

WAKE COUNTY, NC 262  
LAURA M RIDDICK  
REGISTER OF DEEDS  
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Prepared by: Savage and Godfrey, Attorneys at Law (No title  
examination) *and*  
Mail to: *Savage and Godfrey #171*

NORTH CAROLINA  
WAKE COUNTY

DECLARATION OF  
COVENANTS AND RESTRICTIONS  
BELLA CASA SUBDIVISION

THIS DECLARATION of covenants and restrictions, made this 26th  
day of April, 2006, by JVI CONSTRUCTION, INC., a NC corporation  
(hereinafter referred to as "Declarant");

WITNESSETH

WHEREAS, the Declarant is the owner of the Property described  
in Article II of this Declaration and desires to create thereon a  
planned development community; and

WHEREAS, the Declarant desires to provide for the preservation  
of the value and enjoyment of the Property and improvements to be  
constructed thereon, the maintenance of common areas, and the  
administration and enforcement of covenants and restrictions  
imposed upon the Property;

NOW, THEREFORE, the Declarant declares that the Property  
described in Article II is and shall be held, transferred, occupied  
and used subject to the covenants, restrictions, conditions,  
easements, and obligations hereinafter set forth, which shall be  
appurtenant to the Property and be binding on all successors in  
title to the Declarant.

ARTICLE I.  
DEFINITIONS

The following words and terms when used in this Declaration or  
any supplemental declaration (unless the context shall clearly  
indicate otherwise) shall have the following meanings:

(A) "Association" shall mean a North Carolina non-profit  
corporation being formed in conjunction with the execution of this  
Declaration, the Members of which shall be the Owners of the

Property described herein and their successors in title.

(B) "Board of Directors" shall mean those persons elected or appointed to act as the Directors of the Association according to the Articles of Incorporation and Bylaws of the Association.

(C) "Common Areas" shall mean those portions of the Property, with all improvements then or thereafter erected thereon, which are (a) so designated on any subdivision plat or Master Plan of the Property by the Developer (which is subject to change by the Developer), or (b) deeded by the Developer to the Association, to be devoted to and intended for the common use and enjoyment of the Members of the Association, subject to the fee schedules, rules, and regulations adopted by the Association.

(D) "Declarant" shall mean the undersigned Declarant named above and successors and assigns thereof.

(E) "Family Dwelling Unit" shall mean any improved portion of the Property formerly classified a Residential Lot for which a building permit has been issued by the appropriate governmental authorities.

(F) "Master Plan" shall mean the drawings and documents which represent the conceptual plans for the future development of the Property. Since the concept of the future development of the Property is subject to continuing revision and change by the Declarant, present and future references to the "Master Plan" shall be references to the latest revision thereof, if any.

(G) "Members" shall mean and refer to all the Owners of the Property.

(H) "Owner" shall mean and refer individually and jointly to the Owners as shown by the records of the tax office in which the Property is located, whether one or more persons, firms, associations, corporations, or other legal entities, of fee simple title to any Family Dwelling Unit or Residential Lot. This shall not include the mortgagee, trustee under, or holder of a deed of trust, its successors or assigns, unless pursuant to foreclosure or a proceeding or deed in lieu of foreclosure. Nor shall this include any lessee or Tenant of an Owner.

(I) "Property" shall mean and refer to the Existing Property described in Article II hereof, and additions thereto subjected to this Declaration or any Supplementary Declaration or by Annexation under the provisions of Article II hereof.

(J) "Resident" shall mean and refer to each Owner and Tenant of a Family Dwelling Unit.

(K) "Residential Lot" shall mean any subdivided parcel of land located within the Property for which no building permit has been issued by the appropriate governmental authorities and which is intended for use as a site for a Family Dwelling Unit as shown upon a duly recorded subdivision map for any part of the Property. ("Lot" shall mean any subdivided parcel of land located within the Property which is intended for use as a site for a Family Dwelling Unit as shown upon a duly recorded subdivision map for any part of the Property.)

(L) "Tenant" shall mean and refer to the lessee under a written agreement of a Family Dwelling Unit.

## ARTICLE II.

## EXISTING PROPERTY AND ADDITIONS

Section 1. Existing Property The real property which is subject to these Covenants ("Existing Property") is described as follows:

BEING all of that certain 7.672 Acres as shown on map entitled "Final Plat of Bella Casa - Phase 1), dated January 12, 2006, and recorded in Book of Maps 2006, page 753, Wake County Registry.

Section 2. Additions to Existing Property During the period of development, which may extend for a period of up to ten (10) years from the date of recording this Declaration, the Declarant shall have the right, by one or more Supplementary Declarations or Annexations, to bring within the plan and operation of this Declaration one or more additional properties, which may be in multiple parcels and take place on more than one occasion. Additions of property authorized under this paragraph may increase the cumulative maximum number of Residential Lots and Family Dwelling Units authorized in the Property and, therefore, may alter the relative maximum potential voting strength of the various types of membership of the Association. Supplementary Declarations may contain such complementary additions and/or modifications of the Covenants and Restrictions contained in this Declaration as may be necessary or desirable in the sole judgment of the Declarant as are not inconsistent with the overall plan of this Declaration.

## ARTICLE III.

## MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership The Members of the Association shall be (a) The Declarant, for so long as it owns any part of the Property, and (b) every Owner of a Lot or Lots.

Section 2. Membership Classes; Voting Rights The Association shall have two (2) classes of regular voting membership:

(A) CLASS "A": Class "A" Members shall be all Owners other than the Declarant; except Declarant shall be a Class "A" member to the extent provided in subsection (B) following. A Class "A" Member shall be entitled to one (1) vote for each Family Dwelling Unit or Residential Lot which the Member owns.

(B) CLASS "B": The Class "B" Member shall be the Declarant. The Class "B" Member shall be entitled to seven (7) votes for each Family Dwelling Unit or Residential Lot which the Declarant owns. 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:

(1) When eighty-five percent (85%) of the Family Dwelling Units in the entire Master Plan of the Property are deeded to homeowners, excluding builders; provided, however, that the Class "B" membership shall be reinstated with all appurtenant rights, privileges and responsibilities if, after conversion of the

Class "B" membership to Class "A" membership as herein provided, additional lands are subjected to this Declaration by the Declarant in the manner provided in Article II of this Declaration; or

(2) Ten (10) years from the date of recording of this Declaration.

(C) When any property entitling the Owner to membership as a Class "A" Member of the Association is owned of record in the name of two (2) or more persons or entities, whether fiduciaries, joint tenants, tenants in common, tenants by entirety, tenants in partnership, or any other manner of joint or common ownership, then their acts with respect to voting shall have the following effect:

(1) If only one (1) votes, in person or by proxy, his or her act shall bind all;

(2) If more than one (1) votes, in person or by proxy, the act of the majority so voting shall bind all. In no event shall more than one vote be cast with respect to any Lot. Fractional voting is prohibited.

(D) The right of any Owner to vote may be suspended by the Board of Directors for just cause pursuant to its rules and regulations and the Articles and Bylaws of the Association and according to the provisions of this Declaration.

Section 3. Governance The Association shall be governed by a Board of Directors, the number, election, and term to be determined in accordance with the Articles of Incorporation and By-Laws of the Association.

Section 4. Quorum Required for any Action Authorized at Regular or Special Meetings of the Association; Notice. Unless otherwise provided by law, this Declaration, or the Association Bylaws, (a) the Owners of fifty-one percent (51%) of the Lots constitute a quorum, and (b) property notice of meetings shall be deemed to given when personally delivered to the Owner or mailed to the Owner's last known address according to the Association's records not less than ten (10) days prior to the date of the meeting at which any proposed action is to be considered.

Section 5. Proxies Members of the Association may vote and transact business at any meeting of the Association by authorized written proxy, subject to the provisions of the Association's Bylaws.

Section 6. Ballots by Mail When requested by the Board of Directors, there shall be sent with notices of regular or special meetings of the Association a statement of motions to be introduced for vote for the Members and a ballot on which each Member may vote for or against each such motion. Each properly completed ballot presented at such meeting shall be counted in calculating the quorum requirements set out above; provided, however, such ballots shall not be counted in determining whether a quorum is present to vote upon motions not appearing on the ballot.

Section 7. Action without Meeting Action authorized to be taken at any meeting of the Members may be taken by written consent of the required number of Members without a formal Meeting.

## ARTICLE IV.

## PROPERTY RIGHTS IN THE COMMON AREAS

Section 1. Members' Easements to Use Common Areas Subject to the provisions of this Declaration, and the rules, regulations and bylaws of the Association, and any fees or charges established by the Association, every Class "A" and "B" Member (including members of their immediate families residing with them), and their Tenants shall have a right of easement to use Common Areas, and such easement shall be appurtenant to and shall pass with the title of every Residential Lot and Family Dwelling Unit.

As determined in the sole and uncontrolled discretion of the Board of Directors, Owners' guests may have access to and enjoyment of the Common Areas, subject to rules, regulations, and fees established by the Board of Directors.

Section 2. Title to Common Areas

(A) The Declarant covenants that it shall convey the Common Areas to the Association, at no cost to the Association, and subject to the terms of this Declaration and to all other restrictions and easements of record at the time of conveyance.

(B) The Association shall not refuse any deed to Common Areas.

(C) Upon conveyance to the Association, the Association shall become responsible for all maintenance and operation of the Common Areas.

(D) Notwithstanding anything in the foregoing to the contrary, the Declarant reserves the right to enter upon any Common Area for the purpose of constructing and maintaining the Common Area or any improvements and facilities thereon; provided, this paragraph shall in no way create any obligation on the part of the Declarant to so construct or maintain.

Section 3. Extent of Members' Easements The rights and easements created hereby shall be subject to the following:

(A) The right of the Association, in accordance with its By-Laws, to borrow money for the purpose of improving or maintaining the Common Areas and providing services authorized herein, and in aid thereof to mortgage said Areas, subject to the consent of the Declarant if it owns any portion of the Property;

(B) The right of the Association to suspend the rights (including voting rights) and easements any Member, or Tenant or guest of a Member, for any period during which the payment of any Assessments against property owned by such Member remains delinquent, or for infraction of the Association's published rules and regulations; provided, (i) suspension shall not constitute a waiver or discharge of the Member's obligation to pay the Assessment or comply with the rules and regulations, and (ii) the Association shall not suspend the right to use any roads belonging to the Association subject to the rules, regulations and fees, if any, established by the Association for such use;

(C) The right of the Association to charge reasonable admission and other fees for the use of recreational facilities (if

any) and services on the Common Areas;

(D) The right of the Declarant or the Association by its Board of Directors to dedicate or transfer to any governmental entity, or public or private utility, easements on any part of the Common Areas;

(E) The right of the Association to sell, exchange, or trade all or any part of the Common Areas, subject to the consent of the Declarant if the Declarant owns any portion of the Property. If ingress or egress to any Residential Lot or Family Dwelling Unit is through the Common Area, any conveyance of such area is subject to the Lot or Unit owner's access easement.

(F) The right of the Declarant or the Association to sell, exchange or convey small portions of Common Areas adjoining Residential lots in order to alleviate minor setback violations.

## ARTICLE V.

### COVENANTS FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments The Declarant covenants, and each Owner of any Residential Lot and Family Dwelling Unit located within the Property, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to all the terms and provisions of this Declaration and to pay to the Association: (a) annual assessments or charges; and (b) special assessments or charges for the purposes set forth in this Article, as fixed, established and collected as hereinafter provided. Annual and special assessments, together with a four percent (4%) late charge after thirty (30) days past due, interest at the maximum legal rate, and costs of collection thereof, including reasonable attorneys fees, shall be a charge and continuing lien on the real property and improvements thereon against which each such assessment is made, and shall also be and remain the personal obligation of each Owner of such property at the time when the assessment first became due and payable. Co-owners shall be jointly and severally liable for the entire amount of the assessment and additional charges set forth above. If the Assessment is not paid within thirty (30) days after the due date, the Association may file suit against the Owner personally to recover the amounts described above, and to enforce the lien by sale of the Lot and/or Family Dwelling Unit to satisfy same.

Section 2. Purpose of Assessments Assessments levied by the Association shall be used for the establishment, improvement, insurance of, maintenance, repair, enhancement, and operation of the Common Areas, the administrative costs of the Association, and for the furnishing of services by the Association as set forth below.

### Section 3. Base Annual Assessment

(A) The base annual assessment, as initially set forth on Schedule 1 attached hereto and automatically adjusted annually as set forth below, shall be levied annually by the Association, unless the Board of Directors of the Association in its reasonable discretion determines that a lesser or greater amount is necessary

to meet the functions of the Association for any particular year; provided, however, the Association may not reduce assessments below those set out on Schedule 1, together with the automatic annual increase set forth below, without the written consent of the Declarant so long as the Declarant owns any of the Property.

(B) Assessments shall be billed annually or on such other basis as may be determined by the Board of Directors.

(C) The Board of Directors may retain a billing agent to collect the Assessments provided for herein.

(D) Beginning the year after the recording of this Declaration, the base assessment shall be automatically increased each year by ten (10%) percent, or percentage increase for the previous year reflected in the Consumer Price Index published by the United States Government unless a greater amount is specified by the Board of Directors.

Section 4. Special Assessment for Improvements and Additions  
In addition to the regular annual Assessments authorized by Section 3 above, the Association may levy Special Assessments for the following purposes:

(A) Construction, reconstruction, remodeling, improvement, maintenance, repair, or replacement of the Common Areas, or improvements or facilities located thereon, including appurtenant fixtures and personal property related thereto; including, but not limited to, storm pond maintenance;

(B) Additions to the Common Areas;

(C) Provision for the necessary facilities and equipment to offer the services authorized herein; or

(D) Repayment of any loan made to the Association; or

(E) To enable the Association to perform the duties and functions authorized herein.

Section 5. Reserve Funds The Association shall establish reserve funds from its annual assessments to be invested and held for major rehabilitation or repairs; emergency and other repairs required as a result of storm, fire, natural disaster, or other casualty loss; and other unanticipated expenses and emergencies.

Section 6. Certification of Assessment status

The Association, or its authorized billing agent if applicable, shall upon demand and without charge furnish a written certificate setting forth whether Assessments on a particular portion of the Property have been paid or are currently due. Such certificate shall be conclusive evidence of the Assessments and lien status as to that portion of the Property.

Section 7. Subordination of the Lien The lien of assessments provided for herein shall be subordinate to the lien of any mortgages or deed of trust now or hereafter placed upon any of the Property. Holders of mortgages or deeds of trust are not required to collect assessments. Failure to pay assessments does not constitute a default under a mortgage or deed of trust.

Section 8. Exempt Property The following portions of the Property subject to this Declaration shall be exempted from the assessments, charges, and liens created herein:

(A) All lands designated on the Master Plan for intended use,

and all lands and improvements actually used, for recreational and community facilities owned and operated by the Declarant or the Association;

(B) All Common Areas and improvements located thereon;

(C) Property used for the maintenance, operation and service of facilities within Common Areas;

(D) Property used for the maintenance, operation, and service of utilities within the Property.

Section 9. Annual Statements The President, Treasurer, or such other officer as may have custody of the funds of the Association shall annually, within sixty (60) days after the close of the fiscal year of the Association, prepare a financial statement showing the assets and liabilities of the Association at the close of such fiscal year, and a statement of revenues and expenses. Such Officer shall furnish to the Board of Directors, the Declarant, and each Member of the Association upon the Member's request and without charge, a copy of such statement.

Section 10. Annual Budget The Board of Directors shall prepare, at least sixty (60) days prior to the first day of the upcoming fiscal year, a budget outlining anticipated receipts and expenses for the upcoming fiscal year. A copy shall be furnished to the Declarant, and upon the Member's request and without charge to each Member of the Association. The fiscal books of the Association shall be available for inspection by the Declarant and Members.

Section 11. Working Capital Fund At the time of closing of each initial sale or transfer of a Family Dwelling Unit, a sum established and announced by the Board of Directors shall be collected from the Buyer and transferred to the Association, to be designated as working capital. The amount of the initial working capital assessment is set forth on Schedule 1 attached hereto.

## ARTICLE VI.

### ASSOCIATION FUNCTIONS

Section 1. Function and Services of the Association The Association may provide such services as, in the reasonable discretion of the Declarant (for so long as it owns any portion of the Property) and the Board of Directors of the Association, is in the best interest of the Members in preserving and furthering the goals of this Declaration and preservation and enjoyment of the values of the Property and improvements thereon as set forth on Page 1.

At a minimum, the Association shall:

(A) Provide or procure the administrative services necessary to carry out the Association's obligations and business under the terms of this Declaration and the By-Laws of the Association;

(B) Administer and enforce the covenants and restrictions established in this Declaration, including, but not limited to, the following:

(1) Set, levy, notify Members of, and collect Assessments;

(2) Maintain accurate records of Members, property classifications, votes, and assessments;

(3) Operate an Architectural Review Board after this responsibility is delegated to the Association by Declarant;

(4) Maintain and operate all Common Areas;

(5) Hold annual and special meetings, hold elections for the Board of Directors, and give Members proper notice of same, all as required; and

(6) Prepare annual statements and budgets, and make the financial books of the Association available for inspection by Members, the Board of Directors, and the Declarant.

(C) Provide appropriate liability and hazard insurance coverage for improvements and activities on all Common Areas;

(D) Provide appropriate directors' and officers' legal liability insurance;

(E) Keep complete and accurate records of all its actions and corporate affairs;

(F) Provide regular and thorough maintenance of all Common Areas, roads (including medians, islands, entrances, paths, trails), lighting, signage, and landscaping to the extent not done by another entity.

(G) Maintain insurance coverage as follows:

(1) Ownership of Policies. All insurance policies upon the Common Areas shall be purchased by the Association for the benefit of the Association, the Declarant, the Members, and their mortgagees as their security interests may appear, and provisions shall be made for the issuance of certificates of coverage and mortgagee endorsements upon request and without charge. The policies shall provide that all proceeds thereof shall be payable to the Association as insurance trustee under this Declaration.

(2) Coverage.

(i) The Association shall provide appropriate liability and hazard insurance coverage for improvements and activities on all Common Areas.

(ii) The Association shall provide appropriate directors' and officers' legal liability insurance and bonds for all persons handling Association funds.

(iii) All buildings and improvements upon the Common Areas shall be insured in an amount equal to one hundred percent (100%) insurable replacement value as determined annually by the Association with the assistance of the insurance company providing coverage. The coverage shall also provide protection against liability for injury to person or property, loss or damage by fire and other hazards covered by standard extended coverage endorsement, and such other risks as from time to time shall be customarily covered with respect to similarly situated properties and activities.

(iv) The policies shall contain all appropriate and standard clauses providing for waiver of subrogation.

Section 2. Expansion of Services Expansion of the functions and services to be carried out or offered by the Association at any particular time, beyond the minimum set forth above, shall be

periodically reviewed by the Board of Directors of the Association, taking into consideration the funds available to the Association and the best interests of the Members.

## ARTICLE VII.

### ARCHITECTURAL CONTROL

Section 1. Purpose The primary purpose and foremost consideration of these restrictive covenants is the creation of a community which is aesthetically pleasing, functionally convenient, and protective of the Owners' investment. The establishment of detailed standards herein relating to design, size and location of dwellings and other structures makes it impossible to take full advantage of the individual characteristics of each lot, technological advances, and environmental values. In order to implement the purposes of these covenants the Association, with the consent of the Declarant for so long as the Declarant owns any portion of the Property, may establish and amend from time to time objective standards, regulations, specifications, rules and guidelines for architecture, construction, signs, mailboxes, and landscaping.

Section 2. Architectural Committee The Architectural Committee shall be composed of the Declarant, and such persons and entities as designated or appointed by the Declarant, until such time, not later than the sale or transfer of all the Property by the Declarant, as the Declarant turns this responsibility over to the Association.

#### Section 3. Review

No building, fence, or other improvement shall be constructed, erected, placed, or altered on any lot until the building plans and specifications (including but not limited to architectural style, construction techniques, exterior materials, colors, and finishes, roofing material, driveway material, and landscape design), and plat showing the proposed location of same have been approved in writing by the Architectural Committee, in its sole discretion and based upon such grounds as it deems sufficient, so as to ensure the goals above as well as conformity and harmony of exterior design and construction with existing structures and improvements in the development and the intent of these covenants. The plat shall also show location, topography, finished elevation, drainage, and setbacks. In the event the Committee fails to approve or disapprove the complete set of plans, specifications, and plat within thirty (30) days after submission, this covenant will be deemed fully complied with. The Committee may retain all plans, specifications, and plats submitted to them.

#### Section 4. Architectural Restrictions

(A) No structure, except as hereinafter provided, shall be erected, altered, placed or permitted to remain on any lot other than one (1) detached single family dwelling not to exceed two and one half (2 ½) stories in height (excluding basement), which shall be used and occupied as a residence for a single family, together with a garage, which may be separate or attached, and one outside storage building. No structure may be constructed prior to

construction of the dwelling.

(B) All driveways shall be paved with asphalt, concrete, brick or such other all-weather material as may be approved in writing by the Architectural Committee. Each Lot owner shall, prior to occupancy, provide for sufficient off-street parking for a minimum of two (2) automobiles.

(C) All mailboxes shall be of the same design, color, construction, and materials as approved by the Architectural Committee. Receptacles for newspapers or other publications are not permitted except as part of the approved mailbox design.

(D) Houses and related structures must be completed within one (1) year after the construction of same shall have commenced, except where such completion is interrupted by fire or similar casualty or act of God.

(E) Fences shall not exceed six (6) feet in height and shall not be installed nearer the Lot's fronting street than the rear corners of the house. Chain link fences are prohibited. All fence design and construction must be approved by the Architectural Committee.

(F) In order to preserve the natural beauty of the subdivision, no excessive number of live trees with a diameter greater than six (6) inches on a lot shall be cut or otherwise removed unless reasonably necessary for the functional use and placement of a house on a Lot.

(G) Exterior radio and television transmission and receiving apparatus are allowed only when placed so as to be aesthetically pleasing in the judgment of the architectural committee.

(H) The total heated floor area of the main residential structure, exclusive of open porches, basements, storage areas, and garages shall not be less than 3000 square feet for a single story house, and 3000 square feet for one and one-half or more stories.

(I) No structure shall be located on any lot nearer to the street or lot lines than as set forth in the setback requirements on the recorded plats of the subdivision of the Property, or, if none, the applicable municipal or county requirements. Eaves and chimneys shall not be considered in measuring setbacks provided they do not extend into the setback area more than three feet. Where government ordinances require greater setbacks or eliminate exclusions from measurement, those ordinances shall control. Violations of square footage or setback requirements of less than five percent (5%) shall not be considered a violation of these covenants provided they do not violate applicable government ordinances.

(J) No mobile or modular home may be constructed or placed on a Lot. Nothing other than a completed house on a Family Dwelling Unit (including trailer, camper, van, garage, or outbuilding) shall be used on any Lot as a residence, either temporarily or permanently.

(K) Nothing contained herein shall prevent the Declarant or its agents from maintaining temporary sales offices, trailers, or storage units on any lot, common area, or recreation area during the development and sale of the subdivision.

ARTICLE VIII.  
USE RESTRICTIONS

1. Use of Property All lots shall be used for single family residential purposes exclusively; provided, this section shall not prohibit a single home office per residence so long as customers, suppliers, and non-resident employees do not habitually come to the residence, and the office and activities do not violate the other sections of these covenants.

2. Garbage and Debris It shall be the responsibility of each lot owner to prevent and correct unclean, unsightly, or unkempt conditions of Lots and improvements thereon. All Lots shall be kept clean and free of garbage, junk, trash, debris, non-operable vehicles and apparatus, and any substance and condition that might contribute to an unsightly condition, health hazard or the breeding and habitation of snakes, rats, or insects. Owners shall see to the mowing of their lawn as needed, the maintenance and protection of landscaping, the proper drainage of the lot so as to prevent soil erosion, and the maintenance of the structures and improvements located on their lot so as to insure their good condition and appearance. "Lot" as used in this section also includes that portion of the lot between the right of way and the pavement.

Upon a Lot Owner's continued failure or refusal to abide by this section after thirty (30) days written notice, the Association may perform the required maintenance and repairs, with the Lot Owners to be responsible for the reasonable charges for same. The charges shall constitute a lien upon the Lot as though an Assessment as set forth above.

3. Nuisance or noxious activity No offensive or noxious activity shall be carried on upon any lot, nor shall anything be done or maintained thereon tending to cause embarrassment, discomfort, annoyance or nuisance to other Lot Owners. There shall not be maintained or operated upon any Lot any animal, device or thing of any sort which is noxious, loud, dangerous, unsightly, unpleasant or of a nature as to diminish or destroy the enjoyment of the subdivision Lots by the Owners thereof.

4. Signs Unless otherwise approved in writing by the Architectural Committee, no sign, other than a single "For Sale" or "Sold" sign not larger than 24 inches by 24 inches, and signs at the sales office, shall be placed on any Lot.

5. Parking Vehicles shall not be habitually parked on the street. No boat, camper, or trailer shall be parked or permitted to remain on a street, or upon any Lot. Outside clothes lines are not permitted so as to be visible from the street fronting the Lot.

6. Animals No animal, livestock or poultry of any kind shall be raised, bred, or kept on any lot, except that up to two common house-pets may be kept on each Lot, provided that (1) they are not kept, bred, or maintained for commercial purposes, and (2) animals shall not run at large in the subdivision or be kept in violation of applicable governmental laws and ordinances. No person shall keep, maintain or permit dangerous animals, or keep any animal which is an annoyance or nuisance to other Owners.

7. Garbage Receptacles Each Owner shall maintain sufficient receptacles for garbage in an area not visible from the street. No garbage, trash, or refuse shall be burned or dumped on any lot; nor shall those items be deposited curbside except in accordance with local ordinances.

## ARTICLE IX.

### GENERAL PROVISIONS

#### Section 1. Term and Amendment of Covenants and Restrictions

These restrictive covenants shall be appurtenant to and bind the Property, and shall inure to the benefit of and be enforceable by the Declarant, the Association, the Owners, and their heirs, successors, and assigns, for a term of thirty (30) years from the date of this Declaration is recorded, at which time they shall automatically be deemed extended for successive ten (10) year periods unless revoked or modified by two-thirds (2/3) of the then Owners of the Lots. These restrictive covenants may be amended at any time by written agreement of both (a) two-thirds (2/3) of all of the owners of the lots, and (b) the Declarant if the Declarant owns any portion of the Property.

Notwithstanding the foregoing, the Declarant, for so long as it owns any portion of the Property, and, thereafter the Board of Directors of the Association, may amend this Declaration as shall be reasonably necessary, without the required consent of any Owner, in order to qualify the Association for tax-exempt status; correct obvious errors and omissions herein; conform to the requirements of any law or governmental agency having legal jurisdiction over the Property; qualify the Property or any improvements thereon for mortgage or improvement loans made, insured, or guaranteed by a government agency or to comply with the requirements of law or regulations of any corporation or agency belonging to, sponsored by, or under the substantial control of, the United States Government or the State of North Carolina; or to comply with any law or regulation relating to the Property, including, without limitation, environmental controls, construction standards, aesthetics, and matters affecting the public health, safety, and general welfare.

Section 2. Invalidation Should any covenant or restriction herein contained, or any sentence, clause, phrase, or term of this Declaration, be declared to be void, invalid, illegal or unenforceable for any reason by the adjudication of any court or other tribunal having jurisdiction over the parties and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect. In addition, if there is any contradiction between these restrictions and any governmental ordinances, laws or regulations of a federal, state, or local agency, the latter shall prevail.

Section 3. Notice Notice to all Owners of a Lot shall be deemed to have been given when deposited, postage paid, in the United States Mail addressed to, or when hand delivered to, one or more of said Owners according to the name and address reflected

upon the tax records of the county in which the Property is located.

Section 4. Enforcement Enforcement of these covenants and restrictions shall be by the Declarant, any Member or Owner, or the Association via any proceeding at law or in equity against any persons violating, threatening to violate, or attempting to violate any covenant or restriction herein, to restrain violation and/or recover damages. The failure of any party to enforce any covenants or restrictions herein for any period of time shall in no event be deemed a waiver or estoppel of the right to enforce any or all restrictions thereafter.

Section 5. Interpretation The Declarant, for so long as it owns any portion of the Property, and thereafter the Board of Directors of the Association, shall have the right to determine all questions arising in connection with this Declaration of Covenants and Restrictions, and to construe and interpret its provisions, and their determination, construction, or interpretation shall be final and binding. In all cases, the provisions of this Declaration of Covenants and Restrictions shall be given that interpretation or construction that will best tend toward the consummation of the general intent of this Declaration as set forth on Page 1.

Section 6. Authorized Action All actions which the Association is allowed to take under this instrument shall be authorized actions of the Association if approved by the Board of Directors of the Association in the manner provided for in the By-Laws of the Association, unless the terms of this instrument provide otherwise.

Section 7. Limited Liability In connection with all reviews, acceptances, inspections, permissions, consents or required approvals by or from the Declarant or the Association contemplated under this Declaration, neither the Declarant nor the Association shall be liable to an Owner or to any other person on account of any claim, liability, damage, or expense suffered or incurred by or threatened against an Owner or such other person and arising out of or in any way relating to the subject matter of any such reviews, acceptances, inspections, permissions, consents or required approvals, whether given, granted, or withheld

Section 8. Easements

(A) The Property shall be subject to such easements for the construction and maintenance of utilities, and for ingress, egress and regress as necessary to operate and maintain same, as deemed necessary by the Declarant or the Association, who shall have the power and authority to grant and establish further easements upon, over, under and across the Property. The Declarant reserves to itself and its successors and assigns, in addition to any easements of record, a perpetual, alienable and releasable easement and right on, over and under the ground to erect, install, maintain and use electric and telephone poles, wires, cables, conduits, sewers, water mains, water drainage provisions and facilities, and other suitable equipment for the conveyance and use of utilities on, in or over five (5) feet around the perimeter of each lot. These easements and rights expressly include the right to cut any trees,

bushes, or shrubbery, excavate and grade soil, and take any other action reasonably necessary to economical and safe utility installation and to maintain reasonable standards of health, safety and appearance.

(B) For a period of ten (10) years from the date of recording this Declaration, the Declarant reserves an easement and right on, over and under the Property to maintain and to correct drainage or surface water runoff and in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut trees, bushes or shrubbery, grading, and other action reasonably necessary to accomplish that purpose. After such action has been completed, the Declarant shall restore affected property to its original condition to the extent practicable. Declarant shall give reasonable notice of intent to take such action to all affected Owners.

(C) An easement is hereby established for municipal, state or public utilities serving the Property and their agents and employees upon the Property for setting, removing, maintaining, monitoring, and reading utilities and utility meters, maintaining and replacing utility or drainage facilities and connections, and acting with other purposes consistent with the public safety and welfare, including, without limitation, police and fire protection.

(D) The Declarant and Association reserve the right to subject the Property to contracts with municipalities and utility companies for the installation of above ground or underground electric cables and lines and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment by the Owner of each Lot within said Property.

Section 9. Subdivision of Lots Although lot lines may be altered, and the Owners of two Lots may subdivide a Lot located between them with the written permission of the architectural committee, no Lot may be subdivided so as to create two or more Building Lots from the original Lot or increase the total number of Building Lots in the subdivision. The Declarant reserves the right to replat or otherwise modify the shape or size of any Lot during the time the Declarant own same.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed the date shown above.

JVI CONSTRUCTION, INC.

By: \_\_\_\_\_

President

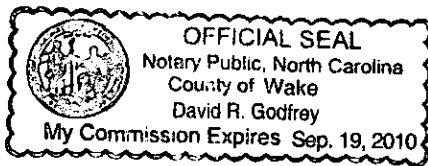
(SEAL)

NORTH CAROLINA WAKE COUNTY

I, a Notary of the County and State aforesaid, certify that Joseph V. Tannone, personally came before me this day and acknowledged that he is \_\_\_\_\_ President of **JVI CONSTRUCTION, INC.**, a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its \_\_\_\_\_ President. WITNESS my hand and official stamp or seal, this 3 day of May, 2006.

\_\_\_\_\_  
Notary Public

My Commission Expires:



SCHEDULE 1  
INITIAL BASE ASSESSMENT  
AND WORKING CAPITAL CONTRIBUTION  
AS OF RECORDING DATE OF  
THESE COVENANTS AND RESTRICTIONS

Residential Lot or Family Dwelling Unit: \$ 900 per year

Builder Working Capital Fund Contribution: \$ 200



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**Yellow probate sheet is a vital part of your recorded document.  
Please retain with original document and submit for rerecording.**

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**Wake County Register of Deeds  
Laura M. Riddick  
Register of Deeds**

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