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FOR
REGISTRATION

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NORTH CAROLINA

**Declaration of Master Covenants, Conditions
and Restrictions for Amberfield**

LAURA N. RIDDICK
REGISTERED CLERK
WAKE COUNTY

WAKE COUNTY

This DECLARATION OF MASTER COVENANTS, CONDITIONS AND RESTRICTIONS FOR AMBERFIELD (hereinafter called "the Declaration [or] the Master Covenants") is made this 28th day of October, 1998, by ROANOKE RIVER ASSOCIATES LLC, a North Carolina limited liability company with its principal office and place of business in Wake County, North Carolina (hereinafter called "the Declarant"):

WITNESSETH:

WHEREAS, Declarant is the owner of approximately 58.71 acres, more or less, located in St. Matthews Township, Wake County, North Carolina, which Property is more particularly described in Exhibit A which is attached hereto and hereby incorporated by reference (hereinafter called "the Property [or] the Properties"); and,

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

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

WHEREAS, Declarant desires to provide for the preservation and enhancement of the Property values and opportunities in said community for the maintenance of the Properties and improvements thereon, and to this end desires to subject the Property described above 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 Property and each owner thereof; and,

WHEREAS, Declarant has deemed it desirable for the efficient preservation of the Property values in said community to create an agency to which should be delegated and assigned the powers of owning, maintaining, and administering the Common Area, administering and enforcing the covenants and restrictions, collecting and disbursing the assessments and charges hereinafter created, and promoting the health, safety, and welfare of the residents; and,

WHEREAS, the Amberfield Homeowners Association, Inc. will be incorporated under the laws of the State of North Carolina as a non-profit corporation for the purpose of exercising the functions described above, among others;

NOW, THEREFORE, Declarant and other persons and/or entities joined herein hereby declare all of the Property described on Exhibit A herein, and any other Property hereafter annexed hereunder, to be held, used, occupied, transferred, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which shall run with the said Property, shall be binding on all parties having or acquiring any right, title, or interest in the described Properties or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I DEFINITIONS

Section 1. "Amberfield [or] the community" shall mean the Amberfield community and shall refer to that certain Property subject to this Declaration and such additions thereto as may hereafter be brought within the jurisdiction of the Amberfield Homeowners Association.

Section 2. "Association [or] Amberfield Homeowners Association" shall mean and refer to the Amberfield Homeowners Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

Section 3. "Board of Directors [or] Board" means those persons elected or appointed to act collectively as the directors of the Amberfield Homeowners Association.

Section 4. "Book of Resolutions" shall mean and refer to the document containing rules and regulations and policies adopted by the Board of Directors for the management, governance and administration of the Amberfield Homeowners Association and its Members.

Section 5. "Bylaws" mean the bylaws of Amberfield Homeowners Association as they now or hereafter exist.

Section 6. "Common Area" shall mean and refer to all Property, and any improvements thereon, within the Property owned in fee or easement by the Amberfield Homeowners Association for the common use and enjoyment of all Members. Common Areas shall include all water and sewer lines serving more than one Lot and located outside any public street rights-of-way or City of Raleigh Utility Easements. Common Areas shall include any drainage easements, stormwater pipes, detention and retention facilities serving more than one Lot and not accepted by any governmental body for maintenance."

Section 7. "Lot" shall mean and refer to any numbered plot of land shown upon any recorded subdivision map of Amberfield recorded after January 1, 1998 with the exception of Common Area and dedicated or public streets.

Section 8. "Member" shall mean and refer to every person or entity entitled to membership in the Amberfield Homeowners Association as provided in this Declaration.

Section 9. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of Amberfield, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 10. "VA" shall mean Veterans Administration, or its successor, and "HUD" shall mean Department of Housing and Urban Development, or its successor.

ARTICLE II COMMON AREA OWNERSHIP AND MAINTENANCE

Section 1. Owners' Easements of Enjoyment. Subject to the provisions of sections three through seven herein, every owner shall have a right of use and enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot.

Section 2. Delegation of Use. Except as limited by the provisions of sections three through seven herein, any Owner may delegate his rights of use and enjoyment of the Common Area to the members of his family, his tenants, contract purchasers who reside on the Property, or his guests.

Section 3. Rules and Regulations. The Board of Directors shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the Common Area and/or the Amberfield community. Such rules and regulations, along with all policy resolutions and policy actions taken by the Board of Directors, shall be recorded in a Book of Resolutions, which shall be maintained in a place reasonably convenient to the Members and available to them for inspection during normal business hours.

Section 4. Suspensions. The Board of Directors shall have the power to suspend the voting rights of a Class A Member or any person to whom that Member has delegated his right of enjoyment for any period during which any assessment against his Lot remains unpaid or for a maximum period of time of sixty days for some other violation of any rules or regulations of the Association.

Section 5. Mortgaging Common Area. The Association shall have the power to borrow money for the purpose of improving the Common Area and pursuant thereto to mortgage the Common Area, or any portion thereof; provided, however, that the execution of such mortgage shall require the same approval of the membership which is required for special assessments for capital improvements as set forth in Article VI, Section 5 of this Declaration. The rights of such mortgagee in said Common Area Properties shall not be subordinate to the rights of the members and the Association.

Section 6. Common Area Dedication or Transfer. The Association shall have the right to dedicate or transfer all or any part of the Common Area to any public agency, authority, or

utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless written notice of the proposed action is sent to every Member not less than thirty (30) days and not more than sixty (60) days in advance and unless an instrument signed by Members entitled to cast two-thirds (2/3) of the votes of the membership has been recorded, agreeing to such dedication or transfer.

Section 7. Exchange of Common Areas. The Association shall have the right, as provided by and consistent with Raleigh City Code §10-3073(a)(2), as the same may be amended from time to time, to exchange all or part of the Common Area for other real property of like value and utility, which exchange shall be approved by the City of Raleigh Planning Director. Upon such conveyance, the area conveyed shall cease to be Common Area and shall cease to be subject to the provisions of these covenants relating to the Common Area. Any area acquired by the Association pursuant to the foregoing language shall become Common Area and subject to the provisions of these covenants relating to the Common Area. (The following hypothetical situation is by way of illustration, but not of limitation: due to a surveying error an undesirable drainage area is designated for the location of Lots. Under this provision, the Declarant and the Association exchange deeds so that the Lots may be relocated within the Common Area and the area previously designated for lots may be converted to Common Area.).

Section 8. Declarant's Covenant to Convey Title to Common Area. The Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title to the Common Area within each phase or section to the Amberfield Homeowners Association, prior to it conveying the first Lot within the specific phase or section as contained in a recorded subdivision plat. Except as otherwise stated herein, all conveyances to the Association shall be free and clear of all encumbrances and liens, except utility, television antenna, cable, flood storage, or drainage easements of record.

ARTICLE III LAND USE

Section 1. Restrictions. Each Lot and the Common Area shall be subject to the restrictions herein, to those set forth in the Bylaws, and to any sub-covenants restricting Lots in Amberfield.

Section 2. Designated Residential Property Restrictions. All Property designated for residential use shall be used, improved and devoted exclusively to residential use provided, however, that any business trade or activity may be conducted on any Lot if permitted by the Raleigh Board of Adjustment or if approved by the Raleigh zoning inspector. In addition, all rules and regulations of the Association and of all governmental agencies having jurisdiction over Amberfield shall be observed. Nothing herein shall be deemed to prohibit the conversion of a Lot to a street.

Section 3. Common Area Restriction. All Common Area shall be used, improved and devoted for the benefit of the Owners and any lawful easement holders of any Common Area.

Section 4. Common Area Offensive Use. No individual or entity shall make or do any immoral, improper, offensive or unlawful use of Amberfield and/or any of the Common Area. In addition, all rules and regulations of the Association and of all governmental agencies having jurisdiction over Amberfield shall be observed.

Section 5. Common Area Construction or Alteration. No person shall undertake, cause, or allow any alteration or construction in or upon any portion of the Common Area except at the direction of and/or with the express written consent of the Association.

Section 6. Nuisance or Annoying Activity. No obnoxious or offensive trade or activity shall be carried on, in or upon Amberfield, nor shall anything be done which may be or may become a nuisance or annoyance to any resident within Amberfield.

Section 7. Parking. The Association may regulate or prohibit the parking of boats, campers, trailers, and the placing of tents and other such items on the Common Area and/or on any Lot except in a fully-enclosed garage. No automobiles, trucks, tractors, boats, campers, trailers or any other vehicles owned by an Owner, his family member or tenants shall be regularly parked within the right-of-way of any street in or adjacent to Amberfield. In addition, each Lot shall contain sufficient off-street paved parking space for at least one or two automobiles or pick-up trucks. No mobile house trailer (whether on or off wheels), vehicle or enclosed body of the type which may be placed on or attached to a vehicle (known generally as "campers"), tractor trailer trucks or cabs, or commercial vehicle of any kind shall be parked on any Lot within the Subdivision or parked by an Owner, his family members or tenants on any street. Finally, no Owner of a Lot, his family member, or tenant, shall store or keep a trailbike, motorcycle, motorized tri-wheel bike, tractor, truck or other such motorized riding vehicle on the premises without specific written approval by the Association; provided, however, that each Member shall be entitled to store or keep one or more operational automobile(s) and/or pick-up truck(s) on the premises so long as such automobile(s) or truck(s) are parked in the aforesaid off-street paved parking space. In granting approval for any other vehicle(s), the Association may attach specific conditions which shall be binding on the Owner and occupants of the home built on the Lot.

Section 8. Satellite Dishes and Antennas. The Association may regulate or prohibit the erection of antennas and/or satellite dishes on any Lot or the home built on any Lot subject to the following terms. No radio or television transmission or reception towers or antennas shall be erected on a Lot other than a customary television or radio reception antenna, which shall not extend more than ten (10) feet above the top roof ridge of the house. However, a satellite antenna receiver or disc will be permitted on a Lot if: (i) the receiver or disc is not larger than two feet (2') in diameter; (ii) the receiver or disc is located on the side of the house away from the street and within the building setback lines applicable to that Lot; and (iii) the receiver or disc is located or screened in such a way that it cannot be seen from any street within the subdivision. Any such screening must be approved pursuant to any sub-Covenants applicable to the Lot in

question. In no event shall any free-standing transmission or receiving tower be permitted on any Lot.

ARTICLE IV ARCHITECTURAL CONTROL

Section 1. Architectural Committee. An Architectural Committee consisting of three (3) persons shall be appointed by or before the sale and transfer of title to the first Lot by the Declarant. The Declarant shall have the right to appoint a majority of the members of the Architectural Committee until all new or initial construction of all homes on all Lots in Amberfield are completed. After the time when all said new or initial construction of all homes on all Lots in Amberfield is completed, but not later than December 31, 2013, the Architectural Committee shall be appointed by the Board of Directors of the Association.

The Declarant shall have the right but not the obligation to appoint an Architectural Advisory Committee, a majority of which advisory committee shall be comprised of Owners in Amberfield, which shall advise the Architectural Committee on all changes, modifications or additions to the initial construction of all homes in Amberfield which are proposed to be done by a homeowner. However, the Architectural Committee shall have the final authority on all architectural decisions.

At such time as the Architectural Committee is appointed by the Board of Directors of the Association rather than by the Declarant, the Architectural Advisory Committee shall cease to exist and all architectural decisions shall be made by the Architectural Committee.

Section 2. Plan or Design Approval. No site preparation or initial construction, erection, or installation of any improvements, including, but not limited to houses, outbuildings, garages, fences, walls, signs, antennas, clotheslines, and other structures, excavation, or changes in grade shall be undertaken upon any Lot unless the plans and specifications therefor, showing the nature, kind, shape, color, height, materials, and location of the proposed improvements shall have been submitted to the Architectural Committee and expressly approved in writing. No subsequent alteration or modification of any existing improvements, including without limitation re-roofing, exterior painting and application of siding, or construction, erection or installation of additional improvements or removal of improvements may be undertaken or allowed to remain on any of the Lots without the review and express written approval of the Architectural Committee.

Section 3. Effect of Failure to Approve or Disapprove. In the event that the Architectural Committee fails to approve or disapprove the design of any proposed improvements within forty-five (45) days after completed plans and specifications therefor have been submitted and received, approval will not be required, and the requirements of this Article will be deemed to have been fully satisfied; provided, that the plans and specifications required to be submitted shall not be deemed to have been received by the Architectural Committee if

they contain erroneous data or fail to present adequate information upon which the Architectural Committee can arrive at a decision.

Section 4. Right of Inspection. The Architectural Committee or its designee shall have the right, at its election, to enter upon any of the Lots in Amberfield during preparation, construction, erection, or installation of any improvements to determine that such work is being performed in conformity with the approved plans and specifications.

Section 5. Exterior Maintenance. The exterior maintenance of Lots and all improvements constructed thereon shall be the duty of the Owners of such Lots (except where specifically provided otherwise herein or in a Declaration of Sub-Covenants) and shall not normally be interfered with by the Association or any person. If, however, in the opinion of the Association any Owner shall fail to maintain any Lot or any improvements thereon in a manner which is reasonably neat and orderly, or shall fail to keep improvements constructed thereon in a state of repair so as not to be unsightly (other than repairs to such improvements necessitated by a natural disaster or other casualty), the Association at its discretion, and following forty (40) days advance written notice to the Owner, may enter upon and make or cause to be made repairs to such improvement and perform such maintenance on the Lot such as, but not limited to the removal of trash, cutting grass, pruning of shrubbery, and seeding for erosion control. The Association, or its agents, shall have an easement for the purpose of accomplishing the foregoing. All costs actually incurred by the Association in rendering such services plus a service charge of twenty percent (20%) of such costs, shall be added to and become a part of such other assessments to which the Lot is subject.

ARTICLE V MEMBERSHIP AND VOTING RIGHTS

Section 1. Members. The Declarant, for so long as it shall be an Owner, and every person or entity who is an Owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessments by the Association, including contract sellers, shall be a member of the Association. The foregoing does not include persons or entities who hold an interest merely as security for the performance of an obligation. Ownership of such Lot shall be the sole qualification for membership, and no Owner shall have more than one membership per Lot, except as expressly provided hereinafter. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. The Board of Directors may make reasonable rules relating to the proof of ownership of a Lot in Amberfield.

Section 2. Member classes and Voting Rights. The Association shall have two (2) classes of voting members:

Class A Members. Class A Members shall be all those Owners with the exception of the Declarant. 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.

Class B Member. The Class B Member shall be the Declarant. The Class B Member shall be entitled to three (3) votes for each Lot in which it holds the required ownership interest, provided that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs first:

a. The total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; provided, that the Class B membership shall be reinstated with all rights, privileges, responsibilities and voting power if, after conversion of the Class B membership to Class A membership, additional lands are annexed to the Properties without the assent of the Members, all within the times and as provided in these Master Covenants; or

b. December 31, 2005.

Section 3. Voting Rights Suspension. The right of any Class A member to vote may be suspended by the Board of Directors of the Association during the time in which any assessment against his Lot remains unpaid or for a maximum period of sixty (60) days for just cause pursuant to the rules and regulations of the Association.

Section 4. Right of Declarant to Representation on Board of Directors of the Association. Notwithstanding anything contained herein to the contrary, until the earlier of: (a) December 31, 2005; or (b) until the Declarant shall have conveyed seventy-five percent (75%) of the Properties shown on the general plan of Amberfield heretofore submitted to the City of Raleigh, North Carolina, and submitted to VA and HUD; or (c) it waives in writing the rights granted in this Section, the Declarant (or its express assignee of the rights granted in this Section) shall have the right to designate and select a seventy-five percent (75%) majority of the Board of Directors of the Association. Whenever the Declarant shall be entitled to designate and select any person(s) to serve on any Board of Directors, the manner in which such person(s) shall be designated shall be as provided in the Articles of Incorporation and/or Bylaws of the Association. The Declarant shall have the right to remove any person(s) selected by it to act and serve on said Board of Directors and to replace such person(s) with another person or other persons to act and serve in the place of any Director(s) so removed. Any Director designated and selected by the Declarant need not be an Owner. Any representative of the Declarant serving on the Board of Directors of the Association shall not be required to disqualify himself from any vote upon any contract or matter between the Declarant and the Association where the Declarant may have a pecuniary or other interest. Similarly, the Declarant, as a member of the Association, shall not be required to disqualify itself upon any vote upon or entry into any contract or matter between the Declarant and the Association where the Declarant may have a pecuniary or other interest.

ARTICLE VI ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessment. The Declarant, for each Lot owned, hereby covenants, and every other Owner of any Lot covered by this Declaration, by acceptance of a deed therefor, whether or not expressed in any such deed or other covenant, is deemed to covenant and agrees to pay to the Association:

- (a) Annual assessment or charges;
- (b) Special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided.

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

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purposes of promoting the beautification of Amberfield, the health, safety and welfare of the Owners in Amberfield, the enforcement of the covenants and the rules of the Association, procurement of liability insurance, hazard insurance, and fidelity insurance, and in particular, the improvement and maintenance of the Common Area, payment of any taxes and public assessments levied against the Common Area, administration of the Association, including the employment of persons and companies to aid the Association, and such other needs as may arise.

Section 3. Annual Assessment. To and including December 31, 1998, the annual assessment shall be shared equally and shall not be in excess of Two Hundred Dollars (\$200.00) per Lot, except as otherwise provided herein, the exact amount of which shall be determined from time to time by the Board of Directors in accordance with the following provisions:

(a) From and after December 31, 1998, the basic annual assessment may be increased by the Board of Directors of the Amberfield Homeowners Association effective January 1, of each calendar year, without the vote of the Members, by a percentage which may be up to but shall not exceed Ten Percent (10%) over the amount of the basic annual assessment for the immediately preceding year;

(b) After December 31, 1998, the basic annual assessment may be increased by a percentage which may exceed Ten Percent (10%) over the amount of the basic annual assessment

for the immediately preceding year but only by the assent of two-thirds (2/3) of the votes of each class of the Members who are voting in person or by proxy at a meeting called for such purpose. For this purpose, the Class B Member shall be entitled only to one vote for each Lot as to which it holds the required ownership interest. Written notice of the meeting shall be given to all Members not less than thirty (30) days and not more than sixty (60) days in advance of the meeting. Members holding one-tenth (1/10th) of the votes entitled to be cast represented in person or by proxy constitute a quorum. The provisions of this section shall not apply to nor be a limitation upon any change in the basic annual assessment undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

The Declarant may make voluntary contributions to or payments on behalf of the Association, as determined in the sole and exclusive discretion of the Declarant, for the purpose of defraying maintenance and repair costs until such time as the annual assessments are sufficient to fund all of the operations, expenses and liabilities of the Association.

Section 4. Special Assessment for Repairs. In the event any portion of any Common Area is damaged or destroyed by an Owner or any of his guests, tenants, licensees, agents, contractors or family members, such Owner does hereby authorize the Association to repair said damaged area in a good and workmanlike manner. The amount necessary for such repairs, labor and material, shall become an assessment upon the Lot of said Owner.

Section 5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy one or more special assessments applicable to that year only for the purpose of defraying the costs of construction or reconstruction, unexpected repair, or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal Property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of the Members (as defined and determined above in Article VI, Section 3(b)) who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than thirty (30) days and not more than sixty (60) days in advance of the meeting. Members holding one-tenth (1/10th) of the votes entitled to be cast represented in person or by proxy constitute a quorum.

Section 6. Special Assessment for Swim and Recreation Complex. If a swimming pool or recreation complex is constructed in the future, despite anything herein to the contrary, a special assessment of not greater than One Thousand Dollars (\$1,000.00) per Lot may be levied once by the Association, without any vote by the Members, in the event the Declarant decides to build an Association-owned swimming club and/or recreational complex on the Southall Heirs' and/or Barker-Woodlief tracts (which are adjacent or contiguous to the properties described herein and which are generally described in Exhibit B which is attached hereto and hereby incorporated by reference). In addition, the completion of such swimming club shall automatically authorize the Association to increase the amount of the annual assessment, without a vote of the Members, to the amount of at least Four Hundred Dollars (\$400.00) per

Lot. The provisions of this paragraph shall not be binding on any of the Lots if construction of said recreational complex has not commenced on or before December 31, 2001.

Section 7. Uniform Rate of Assessment. Both Annual and Special Assessments, (with the exception of the Special Assessment authorized by Article VI, Section 4 above) must be fixed at a uniform rate for all Lots and may be collected on a monthly, quarterly, semi-annual or annual basis in advance.

Section 8. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the point in time when the Lot is both: (a) included on a recorded plat map filed for registration with the Wake County Registry after January 1, 1998; and, (b) conveyed to a record Owner other than the Declarant. (For example, assessment liability shall not commence on any Lots which though they may have been approved and/or authorized by the City of Raleigh have not yet been designated or placed on a plat map recorded in the Wake County Registry). Notwithstanding anything herein to the contrary, Declarant's assessments for any Lot(s) for which it holds record title and for which no certificate of compliance (i.e. certificate of occupancy) has been issued by the City of Raleigh shall be twenty-five percent (25%) of the annual assessment on all other Lots. Professional home builders (i.e. those engaged in the residential construction business as a full-time vocation) who purchase Lots from Declarant for the purpose of constructing a house for an ultimate homeowner and who hold record title to the Lot, whether on a pre-sale or speculative basis, shall not pay any annual or special assessments for the first six (6) months after they acquire record title to a Lot.

The first annual assessment on any Lot shall be adjusted according to the number of months remaining in the calendar year. Thereafter, the Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each January 1, the annual assessment period. At least fifteen (15) days before January 1 of each year, written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates and appropriate charges or fines for late payment shall be established by the Board of Directors. The Amberfield Homeowners Association, upon request at any time, shall furnish written confirmation of whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of such written confirmation. Such written confirmation shall be conclusive evidence of payment status.

Section 9. Remedies for Non-Payment of Assessments. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date the assessment shall bear interest from the due date at a rate not to exceed 12%. The Association may levy late charges in addition to the interest specified above, may bring an action at law against the Owner personally obligated to pay any assessments, late charges, and/or interest, or may foreclose the lien created herein in the same manner as prescribed by the laws of the State of North Carolina for the foreclosure of Deeds of Trust. Costs and reasonable attorney's fees as provided by law of any such action shall be added to the amount of such assessment. No

Owner may waive or otherwise escape liability for the assessments provided for herein by the nonuse of the Common Area or abandonment of his Lot.

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

Section 10. Subordination of the Lien to Mortgages and Ad Valorem Taxes. The lien of the assessments provided for herein on any Lot shall be subordinate to the lien of any first mortgage, deed of trust or first purchase money deed of trust representing a first lien on said Property and shall be subordinate to ad valorem taxes. Sale or transfer of any Lot shall not affect the assessment lien; provided, however, that the sale or transfer of any Lot pursuant to a decree of such foreclosure on a mortgage thereon or any proceeding or transfer in lieu of such foreclosure thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability or liens arising from assessments thereafter becoming due.

Section 11. Exempt Property. Any portion of Amberfield dedicated to, and accepted by, a local public authority shall be exempt from the assessments created herein; provided, however no land or improvements devoted to the current or future development of Lots shall be exempt from said assessments.

Section 12. Annual Budget. By a majority vote of the directors, the Board shall adopt an annual budget for the subsequent year of operation, which shall provide for allocation of expenses in such a manner that the obligations imposed by this Declaration and any and all Supplementary Declarations will be met.

ARTICLE VII EASEMENTS

Section 1. Walks, Drives, Parking Areas, Utilities, and other Similar Aspects of Amberfield. All areas of Amberfield shall be subject to such easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities and for the maintenance of and general access to all stormwater control structures, gas lines, telephone and electric power lines, television antenna lines, other utilities, ingress, egress and regress and otherwise as shall be established by the Declarant or by its predecessor in title, prior to the conveyance of the Property designated to be the Common Area to the Association; and the Association shall have the power and authority to grant and establish further easements upon, over, under, and across the Common Area.

Section 2. Encroachments and Declarant's Easement to Correct Drainage. All Lots and the Common Area shall be subject to easements for the encroachment of initial improvements constructed on any Lots or Common Area to the extent that such initial

improvements actually encroach, including, without limitation, such items as overhanging eaves, gutters, downspouts, exterior storage rooms, bay windows, steps and walls. For a period of twenty-five (25) years from the date of conveyance of the first Lot in a parcel, phase or section, the Declarant reserves a blanket easement and right on, over, and under the ground within that parcel, phase or section to maintain and to correct drainage or surface water in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or take any other similar action reasonably necessary. After such action has been completed, the Declarant shall restore the affected Property to its original condition to the extent practicable. Declarant shall give reasonable notice of intent to take such action to all affected owners. These rights and reservations are assignable by the Declarant.

Section 3. Easement to City of Raleigh. An easement is hereby established for municipal, State or public utilities serving the area, their agents and employees, over all Common Area hereby or hereafter established for setting, removing and reading utility meters, maintaining and replacing utility connections, and acting with other purposes consistent with the public safety and welfare, including, without limitation, garbage collection, mail delivery, police and fire protection.

Section 4. Easement and Right of Entry for Repair, Maintenance and Reconstruction. If any dwelling is located closer than five (5) feet from its lot line, the owner thereof shall have a perpetual access easement over the adjoining lot to the extent reasonably necessary to perform repair, maintenance or reconstruction of his home. Such repair, maintenance or reconstruction shall be done expeditiously and, upon completion of the work, the owner shall restore the adjoining lot to as near the same condition as that which existed prior to the commencement of the work as is reasonably practicable.

Section 5. Pedestrian Easements. To the extent that they are not maintained by the Owners of those portions of the Properties on which they are located, the Association shall maintain all Pedestrian Access Easements required to be located on any portion of the Properties pursuant to Subdivision Plan approvals given by the City of Raleigh, and/or pursuant to plats of the Properties recorded in the Registry, and/or pursuant to written Maintenance agreements with the City (and the Association may enter into such Maintenance agreements with the City, including removal (or restoration, if appropriate) of trees, plants and other landscaping materials that are either dead, damaged or are in a condition that poses a safety hazard or interferes with pedestrian passage. The City shall not be held liable for any accidents, injuries or damages to pedestrians caused by any encroachments by the Association into a Pedestrian Access Easement, and the Association shall indemnify and hold harmless the City from and against such liability.

ARTICLE VIII ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Annexation by Members. Except as provided in Section 2 of this Article, additional lands may be added and annexed to Amberfield only if two-thirds (2/3) of each class

of all the votes entitled to be cast, in the aggregate, by Members are cast in favor of annexation; provided, however, that such annexation shall be approved by the City of Raleigh and further provided that the aggregate annexation of such additional lands shall not exceed one hundred (100) acres. In such event the holder of Class B voting rights shall be entitled only to one vote for each Lot owned. A meeting shall be duly called for this purpose, written notice of which shall be sent to all Members not less than thirty (30) days and not more than sixty (60) days in advance of the meeting. Members holding one-tenth (1/10th) of the votes entitled to be cast represented in person or by proxy constitute a quorum. If a quorum is present and a majority of the votes are cast in favor of the annexation, but the majority is less than the two-thirds (2/3) majority of each class required for approval of the annexation, and it appears that the required two-thirds (2/3) of each class may be achieved if the Members not present or voting by proxy assent to the annexation, then and in that event, the Members not present or voting by proxy may assent to or dissent from the proposed annexation in writing within one hundred twenty (120) days following the date of the meeting at which the Member was entitled under this Declaration to vote either in favor of or against the annexation. If the number of votes cast at the meeting in favor of the annexation, together with the votes deemed to have been cast by the Members assenting to the annexation, shall constitute the requisite two-thirds (2/3) majority of each class of all votes entitled to be cast, the annexation shall stand approved.

Section 2. Annexation by Declarant. If, prior to December 31, 2005, the Declarant should develop, from time to time, an additional tract(s) of land consisting of any Property contiguous to or directly across the street from Amberfield, such additional land may be annexed to Amberfield without the assent of the Members; provided, however, that such annexation shall be approved by the City of Raleigh and further provided that the aggregate annexation of such additional lands shall not exceed one hundred (100) acres.

Section 3. Declarations of Annexations. Persons annexing additional lands into Amberfield pursuant to this Article shall record in the Wake County Registry a Declaration of Annexation, duly executed by property owner, describing the lands annexed and incorporating the provisions of this Declaration, and the additional land shall be deemed annexed to Amberfield on the date of such recordation. All Declarations of Annexations shall be first approved by the Raleigh City Attorney or his deputy prior to its recordation.

Section 4. Conveyance of Common Areas Located Within Newly Annexed Lands. Title to Common Areas located in newly annexed lands shall be conveyed to the Association in the same manner as set for the in Article II, Section 8, prior to the sale of the first Lot within the newly annexed lands.

ARTICLE IX GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration.

Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Rights or Lenders and Insurers of First Mortgages. Lenders and insurers of first mortgages shall have the following rights:

(a) In the event that any Member is in default in any obligation hereunder which default remains uncured for a period of sixty (60) days, every lender who is a mortgagee as to the Lot of the defaulting Member and the insurer of any such first mortgage, shall be promptly notified of such default, provided that such lender and/or insurer shall have given written certified notice to the Association that it is a mortgagee or insurer as to the Lot of such Member and shall have requested the notice of default as herein set forth.

(b) Every first mortgagee and/or insurer of the first mortgage of the Lot of a Member of the Association shall have the right, during regular business hours, to examine the books and records of the Association.

Section 3. Amendment by Owners. The covenants, conditions and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants, conditions and restrictions of the Declaration may be amended during the first thirty (30) year period or thereafter by an instrument signed by the Owners of not less than two-thirds (2/3) of the Lots, provided, however, that the Board of Directors of the Association (with prior approval of VA or HUD) may amend this Declaration to correct any obvious error or inconsistency in drafting, typing or reproduction or to approve any amendment requested by VA, HUD or the Federal National Mortgage Association, without action or consent of the Owners, and such amendment shall be certified as an official act of the Board and the Association and recorded in the Wake County Registry.

Section 4. Amendment to Achieve Tax-Exempt Status. The Declarant, for so long as it shall retain control of the Board of Directors of the Association, and thereafter, the Board of Directors, may amend this Declaration as shall be necessary, in its opinion, with the consent and approval of VA or HUD, and without the consent of any Owner, in order to qualify the Association or Amberfield, or any portion thereof, for tax-exempt status. Such amendment shall become effective upon the date of its recordation in the Wake County Registry.

Section 5. Certification and Recordation of Amendment. Any instrument amending these covenants, conditions and restrictions, (other than an amendment by the Board to correct an error or inconsistency in drafting, typing, or reproduction) shall be delivered, following approval by the Owners, to the Board of Directors. Thereupon, the Board of Directors, shall, within thirty (30) days after delivery, do the following:

(a) Reasonably assure itself that the amendment has been duly approved by the Owners as provided in Section 3 of this Article. (For this purpose, the Board may rely on its roster of Members and shall not be required to cause any title to be examined.)

(b) Attach to the amendment a certification as to its validity, which certification shall be executed by the Association.

(c) Within the thirty (30) day period aforesaid, cause the amendment to be recorded in the Wake County Registry.

Section 6. Approval of Amendments by the Raleigh City Attorney. No amendment shall be valid without the prior approval of the Raleigh City Attorney or his deputy.

Section 7. Effect and Validity of Amendments. All amendments shall be effective from the date of proper recordation in the Wake County Registry. When any instrument purporting to amend the covenants, conditions and restrictions has been certified by the Board of Directors and recorded as provided in this Section, it shall be conclusively presumed that such instrument constitutes a valid amendment as to the Owners of all Lots in Amberfield.

Section 8. Protective Covenants for Single-Family Dwellings. Nothing herein shall affect the Declarant's right to establish, from time to time, appropriate specific additional covenants for the development and use of Lots for single-family home sites in Amberfield.

Section 9. Conflicts. In the event of any irreconcilable conflict between the Declaration and the Bylaws of the Association, the provisions of this Declaration shall control. In the event of an irreconcilable conflict between this Declaration or the Bylaws of the Association and Articles of Incorporation of the Association, the provisions of this Declaration shall control.

Section 10. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 11. Special Cluster Unit Development Statements. Pursuant to the Raleigh City Code section 10-3071(b)(9), the Declarant hereby states and confirms that: (a) the Amberfield Property is part of a cluster unit development approved by the City of Raleigh in which residential density transfers are permitted; (b) unless a rezoning of the Property occurs, the maximum number of dwelling units that can be contained in Amberfield is One Thousand and Thirty-Five (1,035); and (c) unless a rezoning of the Property occurs, the maximum number of dwelling units per acre that can be contained in Amberfield is seven (7) units per acre (rounded up from 6.67).

Section 12. Street Lighting. Declarant reserves the right to subject the subdivision to a contract with Carolina Power & Light Company ("CP&L") for installation of street lighting which requires a continuing monthly payment to CP&L for each residential customer.

Section 13. Greenways - City of Raleigh Approval. Notwithstanding any other provisions of this Declaration, the Association, Owners, Members, Tenants of members, members' guests or invitees, or families of members shall not, within any portion of the Common Area which is greenway area dedicated to the City of Raleigh, without the prior written consent of the City of Raleigh:

- (a) Grant easements of any nature whatsoever;
- (b) Remove any trees or vegetation;
- (c) Erect gates, fences or other structures;
- (d) Place any garbage receptacles;
- (e) Fill or excavate; or,
- (f) Plant vegetation or otherwise restrict or interfere with the use, maintenance and preservation of said greenway in its natural state, including without limitation, recreational pursuits such as walking, bicycling and other similar activities by the general public.

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

Section 14. Cluster Unit Development Density Transfers. The Property is a part of a cluster unit development approved by the City of Raleigh in which residential density transfers are permitted. Therefore, even though some Lots may appear to contain enough land area to construct additional dwelling units or create additional Lots, prior density transfers approved within the cluster unit development may, in fact, preclude City approval of additional dwellings or further subdividing of Lots

ARTICLE X DISSOLUTION OR INSOLVENCY OF THE AMBERFIELD HOMEOWNERS ASSOCIATION

The Amberfield Homeowners Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of each class of Members and the assent of the Raleigh City Attorney or his deputy. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which the Association was created. In the event that such dedication is refused, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes.

**ARTICLE XI
VA AND HUD APPROVAL**

As long as there is a Class B member, the following acts will require the prior approval for compliance with established VA and HUD guidelines: Annexation of additional Properties, dedication of common area, exchange of Common Areas, and amendment of this Declaration of Master Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, ROANOKE RIVER ASSOCIATES LLC, as the Declarant hereunder, has caused this instrument to be executed by its duly authorized Administrative Member, MacGregor Development Company, a North Carolina corporation, by its duly authorized President and with that signature attested and its corporate seal thereunto affixed by its assistant or corporate secretary, all by order and authority duly granted by its corporate board of directors, all as of the day and year first above written.

Roanoke River Associates LLC,
a North Carolina limited liability company,
Declarant

By: MacGregor Development Company
a North Carolina corporation,
its duly authorized Administrative Member

CORPORATE SEAL

By: _____
Michael F. Whitehead, Sr.,
President

Attest: _____
Asst./Corporate Secretary

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, a Notary Public of the said County and State, hereby certify that _____ personally appeared before me this day and acknowledged that she is the _____ Corporate Secretary of MacGREGOR DEVELOPMENT COMPANY, a North Carolina corporation and the duly authorized Administrative Member of Roanoke River Associates LLC, a North Carolina limited liability company, and that by authority duly given and as the act of the said corporation acting for and on behalf of the said limited liability company, the foregoing Declaration of Master Covenants, Conditions and Restrictions was signed in its name by its President, sealed with its corporate seal and attested by him/her as its _____ Corporate Secretary, all for and on behalf of Roanoke River Associates LLC, a North Carolina limited liability company, and the Declarant hereunder.

Witness my hand and official stamp or seal, this ____ day of _____, 1998.

SEAL OF NOTARY PUBLIC

Signature of Notary Public

My Commission Expires: _____

EXHIBIT A
PROPERTY OF M.R. BARKER, SR. HEIRS, a North Carolina general partnership,
conveyed to ROANOKE RIVER ASSOCIATES LLC,
a North Carolina limited liability company,
consisting of a total of 58.71 acres along eastern and western sides of Southall Road,
St. Matthews Township, Wake County, North Carolina

TRACTS ON EAST (OR SOUTHEAST) SIDE OF SOUTHALL ROAD
(consisting of three lots shown in Book of Maps 1997, Pages 1512 and 1554, Wake Co. Registry)

BEGINNING at an iron pipe set at a point located at NC Grid North - NAD 83 having coordinates North(Y) 753567.95, East(X) 2131885.00; thence South 56 degrees 59 minutes 07 seconds East 268.94 feet to an iron pipe found; thence North 39 degrees 37 minutes 11 seconds East 124.92 feet to an iron pipe found; thence South 50 degrees 21 minutes 57 seconds East 245.22 feet to an iron pipe found located at NC Grid North - Nad 83 having coordinates North(Y) 753,361.22, East(X) 2,132,379.03; thence South 09 degrees 05 minutes 01 seconds East 870.40 feet to an iron pipe found; thence South 09 degrees 25 minutes 05 seconds East 388.61 feet to an iron pipe found; thence South 09 degrees 25 minutes 11 seconds East 375.61 feet to an iron pipe found at a point located at NC Grid North - NAD 83 having coordinates North(Y) 751747.82, East(X) 2132641.51; thence South 85 degrees 19 minutes 19 seconds West 953.57 feet to an iron pipe found; thence North 49 degrees 41 minutes 17 seconds West 981.14 feet to an iron pipe found 6.53 feet outside of the eastern right-of-way of Southall Road; thence North 28 degrees 36 minutes 09 seconds East 151.65 feet to a point; thence generally along the east side of Southall Road the following courses and distances: North 30 degrees 23 minutes 12 seconds East 52.39 feet to a point; thence North 33 degrees 07 minutes 46 seconds East 50.56 feet to a point; thence North 36 degrees 20 minutes 11 seconds East 52.86 feet to a point; thence North 39 degrees 08 minutes 06 seconds East 49.13 feet to a point; thence North 41 degrees 03 minutes 24 seconds East 53.51 feet to a point; thence North 42 degrees 24 minutes 18 seconds East 51.31 feet to a point; thence North 43 degrees 28 minutes 35 seconds East 158.93 feet to a point; thence North 43 degrees 07 minutes 17 seconds East 96.26 feet to an iron pipe found 1.52 feet inside the eastern right-of-way of Southall Road; thence leaving the east side of Southall Road and proceeding South 31 degrees 25 minutes 02 seconds East 158.13 feet to an iron pipe found; thence North 68 degrees 24 minutes 11 seconds East 100.40 feet to an iron pipe found; thence South 46 degrees 52 minutes 14 seconds East 24.16 feet to an iron pipe found; thence North 40 degrees 37 minutes 52 seconds East 212.58 feet to an iron pipe found; thence North 49 degrees 17 minutes 54 seconds West 210.27 feet to an iron pipe found 1.4 feet inside the eastern right-of-way of Southall Road; thence North 43 degrees 16 minutes 06 seconds East 50.89 feet to a point; thence North 42 degrees 44 minutes 46 seconds East 9.05 feet to an iron pipe found 0.16 feet outside of the eastern right-of-way of Southall Road; thence South 47 degrees 11 minutes 58 seconds East 300.30 feet to an iron pipe found; thence North 42 degrees 38 minutes 54 seconds East 150.14 feet to an iron pipe found; thence North 42 degrees 47 minutes 27 seconds East 149.80 feet to an iron pipe found; thence North 47 degrees 10 minutes 45 seconds West 303.72 feet to an iron pipe found; thence North 37 degrees 20 minutes 23 seconds East 48.88 feet to point; thence North 29 degrees 41 minutes 28 seconds East 58.74 feet to a point; thence North 20 degrees 48 minutes 03 seconds East 53.47 feet to an iron pipe found 0.49 feet outside of the eastern right-of-way of Southall Road; thence North 11 degrees 37 minutes 46 seconds East 56.27 feet to a point; thence North 04 degrees 53 minutes 15 seconds East 52.77 feet to THE POINT AND PLACE OF BEGINNING; and containing a total of approximately 42.73 acres, all according to that certain survey map entitled "Boundary Survey of the M.R. Barker Property" prepared by Priest, Craven & Associates, Inc. and dated August 15, 1997 (drawing number 9767)