of the Declarant, but this reservation shall not be considered an obligation of the Declarant to provide or maintain any such utility or service.

Section 5. Prohibition Against Dumping. No dumping of trash, garbage, sewage, sawdust shall occur and no unsightly or offensive material shall be placed upon the Common Area, except as is temporary and incidental to the bona fide improvement of the area in a manner consistent with its classification as Common Area or Association Common Area.

Section 6. No Public Rights. The establishment of the Common Area does in no way grant to the public or to the owners of any surrounding or adjacent land, the right to enter such Common Area without the express permission of the Declarant.

Section 7. Limitation of Declarant's Obligations. It is expressly understood and agreed that the establishment of the Common Area or the declaration of these Special Restrictions does in no way place a burden of affirmative action on the Declarant that the Declarant is not bound to make any of the improvements noted herein, or extend to the grantee any service of any kind.

Section 8. Declarant's Actions Permissive. Where the Declarant is permitted by these covenants to correct, repair, clean, preserve, clear out or do any action on the Property, entering the property and taking such action shall not be deemed a breach of these covenants.

ARTICLE XI EASEMENTS

Section 1. Easements Reserved By Declarant. Declarant reserves easements for the installation and maintenance of driveways, walkways, parking areas, water lines, telephone and electric power lines, cable television lines, sanitary sewer and storm drainage facilities, pumping and lift stations, drainage ditches and for other utility installations over the Property and the Common Areas. Each Owner, by his acceptance of a deed to a Lot, and the Association by its acceptance of a deed to the Common Areas, acknowledges such reservations and the rights of Declarant to transfer such easements to the Association or to such utility companies as Declarant may chose. The easements reserved by the Declarant include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or take any similar action reasonably necessary to provide economical utility installation and to maintain the overall appearance of the Development. Certain easements reserved by the Declarant and the Association as are shown on the Plat. Within any such easements, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation of sewerage disposal facilities and utilities, or which may change the direction of flow or drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements. In addition, the Declarant and the Association shall have the continuing right and easement to maintain all sewer and water lines located on the Lots, including the right to go into dwellings and disturb the Improvement or structure and floors thereof in order to maintain those lines located within or under said dwelling.

Section 2. Easement for Landscaping. The Association is hereby granted an exclusive easement for the purpose of landscaping (as defined in Article VIII) all of the Common Areas and each Lot as are identified on the Plat. The amount, manner and maintenance of said landscaping shall be in the Association's total and absolute discretion.

Section 3. Easement for Screening. Declarant reserves the right and easement to erect permanent walls on the Common Areas and Lots (other than areas of the Lots upon which buildings are constructed) for the purposes of providing screening, privacy, decoration, retainage and topographical stability in connection with the overall plan and development of the Property and the various Lots located thereon.

Section 4. Easements for Common Walls. Declarant hereby, establishes an easement benefiting and burdening adjoining Lots where a single wall (whether interior or exterior, load bearing or for privacy) is shared between them and is located along their common boundary. The benefit and burden of the easement shall only concern the adjoining Lots. The extent of the easement shall be the location of the wall as originally constructed, together with such access as is necessary for maintenance, repair and replacement. Neither Owner will cause nor permit anything to be done which would impair the structure or soundness of the wall. The two Owners shall cooperate in the maintenance and repair of the wall and shall divide equally between them and promptly pay all reasonable expenses for such work unless such expenses were incurred without prior notice to either party or unless such work is necessitated by the gross or willful negligence or intentional act of either party, in which case said party shall be solely responsible for the costs of such repairs occasioned by its acts. This easement shall apply to the original shared walls and to any repair or replacement thereof.

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Section 5. Additional Easements. Declarant shall have the right to grant over, under, across and upon any portion of the Property owned by Declarant, and after the Common Areas have been conveyed to the Association, the Board shall have the authority, in its sole discretion, to grant over, under, across and upon the Common Areas, such easements, rights-of-way, licenses and other rights in accordance with or to supplement the provisions of this Declaration or as may otherwise be desirable for the development of the Property by the execution, without further authorization, of such grants of easement or other instruments as may from time to time be necessary or desirable. Such easements may be for the use and benefit of persons who are not Association Members or Owners. After such time as the members of the Board are no longer appointed by Declarant, the Board shall cooperate with Declarant and execute such grants of easements over the Common Areas as may be desirable to Declarant for the development of the Property and the preservation and enhancement of Declarant's interest therein.

ARTICLE XII INSURANCE

Each Owner shall secure and maintain in full force and effect at such Owner's expense, one or more insurance policies insuring Owner's Lot and the improvements thereon for the full replacement value thereof against loss or damage from all hazards and risks normally covered by a standard "Extended Coverage" insurance policy, including fire and lightning, vandalism and malicious mischief

Each Owner, at Owner's expense, shall secure and maintain in full force and effect comprehensive personal liability insurance for damage to person or property of others caused by Owner, his guest or invitees occurring on Owner's Lot, any other Lot, or upon the Common Area, in an amount not less than the amount designated by the Association. Owner shall provide the Association with satisfactory evidence that such insurance as herein required is in full force and effect and the Association will be given thirty (30) days' notice prior to the expiration or cancellation of any Owner's insurance coverage. In the event Owner fails or refuses to maintain such insurance coverage as herein required, the Association may, but shall not be obligated to, through its agent or representative, secure and maintain such insurance coverage for Owner's benefit, and the cost or expense thereof shall be deemed a special neighborhood assessment levied by the Association against Owner and Owner's Lot in accordance with the other provisions of this Declaration, and Owner covenants and agrees to pay to the Association such special neighborhood assessment upon demand. This Insurance provision may be modified or amended to substitute one comprehensive insurance policy covering all Lots provided the approval of a majority of the Owners is obtained and approval by 75% of the owners and holders of first deeds of trust on the Lots is obtained. Such approvals shall be in writing but need not be acknowledged and shall be attached to an amendment to this Declaration which amendment shall be executed only by the Association and recorded in the Buncombe County Public Registry.

ARTICLE XIII ACKNOWLEDGMENT OF ASSOCIATION INFORMATION

This Article requires that any Owner who is selling his or her Lot must provide notice to prospective Lot purchasers about certain unique requirements of Hadley Park and that such prospective Lot purchasers must obtain certain documents and information from the Association in order to ensure that they understand their specific obligations relating to ownership of the Lot being acquired before they commit to those standards, requirements, and obligations.

Section 1. Association Documents. The Declarant and the Association agree that any prospective Lot purchaser should be informed of the governance structure and standards applicable to Lots within Hadley Park. Each purchaser also should be informed about the status of assessment payments applicable to the Lot being acquired and any other unresolved issues with Declarant or the Association burdening the Lot, including compliance with the design review process or issues involving governance or rules.

In furtherance of this goal any Owner desiring to sell or otherwise transfer title to his or her Lot shall give the Board written notice at least ten business days prior to the closing of the transfer. The notice must include the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The Owner shall likewise inform the prospective purchaser or transferee in writing that there is an established procedure by which the Association seeks to assure that the purchaser is fully informed of the key requirements and obligations contained in the Association Documents relating to ownership in Hadley Park as well as any obligation relating specifically to the Lot being transferred.

Upon receipt of notice from the transferring Owner, or upon request from the prospective purchaser, the Association must deliver to the prospective purchaser or transferee a set of the Association Documents, including a current copy of the community rules (if any), and any additional explanatory information about Hadley Park generally or about the status of the specific Lot being acquired as it deems appropriate. The materials provided by the Association shall include the name and number of a contact person who can assist the prospective purchaser with questions he or she may have about the Association Documents or the Association. The Association shall deliver such documentation to the prospective Lot purchaser at the address provided in the notice within five days of the Association's receipt of the Owner's notice or purchaser's request.

Notwithstanding any language to the contrary herein, nothing in this Section 1 shall operate to release a purchaser of a Lot of any prior claims by the Association as to a specific Lot. The Association shall be deemed to have released prior claims only upon the execution of a written acknowledgment as set forth in Section 2 of this Article XIII.

Section 2. Acknowledgment. With the documentation discussed above, the Association also shall deliver an Acknowledgment form that must be executed by the Lot purchaser as a part of the closing process. The Acknowledgment shall include an express acknowledgment by the purchaser of receipt of copies of the Association Documents and a statement of account from the Association applicable to the Lot being conveyed. The prospective purchaser shall execute the Acknowledgment, which shall act as evidence of full compliance with the requirements of this Article XIII. It also shall serve as a release, as of the date of the transfer of title, of all claims by the Association as to delinquent assessments and as to the existence of any violations of the Association Documents.

**ARTICLE XIV
GENERAL PROVISIONS**

Section 1. Duration. This Declaration and the controls, covenants, restrictions and standards set forth herein shall run with and bind the Property and any Owner, and shall inure to the benefit of every Owner of a Lot in the Property and every Owner of any other portion of the Property including Declarant, and their respective heirs, successors, and assigns, for a term of thirty (30) years beginning on

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the date this Declaration is recorded in the Office of the Register of Deeds of Buncombe County, North Carolina. At the end of such thirty (30) year period, the easements, covenants, conditions and restrictions set forth herein shall automatically be extended for successive period(s) of ten (10) additional years, unless prior to the expiration of a respective period, by two-thirds (2/3) vote of the Association Members, there shall be adopted a resolution to terminate these covenants and restrictions. Owners may vote in person or by proxy at a meeting duly called for such purpose at which a quorum is present, written notice of which shall have been given to all Owners at least thirty (30) days in advance of the date of such meeting, which notice shall set forth the purpose of such meeting. The foregoing shall not limit the right of Declarant to amend and/or supersede, in whole or in part, the terms and provisions hereof, as such right in favor of Declarant is described in Section 2 below.

Section 2. Amendment. Subject to the limitations hereinafter contained, this Declaration may be amended or modified at any time by a vote of no less than sixty-seven percent (67%) of all votes entitled to be cast by the Association Members, which vote is taken at a duly held meeting of the Association Members at which a quorum is present, all in accordance with the Bylaws. Provided, however, that if sixty-seven percent (67%) of all votes entitled to be cast by the Association Members cannot be obtained at such a meeting, then this Declaration may be amended by obtaining the vote of sixty-seven percent (67%) of all votes present at a duly held meeting of the Association Members at which a quorum is present and by, within ninety (90) days of such vote, obtaining written consent to such amendment by Association Members holding a sufficient number of votes to comprise, along with such voting Association Members, a total of sixty-seven percent (67%) of all votes entitled to be cast by Association Members. Further provided, that any amendment or modification to this Declaration must be consented to by Declarant so long as Declarant is the Owner of any Lot or other portion of the Property, which consent Declarant may grant or withhold in its sole discretion. Any amendment or modification upon which the vote of Association Members is required pursuant to this Section 2 shall become effective when an instrument executed by the Association Members voting for such amendment or modification is filed of record in the Office of the Register of Deeds of Buncombe County, North Carolina; provided, however, that such an amendment or modification, in lieu of being executed by the Association Members voting for such amendment or modification, may contain a certification of the Secretary of the Association stating that the amendment or modification has been voted on and approved by the requisite number of votes of the Association Members, as provided in this Section 2. In addition, Declarant, without obtaining the approval of any Association Member or any Owner or Owners other than Declarant, may make amendments or modifications hereto which are correctional in nature only and do not involve a change which materially affects the rights, duties or obligations specified herein. In addition to the foregoing rights, Declarant may, at Declarant's option, amend and modify this Declaration and any additional Declaration without obtaining the consent or approval of any other person or entity if such amendment or modification is necessary to cause this Declaration or any such Additional Declaration to comply with the requirements of FHA, VA, the Federal National Mortgage Association or other similar agency.

Section 3. Enforcement. The Association, Declarant or any Owner shall have the right, but not the obligation, on its own behalf or on behalf of others, to enforce the provisions of this Declaration or any Additional Declaration. Enforcement of the controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens for which provision is made in this Declaration shall be by a proceeding at law or in equity (or otherwise, as provided in this Declaration) against any person or persons violating or attempting to violate any such control, covenant, condition, restriction, easement, development guideline, charge or lien, either to restrain such violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association,

Declarant or any Owner to enforce any such control, covenant, condition, restriction, easement, development guideline, charge or lien shall in no event be deemed a waiver of the right to do so thereafter or of any other or future violation of any thereof.

Section 4. Agreement to Encourage Resolution of Disputes Without Litigation. It is in the best interest of the Declarant, the Owners, the Association and its officers, directors, and committee members (the "Parties") to encourage the amicable resolution of disputes involving Hadley Park without the emotional and financial costs of litigation.

(a) **Applicability:** Each Party agrees that before it files suit in any court, it will first submit to the alternative dispute resolution procedures set forth below with respect to any claim, grievance or dispute arising out of or relating to the following:

- (i) the interpretation, application, or enforcement of the Association Documents;
- (ii) the rights, obligations, and duties of any Party under the Association Documents;
or
- (iii) the design or construction of improvements within Hadley Park, other than matters of aesthetic judgment under Article VIII which shall not be subject to review;

The alternative dispute resolution procedures shall not be required for the following unless all parties to the matter agree to submit the matter to the alternative dispute resolution procedures:

- (i) any suit by the Association to collect assessments or other amounts due from any Owner;
- (ii) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Article IX, Article X or Article XII of this Declaration;
- (iii) any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a claim which would constitute a cause of action independent of the Association Documents;
- (iv) any suit in which any indispensable party is not a bound by this Section; and
- (v) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by the alternative dispute resolution procedures, unless the party or parties against whom the claim is made agree to toll the statute of limitations as to such claim for such period as may reasonably, be necessary to comply with this Section.

(b) **Dispute Resolution Procedures.**

(i) **Notice.** The Party asserting a claim ("Claimant") against another Party ("Respondent") shall give written notice to each Respondent and to the Board stating

plainly and concisely (1) the nature of the claim, including the parties involved and the Respondent's role in the claim; (2) the legal basis of the claim; (3) the Claimant's proposed resolution or remedy; and (4) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the claim.

(ii) **Negotiation.** The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the claim by good faith negotiation.

(iii) **Mediation.** If the parties have not resolved the claim through negotiation within thirty (30) days of the date of the notice described in subsection (i) of this Section (or within such other period as the parties may agree upon), the Claimant shall have thirty (30) additional days to submit the claim to mediation with an independent agency providing dispute resolution services in Buncombe County, North Carolina. If the Claimant does not submit the claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant shall be deemed to have waived the claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) an account of such claim. If the Parties do not settle the claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the claim, as appropriate, subject to the provisions of Article V, Section 3. Each Party shall bear its own costs of the mediation, including attorneys' fees, and each Party shall share equally all fees charged by the mediator

(iv) **Settlement.** Any settlement of the claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the noncomplying party (or if more than one noncomplying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees, and court costs.

The Parties acknowledge that this Section 4 is subject to the provisions of Article V, Section 3. The provisions of Article I, Section 3 shall control over any inconsistent provision of this Section 4.

Section 5. Notice. Except as otherwise set forth herein expressly, whenever written notice to an Owner or Member (including Declarant) is required hereunder, such notice shall be given by the mailing of same, postage prepaid, to the address of such Owner or Association Member appearing on the records of Declarant or the Association. If notice is given in such manner, such notice shall be conclusively deemed to have been given by placing same in the United States mail properly addressed, with postage prepaid, whether received by the addressee or not. Declarant's address as of the date of recording of this Declaration is 25 Woods Lake Rd., Ste. # 600, Greenville SC, 29607.

Section 6. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 7. Titles. The titles, headings and captions which have been used throughout this Declaration are for convenience only and are not to be used on construing this Declaration or any part thereof

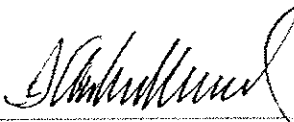
Section 8. No Exemption. No Owner or other party may exempt himself or herself from the coverage hereof or obligations imposed hereby by non-use of such Owner's Lot(s) or the Common Areas.

Section 9. Changes to Plans for Hadley Park. Nothing contained herein shall be deemed to incorporate, by reference or otherwise, any plans or proposals promulgated by Declarant with respect to the development of Hadley Park, and Declarant, subject to the covenants, conditions and restrictions contained in this Declaration and any Additional Declaration, reserves the right to change any plans for Hadley Park at any time and from time to time as Declarant may determine to be necessary based upon Declarant's continuing research and design program and/or market conditions, and any plans for Hadley Park shall not bind Declarant or its successors and assigns to adhere to such plans in the development of the Property or any part thereof. In addition, Declarant reserves the right to change, from time to time, the uses and densities that exist on any portion(s) of the Property owned by Declarant, subject to the covenants, conditions and restrictions contained in this Declaration and any Additional Declaration applicable to the Property.

Section 10. Waiver. Declarant has the right to waive any unintentional violation of these restrictive covenants by an appropriate instrument in writing.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed by its duly authorized officers the day and year first above written.

WINDSOR/AUGHTRY COMPANY, INC.
A South Carolina corporation

By: 
F. Andrew Norwood, President

STATE OF NORTH CAROLINA

COUNTY OF BUNCOMBE

I, a Notary Public of the County and State aforesaid, certify that F. Andrew Norwood personally came before me this day and acknowledged that he is President of Windsor/Aughtry Company, Inc., a

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~~South~~
~~North~~ Carolina corporation, and acknowledged that by authority duly given and as the act of the corporation, the due execution of the foregoing instrument as its act and deed.

Witness my hand and official stamp or seal, this 22nd day of June, 2005.

[Notarial Seal]

Karen L Parkman
Notary Public

My commission expires: —

Karen L. Parkman
Notary Public
Transylvania County, North Carolina
Commission Expires: 11-23-08

State of North Carolina, County of Buncombe
Each of the foregoing certificates, of Karen L Parkman
is hereby certified to be correct. Filed for registration on this the 22
22 day of June, 2005
Otto W DeBruhl Carol H
OTTO W DEBRUHL, Register of Deeds By: Deputy

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EXHIBIT A

Property Description

Being all of that tract of land entitled "Subdivision of Hadley Park" as shown on the plat recorded in Plat Book 96 at Page 121, in the Office of the Register of Deeds for Buncombe County, North Carolina, reference to which is hereby made for a more particular legal description.

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Exhibit B

HADLEY PARK

Fence Requirements

Fences are to have arched top with the following specifications:

- Height to be 6'
- Pressure treated pine lumber with both sides smooth.
- Line posts to be 4"x4" notched at top w / gothic "cap" and inset.
- Gate posts to be 6"x6" notched at top w / gothic "cap"
- Gate hardware to be Ameristar black iron or approved equal.

Any fence erected shall only be in the yard behind the house with sides of fence extended from rear corners of house. "Finished" side of fence needs to be the side seen from the street (i.e., no visible line posts).

Each Owner shall be responsible for maintaining the lawn on the interior (residence side) of any fencing on their respective Lot and the Association shall maintain the lawn on the exterior (street side) of any fencing on the Owner's Lot.

Fence to be coated with clear preservative no later than 30 days after installation. Subsequent application should be done every 3 years. Homeowner is responsible for fence maintenance.