

Prepared By: John A. Northen

Return to: Northen Blue, LLP, P.O. Box 2208, Chapel Hill, NC 27515-2208

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR HOPE VALLEY GREEN SUBDIVISION

THIS DECLARATION is made this 5th day of September, 1997, by Providence Center Corporation, 209 Providence Road, Chapel Hill, NC 27514, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property located in Durham County, North Carolina known as Hope Valley Green Subdivision, which property Declarant intends to develop in two or more phases and which property is more particularly described herein and which is shown and delineated by survey and plat thereof recorded in Plat Book 137, at Page 219, Durham County Registry; and

WHEREAS, Declarant wishes to submit and subject a portion of said property to this Declaration, such portion being identified as "Phase I" on the survey and plat thereof recorded in Plat Book 138, at Page 190, Durham County Registry, reserving however the right and privilege (but not imposing a duty or obligation) to submit and subject from time to time additional portions of said property to this Declaration by the recordation of additional plats and supplemental Declarations; and

WHEREAS, it is in the best interest of Declarant, as well as to the benefit, interest and advantage of each and every person or other entity hereafter acquiring any of the within described property that certain covenants, conditions, easements, assessments, liens and restrictions governing and regulating the use and occupancy of the same be established, fixed and set forth and declared to be covenants running with the land; and

WHEREAS, Declarant desires to provide for the preservation of the values and amenities and the desirability and attractiveness of the real property made subject to this Declaration and for the continued maintenance and operation of such recreational and common areas as may be provided.

NOW, THEREFORE, Declarant hereby declares that all of the Properties described in the attached Exhibit A 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, the 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.

## ARTICLE I

### DEFINITIONS

Section 1. "Association" shall mean and refer to Hope Valley Green Homeowners' Association, Inc., a non-profit corporation organized and existing under the laws of the State of North Carolina, its successors and assigns.

Section 2. "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 property described on Exhibit A hereof, including contract sellers, but excluding those having interest merely as security for the performance of an obligation, and shall further include the record owner of a fee simple title to any lot which is shown upon any subdivision map for any property hereafter subjected to the terms, provisions and conditions of this Declaration in accordance with the provisions therefore hereinafter provided.

Section 3. "Properties" shall mean and refer to that certain real property described in Exhibit A, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association or over which the Association has an easement for the common use and enjoyment of the Owners subject to the Declaration and the Association Bylaws. The Common Area to be conveyed or as to which an easement shall be granted and which shall be maintained by the Association at the time of the conveyance of the first lot is more particularly described in Exhibit B attached hereto and by reference made a part hereof. The uses of the Common Areas shall be limited by subsequent provision contained in these Declarations and/or the Association documents. The Common Areas maintained by the Association shall include, but may not be limited to, the landscape easements for the entrance and entrance sign to the development, any portion of the public roads dedicated to but not yet maintained by any public body, and joint driveways which shall provide access to subject lots.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Providence Center Corporation, its successors and assigns if such successors or assigns should acquire more than three (3) undeveloped Lots from the Declarant for the purpose of development, together with an express assignment of rights as Declarant hereunder.

Section 7. "Eligible Mortgage Holder" shall mean those holders of a first mortgage on a Lot who have requested the Association to notify them on any proposed action that requires the consent of fifty-one percent (51%) of Eligible Mortgage Holders.

Section 8. "Mobile Home" shall mean any home primarily manufactured off the premises and constructed or positioned so as to be movable on wheels, regardless of whether the wheels are attached to the structure; the term shall also include manufactured homes which are over fourteen (14) feet wide transported in sections.

## ARTICLE II

### PROPERTIES SUBJECT TO THIS DECLARATION

Section 1. Properties Subject. The property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Durham County, North Carolina, and is more particularly described in Exhibit A attached hereto and by reference made a part hereof. Only the above-described property is hereby made subject to this Declaration; provided, however, Declarant reserves the right to subject other real property to the restrictions set forth herein as provided below.

Section 2. Annexation of Additional Properties. At any time during the effective term of this Declaration, Declarant shall have the unilateral right, in its sole discretion, to annex additional properties which have been or will be developed as part of the general plan of development for Hope Valley Green Subdivision (the "Subdivision"). In addition, upon the recording of a document annexing additional property(ies), Declarant shall have the unilateral right to extend any and all of the road rights of way located within the subject property to and through the annexed properties for the purpose of access, ingress and egress to the annexed properties. Annexation of additional properties shall not require the consent of any of the lot owners in the Subdivision.

Section 3. Supplementary Declarations. Each addition herein authorized shall be made by filing of record one (1) or more Supplementary Declarations in respect to the property to be then made subject to this Declaration and thereby extend the jurisdiction of the Association to such property and subject such addition to the assessments herein provided for a just and proportionate share of the Association's expenses. Each Supplementary Declaration may contain such complimentary additions and modifications of the covenants, conditions and restrictions contained herein as may be necessary to reflect the different character of the added Properties, provided, however, any such Supplemental Declaration or any such other Declaration shall not revoke or otherwise amend the provisions of this Declaration as pertained to the Properties subject thereto.

### ARTICLE III

#### PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to suspend the voting rights and right to use of the Common Areas by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed thirty (30) days for any infraction of its published rules and regulations;

(b) the right of the Association to dedicate or transfer all or any part of the Common Area (other than road rights of way, utility rights of way, or greenways) to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

(c) the right of the Association, with the assent of two-thirds (2/3) of each class of members, to mortgage, pledge, deed in trust or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the Bylaws, his right or enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchaser who reside on the property.

Section 3. Title to the Common Area. The Declarant hereby covenants for itself, its heirs and assigns that it will convey an easement to the Common Area to the Association, free and clear of all encumbrances and liens, except street rights of way, easements for driveways, walkways, parking and utility easements prior to the conveyance of the first Lot. Declarant, for itself, its successors and assigns, hereby reserves to itself the right to substitute a modified legal description of Common Area earlier conveyed to the Association. Such modified legal description shall be based on a survey of the Common Area after all improvements are in place. The Association hereby irrevocably appoints and constitutes Declarant as its attorney-in-fact with the power to substitute the aforesaid modified legal description so that there are no discrepancies or encroachments between any Lots or other Properties and the Common Area. This power of attorney is reserved and granted pursuant to N.C.G.S. 32A and shall be appurtenant to and run with the land.

Section 4. Physical access to easements and Common Areas by vehicle shall be limited to road rights of way and joint driveways as shown on recorded plats and to driveways; any walking or recreation easements for the community on any part of this property shall be described in recorded deeds, plats or other recorded agreements. No vehicles shall be allowed on the walking or recreation easements, except for authorized maintenance purposes.

Section 5. There shall be no community access to any easements lying within any Lot unless the Association has assumed all practical and legal liability for persons and property using such

easements; and it is hereby agreed that the Association shall maintain insurance adequate to provide reasonable liability protection for Common Areas and easements held.

Section 6. In the event of bodily injury or property damage suffered on or in connection with the Common Area or access easements, the parties involved shall first seek to resolve such matter or dispute by negotiation or by voluntary arbitration, prior to seeking relief in any court. To the extent provided by law, all residents hereby release and shall be deemed hereafter to automatically release the Association from any claims or damages suffered by reason of any bodily injury or property damage which may occur on or in connection with the use of the Common Area or access easements.

#### ARTICLE IV

#### MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two (2) classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever first occurs earlier:

- (a) Four (4) months after seventy-five percent (75%) of the Lots have been conveyed by the Declarant, or
- (b) on January 1, 1999.

Section 3. The right of any Member to vote may be suspended by the Board of Directors for just cause pursuant to its rules and regulations and pursuant to the provisions of Article III, Section 1(a).

## ARTICLE V

### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of 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 to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the Owner of each Lot, and such personal obligation for assessments made for the period during which time the Owner was the record owner of such Lot shall remain the personal obligation of such Owner and shall not pass to any successor in title unless expressly assumed by him.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting recreation and the improvement, insurance, and maintenance of the community recreation areas, entrance sign and any community facilities on the common land. Not by way of limitation, among the purposes for which assessments can be used are: legal defenses against condemnation and other destructive acts originating either within or outside the community,



water and air pollution, professional services needed by the community, and enforcement of these covenants.

Section 3. Maximum Annual Assessment. For the first year from the date of conveyance of this Declaration, the annual assessment shall be no more than Seventy Dollars (\$70.00). Assessments shall not begin to accrue or become due and payable on an individual Lot until the Lot is conveyed to an Owner.

(a) From and after the first year from the date of this Declaration dues may be increased or decreased by a maximum of twenty-five percent (25%) by the Board of Directors, or higher or lower with approval by two-thirds (2/3) vote of the Association.

(b) The Board of Directors of the Association may fix the annual budget to an appropriate amount, and shall give written notice of the assessment amount to all Owners at least thirty (30) days prior to the due date.

(c) Interest generated by the fund described in Article V, Section 3(c) above may be applied to administration of the Association and to ordinary maintenance activity in reducing the costs thereof.

Section 4. Special Assessments for Capital Improvements: In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any repair or replacement of the entrance sign or other improvements upon the Common Area, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

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 Section 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty

percent (60%) of all the votes of each class of membership 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 of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots. The said assessments may be collected on an annual, quarterly or monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as and when each such Lot is made subject to this Declaration and conveyed by Declarant to a third party. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 8. 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 the then maximum legal rate and to the extent permitted by law. The Association, its agent or representative, may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs and reasonable attorney's fees of such action

of foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination to the Lien of Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to any first mortgage foreclosure under a power of sale or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. The following Properties subject to the Declaration shall be exempt from the assessments, charges and liens created herein:

- (a) All Properties dedicated and accepted by local public authority or state and/or devoted to public use; and
- (b) All Common Areas within the Properties described above in Article II

Section 11. Working Capital Fund. The Association shall establish and maintain a working capital fund for the initial months of the development operations, and the funds shall be established by the collection at the time of the closing of the initial sale by Declarant for each Lot to an Owner of an amount equal to the prorated annual amount due for the remaining year's assessment for such Lot. The said amount shall be collected from the Buyer at closing, and shall be considered as advance payment of regular assessments.

## ARTICLE VI

### ARCHITECTURAL CONTROL, MAINTENANCE AND USE RESTRICTIONS

Section 1. Approval of Plans and Architectural Committee. No building, fence, wall or other structure or improvement of any nature whatsoever including driveways and driveway locations, shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, location and physical site of the same shall have been submitted to and approved in writing as to the design, color and location in relation to surrounding structures and topography by Declarant, so long as Declarant owns three (3) or more lots, and thereafter by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. All mailboxes and mailbox posts shall be uniform in construction, color, numbering, and appearance, as determined by Declarant. Subject to the specific exceptions stated within this Declaration, no structures shall be built or permitted to remain within any electrical power lines, stream buffer, flood plain, wildlife corridor, sanitary sewer easement or drainage easement as shown on the recorded plat(s) of the Subdivision. In the event Declarant, said Board, or its designated committee, as appropriate, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. The Declarant, said Board, or its designated committee, respectively, shall have the right to charge a reasonable fee for receiving each application for approval of plans and specifications in an amount not to exceed Fifty Dollars (\$50.00). Upon giving approval to such plans and specifications, construction shall be started and prosecuted to completion promptly and in strict conformity with such plans as have been

previously approved, and Declarant and/or the Association shall be entitled to stop any construction which is in violation of these restrictions.

Section 2. Land Use. Building Type, and Driveways. No Lot shall be used except for residential purposes, subject to the permitted uses recited in Section 10 below. This condition shall not be construed as a restriction against a light housekeeping apartment located within the building. No lot shall be subdivided so as to create additional lots, once platted of record. The minimum building size (heated living area) for a residence shall be 1,200 square feet, and not less than 900 square feet on the first floor of any two-story building. Driveways shall be located by the Declarant, or in the event Declarant is no longer the record Owner of three (3) or more lots, with the approval of the Association. Driveways shall be constructed exclusively of concrete.

Section 3. Nuisance. No noxious or offensive activity shall be conducted upon any Lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No trash, rubbish, stored materials, boats, trailers, recreational vehicles, wrecked or inoperable vehicles or similar unsightly items shall be allowed to remain on any Lot outside an enclosed structure, or for the purpose of boats, trailers and recreational vehicles behind a solid fence or wall; provided, the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish and other such debris for pick up by governmental and other similar garbage and trash removal service units. In the event any Owner fails or refuses to keep his Lot free from unsightly objects, weeds or underbrush in a manner satisfactory to a majority of the Board of Directors of the Association, the Association may, through its agent or representative, five (5) days after posting a notice on such Lot or mailing a notice to the Owner thereof at his property address requesting the Owner to comply with the requirements of this Section, enter and remove any and all unsightly

objects, debris or other vegetation at Owner's expense and Owner, by acquiring any Lot subject to this Declaration, agrees to pay such costs incurred by the Association in the enforcement of this Section promptly upon demand. No such entry as provided herein shall be deemed a trespass.

Section 4. Animals. No animals, livestock or poultry of any kind shall be kept or maintained on any lot or in any dwelling, except that household pets which shall include dogs and cats, may be kept and maintained, provided they are not kept or maintained for commercial purposes, and provided that such pets shall at all times be under the control of their owner. In the event that an animal becomes a nuisance or an annoyance to the neighborhood, then the owner must permanently restrain the animal in a reasonable manner.

Section 5. Outside Antennas. No outside radio or television antennas, which shall include, but not by way of limitation, satellite dishes, shall be erected on any Lot or dwelling unit within the Properties unless and until permission for the same has been granted by Declarant in writing so long as Declarant owns three (3) or more lots, and thereafter by the Board of Directors of the Association or its architectural control committee. However, satellite television dishes of less than thirty-six (36) inches in diameter shall not be subject to the regulations contained in this Section.

Section 6. Signs. No signs, billboards or other advertising device of any kind shall be placed or otherwise installed on any lot, parcel or building within the lands described in Article n above except as herein allowed:

(a) A sign no more than one hundred (100) square feet in area and designating the name of this development may be placed at an appropriate place.

(b) A sign not more than two (2) square feet in area may be placed on each individual lot to designate Owner, address, and where appropriate, profession of resident.

(c) A sign of not more than ten (10) square feet in area may be used to designate Lots for sale.

(d) Signs not more than two (2) square feet in area may be used to give notice of restrictions to hunters, trespassers or others.

(e) No signs may be internally lighted.

Section 7. Trees. All trees larger than fourteen (14) inches in diameter shall not be removed from any lot without the prior written consent of Declarant; provided that any such trees may be removed without the permission of Declarant if located within the area of which a residential structure, driveway or sidewalk are to be constructed upon a Lot, or within twenty (20) feet of the foundation of any residential structure; and provided further that any dead or diseased trees, shrubs, bushes or other vegetation shall be promptly removed from any lot. This restriction shall not apply to the Declarant, its successors or assigns.

Section 8. Firearms. No firearms of any sort, including, but not by way of limitation, pellet guns and B-B guns shall be discharged on the subject property.

Section 9. Lot Maintenance. All lots and/or buildings, whether occupied or unoccupied, shall be well maintained and no unattractive growth or accumulation of rubbish or debris shall be permitted.

Section 10. Commercial and Business Uses Limited. No manufacturing, commercial or business enterprise or enterprises of any kind for profit shall be maintained on, in front of or in connection with the Properties, nor shall such property in any way be used other than for strictly residential or educational purposes, except as expressly permitted below. The purpose of this Article and its qualifications is to preserve the quiet nature of the property and minimize traffic by prohibiting business or other services that cater to the general public in unspecified intensity. Residents must apply to the Association and to Durham County, if applicable, for permission to operate a business out of their home with the following conditions:

(a) Residents may practice a profession in home offices so long as such activities are conducted within the dwelling unit of the professional, and provided no more than two (2) persons may be employed on the premises by the professional and provided clients are seen only on an appointment basis not more than five (5) days a week, not on weekends, and at no greater frequency than eight (8) client visits per day.

(b) Residents may teach students in a home provided that no adjoining property Owners object, provided however that this shall in no way prevent a resident from providing child care for residents of this subdivision or adjacent subdivisions.

Section 11. Buildings. No buildings of any kind may be constructed within the building setbacks as shown in the above referenced recorded plat.

Section 12. Outdoor Lights. No mercury, sodium or other gas vapor lights shall be used outside enclosed buildings. Further, all outdoor lights shall be shaded or hooded in such a way that no direct rays are shown in any area within twenty-five (25) feet of a property line.

Section 13. Motor Vehicles. No motorcycles, mini bikes, trail bikes or other motor powered leisure vehicles may be operated on any part of these entire premises described in Article n. No motor vehicles that are not functional and currently licensed may be parked or stored outside an enclosed building for more than one (1) week within the subdivision.

Section 14. Sound. There shall be no electric or electronic amplification of sound or music at a volume which may be heard from any adjoining lot or parcel, provided that with the special permission of affected adjacent and nearby property Owners, parties may make and amplify sound in excess of the above restrictions for special occasions.

Section 15. Waste. Garbage or waste materials such as plastics, metal and glass shall be removed from the property at least twice a month. No non-operative or unlicensed vehicles shall be kept for spare parts or other reasons unless kept in covered sheds or enclosed buildings.

Section 16. Exculpation. It shall be understood that each lot Owner as a member in the



Association has an interest in all of the Common Area, and that the risk of any injury arising out of the use of the Common Area by any Owner, family member, friend or visitor, shall be assumed by each Lot Owner. All Owners agree that in the event of such injury, no one shall hold liable any or all Lot Owners of the Association or the Declarant.

## ARTICLE VII

### EASEMENTS

Easements for installation and maintenance of utilities and drainage facilities are reserved in favor of Declarant, its successors and assigns, as shown on the plat(s) recorded or to be recorded by Declarant. Within these easements no structure, 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 easements, or which may obstruct or retard the flow of water through drainage channels in the easements.

Declarant reserves the right to relocate easements for installation and maintenance of utilities and drainage facilities by so indicating on subsequent plats the new location of such easement over and across portions of said property owned by Declarant, and to extinguish the easements reserved across the old location by recordation of a Declaration of Withdrawal thereof in the Durham County Registry; provided however, that Declarant may not withdraw, terminate, or relocate any easements in such a manner as would impair the vested rights of any Lot Owner.

The Declarant reserves unto itself, in gross, temporary construction easements until such time as all improvements required by Durham County or the State of North Carolina have been completed by Declarant, over and across each lot, being a thirty (30) foot wide strip of land along the front lot line and a twenty (20) foot wide strip of land along the side and rear lot lines of each lot. Declarant

shall notify each lot owner in writing when such improvements have been completed and shall restore such temporary construction easements to a graded and smooth condition.

## ARTICLE VIII

### INSURANCE

Section 1. Ownership of Policies. Contracts of insurance upon the Common Areas may be purchased by the Association for the benefit of the Association, and the Owners and their mortgagees, as their interests may appear. All improvements upon the Common Areas and all personal property of the Association may be insured in an amount up to one hundred percent (100%) of their insurable replacement value as determined annually by the Association. Such coverage shall provide protection against loss or damage by fire or other hazards covered by standard extended coverage endorsement and such other risks as from time to time shall be customarily covered with respect to buildings or permanent improvements upon the land. Further, the Association may require that all persons responsible for or authorized to expend funds or otherwise deal in assets of the Association shall first be bonded by a Fidelity Insurer to indemnify the Association from any loss by reason or default in the performance of their duties. Such Fidelity Insurance or Bond may be obtained at the expense of the Association. Public liability insurance may be secured by the Association with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence, and any such insurance shall include an endorsement to cover liability of the Owners as a group to anyone or more of the Owners. There may also be obtained such other insurance coverage as the Association shall determine from time to time to be desirable and necessary, and all insurance policies shall contain clauses providing for waiver of subrogation, if possible. Premiums for contracts of insurance purchased by the Association shall be paid by the Association and charged to the Owners prorata as part of the dues and

assessments provided herein. In its discretion the Association may require that all persons responsible for or authorized to expend funds or otherwise deal in the assets of the Association shall first be bonded by a Fidelity Insurer to indemnify the Association from any loss by reason of default in the performance of their duties. Such fidelity insurance or bond may be obtained at the expense of the Association.

Section 2. Premiums. Premiums for contracts of insurance purchased by the Association shall be paid by the Association and charged ratably to the Owners as an assessment according to the provisions of Article V above.

Section 3. Proceeds. All contracts of insurance purchased by the Association shall be for the benefit of the Association, the Owners and their mortgagees, as their interests may appear, and shall provide that all proceeds thereof shall be payable to the Association as insurance trustee under this Declaration. The sole duty of the Association as insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein or stated in the By-laws.

## ARTICLE IX

### BINDING NATURE OF DECLARATION

The covenants, conditions and restrictions contained in this Declaration, both negative and affirmative, and including but not limited to the covenants to pay dues and assessments, shall be construed to be covenants running with the land covered by this Declaration. Each Lot and the Owner of each Lot covered hereby, or any other person or legal entity claiming an interest in any Lot, and his heirs, executors, administrators, successors and assigns, shall be subject to and bound by all

of such covenants, conditions and restrictions, regardless of when, in what manner, or from whom any Lot is acquired.

## ARTICLE X

### GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Any person who must take legal action to obtain compliance may recover as minimum damages for the breach of any of these restrictions the sum of Five Hundred Dollars (\$500.00) for any such breach; provided that this minimum shall increase at the same rate as the increase from the date of this document of the Consumer Price Index maintained by the federal government, or, if such Index is not kept, then any index of general inflation in consumer prices kept by federal or state government.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Headings. Headings are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular paragraphs to which they refer.

Section 4. Duration and Amendment. The covenants and restrictions of this Declaration shall run with 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 often (10) years. This Declaration may be amended by an instrument signed by the Owners of not less than two-thirds of the Lots, subject to the rights of the Eligible Mortgage Holders as provided that no amendment shall alter any obligation to pay ad valorem taxes or assessments for public improvements, as herein provided, or affect any lien for the payment thereof established herein. Any amendment must be properly recorded.

Section 5. If any amendment to these covenants, conditions and restrictions is duly executed, each such amendment shall be delivered to the Board of Directors of this Association. Thereupon, the Board of Directors shall, within thirty (30) days, do the following:

(a) Reasonably assure itself that the amendment has been validly executed by the Owners of the required number of Lots. (For this purpose, the Board may rely on its roster of members and shall not be required to cause any title to any Lot to be examined.)

(b) Attach to the amendment a certification as to its validity, which certification shall be executed by the Association in the same manner that deeds are executed. The following form of certification is suggested:

\*\* Unofficial Document \*\*  
See Last Page Disclaimer

CERTIFICATION OF VALIDITY OF AMENDMENT TO COVENANTS.  
CONDITIONS AND RESTRICTIONS OF  
HOPE VALLEY GREEN SUBDIVISION

By authority of its Board of Directors, Hope Valley Green Homeowners' Association, Inc. hereby certifies that the foregoing instrument has been duly executed by the Owners of two-thirds of the Lots of Hope Valley Green Subdivision and is, therefore, a valid amendment to the existing covenants, conditions and restrictions of the Subdivision.

This the \_ day of \_\_\_\_\_, 19\_\_.

HOPE VALLEY GREEN HOMEOWNERS' ASSOCIATION, INC.

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

Attest: \_\_\_\_\_  
Secretary

(c) Immediately, and within the thirty (30) day period aforesaid, cause the amendment to be recorded in the Durham County Registry.

All amendments shall be effective from the date of the recordation in the said Registry, provided, however, that no such instrument shall be valid until it has been indexed in the name of the Association. When any instrument purporting to amend the covenants, conditions, and restrictions have been certified by the Board of Directors, recorded, and indexed as provided by this Section, it shall be conclusively presumed that such instrument constitutes a valid amendment as to all persons thereafter purchasing any Lots.

Section 6. Rights of Eligible Mortgage Holders. Any Eligible Mortgage Holder will, upon request, be entitled to (a) inspect the books and records of the Association during normal business hours, (b) receive copies of the Declaration, Bylaws, Rules & Regulations, and any amendments

thereto, and (c) receive written notice of all meetings of the Association and the right to designate a representation to attend all such meetings. Such Eligible Mortgage Holder shall also be entitled to timely written notice of (a) any condemnation or casualty loss that affects either a material portion of the project or the Lot secured by its mortgage, (b) any 60-day delinquency in the payment of assessments or charges owed by the Owner of any Lot on which it holds the mortgage, (c) a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association, or (d) any proposed action that requires the consent of a percentage of the Eligible Mortgage Holders. Amendments of a material nature must be approved by Eligible Mortgage Holders representing at least fifty-one percent (51%) of the votes of Lots subject to mortgages held by Eligible Mortgage Holders. A change to any of the following would be considered as material: (a) voting rights; (b) assessments, assessment liens, or subordination of assessment liens; (c) reserves for maintenance, repair, and replacement of common areas; (d) responsibility for maintenance and repairs; (e) expansion or contraction of the project, or annexation of property; (f) insurance or fidelity bonds; (g) imposition of any restrictions on an Owner's right to sell, mortgage, or lease his Lot; of (h) an action to terminate the legal status of the project or the Association (in which case the Eligible Mortgage Holders representing at least two-thirds of the votes of the mortgaged Lots must agree).

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See Last Page

IN WITNESS WHEREOF, the Declarant has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

PROVIDENCE CENTER CORPORATION

BY: \_\_\_\_\_  
President

ATTEST: \_\_\_\_\_  
Secretary

[corporate seal]

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

I, (Signed - Rachel A. Graham) a Notary Public for the County and State aforesaid, do hereby certify that (Signed - Mary Bryan Adair) personally appeared before me this day and acknowledged that \_\_\_she is\_\_\_ Secretary of Providence Center Corporation, a North Carolina Corporation, and that by authority duly given and as an act of the corporation, the foregoing instrument was signed in its name by its \_\_\_\_\_ President, sealed with its corporate seal and attested by her self as its \_\_\_\_\_ Secretary.

Witness my hand and official stamp or seal this 15th day of September, 1997

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

My Commission Expires: \_\_\_ 11/20/99



EXHIBIT A

DESCRIPTION OF PROPERTY  
SUBJECT TO DECLARATION

Being all of that certain property shown and described as "Hope Valley Green, Phase I" on plat recorded in Plat Book 138, Page 190, Durham County Registry.

EXHIBIT B

DESCRIPTION OF COMMON AREAS  
SUBJECT TO DECLARATION

The following property shall constitute the Common Area, subject however, to (1) annexation of additional land pursuant to Article H of the Declaration and (2) substitution of a modified legal description of any Common Area by Declarant as provided in Article DDL, Section 3.

BEING all of that property shown and delineated as "Variable Width Landscape Easement" and the "Open Space 1.364 Acres" as shown on the plat for Hope Valley Green Phase I, as recorded in Plat Book 138, Page 190, Durham County Registry, to which reference is made for a more accurate description of same.

## **DISCLAIMER**

The OFFICIAL Declaration of Covenants, Conditions and Restrictions for Hope Valley Green Subdivision is recorded on Pages 705 through 729 of Book 2365 in the Durham County Register of Deeds.

This document is a SCAN of the OFFICIAL covenants document and may have errors. It is provided solely for the convenience of the homeowners of Hope Valley Green to provide an easily readable and searchable version of our covenants. In the event that there is a discrepancy between the OFFICIAL document and this scanned document, the OFFICIAL document shall be considered correct.

Hard copies of the OFFICIAL covenants document are available from the Hope Valley Green Homeowners Association board of directors and the Architectural Review Board.

**\*\* Unofficial Document  
See Last Page Disclaimer**