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**AMENDED AND RESTATED  
DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
BINGHAM TRACE**

*Prepared by and after recording return to:*

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**AMENDED AND RESTATED  
DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
BINGHAM TRACE**

THIS AMENDED AND RESTATED DECLARATION is made on the date hereinafter set forth by **Agency Partners, L.L.C.**, a North Carolina limited liability company, having an office in Guilford County, North Carolina, and **Hillcrest Partners, LLC**, a North Carolina limited liability company, having an office in Guilford County, North Carolina, jointly, hereinafter referred to as "Declarant."

**RECITALS:**

Declarant heretofore caused to be recorded in the office of the Alamance County Register of Deeds in Book 03613 at start Page 0742 and end Page 0774, and in the office of the Orange County Register of Deeds in Book RB6242 at Page 481, a Declaration of Covenants, Conditions and Restrictions for Bingham Trace, and Declarant wishes, pursuant to the provisions of Article XI, Section 3, to amend the Declaration for the purpose of revising certain provisions of the Declaration, as more particularly herein set forth. This Amended and Restated Declaration is hereinafter referred to as "this Declaration."

Declarant is the owner of certain property located in the Counties of Alamance and Orange, State of North Carolina, a portion of which is more particularly described as follows:

All of the land shown on the plat entitled "Final Plat Bingham Trace Phase 1" recorded in Plat Book 78, Page 142, in the Office of the Register of Deeds, Alamance County, North Carolina, and all of the land shown on the plat entitled "Final Plat Bingham Trace Phase 2" recorded in Plat Book 78, Page 410, in the Office of the Register of Deeds, Alamance County, North Carolina.

It is the intent of Declarant hereby to cause all of the above-described property to be included as a part of Bingham Trace and subjected to this Declaration.

NOW, THEREFORE, Declarant hereby declares that all of the property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, such real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof. It is the intent of Declarant that the provisions of this Declaration in all respects conform and comply to the requirements set forth in the North Carolina Planned

Community Act. To the extent any provision contained herein does not conform or comply with the North Carolina Planned Community Act, the provisions of the Act shall control.

## **ARTICLE I**

### **DEFINITIONS**

**SECTION 1. ADDITIONAL PROPERTY.** "Additional Property" shall mean and refer to the property described in Schedule A, attached hereto and incorporated herein by this reference, together with any other property located adjacent to the Properties. For the purpose of determining whether property is adjacent to the Properties, the rights of way of public roads and utilities, as well as any rivers and streams, shall be deemed not to separate otherwise adjacent property.

**SECTION 2. APPROPRIATE LOCAL GOVERNMENTAL AUTHORITY.** "Appropriate Local Governmental Authority" shall mean and refer to Alamance County or Orange County or other appropriate local governmental authority having jurisdiction over the Properties.

**SECTION 3. ASSOCIATION.** "Association" shall mean and refer to Bingham Trace Homeowners Association, Inc., its successors and assigns.

**SECTION 4. CBU.** "CBU" shall mean and refer to mail receptacle equipment for centralized mail delivery which will be provided within the Properties.

**SECTION 5. COMMON ELEMENTS OR COMMON AREA.** "Common Elements" or "Common Area" shall mean all real property owned by the Association (whether owned in fee or by way of license or easement) or leased by the Association, other than a Lot.

Declarant reserves the right, in their sole discretion, to convey or cause to be conveyed to the Association from time to time and without the consent of the Association or its Members, property or easements to or over property, which property may include any portion of the Properties, including any Additional Property annexed by Declarant pursuant to Article XI, Section 4 hereof. The Association shall accept any such conveyance of property or easements and thereafter such property shall be held and maintained by the Association as Common Elements. Declarant may construct or cause to be constructed (but shall not be obligated to construct) fences, walkways and related facilities on any such Common Elements. Other improvements, which may include, but shall not be limited to, storm water control measures, may be located on any such Common Elements. Declarant does not contemplate the construction of any other improvements or amenities within the Common Elements (i.e., swimming pool, tennis courts, clubhouse, etc.). Except as otherwise provided in Section 47F-3-113 of the Planned Community Act, the Association shall be required to promptly repair and replace any portion of the Common Elements for which the Association is required to maintain casualty insurance, pursuant to the Bylaws of the Association, which is damaged or destroyed. All Common Elements shall be conveyed to the Association in their "as is" condition without any express or implied warranty. Declarant hereby disclaims all implied warranties of merchantability or fitness for a particular purpose with respect to the Common Elements.

The Association also may acquire additional Common Elements with the consent of the Members of the Association entitled to cast at least two-thirds (2/3) of the votes of each class of

Members of the Association, who are voting, in person or by proxy, at a meeting duly called for such purpose; provided, however, during Declarant's Development Period no such action shall be effective without a Declarant's consent and approval. For such a conveyance to be effective, the deed or instrument conveying to the Association additional Common Elements must: (1) be executed on behalf of the Association by its duly authorized officers; (2) contain an attestation by the officers executing the instrument on behalf of the Association that the requisite Owner and Declarant approval has been obtained and is evidenced by written acknowledgments signed by the Owners approving the acquisition and, if required, Declarant, and that such acknowledgments are made a part of the minute book of the Association; and (3) be properly recorded in the Office of the Register of Deeds of Alamance County and/or Orange County, North Carolina, as appropriate.

SECTION 6. DECLARANT. "Declarant" shall mean and refer to Agency Partners, L.L.C., a North Carolina limited liability company, and Hillcrest Partners, LLC, a North Carolina limited liability company, as well as any of their successors and assigns, pursuant to an express assignment or conveyance of any rights provided herein for a Declarant, including, without limitation, any or all of Declarant's special rights regarding voting, architectural review, obligation to pay assessments, easement, development rights, and those special declarant rights provided for in the Planned Community Act, any or all of which shall be assignable individually, or in any combination, in whole or in part, may be apportioned and assigned on a lot-by-lot basis and may be referred to individually or in any combination as a Special Declarant Right or Special Declarant Rights.

SECTION 7. DECLARANT'S DEVELOPMENT PERIOD. "Declarant's Development Period" shall mean and refer to the period of time commencing on the date this Declaration is recorded in the Office of the Register of Deeds, Alamance County and/or Orange County, North Carolina, as appropriate, and continuing for so long as a Declarant shall have the right to annex any portion of the Additional Property pursuant to the provisions of Article XI, Section 4 hereof or a Declarant shall own any portion of the Properties.

SECTION 8. LOT. "Lot" shall mean and refer to any separately numbered plot of land shown upon any now or subsequently recorded subdivision plat of the Properties intended for single family residential purposes and shall include any improvements constructed thereon and "Lots" shall refer to all such lots collectively. Declarant hereby reserves the right to reconfigure, from time to time and without the consent of the Owners or the Members of the Association, the boundaries of any Lot or Lots owned by a Declarant and to thereby create additional Lots, eliminate existing Lots or create additional Common Elements; provided, however, in no event shall the Properties contain a greater number of Lots than the number from time to time permitted by the Appropriate Local Governmental Authority, nor shall any Lot within the Properties contain fewer square feet than the minimum number of square feet from time to time required by the Appropriate Local Governmental Authority. If a Declarant elects to exercise its right to revise the boundaries of one or more Lots owned by a Declarant, Declarant shall record a revised plat of the affected Lot or Lots. Upon the recording by a Declarant of such a revised plat, each lot shown on the previously recorded plat or plats, the boundaries of which are revised by the revised plat, shall cease to be a "Lot" as defined in this Declaration and each newly configured lot shown on the revised plat shall be a "Lot" as defined in this Declaration.

SECTION 9. MASTER PLAN. "Master Plan" shall mean and refer to the plan(s) for the Properties and the Additional Property now or hereafter approved by the Appropriate Local Governmental Authority, as such plan(s) may be from time to time amended and approved.

SECTION 10. MEMBER. "Member" shall mean and refer to every person or entity who or which holds Membership with voting rights in the Association.

SECTION 11. OWNER. "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 the Properties, as hereinafter defined, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 12. PERIOD OF DECLARANT CONTROL. "Period of Declarant Control" shall mean and refer to the period of time commencing on the date this Declaration is recorded in the Office of the Register of Deeds, Alamance County and/or Orange County, North Carolina, as appropriate, and continuing for so long as a Declarant shall own any portion of the Properties. In the event that a Declarant ceases to own any of the Properties but thereafter annexes Additional Property to this Declaration, the Period of Declarant Control shall be reinstated until a Declarant shall again cease to own any of the Properties.

SECTION 13. PLANNED COMMUNITY ACT. "Planned Community Act" shall mean and refer to the provisions of Chapter 47F of the General Statutes of North Carolina.

SECTION 14. PROPERTIES. "Properties" shall mean and refer to all of the property hereby or hereafter made subject to the terms, covenants and conditions of this Declaration, as amended from time to time.

## **ARTICLE II**

### **PROPERTY RIGHTS**

SECTION 1. AMENITIES WHICH MAY BE LOCATED IN THE COMMON ELEMENTS. Declarant hereafter may construct or cause to be constructed (but shall not be obligated to construct) fences, walkways and related driveways, parking and other facilities on a portion of or within the Common Elements. Declarant does not contemplate the construction of any other improvements or amenities within the Common Elements.

During Declarant's Development Period, a Declarant shall have the right to require the exclusive (or, at the discretion of a Declarant, non-exclusive) use of all or certain portions of any Common Elements for events promoting the sale of lots or homes in Bingham Trace; provided, however, no such use by a Declarant shall unreasonably interfere with or obstruct ingress, egress and regress to or from the Lots.

SECTION 2. MAINTENANCE OF STORM WATER CONTROL MEASURES. It is anticipated that there will not be any permanent storm water control measures located on the Properties, the maintenance of which shall be the responsibility of the Association. However, Declarant reserves the right to convey to the Association any such storm water control measures that are or may be deemed desirable by Declarant, or which may be required to be maintained by the

governmental office(s) having jurisdiction for watershed or storm water control measures. In the event the Association is dissolved or otherwise defaults on its obligation to maintain any storm water control measures required by a governmental office having jurisdiction, Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner for 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 a pro rata share of the cost of the maintenance of such storm water control measures.

SECTION 3. RULES AND REGULATIONS. The Executive Board of the Association ("Executive Board") may establish reasonable rules and regulations concerning the use of the Common Elements and improvements located thereon, or any portion of the Properties, including, without limitation, the CBUs. The Association may impose reasonable monetary fines and other sanctions for the violation of established rules and regulations and for the violation of any of the covenants and conditions contained in this Declaration, which monetary fines and sanctions shall be assessed and collected pursuant to the provisions of Articles IV and XI hereof. Copies of such rules and regulations and the amendments thereto shall be furnished by the Association to all Owners prior to the effective date thereof. All such rules and regulations shall be binding upon the Owners, their families, tenants, guests, invitees and agents until and unless such regulation, rule or requirement shall be specifically overruled, canceled, or modified by the Executive Board or by the Owners entitled to cast at least two-thirds (2/3) of the votes of the Association, who are voting, in person or by proxy, at a meeting duly called for such purpose; provided, however, during Declarant's Development Period, Declarant must also consent to such action.

SECTION 4. OWNERS EASEMENTS OF ENJOYMENT OF COMMON ELEMENTS. Every Owner shall have a right and easement of enjoyment in and to the Common Elements which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the easements herein reserved by Declarant or created in favor of the Association, including, without limitation the easements set forth in Article IX hereof;
- (b) the right of the Association to permit the use of and to charge reasonable admission and other fees for the use of any facility situated upon the Common Elements;
- (c) the right of the Association to suspend the voting rights by the Owner(s) of any Lot for any period during which any assessment against such Lot remains unpaid and for any period during which such Lot or any Owner or occupant thereof is in violation of the terms of this Declaration or the published rules and regulations of the Association and for a period not to exceed sixty (60) days after any such violation;
- (d) the right of the Association to dedicate or transfer easements on, over and upon all or any part of the Common Elements for such purposes and subject to such conditions as may be agreed to by the Association's Executive Board; provided, however, no such dedication or transfer shall be effective unless an instrument executed on behalf of the Association by its duly authorized officers, agreeing to such dedication or transfer, has been recorded;
- (e) the right of the Association, pursuant to Section 47F-3-112 of the Planned Community Act and with the consent of the Owners entitled to cast at least eighty percent

(80%) of the votes of the Association (including two-thirds of the votes of the Owners present at a meeting of the Owners held in accordance with the Bylaws of the Association, such vote including at least a majority of the votes of the Owners present other than Declarant), to dedicate or transfer fee title to all or any part of the Common Elements for such purposes and subject to such conditions as may be agreed to by the Owners consenting to such dedication or transfer; provided, however, during Declarant's Development Period, Declarant must also consent to such action and, further provided that no such dedication or transfer shall interfere with or obstruct utility service to, or ingress, egress and regress to or from, the Lots or any remaining Common Elements or cause any Lot or any remaining Common Elements to fail to comply with applicable laws, regulations or ordinances:

(f) the right of the Association to impose rules and regulations for the use and enjoyment of the Common Elements and improvements thereon, which regulations may further restrict the use of the Common Elements.

(g) the right of the Association to borrow money for the purpose of improving the Common Elements and facilities thereon and, with the assent of the Owners entitled to cast at least eighty percent (80%) of the votes of the Association (including two-thirds of the votes of the Owners present at a meeting of the Owners held in accordance with the Bylaws of the Association, such vote including at least a majority of the votes of the Owners present other than Declarant), mortgage, pledge, deed of trust, or hypothecate any or all of the Common Elements as security for money borrowed or debts incurred (any such mortgage shall be effective if it is executed on behalf of the Association by its duly authorized officers and recites that the requisite consent of Owners has been obtained and documented in the Minute Book of the Association); provided, however, during Declarant's Development Period, Declarant must also consent to such action, and further provided that no such mortgage, encumbrance or hypothecation or foreclosure of the lien thereby created shall interfere with or obstruct utility service to, or ingress, egress and regress to or from, the Lots or any remaining Common Elements or cause any Lot or any remaining Common Elements to fail to comply with applicable laws, regulations or ordinances; and

(h) the right of the Association to convey to a Declarant portions of the Common Elements for the purpose of correcting erroneous conveyances of Common Elements or eliminating unintentional encroachments of dwellings or other improvements onto portions of the Common Elements or for the purpose of enhancing the utility of the Common Elements to be retained by the Association; provided, however, no such conveyance shall interfere with or obstruct utility service to, or ingress, egress and regress to or from, the Lots or any remaining Common Elements or cause any Lot or any remaining Common Elements to fail to comply with applicable laws, regulations or ordinances.

SECTION 5. DELEGATION OF USE. Any Owner may delegate, in accordance with the Bylaws of the Association, such Owner's rights of enjoyment of the Common Elements and facilities to the members of such Owner's family, tenants or contract purchasers who reside on the Lot of such Owner.

SECTION 6. LEASES OF LOTS. Any Lease Agreement between an Owner and a lessee for the lease of such Owner's Lot shall provide that the terms of the Lease shall be subject in all

respects to the provisions of this Declaration of Covenants, Conditions and Restrictions, the Articles of Incorporation and Bylaws of the Association and that any failure by the lessee to comply with the terms of such document shall be a default under the terms of the lease. All leases of Lots shall be in writing and shall have a term of not less than one (1) year.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS

SECTION 1. MEMBERSHIP. Every person or entity who or which is a record Owner of a fee or undivided fee interest in any Lot which is subject to assessment by the Association, including a Declarant, shall be a voting Member of the Association. The foregoing is not intended to include persons or entities who or which hold an interest in a Lot merely as security for the performance of an obligation. Such Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Except as otherwise provided in Section 2 below, on all matters on which the Membership shall be entitled to vote, the Member(s) owning each Lot shall be entitled to one (1) vote. When more than one person or entity holds an interest in any Lot, all such persons or entities shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

SECTION 2. CLASSES OF MEMBERSHIP. The Association shall have two classes of voting membership:

Class A: The Class A Members shall be every person or entity who or which is a record Owner of a fee or undivided fee interest in any Lot which is subject to assessment by the Association, except for a Declarant during any Period of Declarant Control. Class A Members shall be entitled to one (1) vote for each Lot owned. In the event that a Lot is owned by more than one Class A Member, the Owners of such Lot, collectively, shall be allocated not more than one (1) vote and the vote allocated to such Lot shall be cast as such Owners may agree between or among themselves.

Class B: Declarant shall be the Class B Member and Declarant shall be entitled to three (3) votes for each lot shown on the Master Plan as developed or to be developed as a part of Bingham Trace which has not been conveyed by a Declarant to a Class A Member. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (i) when the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership; however, the Class B membership shall be reinstated if thereafter, and before the time stated in subparagraph (b) below, the Master Plan is amended to add additional lots developed or to be developed as a part of Bingham Trace sufficient to give the Class B membership a total number of votes (with the Class B membership entitled to three (3) votes for each lot shown on the Master Plan as

developed or to be developed as a part of Bingham Trace which has not been conveyed by a Declarant to a Class A Member) greater than those of the Class A membership; or,

(ii) twenty (20) years from the date this Declaration is recorded in the Office of the Register of Deeds, Alamance County and/or Orange County, North Carolina, as appropriate.

**SECTION 3. DECLARANT RIGHT TO REPRESENTATION ON THE EXECUTIVE BOARD.** During any Period of Declarant Control, Declarant shall have the right to designate and select all of the Members of each Executive Board. This right may be relinquished, in whole or in part, at any time by Declarant by express written notice of such to the Association. Whenever Declarant shall be entitled to designate and select any person or persons to serve on any Executive Board, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or Bylaws of the Association. Declarant shall have the right to remove any person or persons selected by it to act and serve on the Executive Board and to replace such person or persons with another person or other persons to act and serve, in the place of any Member or Members of the Executive Board so removed, for the remainder of the unexpired term of any member or members of the Executive Board so removed. Any Executive Board member designated and selected by Declarant need not be a resident of the Properties. Except as otherwise provided in the Bylaws of the Association with respect to the filling of vacancies, any members of the Executive Board which Declarant is not entitled to designate or select shall be elected by the Members of the Association.

#### **ARTICLE IV**

#### **COVENANT FOR MAINTENANCE AND ASSESSMENTS**

**SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS.** Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner for any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay: (a) to the Association: (i) annual and other assessments and charges provided for herein, together with interest, and late fees, costs and reasonable attorneys' fees; (ii) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided; and (b) to the appropriate governmental taxing authority: (i) a pro rata share of any ad valorem taxes levied against the Common Elements; and (ii) a pro rata share of any assessments for public improvements to or for the benefit of the Common Elements if the Association shall default in the payment of either or both for a period of six (6) months. A Declarant shall not be obligated to pay any annual or special assessments for any Lot owned by a Declarant within the Properties. All assessments and charges provided for herein, together with interest, and late fees, costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made when and after a claim of lien is filed of record in the Office of the Clerk of Superior Court, Alamance County or Orange County, North Carolina, as appropriate. Each such assessment and charge, together with interest, any late fees, costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such property at the time when the assessment fell due. The

personal obligation for delinquent assessments shall not pass to such Owner's successors in title unless expressly assumed by them.

SECTION 2. PURPOSE OF ASSESSMENTS.

(a) The assessments levied by the Association shall be used to promote the recreation, health, safety and welfare of the residents of the Properties and Owners and in particular for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Elements or the Lots, including but not limited to, the costs of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of any taxes assessed against the Common Elements, the payment of assessments assessed against the Common Elements and any improvements thereupon; the procurement and maintenance of insurance in accordance with the Bylaws of the Association; the maintenance of any storm water control measures located within the Common Elements; the erection, maintenance and repair of signs, entranceways, landscaping and lighting within easements provided therefor or in the Common Elements, road medians and islands which have not been accepted for maintenance by a public authority; the payment of charges for garbage collection and municipal water and sewer services furnished to the Common Elements; the employment of attorneys and other agents to represent the Association when necessary; the provision of adequate reserves for the replacement of capital improvements including, without limiting the generality of the foregoing, any major expense for which the Association is responsible; and such other needs as may arise.

(b) The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Elements and those other portions of the Properties which the Association may be obligated to maintain. Such reserve fund is to be established out of regular assessments for common expense.

(c) All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense of operating and managing the Properties, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation and the Bylaws of the Association. As monies for any assessment are paid to the Association by any Owner, the same may be commingled with monies paid to the Association by the other Owners. Although all funds and Common surplus, including other assets of the Association, and any increments thereto or profits derived therefrom shall be held for the benefit of the Members of the Association, no Member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer such Owner's Membership interest therein, except as an appurtenance to such Owner's Lot. When any Owner shall cease to be a Member of the Association by reason of such Owner's divestment of ownership of such Owner's Lot, by whatever means, the Association shall not be required to account to such Owner for any share of the fund or assets of the Association, or which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Properties.

SECTION 3. ADOPTION OF BUDGET AND FIXING OF ANNUAL ASSESSMENTS;  
MAXIMUM ANNUAL ASSESSMENT.

(a) At least thirty (30) days in advance of each annual assessment period, the Executive Board shall establish an annual budget and fix the amount of the annual assessments in advance for the following year. Within thirty (30) days of the adoption of any proposed budget, the Executive Board shall provide to all of the Owners a summary of the budget and a notice of the meeting to consider ratification of the budget, including a statement that the budget may be ratified without a quorum. The Executive Board shall set a date for a meeting of the Owners to consider ratification of the budget, such meeting to be held not less than 10 nor more than 60 days after mailing of the summary and notice. There shall be no requirement that a quorum be present at the meeting. The budget is ratified unless at that meeting the Owners of a majority of the Lots reject the budget. In the event the proposed budget is rejected, the budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Executive Board.

(b) Until December 31 of the year of the conveyance of the first Lot to an Owner, the maximum annual assessment shall be **Three Hundred and No/Dollars (\$300.00)** per Lot, and may be payable in such manner as established by the Executive Board. The maximum annual assessment for the calendar year immediately following the year in which conveyance of the first Lot to an Owner is made and for each calendar year thereafter shall be established by the Executive Board and may be increased by the Executive Board without approval by the Membership by an amount not to exceed twenty percent (20%) of the maximum annual assessment of the previous year. The maximum annual assessment for the calendar year immediately following the year in which conveyance of the first Lot to an Owner is made and for each calendar year thereafter may be increased without limit by a vote of the Owners entitled to cast at least two-thirds (2/3) of the votes of each class of Members of the Association who are voting, in person or by proxy, at a meeting duly called for this purpose; provided, however, during Declarant's Development Period, Declarant must also consent to such action.

(c) The Executive Board may fix the annual assessment at an amount not in excess of the maximum, subject to the provisions of Section 6 of this Article.

SECTION 4. 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 costs of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Elements, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of the Owners entitled to cast at least two-thirds (2/3) of the votes of each class of Members of the Association who are voting, in person or by proxy, at a meeting duly called for this purpose; provided, however, during the Declarant's Development Period, Declarant must also consent to such action. All special assessments shall be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

SECTION 5. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 3 AND 4. Written notice of any meeting called for the purpose of taking any action

authorized under Sections 3 or 4 of this Article shall be sent to all Owners not less than ten (10) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Owners or of proxies entitled to cast ten percent (10%) of all the votes of each class of Members of the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting. The required quorum shall continue to be reduced by fifty percent (50%) at subsequent meetings until a quorum is present. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

SECTION 6. RATE OF ANNUAL ASSESSMENT. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected in such manner as established by the Executive Board, except that a Declarant shall not be obligated to pay any annual or special assessments for any Lot owned by a Declarant within the Properties.

SECTION 7. DATE AND COMMENCEMENT OF ANNUAL ASSESSMENTS; DUE DATES. The annual assessments provided for herein shall commence as to a Lot on the first day of the month following the date such Lot is conveyed to an Owner other than a Declarant. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The due dates shall be established by the Executive Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

SECTION 8. WORKING CAPITAL ASSESSMENTS. In addition to the annual assessments authorized above, at the time of the closing of the first sale of each Lot containing a completed residence to a purchaser other than a Declarant, the purchaser(s) thereof shall pay to the Association an amount equal to two-twelfths (2/12ths) of the then current annual assessment established by the Association. Such amount shall not be payable on subsequent sales of such Lot. Such funds shall be used by the Association to establish a Working Capital Fund, the purpose of which is to help insure that the Association will have sufficient monies available to meet its initial operational needs, unforeseen expenditures or long-term capital improvements and repairs to the Common Elements. No such payments made into the Working Capital Fund shall be considered advance or current payment of regular assessments. All monies paid into the Working Capital Fund shall be held and administered by the Association in accordance with the terms of this Declaration and the Bylaws of the Association.

SECTION 9. EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a rate from time-to-time established by the Executive Board not to exceed eighteen percent (18%) per annum. In addition, the Association may charge a reasonable late fee, the amount of which shall be established from time to time by the Executive Board [but which shall not exceed the greater of Twenty Dollars (\$20.00) per month or ten percent (10%) of any assessment unpaid], for assessments not paid within thirty (30) days after the due date. In addition after notice and an opportunity to be heard, the Association may suspend privileges or services provided by the Association (except rights of access to Lots) during any period that assessments or other amounts due and owing to the Association remain unpaid for a period of thirty (30) days or longer, which suspension may continue without further hearing until the delinquency is cured. The

Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien created herein against the property in the same manner that real estate deeds of trust and mortgages may be foreclosed under power of sale under Article 2A of Chapter 45 of the North Carolina General Statutes, and in any suit for the foreclosure of such lien, the Association shall be entitled to interest, any late fees, costs and reasonable attorneys' fees, subject to the limitations set forth in this paragraph. Notwithstanding any of the foregoing, the Association may not foreclose an assessment lien under power of sale if the debt securing the lien consists solely of fines imposed by the Association, interest on unpaid fines, or attorneys' fees incurred by the Association solely associated with fines imposed by the Association, but such a lien may be enforced by judicial foreclosure as provided in Article 29A of Chapter 1 of the North Carolina General Statutes. An Owner may not be required to pay attorneys' fees and court costs until the Owner is notified in writing of the Association's intent to seek payment of attorneys' fees and court costs. The notice must be sent by first-class mail to the property address and, if different, the mailing address for the Owner in the Association's records. The notice shall (i) set out the outstanding balance due as of the date of the notice, (ii) state that the Owner has fifteen (15) days from the mailing of the notice to pay the outstanding balance without the attorneys' fees and court costs, and (iii) inform the Owner of the opportunity to contact a representative of the Association to discuss a payment schedule for the outstanding balance and provide the Owner the name and telephone number of such representative. If the Owner pays the outstanding balance within this period, then the Owner shall have no obligation to pay the attorneys' fees and court costs. If the Owner does not contest the collection of debt and enforcement of a lien after the expiration of the fifteen (15) day period, then reasonable attorneys' fees shall not exceed One Thousand Two Hundred Dollars (\$1,200), not including costs or expenses incurred. The collection of debt and enforcement of a lien remains uncontested as long as the Owner does not dispute, contest, or raise any objection, defense, offset or counterclaims as to the amount or validity of the debt and lien asserted or the Association's right to collect the debt and enforce the lien. The attorneys' fee limitation shall not apply to judicial foreclosures. No Owner may waive or otherwise escape liability for the assessment provided for herein by nonuse of the Common Elements or abandonment of such Owner's Lot nor shall damage to or destruction of any improvements on any Lot by fire or other casualty result in any abatement or diminution of the assessments provided for herein.

SECTION 10. EFFECT OF DEFAULT IN PAYMENT OF AD VALOREM TAXES OR ASSESSMENTS FOR PUBLIC IMPROVEMENTS BY ASSOCIATION. Upon default by the Association in the payment to the governmental authority entitled thereto of any ad valorem taxes levied against the Common Elements or assessments for public improvements to the Common Elements, which default shall continue for a period of six (6) months, each Owner of a Lot shall become personally obligated to pay to the taxing or assessing governmental authority a portion of such unpaid taxes or assessments in an amount determined by dividing the total taxes and/or assessments due the governmental authority by the total number of Lots. If such sum is not paid by the Owner within thirty (30) days following receipt of notice to the Owner of the amount due, then such sum, upon appropriate action by the taxing or assessing governmental authority, shall become a continuing lien on the Lot of the then Owner, his heirs, devisees, personal representatives and assigns, and the taxing or assessing governmental authority may either bring an action at law or may elect to foreclose the lien against the Lot of the Owner.

SECTION 11. PRIORITY OF LIEN. The lien herein granted unto the Association shall exist and be enforceable from and after the time of recording a claim of lien in the Office of the Clerk of

Superior Court of Alamance County or Orange County, North Carolina, as appropriate, in the manner provided herein, which claim shall state the description of the Lot encumbered thereby, the name of the record Owner(s), the amount due and the date when due and the name and address of the Association. Such claims of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, it shall be satisfied of record.

SECTION 12. EXEMPT PROPERTY. All property dedicated to, and accepted by, a 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. However, no land or improvements devoted to dwelling use shall be exempt from such assessments.

## **ARTICLE V**

### **ARCHITECTURAL CONTROL**

SECTION 1. IMPROVEMENTS. No improvements, alteration, repair, change in paint color, excavation, change in grade, planting, landscaping, modification of driveways, exterior decoration (including, without limitation, yard ornaments, figurines, statues, bird baths, houses and feeders, flags and similar items) or other work which in any way alters the exterior of any Lot or the improvements located thereon from their natural or improved state existing on the date such Lot was first conveyed in fee by a Declarant to an Owner other than a Declarant, shall be commenced, erected or maintained upon any Lot, and no building, fence, wall, residence or other structure shall be commenced, erected, maintained, improved or altered on any Lot, or removed from any Lot, 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 Executive Board or by an architectural committee composed of three (3) or more representatives appointed by the Executive Board (the "Architectural Control Committee"). Notwithstanding the foregoing, landscaping improvements within any Lot consisting of plant materials native to the area and commonly used in residential landscaping which do not interfere with the sight lines of motorists at intersections of the streets and/or driveways located within the Properties shall not require approval by the Executive Board or the Architectural Control Committee. In addition, temporary seasonal exterior decorations shall not require the prior approval of the Executive Board or the Architectural Control Committee, but if any such decorations are determined, in the sole discretion of the Executive Board or the Architectural Control Committee, to be distasteful or otherwise disruptive of the aesthetics or visual harmony of the community, the Executive Board or the Architectural Control Committee may require that such decorations promptly and permanently be removed. Any seasonal exterior decorations shall be removed within thirty (30) days after the end of the holiday or season for which made. In the event that an Owner neglects or fails to remove any such decorations at the request of the Executive Board or the Architectural Control Committee, the Association may provide such removal. In order to enable the Association 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 for such purpose and the cost of such removal shall be added to and become a part of the assessment to which such Lot is subject. Notwithstanding the foregoing, nothing herein contained shall prevent or interfere with the right of a Declarant to improve and develop the Properties, including the Lots, as a Declarant chooses, so long as the development follows the general plan of development of the

Properties from time to time approved by the Appropriate Local Governmental Authority. Accordingly, nothing herein shall require that a Declarant seek or obtain the approval of the Architectural Control Committee or the Executive Board for improvements erected on the Properties by or at the direction of a Declarant. In addition, during Declarant's Development Period, a Declarant may approve any plans and specifications rejected by the Executive Board or the Architectural Control Committee for the construction or alteration of improvements on any Lot provided the construction or alteration approved by a Declarant comport with the general plan of development or the Properties from time to time approved by the Appropriate Local Governmental Authority. Such approval by a Declarant shall operate and have the same effect as approval by the Executive Board or the Architectural Control Committee.

## SECTION 2. PROCEDURES.

(a) Any person desiring to make any improvement, alteration or change described in Section 1 above shall submit the plans and specifications therefor, showing the nature, kind, shape, height, materials and location of the same, to the Executive Board or the Architectural Control Committee which shall evaluate such plans and specification in light of the purposes of this Article. The Executive Board or the Architectural Control Committee shall have a period of thirty (30) days from receipt of a request for approval of plans and specifications within which to approve or disapprove them. In the event of disapproval, reasons shall be provided in writing for such disapproval.

(b) Upon approval by the Executive Board or the Architectural Control Committee of any plans and specifications submitted pursuant to this Declaration, a copy of such plans and specification, as approved, shall be deposited for permanent record with the Executive Board or the Architectural Control Committee and a copy of such plans and specification bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval for use in connection with any Lot of any plans and specification shall not be deemed a waiver of the right of the Executive Board or the Architectural Control Committee, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use in connection with any other Lot. Approval of any such plans and specification relating to any Lot, however, shall be final as to that Lot and such approval may not be reviewed or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specification, as approved, and any conditions attached to any such approval.

(c) Neither Declarant, nor any member of the Association's Executive Board or Architectural Control Committee, shall be responsible or liable in any way for any defects in any plans or specification approved by them, nor for any structural defects in any work done according to such plans and specifications. Further, neither Declarant, nor any member of the Association's Executive Board or Architectural Control Committee, shall be liable in damages to anyone by reason of mistake in judgment, negligence, misfeasance, malfeasance or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specification or the exercise of any other power or right provided for in this Declaration nor for any approvals or permits required from any governmental or other entity. Every Person who submits plans or specifications for approval

agrees, by submission of such plans and specifications, and every Owner of any Lot agrees, that he or she will not bring any action or suit against Declarant, or any member of the Association's Executive Board or Architectural Control Committee, to recover any such damage.

## ARTICLE VI

### EXTERIOR MAINTENANCE

SECTION 1. MAINTENANCE TO BE PERFORMED BY THE ASSOCIATION. The Association shall maintain the Common Elements, open spaces and any roadway medians and islands (including medians and islands located in dedicated rights-of-way within the Properties. All streets and roads within the Properties will be public and constructed to a standard required by the North Carolina Department of Transportation. Declarant shall be responsible for causing all such streets and roads to be maintained until accepted for maintenance by the North Carolina Department of Transportation and for performing any acts necessary for the North Carolina Department of Transportation to accept such streets and roads for maintenance. All Owners shall cooperate to the full extent necessary to cause all streets and roads to meet the requirements of the North Carolina Department of Transportation for acceptance for maintenance, including, without limitation, by leaving all rights-of-way for such streets or roads free of any improvements. Any street lights erected by the Association or a Declarant in the rights-of-way of streets or roads or in any other easement provided for such purpose within the Properties shall be maintained by the Association. Without limiting the foregoing, the Association shall maintain any storm water control measure, rip rap and other drainage or erosion control devices located on or in the Common Elements now or hereafter conveyed to the Association by a Declarant that are deemed desirable by a Declarant or should be required to be maintained by the governmental office(s) having jurisdiction for watershed protection as directed by such governmental office(s). In the event the Association is dissolved or otherwise defaults on any obligation to maintain any such storm water control measure, Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner for 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 a pro rata share of the cost of any required maintenance of such storm water control measures.

SECTION 2. MAINTENANCE TO BE PERFORMED BY THE OWNERS. Each Owner shall be responsible for the exterior maintenance of such Owner's dwelling and Lot, including, without limitation, the following: painting, replacement and care of roofs, gutters, downspouts, exterior building surfaces, lawn, trees, shrubs, landscaping, driveways, steps, walks, wells and related facilities and septic tanks and related facilities, including drain fields, whether on or off site, serving the Owner's Lot, and other improvements. Each Owner shall be liable and responsible for the maintenance, repair and replacement, as the case may be, of all utility lines, fixtures and/or their connections required to provide light, power, telephone, television and internet service to such Owner's Lot, which is not publicly maintained.

In the event that an Owner neglects or fails to maintain such Owner's Lot and/or the exterior of such Owner's dwelling in a manner consistent with other Lots and dwellings within the Properties or fails to maintain such Owner's Lot in a safe condition and free of debris, or fails properly to maintain any septic tank or on-site or off-site facility serving the Owner's septic tank, or fails to

perform any other maintenance required of such Owner by other provisions of this Declaration, the Association may provide such maintenance; provided, however, that the Association shall first give written notice to the Owner of the specific items of maintenance or repair the Association intends to perform and the Owner shall have twenty (20) days from the date of mailing of such notice within which to perform such maintenance by such Owner. The determination as to whether an Owner has neglected or failed to maintain such Owner's Lot and/or dwelling, and related facilities, in a manner consistent with other Lots and dwellings within the Properties, or septic tank or on-site or off-site facility serving such Owner's septic tank, shall be made by the Executive Board, in its sole discretion. In the event the Association performs such 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. In order to enable the Association 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.

## ARTICLE VII

### RESTRICTIONS

SECTION 1. LAND USE. No Lot shall be used except for single-family residential purposes; provided, however, a Declarant may use any Lot owned or leased by a Declarant as a temporary sales office and/or model for the purposes of carrying on business related to the development, improvement and sale of the Properties or the Additional Property. No building shall be erected, placed or permitted to remain on any Lot other than one detached single-family dwelling not to exceed two and one-half (2½) stories in height (excluding basements), an optional attached private garage for not more than three (3) cars and one (1) permanent accessory building incidental to the residential use of the Lot. Any such accessory building must be approved by the Executive Board or by the Architectural Control Committee. Playgrounds and play sets shall be allowed on any Lot upon approval by the Executive Board or the Architectural Control Committee.

SECTION 2. NUISANCE. No noxious or offensive activity shall be conducted upon any Lot, within any public street in the vicinity of any Lot, or the Common Elements, nor shall anything be done thereon which is or may be or may become an annoyance or nuisance to the neighborhood. No Lot or other area within the Properties shall be allowed to contain unsightly household equipment, or property visible to general public view, or be used as a dumping ground for rubbish or as a site for the accumulation of unsightly materials of any kind, including, without limitation, broken or rusty equipment and discarded appliances and furniture. No outdoor clotheslines shall be permitted. In the event that any Lot Owner, or any other person, conducts obnoxious or offensive activity upon any Lot or within any public street in the vicinity of a Lot or upon Common Elements, or does anything thereon which may be or may become an annoyance or nuisance to the neighborhood, a Lot Owner can file with the Association a written complaint specifying the activity felt to be a nuisance. If, after investigation, the complaint is deemed by the Association to have merit, the Association will make a written request to the Owner of the Lot upon which or from which the activity is being conducted that the obnoxious or offensive activity be stopped immediately. If the activity continues for two days after this written notice is issued by the Association, any complaining Lot Owner can pursue judicial relief against the offending Lot Owner or the offending person. The Association may, on its own initiative, file a written notice to any Lot Owner requesting that any obnoxious activity or nuisance be stopped immediately and take any action deemed by the

Association to be necessary to cause the activity to be terminated. All Lot Owners expressly waive any claims against Declarant related to any obnoxious or offensive activity conducted upon any Lot or relating to anything done upon any Lot which may be or may become an annoyance or nuisance to the neighborhood, except to the extent that the alleged obnoxious or offensive activity is conducted by a Declarant or a Declarant's agent.

SECTION 3. MOTOR VEHICLES. Boats, marine craft, hovercraft, aircraft, trailers, or campers parked on any Lot for an extended period shall be screened from general view with landscaping, screening or fencing approved by the Executive Board or Architectural Control Committee. Any of the above items may be parked completely inside a garage. In no event are tractor trailers (or tractors without the trailer attached) to be parked within the Properties. This restriction shall not apply to any vehicle, machinery or equipment temporarily parked and in use for the construction, maintenance or repair of a residence in the immediate vicinity of the parking area. No vehicles or similar equipment shall be parked or stored in an area visible from any street except passenger automobiles, passenger vans, motorcycles, and pick-up trucks that are in operable condition and have current license plates and inspection stickers. No inoperative motor vehicle may be parked or stored on any Lot or other area within the Properties for a period in excess of 48 hours. No motor vehicle of any sort may be parked in yards. The Association may adopt, at any time, further rules and regulations relating and pertaining to the parking of vehicles.

SECTION 4. ANIMALS. No animals of any kind (including livestock, reptiles or poultry) shall be kept on any Lot except for dogs, cats or other household pets which are not used for breeding or other commercial purposes, and provided that they do not create a nuisance (in the judgment of the Executive Board), by number or type of animals, noise, odor, damage or destruction of property, animal waste, or any other reason, and further provided that they are kept in compliance with all applicable legal requirements and such rules and regulations pertaining thereto as the Association may adopt from time to time, which rules and regulations may include requirements that animals be kept on a leash or otherwise restrained whenever they are anywhere on the Properties other than on the Owner's Lot or other areas specifically designated for animals not on leashes. The Owner responsible for an animal being on the Properties promptly shall clean up or remove, from any portion of the Properties not owned by such Owner, all solid bodily wastes from that animal.

Each Owner who keeps any animal on any portion of the Properties shall be deemed to have indemnified and agreed to hold harmless the Association, Declarant and all other Owners, from and against any loss, claim for damages to person or property, cause of action, or liability of any kind, including all costs of defending against the foregoing (including reasonable attorneys' fees), arising out of or resulting from such animal, including any actions of the animal. An easement over and upon the Properties hereby is reserved for the Appropriate Local Governmental Authority to exercise and enforce all Legal Requirements relating to animal control.

SECTION 5. OUTSIDE ANTENNAS. The Federal Telecommunications Act was adopted in 1996. The Federal Communications Commission ("FCC") adopted certain rules pursuant to the Act. That Act and the FCC rules override any contrary State or local laws, as well as contrary association rules for the Association and this Declaration. The following is a list of rules the Association will adopt to help maintain the aesthetic appeal of Bingham Trace.

(a) Size of Dish. All satellite dishes larger than one meter (39.37 inches) in diameter are prohibited.

(b) Location. The Association allows satellite dishes smaller than one meter (39.37 inches) to be installed within an Owner's Lot.

(c) The Owners of single family Lots in Bingham Trace can install their satellite dish on their own Lot. The dish shall be located in the back yard and be reasonably screened from view as long as that does not unreasonably delay the installation, unreasonably increase the cost, or preclude quality reception. The dish may also be located on the back half of the dwelling's roof if quality reception is not obtainable in the back yard.

(d) Screening From View. The Association requires that a dish be painted to match its surroundings or be reasonably screened from the view of others, as long as this does not unreasonably delay the installation, unreasonably increase the cost, or preclude quality reception.

(e) Safety Concerns and Installation. The Association's rules require that the installation meet applicable fire and safety code requirements.

(f) Multiple Dishes. Multiple dishes are allowed, if multiple dishes are necessary for an Owner's desired services or channels, as long as the Owner has complied with all other Association rules.

(g) Tenants May Install a Dish. Tenants and Owners have the same rights regarding satellite dish installation. A tenant is not required to obtain the prior consent of the landlord Owner. However, the landlord Owner may impose further rules upon his or her tenant.

(h) Internet Satellite Dish. A satellite dish designed to receive and transmit data and/or voice, including internet service, must comply with the same rules as a regular "television" satellite dish.

(i) In the event that any provisions of this Section 5 are in conflict with the Act or FCC Rules, in effect or as amended, the provisions of the Act or Rules shall prevail.

SECTION 6. SUBDIVISION OF LOTS. No Lot shall be subdivided into a lot smaller than or different from the Lot shown on the recorded plat and no street shall be laid out across or through any Lot, except with the written consent of a Declarant.

SECTION 7. SIGNS. No sign shall be placed or allowed to remain on any Lot except for ONE (1) "For Sale" sign, or one other temporary sign to advertise a yard sale or other temporary activity on the Lot and such other temporary sign shall not be permitted to remain on any Lot for more than SEVENTY-TWO (72) consecutive hours. No sign deemed by the Executive Board, the Architectural Committee or Declarant to be a nuisance or a detriment to the Properties or the Additional Property shall be permitted to be erected or to remain on any Lot. Notwithstanding the foregoing, during Declarant's Development Period, a Declarant shall have the right to erect and

maintain signs within the Common Elements or on any Lot owned or leased by a Declarant for the purpose of advertising and promoting the sale of such lots.

SECTION 8. MOBILE HOMES, MANUFACTURED HOMES, ETC. No mobile home, manufactured home, modular home, trailer, or other like structure shall be located or installed on any Lot. As used in this Section, mobile home, manufactured home or modular home shall mean a structure, assembled in whole or in part in a location other than on the Lot itself, transportable in one or more sections, any section of which, during transport, is four (4) feet or more in width and ten (10) feet or more in length, which may or may not be built on a permanent chassis and which is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities. Notwithstanding the foregoing, a Declarant, builders or contractors may maintain temporary improvements (such as a sales office and/or construction trailer) on any Lot during the construction and development period.

SECTION 9. FENCES OR WALLS. No fence, wall or other enclosure shall be constructed on any Lot without first obtaining the approval of the Executive Board or the Architectural Control Committee as provided in Article V of this Declaration. No fence on any Lot shall be permitted to extend nearer to any front street than the midpoint of the side of the residence located on that Lot or nearer to any side street than the minimum side yard setback of the residence located on that Lot. No portion of any fence erected on any Lot may exceed six (6) feet in height. Chain link perimeter fences are not permitted. Notwithstanding the foregoing, a Declarant, its successors and assigns, and the Association shall have the right to erect chain link fences and any other type of fences and enclosures within the Common Elements to enclose storm water control measures and for other purposes without the approval of the Executive Board or the Architectural Control Committee, such fences and other enclosures to become a part of the Common Elements to be maintained by the Association.

SECTION 10. SWIMMING POOLS. No swimming pool shall be constructed on any Lot without obtaining approval by the Executive Board or the Architectural Control Committee as provided in Article V of the Declaration. Above-ground swimming pools shall not be permitted. This Section shall not apply to temporary inflatable and/or plastic children's pools the diameter of which shall not exceed five feet (5').

SECTION 11. BASKETBALL GOALS. Detached basketball goals and concrete pads for basketball goals shall be allowed on any Lot upon approval by the Executive Board or the Architectural Control Committee. Detached basketball goals shall not be permitted in the streets.

SECTION 12. DWELLING SIZE. The total square footage of the main structure located on a Lot, exclusive of one-story open porches and garages, shall not be less than 1,800 square feet for a one (1) or one and one-half (1½) story residence and not less than 2,000 square feet for a two (2) story residence.

SECTION 13. GARBAGE AND REFUSE DISPOSAL. No Lot shall be used or maintained as a dumping ground for rubbish, and all trash, garbage or other waste shall be stored in sanitary containers in accordance with the rules and regulations of any health or public safety authority having jurisdiction over the property. The sanitary containers shall only be placed outside at the earliest the evening before garbage pickup day and shall be promptly returned inside an enclosed

area after garbage has been picked up. All incinerators or other equipment shall be kept in a clean and sanitary condition. No trash, garbage, or other waste may be placed within the Common Area, except in containers approved by the Executive Board.

## **ARTICLE VIII**

### **SPECIALIZED MULTIPLE MAILBOX INSTALLATIONS**

There will be provided within the Properties specialized multiple mailbox installations ("CBUs") consisting of clusters of locked boxes serving multiple postal patrons and mounted on pedestals for framework meeting United States Postal Service requirements. The CBUs will be located either within Common Elements or, in some instances, easements within Lots. The CBUs will meet requirements of the United States Postal Service, the North Carolina Department of Transportation, or the Appropriate Local Governmental Authority. The CBUs, and the areas in which they are located, including any parking areas, will be Common Elements, will be maintained by the Association, and shall be subject to such rules and regulations relating to the use thereof as from time to time shall be promulgated by the Association. Use of the CBUs also shall be subject to the rules and regulations of the United States Postal Service related to CBUs.

## **ARTICLE IX**

### **EASEMENTS**

**SECTION 1. UTILITIES.** Easements for installation and maintenance of utilities (including cable television service) and drainage facilities are reserved as indicated on recorded plats. In addition, Declarant reserves, for themselves and the Association, additional easements and rights-of-way for the installation and maintenance of utilities (including cable television service) and drainage facilities over the rear TEN (10) feet of all Lots and over each side FIVE (5) feet of all Lots. Within these easements no structures, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the drainage easements, or which may obstruct or retard the flow of water through drainage channels in the easements. An easement is hereby established for the benefit of the Appropriate Local Governmental Authority (and any other person or firm providing services to the Properties under agreement with or at the direction of the Association) over all Common Elements as may be reasonably necessary for the fighting of fires and collection of garbage. The Association shall have the power and authority to grant and establish upon, over and across the Common Elements such additional easements as are necessary or desirable for the providing of service or utilities to the Common Elements or Lots.

**SECTION 2. SIGNS.** Declarant hereby grants, gives and conveys to the Association a perpetual, non-exclusive easement over any portions of the Lots designated as "sign easements" on plats of the Properties, now or hereafter recorded, to erect, maintain, replace and repair subdivision signs and landscaping and/or lighting surrounding the same and all such easements shall be part of the Common Elements. The Association shall maintain all subdivision signs and landscaping and lighting surrounding the same now or hereafter erected within the Common Elements. The costs of all such maintenance, repair and replacement of such signs, landscaping and lighting shall be part of the common expenses of the Association, payable by the Owners as set out in Article IV hereof.

Further, during Declarant's Development Period, a Declarant shall have (i) the right to erect within the Common Elements additional subdivision signs and landscaping and lighting surrounding the same to be maintained by the Association as herein provided and (ii) the right to erect within the Common Elements signs advertising the sale and promotion of Lots or any portion of the Additional Property.

SECTION 3. EASEMENT RESERVED BY DECLARANT. Declarant hereby reserves such easements on, across and over the Common Elements as shall be reasonably necessary for (i) the exercise by a Declarant of any right herein reserved, including, without limitation, Declarant's right, should a Declarant elect, to annex the Additional Property, as hereinafter defined and (ii) the development by a Declarant, their respective successors and assigns, of the Additional Property, should a Declarant elect not to annex the Additional Property, including without limitation easements for the use of all utility lines, fixtures and/or their connections located within the Common Elements for the purpose of providing water, light, power, telephone, and any other service to the Additional Property.

SECTION 4. ENCROACHMENTS. In the event that any improvements on a Lot shall encroach upon any Common Elements or upon any other Lot as a result of the initial improvements constructed by a Declarant or for any reason not caused by the purposeful or negligent act of the Owner or agents of such Owner, then an easement appurtenant to such Lot shall exist for the continuance of such encroachment upon the Common Elements or other Lot for so long as such encroachment shall naturally exist; and, in the event that any portion of the Common Elements shall encroach upon any Lot, then an easement shall exist for the continuance of such encroachment of the Common Elements into any such Lot for so long as such encroachment shall naturally exist.

SECTION 5. ADDITIONAL DRAINAGE EASEMENTS. In order to implement effective and adequate storm water and erosion control, the Association shall have the right to enter upon any portion of the Properties before and after improvements have been constructed thereon for the purpose of performing any grading or constructing and maintaining any storm water control measures; provided, however, no such activities shall interfere with any permanent improvements constructed on the Properties.

## **ARTICLE X**

### **RIGHTS RESERVED UNTO INSTITUTIONAL LENDERS**

SECTION 1. ENTITIES CONSTITUTING INSTITUTIONAL LENDERS. "Institutional Lender" as the term is used herein shall mean and refer to banks, savings and loan associations, insurance companies or other firms or entities customarily affording loans secured by first liens on residences, and eligible insurers and governmental guarantors.

SECTION 2. OBLIGATION OF ASSOCIATION TO INSTITUTIONAL LENDERS. So long as any Institutional Lender shall hold any first lien upon any Lot and shall have given notice to the Association as set forth in Section 3 of this Article, or shall be the Owner of any Lot, such Institutional Lender shall have the following rights:

(a) To inspect the books and records of the Association during normal business hours and to be furnished with at least one (1) copy of the annual financial statement and report of the Association prepared by a certified public accountant designated by the Executive Board, such financial statement or report to be furnished by April 15 of each calendar year.

(b) To be given notice by the Association of the call of any meeting of the Membership to be held for the purpose of considering any proposed amendment to this Declaration of Covenants, Conditions and Restrictions or the Articles of Incorporation or Bylaws of the Association or of any proposed abandonment or termination of the Association or the effectuation of any decision to terminate professional management of the Association and assume self-management by the Association.

(c) To receive notice of any condemnation or casualty loss affecting the Common Elements or any portion thereof.

(d) To be notified of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

(e) To be given notice by the Association of any proposed alienation, release, transfer, hypothecation or other encumbrance of the Common Elements, other than those specific rights vested in the Association under Article II hereof.

(f) To be given notice of any delinquency in the payment of any assessment or charge (which delinquency remains uncured for a period of sixty (60) days) by any Owner owning a Lot encumbered by a mortgage held by the Institutional Lender, such notice to be given in writing and to be sent to the principal office of such Institutional Lender, or to the place which it may designate in writing.

SECTION 3. REQUIREMENTS OF INSTITUTIONAL LENDER. Whenever any Institutional Lender desires to avail itself of the provisions of this Declaration, it shall furnish written notice thereof to the Association by CERTIFIED MAIL at the address shown in the Articles of Incorporation identifying the Lot or Lots upon which any such Institutional Lender holds any first lien or identifying any Lot or Lots owned by such Institutional Lender and such notice shall designate the place to which notices, reports or information are to be given by the Association to such Institutional Lender.

## **ARTICLE XI**

### **GENERAL PROVISIONS**

SECTION 1. ENFORCEMENT. The Owner(s) of each Lot shall be governed by and shall comply with the provisions of this Declaration, the Bylaws of the Association and all rules and regulations of the Association adopted pursuant thereto, as any of the same are now constituted or as they may be amended from time to time. A default by any Owner shall entitle the Association or the Owner(s) of any of the other Lots to the following relief:

(a) 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, the Bylaws of the Association and all rules and regulations of the Association adopted pursuant thereto. Failure to comply with any of the terms of this Declaration or other restrictions and regulations contained in the Bylaws of the Association, or which may be adopted pursuant thereto, shall be grounds for relief including without limitation an action to recover sums due for damages, injunctive relief, foreclosure of lien, or any combination thereof. The Association shall have the right to request that law enforcement, public safety and animal control officers come on the Properties to facilitate the enforcement of the laws, codes and ordinances of any governmental authority.

(b) The Association, after notice to the Owner and a reasonable opportunity to be heard, shall have the right to assess reasonable fines against an Owner for violations of this Declaration the Bylaws of the Association or the Association's published rules and regulations by such Owner, or such Owner's family, guests, invitees and lessees in an amount not to exceed \$100.00 for each violation, and without further hearing, for each day more than five (5) days after the decision that the violation occurs. Such fines shall be deemed to be assessments as set forth in Article IV of the Declaration and if not paid within thirty (30) days after notice and demand therefor, the Association shall be entitled to the remedies set forth in the Declaration for the enforcement and collection of delinquent assessments.

(c) The Association, after notice to the Owner and a reasonable opportunity to be heard, shall have the right to suspend privileges or services provided by the Association (except rights of access to Lots) for reasonable periods for violations of this Declaration or the Bylaws, Articles or rules and regulations of the Association. If it is decided that a suspension of privileges or services provided by the Association should be imposed, the suspension may be continued without further hearing until the violation is cured.

(d) If an Owner is legally responsible for damage inflicted on any Common Elements, the Association may direct such Owner to repair such damage, or the Association may itself cause the repairs to be made and recover damages from the responsible Owner. If damage is inflicted on any Lot by an agent of the Association in the scope of the agent's activities as such agent, the Association is liable to repair such damage or to reimburse the Owner for the cost of repairing such damages. The Association shall also be liable for any losses to the Owner. When any such claim for damages against an Owner or the Association is less than or equal to the jurisdictional amount established for small claims by North Carolina General Statute 7A-210, any aggrieved party may request that a hearing be held before an adjudicatory panel appointed by the Executive Board to determine if an Owner is responsible for damages to any Common Elements or the Association is responsible for damages to any Lot. Liability for each damage incident may be assessed against each Owner charged or against the Association not in excess of the jurisdictional amount established for small claims by North Carolina General Statute 7A-210. When such claim exceeds the jurisdictional amount established for small claims by North Carolina General Statute 7A-210, liability of any Owner charged or the Association shall be determined as otherwise provided by law. Liabilities of Owners determined by adjudicatory hearing or as otherwise provided by law shall be assessments secured by lien under Section 47F-3-116 of

the Planned Community Act. Liabilities of the Association determined by adjudicatory hearing or as otherwise provided by law may be offset by the Owner against sums owing to the Association and if so offset, shall reduce the amount of any lien of the Association against the Lot at issue.

(e) Adjudicatory proceedings pursuant to subparagraphs (b), (c) and (d) of this Section 1 may be held before the Executive Board or an adjudicatory panel appointed by the Executive Board. The Executive Board and any adjudicatory panel appointed by the Executive Board shall accord to the party charged pursuant to subparagraphs (b), (c) and/or (d) above notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. Any adjudicatory panel appointed by the Executive Board shall be composed of Members of the Association who are not officers of the Association or members of the Executive Board. An Owner may appeal the decision of an adjudicatory panel to the full Executive Board by delivering written notice of appeal to the Executive Board within fifteen (15) days after the date of the decision. The Executive Board may affirm, vacate, or modify the prior decision of the adjudicatory body.

(f) In any proceeding arising because of an alleged default by an Owner, the Association, if successful, shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be determined by the Court.

(g) The failure of the Association or any Owner to enforce any right, provision, covenant or condition which may be granted by this Declaration or the other above mentioned documents shall not constitute a waiver of the right of the Association or of the Owner to enforce such right, provision, covenant or condition in the future.

(h) All rights, remedies and privileges granted to the Association or the Owners, pursuant to any terms, provisions, covenants or conditions of this Declaration or other above mentioned documents, shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity.

(i) The failure of a Declarant to enforce any right, privilege, covenant or condition which may be granted to it by this Declaration or other above mentioned document shall not constitute a waiver of the right of a Declarant thereafter to enforce such right, provision, covenant or condition in the future.

SECTION 2. SEVERABILITY. Invalidation of any one of the covenants or restrictions by judgment or court order shall in no wise affect any other provision which shall remain in full force and effect.

SECTION 3. AMENDMENT. The covenants and restrictions of this Declaration shall run and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless terminated as hereinafter provided. This Declaration may be terminated or amended with the consent of the Owners entitled to cast at least sixty-seven percent (67%) of the votes of the

Association; provided, however, during Declarant's Development Period, this Declaration may not be amended or terminated without a Declarant's consent; no amendment purporting to revoke or curtail any right herein conferred to a Declarant shall be effective unless executed by a Declarant; and no amendment relating to the maintenance or ownership of any required storm water control measures shall be effective unless reviewed and approved by the governmental office having jurisdiction for watershed protection. Any amendment, except amendments that a Declarant is authorized to make unilaterally, must: (1) be executed on behalf of the Association by its duly authorized officers; (2) contain an attestation by the officers executing the amendment on behalf of the Association that the requisite Member and Declarant approval has been obtained and is evidenced by written acknowledgment(s) signed by the Owners approving the amendment and, if required, a Declarant, and that such acknowledgments have been made a part of the Minute Book of the Association, but such attestation will not be necessary if the requisite number of Owners and, if required, a Declarant, have executed said amendment; and (3) be properly recorded in the Office of the Register of Deeds, Alamance County and/or Orange County, North Carolina, as appropriate. For the purpose of this Section, additions of Additional Property by a Declarant pursuant to Section 4 of this Article shall not constitute an "amendment." In the event this Declaration is terminated in accordance with the provisions hereinabove provided, Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner for any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay a pro rata share of the cost of the maintenance of any storm water control measures. Notwithstanding the foregoing, a Declarant may at any time unilaterally amend this Declaration to terminate or restrict any right reserved hereunder by Declarant and a Declarant, during Declarant's Development Period, may unilaterally amend this Declaration to make any changes required by any private or governmental insurer of residential mortgage loans in order to obtain the approvals necessary for purchasers of Lots to obtain financing insured by any of the foregoing mortgage insurers, or to make any changes deemed by a Declarant to be necessary to carry out and effectuate the orderly development of the Properties as intended by a Declarant and to be consistent with the Master Plan.

#### SECTION 4. ANNEXATION AND WITHDRAWAL OF PROPERTY.

(a) Except as provided in subsection (b) of this Section 4, Article XI, additional residential property and Common Elements may be annexed to the Properties only with the consent of the Owners entitled to cast two-thirds (2/3) of the votes each class of Members of the Association, who are voting, in person or by proxy, at a meeting duly called for such purpose; provided, however, during Declarant's Development Period, a Declarant must also consent to such action.

(b) All or any portion of the Additional Property may be annexed by a Declarant without the consent of Owners within twenty (20) years of the date of this instrument. Declarant shall have no obligation of any kind to annex any or all of the Additional Property and, should a Declarant elect to annex all or any portion of the Additional Property, Declarant shall have no obligation of any kind to annex the Additional Property in any particular sequential order. Should a Declarant elect to annex all or any portion of the Additional Property, and accordingly to subject such property to the terms and conditions of this Declaration, with regard to all or any part of the Additional Property annexed by a Declarant, such Declarant may make such complementary additions and/or modifications of the covenants and restrictions contained in this Declaration (including, without limitation,

those contained in Section 2 of Article VII hereof) as may be necessary or desirable, in the sole judgment of a Declarant, to reflect the different character, if any, of the added properties and as are not inconsistent with the Master Plan, but any such additions and/or modifications shall have no effect upon the properties previously subjected to this Declaration. With regard to any portion of the Additional Property not annexed by a Declarant, Declarant makes no representations with regard to the use of such property or the exterior appearance, design, size or intended purpose of any improvements now or hereafter erected on such property.

(c) Withdrawal of Property. Declarant reserves the right to amend this Declaration during Declarant's Development Period for the purpose of removing any portion of the Properties then owned by a Declarant or the Association from the provisions of this Declaration, to the extent originally included in error or as a result of any changes in the Master Plan. Any such withdrawal shall be accomplished by the filing for record of an Amendment to this Declaration describing the property removed and shall be effective upon filing for record in the land records of Alamance County and/or Orange County, North Carolina, as appropriate, unless a later effective date is provided therein. Such Amendment shall be executed by a Declarant and the owner(s) of the property being removed and shall not require the vote or consent of any other Owner or Member.

SECTION 5. AMPLIFICATION. The Provisions of this Declaration are amplified by the Articles of Incorporation and Bylaws of the Association; but no such amplification shall alter or amend any of the rights or obligations of the Owners set forth in this Declaration. Declarant intends that the provisions of this Declaration on the one hand, and the Articles of Incorporation and Bylaws of the Association on the other be interpreted, construed, and applied to avoid inconsistencies or conflicting results. If such conflict necessarily results, however, Declarant intends that the provisions of this Declaration control anything contained in the Articles of Incorporation or Bylaws of the Association.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, Declarant has caused this Amended and Restated Declaration of Covenants, Conditions and Restrictions to be executed as of the 30<sup>th</sup> day of August, 2017.

**Agency Partners, L.L.C.**

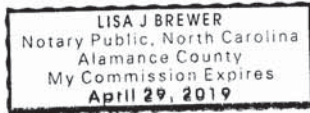
By: Shawn Cummins  
Name: Shawn Cummins  
Title: Member/Manager

STATE OF NORTH CAROLINA  
COUNTY OF Alamance

I certify that the following person personally appeared before me this day, acknowledging to me that he or she signed the foregoing document: Shawn Cummins.

Today's Date: August 30, 2017

Lisa J Brewer  
[Notary's signature as name appears on seal]  
Lisa J Brewer  
[Notary's printed name as name appears on seal]  
My commission expires: 4.29, 2019



[Affix Notary Seal in Space Above]

[Signature for Hillcrest Partners, LLC on the following page]

[Signature page of Declaration of Covenants, Conditions and Restrictions for Bingham Trace]

**Hillcrest Partners, L.L.C.**

By: Shawn Cummings  
Name: Shawn Cummings  
Title: Member/Manager

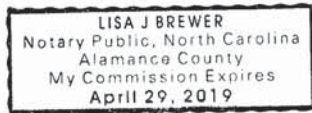
**STATE OF NORTH CAROLINA**  
**COUNTY OF** Alamance

I certify that the following person personally appeared before me this day, acknowledging to me that he or she signed the foregoing document: Shawn Cummings.

Today's Date: August 30, 2017

Lisa J Brewer  
[Notary's signature as name appears on seal]

Lisa J Brewer  
[Notary's printed name as name appears on seal]



My commission expires: Apr 29, 2019

[Affix Notary Seal in Space Above]

SCHEDULE A

All that certain piece, parcel or tract of land, lying and being in the Thompson Township, Alamance County and Bingham Township, Orange County, North Carolina, and being more particularly described as follows:

TRACT 1: ALAMANCE COUNTY AND ORANGE COUNTY PROPERTY

BEGINNING at an set iron pin on the south margin of Jones Drive, being the northeastern corner of Lots 4-10 & part of Lot 8 (Plat Book 8, Page 42, Orange County), thence South  $26^{\circ}54'07''$  West a distance of 264.92' to an existing iron pipe; thence South  $19^{\circ}56'56''$  West a distance of 327.47' to an existing iron pipe; thence North  $88^{\circ}10'42''$  West a distance of 109.02' to a computed point in the northeastern corner of Lot 1 (plat Book 112, Page 27); thence North  $01^{\circ}49'57''$  East a distance of 673.74' to a computed point in the northern margin of right of way of Jones Drive; thence continuing along the northern margin of Jones Drive the following six courses: (1) North  $76^{\circ}55'26''$  West a distance of 28.86' to a computed point; (2) North  $73^{\circ}34'15''$  West a distance of 97.0' to a computed point; (3) North  $67^{\circ}50'28''$  West a distance of 91.50' to a computed point; (4) North  $61^{\circ}31'53''$  West a distance of 93.20' to a computed point; (5) North  $58^{\circ}05'05''$  West a distance of 95.16' to a computed point; (6) North  $56^{\circ}58'31''$  West a distance of 421.61' to a computed point at or near the western property line of Lot 2 (Plat Book 54, Page 44, Alamance County Registry); thence continuing along same property line North  $33^{\circ}06'56''$  East a distance of 2.26' to a set iron pin; thence North  $33^{\circ}06'56''$  East a distance of 220.08' to an existing iron pipe; thence along the northern lot line of same property North  $57^{\circ}08'27''$  West a distance of 239.37' to an existing iron pipe; thence North  $56^{\circ}39'59''$  West a distance of 246.12' to an existing iron pipe; thence North  $02^{\circ}26'55''$  West a distance of 776.38' to an existing iron pipe; thence North  $01^{\circ}58'53''$  West a distance of 791.15' to an existing iron pipe; thence North  $28^{\circ}54'27''$  West a distance of 96.21' to a new iron pin; thence North  $28^{\circ}54'27''$  West a distance of 20.00' to a Spring; thence South  $87^{\circ}57'56''$  East a distance of 20.00' to an new iron pin; thence South  $87^{\circ}57'56''$  East a distance of 703.33' to an existing iron pipe; thence South  $16^{\circ}02'06''$  East a distance of 440.32' to a Stone; thence South  $14^{\circ}17'22''$  East a distance of 504.00' to an existing iron pipe; thence South  $18^{\circ}25'02''$  East a distance of 245.77' to a Stone; thence South  $13^{\circ}08'24''$  East a distance of 446.19' to an existing iron pipe; thence South  $15^{\circ}41'49''$  East a distance of 199.97' to an existing iron pipe; thence South  $15^{\circ}47'18''$  East a distance of 233.33' to an existing iron pipe; thence South  $82^{\circ}55'34''$  East a distance of 122.29' to an existing iron pipe; thence South  $16^{\circ}31'49''$  West a distance of 184.26' to an existing iron pipe; thence South  $81^{\circ}47'01''$  East a distance of 251.32' to an existing iron pipe; thence South  $18^{\circ}51'36''$  West a distance of 357.02' to an existing iron pipe; thence South  $18^{\circ}51'36''$  West a distance of 1.79' to a computed point; thence South  $18^{\circ}51'36''$  West a distance of 26.75' to a computed point at or near the centerline of Jones Drive; thence South  $26^{\circ}54'07''$  West 3.42' to a computed point; thence South  $26^{\circ}54'07''$  West a distance of 31.02' to an existing iron pipe, the Point and Place of BEGINNING, and being 52.49 acres, more or less, as per Boundary Survey for J. O. Jones Heirs Property, prepared by Jeff Allred, PLS, Allred Land Surveying, PLLC dated September 8, 2016.

TRACT 2: ALAMANCE COUNTY PROPERTY

All that certain piece, parcel or tract of land, lying and being in the Thompson Township, Alamance County, North Carolina and being more particularly described as follows:

BEGINNING at a stone/rock in the northwestern corner of property of Lot 1 (Plat Book 73, Page 161), also being the southeastern corner of Lots 6 & 7 (Plat Book 36, Page 100); thence along the eastern property line of Lots 6 & 7 (Plat Book 36, Page 100) the following three courses: (1) North  $11^{\circ}22'24''$  West a distance of 31.14' to an existing iron pipe; (2) North  $11^{\circ}30'11''$  West a distance of 265.53' to a stone/rock; (3) North  $02^{\circ}37'40''$  West a distance of 278.77' to an existing iron pipe; thence along the eastern property line, now or formerly, C.M. Peck (Deed Book 3437, Page 952) the following four courses: (1) North  $02^{\circ}40'00''$  West a distance of 162.20' to an existing iron pipe; (2) North  $02^{\circ}39'05''$  West a distance of 137.71' to an existing iron pipe; (3) North  $02^{\circ}41'13''$  West a distance of 259.85' to an existing iron pipe; (4) North  $02^{\circ}39'23''$  West a distance of 11.20' to a computed point on the southern right of way of Jones Drive; thence North  $02^{\circ}39'23''$  West a distance of 39.82' to a computed point in the centerline of Jones Drive; thence South  $56^{\circ}58'30''$  East a distance of 149.45' to a computed point in the centerline of Jones Drive; thence South  $56^{\circ}58'30''$  East a distance of 150.69' to a computed point in the centerline of Jones Drive; thence North  $33^{\circ}06'56''$  East a distance of 27.66' to a computed point on the northern right of way of Jones Drive; thence with the northern right of way of Jones Drive the following six courses and distances: (1) South  $56^{\circ}58'31''$  East a distance of 421.61' to a computed point; (2) South  $58^{\circ}05'05''$  East a distance of 95.16' to a computed point; (3) South  $61^{\circ}31'53''$  East a distance of 93.20' to a computed point; (4) South  $67^{\circ}50'28''$  East a distance of 91.50' to a computed point; (5) South  $73^{\circ}34'15''$  East a distance of 97.00' to a computed point; (6) South  $76^{\circ}55'26''$  East a distance of 28.86' to a computed point at or near the Alamance/Orange County line (Plat Book 74, Page 292); thence continuing along the Alamance/Orange County line South  $01^{\circ}49'57''$  West a distance of 673.74' to a computed point in the northeastern corner of Lot 1 (Plat Book 75, Page 464); thence North  $88^{\circ}10'42''$  West a distance of 335.98' to an existing iron pipe in the northeastern corner of Lot 1 (Plat Book 73, Page 161); thence North  $88^{\circ}10'04''$  West a distance of 531.44' to a stone/rock, the Point and Place of BEGINNING, and being 19.46 acres, more or less, as per Boundary Survey for J. O. Jones Heirs Property, prepared by Jeff Allred, PLS, Allred Land Surveying, PLLC dated September 8, 2016.

**TRACT 3: ORANGE COUNTY PROPERTY**

All that certain piece, parcel or tract of land, lying and being in the Bingham Township, Orange County, North Carolina, and being more particularly described as follows:

**BEGINNING** at a computed point on the northern right of way of Mebane Oaks Road; thence with the northern right of way of Mebane Oaks Road South 17°49'00" West a distance of 180.98' to a computed point; thence North 88°01'47" West a distance of 243.60' to an existing iron rod (passing through an existing iron pipe at 8.73'); thence North 87°59'50" West a distance of 174.54' to a computed point; thence North 19°42'20" East a distance of 215.30' to a new iron pin; thence South 83°36'40" East a distance of 230.00' to a new iron pin; thence South 83°36'40" East a distance of 156.14' to a new iron pin; thence South 83°36'40" East a distance of 17.03' to a computed point, the point and place of **BEGINNING**, and being 1.81 acres, more or less, as per Boundary Survey for J. O. Jones Heirs Property, prepared by Jeff Allred, PLS, Allred Land Surveying, PLLC dated September 8, 2016.