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SUNSET POINTE AT HIGH ROCK LAKE

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS**

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STATE OF NORTH CAROLINA

COUNTY OF ROWAN

SUNSET POINTE AT HIGH ROCK LAKE
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICITONS made this 30th day of November 2005, by HIGH ROCK DEVELOPMENT COMPANY, LLC. which is seized of the fee simple estate in that real property located in Rowan County, North Carolina described in the following Article II, Section I;

WITNESSETH THAT

In order to (1) create a restricted, structured and high quality residential environment; (2) provide for high quality design of homes, site arrangements, and amenities; (3) assure a satisfactory integration of the Subdivision into the surrounding area; (4) enhance general development within the Subdivision; (5) enhance the value, marketability, and quality of all property within the Subdivision; (6) prevent construction of inappropriate Improvements; (7) provide for compliance with Applicable Laws concerning zoning, construction, safety, the public welfare and environment; (8) provide for an association of property owners within the Subdivision (which will own and maintain Common Area including Private Roads); and (9) provide the owners of Lots with the best possible value for their investment and to protect that investment; HIGH ROCK DEVELOPMENT COMPANY, LLC ., does hereby, for the use and benefit of itself and its successors and assigns, **DECLARE, RESERVE AND IMPOSE** upon the property described in the following Article II, Section I, the following conditions, covenants, reservations, easements and restrictions., and

WHEREAS THESE COVENANTS, CONDITIONS AND RESTRICTIONS replace and supercede the document recorded in Deed Book 1052, Page 593, Rowan County Registry.

ARTICLE I Definitions

Words or phrases defined in this Article I shall be interpreted in accordance with that defined meaning whenever those words or phrases are used in this Declaration.

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- (a) **Additional Property** – Any real property subjected to this Declaration in addition to that 165 acres (approximately) described in Article II, Section I. The procedure for adding Additional Property is described in Article II, Section 3.
- (b) **Amenity Area** – Any area within the Property which Declarant may hereafter designate as Common Area for the purpose of erecting, at Declarant's cost, facilities or amenities for the common use of Owners, Occupants, and their invitees and guests. Such facilities may include play areas, dry boat parking, open areas and the like.
- (c) **Applicable Laws** – All enforceable laws, regulations and ordinances effective in the County of Rowan, the State of North Carolina, and the United States of America including all zoning regulations as well as sign, street, tree and floodway ordinances; land use, High Rock Lake watershed development, environmental resources, and hazardous materials laws; and such other laws of all appropriate jurisdictions as may affect the Subdivision.
- (d) **Architectural and Site Guidelines** – Those rules, regulations and guidelines promulgated from time to time by the Architectural Review Committee pursuant to the power set forth in Article VIII, Section 3. All Architectural and Site Guidelines, whenever promulgated shall have the same force and effect as if they were originally set forth in this Declaration as Restrictions.
- (e) **Association** – Sunset Pointe at High Rock Lake Home Owners Association, Inc., a North Carolina not-for-profit corporation which has been formed by Declarant, and managed by Sunset Pointe Management, LLC
- (f) **Buffer Area** – That portion of any Lot within One Hundred feet (100') of: [i] the 655' contour line of High Rock Lake as defined by Yarkin, Inc. or its successors from time to time; or (ii) the land-ward side of any rip rap or other shore stabilization improvements installed in accordance with Applicable Laws and the approval of Yakin, Inc. or its successors. This is a protected zone subject to strict limitations upon development, clearing and use as stated herein and in Applicable Laws.
- (g) **Bylaws** – Bylaws shall mean the Bylaws for the Association adopted by the initial Board of Directors of the Association.
- (h) **Committee** – The Architectural Review Committee established pursuant to Article VIII.
- (i) **Common Area or Common Areas** – Common Area or Common Areas shall mean any Amenity Area, Entrance Monument, General Monuments as described in Article XIV, Section 5, Private Roads and any other property designated on the Map as "Common Area", "Common Open Space", "COS", "Septic Easement for Lot ##", or like designation, and any other property designated as Common Area in this Declaration, and amendment or supplement hereto or deed from the Declarant (**the preceding listing and description of possible components of the Common Area is illustrative only**). Both before and after those dates when Declarant conveys Common Area to the Association, all Common Areas shall be maintained by Sunset Pointe Management (subject to the rights of the Declarant

provided for in this Declaration) for the common use, benefit and enjoyment of the Owners, or of only certain Owners to the exclusion of other Owners, as designated in this Declaration. The Declarant reserves the right, but not the obligation, to provide additional Common Areas within the Subdivision. Lots owned by Declarant may be converted to additional Common Areas within the Subdivision. Lots owned by Declarant may be converted to Common Areas at Declarant's election by Filing of an amended Map indicating such conversion or the conveyance of the Lot to the Association by deed reciting that the Lot is thereby made Common Area. The term "Common Area" as used in this Declaration includes all real estate that would be defined as "common elements" in the Planned Community Act at the time this Declaration is filed.

- (j) **Declarant** – HIGH ROCK DEVELOPMENT COMPANY, LLC. or an assignee of the powers granted herein to Sunset Pointe Management, LLC.
- (k) **Declaration** – This Declaration of Covenants, Conditions and Restrictions (and any future amendments or supplements) as executed by the Declarant and Filed.
- (l) **Entrance Monument** – Entrance Monument shall mean and refer to any monument and entrance sign located thereon, together with lighting, irrigation system, landscaping and other improvements, which may be constructed as an entryway for the Subdivision.
- (m) **File** – Recording in the Office of the Register of Deeds for Rowan County, North Carolina.
- (n) **Half Story** – means a story, which contains fifty percent (50%) or less heated Living Area than the story in the house containing the most Heated Living Area.
- (o) **Heated Living Area** – as applied to a residential dwelling, excludes:

Basement areas (defined as any level in which at least one perimeter wall is below, or partially below, grade), unless such basement areas have two or more perimeter walls above surrounding grade, and such basement areas are fully heated and air-conditioned and have interiors finished to a quality equal to the above grade levels of the dwelling;

Vaulted ceilings areas;

Attics;

Unheated porches;

Attached garages;

Porte-cocheres;

Unheated storage areas;

Decks; and

Patios.

- (p) **Improvements** – All buildings, underground installations, roads, driveways, parking areas, fences, screens, retaining walls, stairs, decks, windbreaks, plantings (excluding ground covers, grass, flower beds, and shrubbery with expected height at maturity of less than

three feet), poles, signs, piers, docks, cuts and fills, and all other structures or landscaping improvements of every variety and nature.

- (q) **Interior Lots** – Interior Lots shall mean those lots in the Subdivision, if any, which are not Waterfront Lots.
- (r) **Lot** – Lot or Lots shall mean the separately numbered, single-family lots depicted on the Map, including all Waterfront Lots and Interior Lots, but not including any Common Areas.
- (s) **Map** – Map shall mean (i) the plats of Sunset Pointe at High Rock Lake Filed in Book of Maps, Book number 9995 at Page 5598, Sheets 1-6, in the Office of the Rowan County Register of Deeds, North Carolina; (ii) any Filed plats of other portions of the Property described in Article II, Section 1, for the purpose of subdividing those lands into Lots, dedicating roadways or Common Area, or any other purpose; (iii) any Filed plats of Additional Property subjected to this Declaration, and (iv) any revisions of such Filed map or maps.
- (t) **Mortgage** – Any deed of trust, security interest, lien or other encumbrance resulting from a monetary obligation of an Owner or other party in interest, which attaches to any Lot and is perfected or Filed.
- (u) **Occupant** – Any party, whether or not an Owner, who is regularly present upon a Lot pursuant to either express or implied license or right.
- (v) **Offsite Septic Lot** – Offsite Septic Lot shall mean any Lot, designated as such on the Map, which shall have the right to utilize all or a portion of the Septic Easement Areas for its Septic System.
- (w) **Outbuilding**. A storage building, workshop, utility building, greenhouse or any similar buildings WHICH ARE SPECIFICALLY APPROVED BY THE COMMITTEE for construction upon any Lot. The Committee may exercise its discretion and may withhold approval of any such proposed structure which is not in keeping with the standard of construction and appearance of Sunset Pointe at High Rock Lake
- (x) **Owner** – Any person or entity other than Declarant who holds the fee simple title to any Lot individually or as a co-owner. The Declarant is not deemed an “Owner”.
- (y) **Parking Area** – Parking Area Shall mean any parking lot, which may be constructed for the common use, benefit and enjoyment of some or all Owners, their families, guests and invitees.
- (z) **Planned Community Act** – The North Carolina Planned Community Act, North Carolina General Statutes Chapter 47E, as amended hereafter, and any successor Statute which is enacted to amend or replace Chapter 47E.

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- (aa) Private Road(s) – Private Road(s) shall mean any roads or streets constructed by Declarant. The phrase “Private Roads” shall not include any common driveways, which are employed solely for the use of a limited number of lots pursuant to a driveway easement and maintenance agreement whether such agreement is set forth in this Declaration or in a separate instrument.
- (bb) Property – All that real estate described in Article II, Section I, plus such other real estate which may be additionally made subject to this Declaration as provided in Article II, Section 3.
- (cc) Rear Setback – The Setback Distance from a rear (opposite the street side) boundary line of a Lot, which shall be at least 100’ on all Lots with the additional limitation that the Rear Setback shall be 100ft from the 655 contour line of High Rock Lake.
- (dd) Setback Distance – The distance between either a Lot boundary line or the edge of a Private Road or public roadway right of way, to a line within the Lot and parallel to the boundary line or the right of way, and within which distance no buildings, as more specifically described in Article X, Section 5, are permitted. Setback distances shall be the larger of the setbacks (rear, side, street or waterfront) defined in this Declaration, or as noted on the Map for any specific Lot.
- (ee) Septic Easement – The easement burdening the Septic Easement Areas for the benefit of an Offsite Septic Lot. Said easement permits the Offsite Septic Lot to install a Septic System and to discharge effluent from that Septic System into a drainage field within the appurtenant Septic Easement Area.
- (ff) Septic Easement Area – Septic Easement Area shall mean those areas burdened by the Septic Easements as reserved and declared herein or which are identified on the Map as a “Septic Easement”, “COS Septic”, or similar identifying nomenclature.
- (gg) Septic System – Septic System shall mean any and all piping, lines, pumps, equipment or other systems used to transport sewage from the offsite Septic Lots to the Septic Easement Areas, including any drainage field and equipment actually installed within the Septic Easement Areas.
- (hh) Side Setback – The Setback Distance from a side boundary line of a Lot, which shall be not less than 10 feet.
- (ii) Story – shall mean a finished horizontal division of Heated Living Area in a dwelling extending from the floor of such division to the ceiling above it.
- (jj) Street Setback – The Setback Distance from the edge of a street right of way (whether a public right of way or Private Road), which shall not be less than 30’.
- (kk) Subdivision – All property described in Article II, Section 1, any Additional Property added and made subject to this Declaration as provided in Article II, Section 3, and such

residential lots, streets, Amenities, and Improvements as shall come to be constructed therein, also know as "Sunset Pointe at High Rock Lake".

- (ll) Utilities – Those lines and services in the nature of electric, telephone, catv, water, sewer, and natural gas which may be laid or distributed throughout the Subdivision.
- (mm) Waterfront Lot – Waterfront Lot shall mean any Lot having at Least 100' of shoreline on High Rock Lake at the 655' elevation line.

ARTICLE II

Property

Section 1. Description. The real property initially subjected to this Declaration is shown on the Map recorded in Book of Maps 9995, at Page 5598, Sheets 1-6, in the Office of the Register of Deeds for Rowan County, and those areas labeled as "Common Open Space".

Section 2. Subdivision Name. The property, the homes constructed therein and the amenities and infrastructure of the Subdivision shall henceforth, collectively, be known as "Sunset Pointe at High Rock Lake".

Section 3. Additions. At any time hereafter, Declarant may add additional real estate to the Property, which additional real estate shall be subject to this Declaration upon the Filing of amended or supplementary declarations. Upon the Filing of such amended or supplementary declaration, the real estate added to the Property shall be subject to and entitled to the benefit of this Declaration and all terms of the subsequent supplementary or amended declarations.

Section 4. Form of Amendment. Each amendment or supplementary declaration as referred to immediately above shall contain the following provisions:

- (a) Reference to this Declaration and the date, book and page of its Filing in Rowan County, North Carolina;
- (b) A precise legal description of the additional real estate (if any);
- (c) Language subjecting the additional real estate (if any) to this Declaration and its subsequent amendments or supplementary declarations; and
- (d) Such other covenants, restrictions or easements as Declarant shall, in its discretion, additionally impose upon the subject real estate.

Section 5. Adjacent Property Not Specifically Described. From time to time, Declarant, its predecessors or successors, may hold title or other interests in real estate adjacent to the Property. Unless such adjacent property is specifically described or included in Article II, Section 1 or the legal description of future supplementary or amended declarations, such adjacent real estate shall not be deemed a part of the Property or the Subdivision.



ARTICLE III Declaration

The Property shall hereafter be held, sold, leased, transferred, conveyed and encumbered subject to the herein contained covenants, conditions, restrictions, reservations, and easements which: (1) are made for the direct, mutual and reciprocal benefit of each and every portion of the Property and shall create mutual, equitable servitudes upon each part of the Property in favor of every other part of the Property; (2) create reciprocal rights and obligations between the respective Owners and privity of estate between all grantees of portions of the Property, their successors and assigns; (3) shall operate as covenants running with the land; and (4) shall inure to the benefit of Declarant and each Owner. By acceptance of any deed conveying title to a portions of the Property, execution of a contract of purchase or acceptance of a lease or license concerning any portion of the Property or by taking possession of any portion of the Property; whether from Declarant or a subsequent owner or lessee, any future owner, lessee, licensee or occupant shall accept such deed, contract, lease, license or possession upon and subject to each and all of the covenants, conditions, restrictions, reservations and easements set forth herein. Each person or entity who hereafter owns or acquires any right, title or interest in or to any portion of the Property shall be conclusively deemed to have consented and agreed to the covenants, conditions, restrictions, reservations and easements set forth herein, and in all future supplementary or amended Declarations, whether or not any reference thereto is contained in the instrument by which such person or entity acquires an interest in the Property.

ARTICLE IV Common Area

Section 1. Ownership of Common Areas. Declarant shall, not later than the date when 85% of all Lots have been sold to Owners, convey to the Association by Special Warranty Deed any Common Areas, which are to be owned and maintained by the Associations. The Declarant reserves the right to construct: (i) Parking Areas (ii) one or more Entrance Monuments to be located within the Subdivision; (iii) Private Roads; (iv) Septic Systems; (v) one or more Amenity Areas for the use and enjoyment of the Owners who are entitled to the use of such Common Areas as provided in this Declaration. So long as Declarant holds fee simple title to any portion of the Common Area, the Declarant may subject that portion of the Common Area to a Septic Easement by Filing a revision to the map identifying such Septic Easement Area. In addition to Septic Easements, Common Areas may be used for burial of stumps (but not within Septic Easement Areas) by Declarant during initial construction of the Subdivision provided such use is accomplished in compliance with the Rowan County Solid Waste Ordinance and other Applicable Laws. All Common Areas shall remain private property and shall not be dedicated to the use and enjoyment of the general public.

Section 2. Owner's Rights to Use and Enjoy Common Areas. Each Owner shall have the non-exclusive easement and right to use and enjoy the Common Areas, and such right shall be appurtenant to an conveyed with title to such Owner's Lot, subject to the following:

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- (a) The Association shall have the right to promulgate and enforce reasonable rules and regulations to insure reasonable availability of the right to use the Common Areas to the Owners and the safety of Owners on the Common Area;
- (b) The Association shall have the right to suspend the voting rights of an Owner in the Association and the right of the Association to suspend the right to use certain or all of the Common Areas by an Owner for any period during which any assessment against the Owner's Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;
- (c) The Declarant or the Association shall have the right to grant utility, drainage, septic and other easements across the Common Areas; and
- (d) The right of the Declarant or the Association to restrict the use of certain Common Areas to specific designated Owners as described in this Declaration.

Section 3. Delegation of Use. Any Owner may delegate, subject to the rules promulgated by the Association, the Owner's right of enjoyment to certain Common Areas and facilities located thereon to the members of the Owner's family, guests or invitees.

Section 4. Rights in the Private Roads. When Private Roads are constructed within the Subdivision each Owner, the Declarant, the Association, and their successors and assigns, are hereby granted the perpetual, non-exclusive right to use the Private Roads for the purpose of pedestrian and vehicular access, ingress, egress and regress to and from each Lot and the Common Areas, and for the installation and maintenance of drainage facilities and other utilities facilities to serve the Lots. Although not planned at this time, the private easements granted herein shall terminate at such time as any Private Roads are accepted for maintenance by state or municipal authorities, at which time, the Private Roads shall become publicly maintained roads which shall no longer be maintained by the Association. Declarant or the Association may, without notice, remove any obstructions of any nature located within the Private Roads (including but not limited to building materials, trees, shrubs, and mailboxes), which, in the opinion of the Declarant or association, create a safety hazard.

Section 5. Prohibited Activities in Common Areas or entire Subdivision. Common Area shall not be used for off-road motorized vehicles including motorcycles, "four-wheelers", ATV's, or the like. No hunting or trapping of any wild life, including but not limited to, ducks, geese, other birds, small game, or deer shall be permitted within the Common Area.

The Association shall have authority to create and implement reasonable rules from time to time concerning the use and enjoyment of all Common Areas.

ARTICLE V Property Owner's Association

Section 1. Membership. The Declarant and every Owner shall be a Member of the Association. Membership is appurtenant to the ownership of each Lot and is only available to the Declarant and

Owners. Membership shall be extinguished upon the complete transfer of all Property held by any Member.

Section 2. Classes of Membership.

- (a) Owners Class Membership. The Owners Class Members shall consist of all Owners.
- (b) Founders Class Membership. The Declarant or its successor or assign only, shall be the sole Founders Class Member. The Founders Class Membership shall terminate at such time as Declarant has conveyed all of its interest in the Property (including any Additional Property).

Section 3. Duties. The Association will maintain in its files up-to-date copies of its organizational documents, the Declaration, rules concerning use of the Common Areas, financial records, records of the current ownership of the Lots, and such other documentation and records as are necessary for its management and oversight functions or as required by the Planned Community Act. All documentation maintained by the Association shall be available to the Owners for inspection during Association business hours upon reasonable notice. The Association may employ an individual or business entity to act as managing agent. The length of engagement and the compensation to be paid to such managing agent shall be determined by the Founders Class Members of the Association.

Beginning on a date selected by the Association which shall not be earlier than January 1st 2006, (the "Assessment Start Date") the Association may begin collection of annual assessments from each Owner for maintenance of any Common Areas and all other permissible purposes.

Prior to the Assessment Start Date, the Common Areas shall be maintained by the Declarant, but after such date, the Common Areas shall be maintained by the Association, except that Declarant reserves the right, at Declarant's discretion, to repair or maintain any portion of the Common Areas which Declarant, in good faith, determines is not maintained to acceptable standards and shall be reimbursed for such maintenance by the Association (but see Article VII, Section 9).

Maintenance of Common Areas, which shall be the duty of the Association, includes (by way of example) the following:

- (a) Maintenance of any Entrance Monument, including irrigation, plantings of both permanent and seasonal nature, lighting, mowing, weeding, other landscaping, utility charges for irrigation and lighting, maintenance of signage;
- (b) Liability insurance shall be maintained upon all portions of the Common Areas, with such companies and in such coverage amounts as the Founder Class Members may deem appropriate; and
- (c) The Common Areas, including any Private Roads, open areas, playgrounds and Amenities (if any), shall be kept in a clean and orderly condition, grass neatly

mowed and otherwise landscaped with appropriate irrigation. Utility bills for lighting and irrigation and the cost of maintenance and repair of any pathways, facilities, and the like, shall be appropriate expenditures for the Association.

The Association is charged with the duty to establish and maintain adequate reserve funds for periodic repair, reconstruction or replacement of portions of the Common Area which may occur on an irregular basis.

ARTICLE VI

Voting

Section 1. Owners Class. The Owners of each Lot, Patio Home or Condominium shall be entitled to one (1) vote for that Lot, Home or Condominium. The vote for any one Lot owned by more than one person or entity shall be exercised as they among themselves shall determine, but in no event shall the vote or votes with respect to any jointly owned Lot be split or cast separately.

Section 2. Founders Class. The Declarant shall be entitled to four (4) votes for each Lot owned by the Declarant.

Section 3. Actions. Special Assessments may only be assessed upon receiving seventy-five percent (75%) of a vote.

Section 4. Period of Declarant Control. For a period ending not earlier than one year following the recordation of this Declaration, and for so long as the Declarant owns at least ten (10) Lots in the Subdivision, the Declarant shall have the exclusive authority to designate, appoint and remove all members of the Association's Board of Directors and Officers. To the fullest extent permitted by the Planned Community Act, no Director or Officer appointed by the Declarant shall be removed by the Members or Board of Directors. The time period during which the Declarant holds the exclusive authority to appoint and remove members of the Board of Directors and Officers may be referred to in this Declaration and the Associations Bylaws as the "Period of Declarant Control".

ARTICLE VII

Assessments

Section 1. Creation of Lien and Personal Obligation of Assessments. Each Owner shall, by acceptance of a conveyance of a Lot, whether or not it is so expressed in any conveyance, be deemed to covenant and agree to all the terms and provisions of this Declaration specifically including the duty to pay the Association both Annual and Special Assessments ("Annual Assessments" and "Special Assessments") and charges as hereinafter provided. The Annual and Special Assessments and charges, together with such interest thereon and costs of collection as are hereinafter provided, shall be a charge and continuing lien upon the Lot against which assessment is made as of the effective date of said assessment. Each assessment, together with interest thereon and any costs of collection, shall also be the personal obligation of the person or entity who was Owner of such Lot at the time when the assessment became due. In the case of co-ownership of a

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Lot, all of such co-owners shall be jointly and severally liable for the entire amount of any assessment.

Section 2. Purpose of Annual Assessments. The Annual Assessments levied by the Association shall be used for the improvement, maintenance, operation, repair, replacement of and additions to the Common Area, including, but not limited to, the payment of taxes and insurance thereon, the payment of utility charges related thereto (including water for any sprinkler or irrigation systems), maintaining, operating and improving (but not initial construction) of Private Roads and other Common Area facilities and amenities, collection and disposal of garbage, rubbish and the like, employing security service, maintenance personnel and for the cost of labor, equipment, materials, and the management and supervision thereof. Declarant may employ a related entity or entities to manage the maintenance operation and repair of the Common Area. In addition, the Association may use Annual Assessments for the purpose of doing other things necessary or desirable, in the discretion of the Association, to keep Common Area facilities and amenities in neat and good order, to provide for the health, welfare and safety of the Owners and Occupants of the Property (including payment of fees to a management company to assist in the affairs of the Association), to advance or maintain the general appearance and function of the Subdivision, and to carry out the goals described in the preliminary statement of this Declaration.

Without limiting the general statements set forth in the immediately preceding paragraph, Annual Assessments shall specifically be used as follows:

- (a) To repair, maintain, reconstruct (when necessary), keep clean and free from debris, the Common Areas (see Article V, Section 3 concerning Common Area Maintenance) and any amenities and Improvements located thereon, including but not limited to the Private Roads, Entrance Monument and Septic Easement Areas, and to maintain the landscaping thereon in accordance with the highest standards for private parks, including any necessary removal or replacement of landscaping;
- (b) To maintain and repair the road shoulder and drainage facilities of any public roadways within or adjoining the Subdivision to the standards of maintenance (if one is ascertainable) required by the North Carolina Department of Transportation or to such standards as are deemed appropriate by the Association. (see easement reserved in Article XIV, Section 5).
- (c) To pay all costs (except initial construction and installation during the Period of Declarant Control), associated with any street lights, Entrance Monument, or similar Common Area amenities, including but not limited to, lease payments and utility costs;
- (d) To pay all ad valorem taxes levied against the Common Areas and any other property owned by the Association;
- (e) To pay the premiums on all insurance carried by the Association pursuant hereto or pursuant to the Bylaws;

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- (f) To pay all legal, accounting, and other professional fees incurred by the Association in carrying out its duties as set forth herein or in the Bylaws; and
- (g) To maintain contingency reserves as to the amounts described in the subsection (a) and (b) above for the purposes set forth in this Section 2 in amounts determined by the Board of Directors of the Association.
- (h) Operating expenses, maintenance and repair of the drip septic offsite system, and all supply lines to the system, are covered by this assessment.

By acceptance of any conveyance of any Lot, each Owner acknowledges that neither the precise location, acreage or dimensions of the Common Area, nor the type of amenities, Improvements and structures to be located within the Common Area (if any) will be specifically defined until such are conveyed to the Association.

Section 3. Maximum Annual Assessment. The initial maximum Annual Assessment shall be Eight Hundred Ninety Five dollars (\$895.00) for each Lot, with fraction of the calendar year to be computed and prorated equitably. For each calendar year after the initial year, the maximum Annual Assessment may be increased by the Association at the rate of up to fifteen percent (15%) of the prior year's assessment. In the event the Annual Assessment is not increased by the maximum amount permitted during any calendar years, the difference between any actual increase and the maximum permitted increase for such years shall be computed, and the Annual Assessment may be increased by that amount in the future year, in addition to the maximum increase otherwise permitted. The fifteen percent (15%) limit on annual increases may be increased for one or more years, but only by a vote of no less than two-thirds (2/3) of the Owners Class Members and with the approval of the Declarant.

Section 4. Supplemental Annual Assessment. In the event the Association fixes the Annual Assessment in an amount less than the permitted maximum Annual Assessment, the Association shall have the right to later increase (the increase being a "Supplemental Annual Assessment") the total Annual Assessment for such calendar year if the Board of Directors determines that the required duties and functions of the Association cannot be funded by the originally determined Annual Assessment. The Association shall set the due date for such Supplemental Annual Assessment which shall not be less than 45 days following after the mailing of notices to the Owners of such Supplemental Annual Assessment. The original Annual Assessment and the Supplemental Annual Assessment shall not, under any circumstance, exceed the permitted maximum Annual Assessment for the subject calendar year.

Section 5. Special Assessments. In addition to the Annual Assessments hereinabove authorized, the Association may levy Special Assessments ("Special Assessments") for the purpose of defraying, in whole or in part: [i] the cost of any reconstruction, unexpected repair or replacement of the Common Area, including the Private Roads; [ii] the cost of legal defense of the Association or its agents (specifically including any management company); or [iii] any lawful purpose permitted under the Planned Community Act.

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Section 6. Surplus Funds. During the Period of Declarant Control, to the fullest extent permitted by the Planned Community Act, the Association shall have no obligation to reimburse any surplus funds to Owners, provided such funds must be retained for future use by the Association.

Section 7. Declarant Obligation to Pay Assessments. The assessments, special assessments, charges and liens provided for by this Declaration shall not apply to the Common Property or any Lot or other property owned by the Declarant including assessments accrued as to any Lots to which Declarant obtains title by deed in lieu of foreclosure, or by foreclosure.

Section 8. Commencement. Assessments shall commence on the date fixed by the Association, as the Assessment Start Date or upon the purchase of a Lot from the Declarant, whichever later occurs. Assessments shall be billed on a calendar year basis with appropriate prorrations.

Section 9. Due Date. Unless otherwise provided herein assessments shall be due and payable in full within 30 days after they are billed to an Owner.

Section 10. Effect of Non-Payment of Assessments. If any assessment is not paid on the date when due, then such assessment shall be delinquent and shall accrue interest thereon at the "prime rate" of interest announced from time to time by The Wall Street Journal, plus two percent (2%) per annum (such rate to change from time to time as The Wall Street Journal prime rate changes) never to exceed a maximum of 18% per annum, unless a lesser rate is required under Applicable Law in which event interest will accrue at the maximum required lesser rate. If such an assessment is not paid within ten (10) days after the due date, then the Association may bring an action at law against the Owner directly and/or foreclose the lien against the Lot, and there shall be added to the amount of such assessments all reasonable attorneys' fees and costs incurred by the Association in such action, and in the event a judgment is obtained, such judgment shall include interest on the Assessments as indicated above.

Section 11. Contribution by Declarant. Declarant agrees to contribute to the Association such funds as may be required to maintain the Common Area, to the extent that the maximum Annual Assessments are insufficient to pay the cost thereof, through the Calendar year 2005.

Section 12. Assessment Rate. General Annual Assessments, Supplemental Annual Assessments and Special Assessments must be fixed at a uniform rate for all Owners' Lots.

Section 13. Right to Borrow. The Association shall have the right and authority to borrow funds, evidenced by one or more promissory notes, for [i] payment of Common Area maintenance subsequent to January 1, 2006, but prior to the time that assessments will cover the reasonable cost of such, and [ii] to pay the costs incurred in adding to recreational facilities or Amenities. Such loans shall be at such interest rates and upon such repayment terms as the Board of Directors (see the Association Bylaws) approves, provided the Association at a called-meeting may grant authorization that limits the authority of the Board in these matters. The Board is specifically authorized to borrow from the Declarant for payment of Common Area maintenance.

ARTICLE VIII

Architectural Review Committee

Section 1. Membership. There is hereby established an Architectural Review Committee whose members will be appointed by the Declarant. The Committee will consist of three (3) members. One of the members must be selected from the following groups: licensed architects, engineers, landscape architects and persons with building construction experience. The second and third members need not have any specific professional certification and may be representatives of the Declarant. Declarant will select the initial membership of the Committee. In the event of future vacancies upon the committee, Declarant shall appoint successor members. Declarant may also appoint members to terms of limited duration or replace any or all members at intervals. By written notice to the Association, Declarant may delegate its power to appoint members of the Committee to the Association. The power to appoint members of the Committee shall automatically be transferred to the Association immediately following the Period of Declarant Control.

Section 2. Duties and Powers. The Committee shall (1) review and act upon proposals and plans submitted to it by Owners pursuant to the terms of this Declaration, (2) adopt Architectural and Site Guidelines, and (3) perform all other duties delegated to and imposed upon it by this Declaration.

Section 3. Architectural and Site Guidelines. The Committee may promulgate certain rules, guidelines and statements of policy which will be known as the "Architectural and Site Guidelines." At all times, the Committee shall maintain copies of the most recently adopted Architectural and Site Guidelines in writing so that copies are available, upon request, to all Owners. Said Guidelines may interpret and implement the provisions of this Declaration by detailing the standards and procedures for review, guidelines for building and site design, landscaping, lighting, parking, exterior materials which may be used, or are required, within the Subdivision. Such guidelines may be interpretations and expansions of, but not in contradiction to, the terms of this Declaration.

Any Architectural and Site Guidelines as well as all such rules, guidelines and statements of policy as may be approved and adopted, from time to time, by the Committee as Architectural and Site Guidelines shall be deemed incorporated as a part of this Declaration.

Section 4. Right of Inspection. Members and agents of the Architectural Review Committee, and the Declarant and its agents may, at any reasonable and safe time enter upon the Lot of any Owner for the purpose of inspecting the Improvements and site development and their compliance with the Architectural and Site Guidelines.

Section 5. Variances. The Committee is hereby authorized and empowered to grant reasonable variances from the provisions of this Declaration or the Architectural and Site Guidelines in order to overcome specific development problems or hardship caused by strict application of the provisions of either this Declaration or the Architectural and Site Guideline. Such variances, however, must not materially injure any of the Property, amenities or Improvements in the Subdivision and must be made in furtherance of the spirit and purpose of this Declaration. The

committee is specifically empowered to, at its sole discretion, grant variances of setback requirements up to ten percent(10%) of the total Setback Distance required. The Committee will not, however, grant any variance for setbacks less than those required by applicable zoning ordinances unless the Owner also obtains a variance from the appropriate governmental authority empowered to grant such variances.

Section 6. Limitation of Scope of Approval. Approval by the Committee of any Improvement or use for a designated Lot shall not be a waiver of the Committee's right to reject a similar or identical Improvement or use upon another Lot (or the same Lot at another time) if such Improvement or use is of a nature that it may be rejected under the terms of this Declaration or the Architectural and Site Guidelines. Similarly, in light of the purpose of this Declaration, approval by the Committee of any specific set of plans does not bind the Committee to approve an identical set of plans submitted at another time.

Section 7. Exoneration of Architectural Review Committee. The Committee shall not be subjected to liability to any Owner or any other party by reason of its failure to enforce any covenant, condition or restriction stated herein. Neither the Committee, nor any member thereof shall be liable for any damage, loss or prejudice suffered or claimed by any person on account of the approval or disapproval of any preliminary plans, plans, drawings or specifications, construction or performance of any work or the development of any Property within the Subdivision.

ARTICLE IX Review Procedures

Section 1. Meeting. The Committee may meet informally, by meeting, telephone, written communication, facsimile transmissions or such other means as the members may agree upon and as may be sufficient to conscientiously, and fully, perform its duties.

Section 2. Materials to be Submitted for Site Plan Approval. Before initiating any construction, alteration of existing Improvements, grading or any site or structural work upon any Lot, the Owner must first submit construction, site and landscape plans plus such other materials as the Committee may request. At a minimum, the plans shall show in detail:

- (a) The grading work to be performed on the Lot;
- (b) The nature, materials and location of all Improvements including buildings, paving, significant plantings and screening;
- (c) Setback Distances; and
- (d) The location of Improvements on adjoining Lots.

The plans shall provide specific detailed information concerning (1) landscaping for the Lot, (2) exterior lighting and (3) a building elevation plan showing dimensions, materials and exterior color scheme.



Section 3. Filing Fee. In order to defray the expense of the Committee, the Committee may require a reasonable fee for review of plans. The initial filing fee shall be Three Hundred Dollars (\$300.00). The filing fee may only be increased to defray actual out-of-pocket costs to the Declarant, such as attendance fees or travel reimbursements to the Committee Members, and in no event may the fee exceed Four Hundred Dollars (\$400.00).

Section 4. Approval Criteria. The Committee shall have the right to disapprove plans, specifications or details submitted to it for any of the following reasons:

- (a) The submission fails to comply with the terms of this Declaration or the Architectural and Site Guidelines (including payment of the review fee);
- (b) Insufficient information or failure to provide detail reasonably requested by the Committee;
- (c) The submission fails to comply with the appropriate zoning ordinance or other Applicable Laws that may be in effect from time to time;
- (d) Objection to the grading plan for any portion of the Lot;
- (e) Objection to the color scheme, finish, proportions, style, height, bulk or appropriateness of any structures; or

Section 5. Time for Review. Upon submission of all detail reasonably requested by the Committee (received in the office of Declarant or other office as designated by Declarant), the submitting Owner shall receive, in writing, the decision of the Committee within (30) business days. Failure of the Committee to render a written decision within thirty (30) business days shall be deemed approval of the submission.

Section 6. Certification of Approval. Upon the request of Owner, the Committee shall confirm its approval of the Owner's plans by issuing a written certificate describing the specific Lot and plans which have been approved.

Section 7. Approval is not a Warranty. Approval of the plans submitted by any Owner or other party to the Committee shall not be construed as a certification or warranty, by either Declarant or the Committee that (1) the plans meet with any minimum standards of suitability for use, (2) are acceptable under any Applicable Laws, (3) conform to any other standards of quality or safety or (4) describe Structures or development which would be safe, prudent or feasible. Neither Declarant, the Committee, nor any member thereof shall be liable for any damage, loss or prejudice suffered or claimed by any person on account of the approval or disapproval of any preliminary plans, plans, drawings or specifications, construction or performance of any work or the development of any Property within the Subdivision.

Section 8. Commencement of Work. Beginning with the approval of the Committee as described in this Article IX, the Owner or other parties submitting plans shall, as soon as practical, satisfy all conditions of the Committee and proceed with all approved work described in the plans and such other work as may be necessary for improvement of the Lot in accordance with this Declaration. Commencement of Construction must begin within one hundred eighty (180) days from the date of such approval or, the approval of the Committee shall lapse. The Committee may, at its discretion and upon the request of Owner, extend the one hundred eighty (180) day period for Commencement of Construction in the event that good cause is shown for such extension. For purposes of this Section 8, the term "Commencement of Construction" shall mean that a licensed contractor has been employed, necessary construction permits have been obtained, and construction of grade beams, footers, slabs or the like initial construction steps has started.

Section 9. Completion of Work. All Improvements upon the Lot, including alteration, construction and landscaping shall be completed within twelve (12) months after the Commencement of Construction upon the Lot. This time period may be extended in the event that work or completion is rendered impossible due to strikes, fires, national emergencies, force majeure or other supervening forces beyond the control of Owner, lessee, licensee, Occupant or their agents. Installation of large items of shrubbery or trees may be delayed beyond the 12 month completion period in order to plant during the best seasons for such plantings. Installation of sod and seeding of rear yards shall, however, be completed within the 12 month period. See also Article X, Section 19.

Section 10. Construction Deposit. Prior to grading or commencement of any construction activity upon a Lot, an Owner shall deposit with the Declarant or the Association (as instructed by Declarant) the sum of Five Hundred Dollars (\$500.00) per Lot. This "Construction Deposit" will be held until the completion of construction activity upon the Lot. During the construction period, the Construction Deposit may be applied toward the repair of any damage caused by construction (e.g. broken curbing, damaged street shoulder or pavement, and the like), street cleaning or storm water culvert clean out necessitated by silt or grading runoff from the Owner's Lot, or other repairs or clean-up necessitated by acts of the Owner or his agents.

Section 11. Special Watershed Development Restrictions. The Property shall be subject to the following special development requirements.

- a. No portion of a Lot greater than two thousand (2000) square feet shall be: (i) denuded of ground cover or top soil, (ii) graded, (iii) excavated or (iv) covered with earth or other natural or man-made fill material, unless all required building, grading and erosion control (on Lake Front) permits have been issued by the applicable municipal authorities.
- b. All Denuded, graded, excavated or filled areas upon any Lot shall be stabilized and replanted on or before: (i) the thirtieth (30th) day following the initial denuding, grading, excavation, or filling (unless footings and foundations are being installed upon the disturbed area and construction is being diligently and continuously pursued upon such area); or (ii) such time as construction is completed or interrupted for a period of thirty (30) continuous days. In addition to, or in the absence of local or state government regulations on such land disturbance, none of the activities described in (i) through (iv) in **Article IX**,

Section 11 a, above shall be allowed to commence without compliance with the following requirements:

- i. The surveying and flagging of the Buffer Area and any portion of the Buffer Area that may be disturbed as a result of any activities permitted hereunder;
 - ii. The flagging of all trees in the Buffer Area that equal or exceed six (6) inches in diameter, measured four and one-half feet (4.5') from the base of the tree, as is reasonably necessary to prevent the unintentional violation of these restrictions by parties performing work upon the Lot.
 - iii. The proper installation (in accordance with manufacture's instructions) of construction silt fencing on the lower perimeters of all areas within the lot to be disturbed, and any other areas which may be impacted by silt runoff from the Lot.
- c. Except as expressly permitted by this Declaration, no portion of any Buffer Area may be disturbed in any way, including any disturbance or removal of topsoil, trees and other natural growth. The following activities are permitted within the Buffer Area:
- i. Trees, which are less than two (2) inches in diameter, may be removed. Any tree removal shall be performed using hand held gas and electric chain saws and/or manual handsaws. No other mechanical equipment or vehicles may be used in removing of any trees.
 - ii. 50% of underbrush, shrubs, vines and similar plant growth beneath the tree canopy, may be removed in the 100' SMP buffer area and:
 - iii. Pruning and trimming of trees is permitted, provided that pruning is limited to tree branches beginning with the lowest to the ground and extending up the tree trunk no more than eight (8) feet off the ground. Trimming may also be performed on any limbs or branches that are diseased or naturally damaged.
 - iv. The use of rip-rap, bulkheading or other shoreline stabilization methods or materials may be initiated with the prior written approval by Yadkin, Inc and any shoreline stabilization shall be performed in compliance with Yadkin's Shoreline Management Plan which are in effect at the time such stabilization occurs. If Yadkin, Inc. authorizes Grantee to perform certain shoreline stabilization, then at all points where shoreline stabilization occurs, the inner boundary line of the Buffer Area (i.e. the boundary line opposite the Contour Line of the Lake) shall be adjusted inward (i.e. away from the Contour Line of the Lake) by the same distance that the stabilization activity extends from the Contour Line of the Lake to into the Lot.

Owners are reminded that development in the High Rock Lake watershed area is regulated by state and local laws and ordinances, which tend to be more restrictive in nature than those outside the watershed. Owners should pay particular attention to such laws and ordinances

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concerning vegetative buffers between developed areas of a Lot and shoreline which may be more restrictive than those imposed by this Declaration.

ARTICLE X

Section 1. Land Use, Building Type and Residential Restrictions. All Lots in the Subdivision shall be used only for Common Area or private residential and recreational purposes. No structure shall be erected or permitted to remain on any Lot other than one single family residential dwelling not exceeding 2-1/2 Stories in height and those other structures expressly listed in this Article X.

No mobile home, modular home or shell home may be erected or permitted to remain on any Lot. No bed and breakfast facility is permitted on any Lot. No camper, trailer, motor home, boat (including, without limitation, any boat docked adjacent to the Property), recreational vehicle, or similar habitable or transportable unit or structure shall be allowed to remain on or adjacent to any Lot as a place of residence.

A private attached garage (not exceeding three [3] car capacity), fixed piers and floating boat dock facilities incidental to the residential use of a Waterfront Lot are expressly permitted upon the condition that they are not rented or used for commercial purposes. No enclosed boathouse, covered boat slips, or two-level piers are permitted. Piers and docks shall be subject to approval by Yadkin, Inc. and/or any governmental entity having jurisdiction at the time such Improvements are made.

Recreational structures, including decking, gazebos, covered patios, playhouses, barbecue pits and similar structures may be constructed upon a Lot. The total square footage contained within such structures when combined shall not exceed five hundred (500) square feet in area on any one Lot.

The following activities are prohibited in the Subdivision:

- a. Raising, breeding, or keeping of animals, livestock or poultry of any kind, except that dogs, cats or other usual and common household pets (which are registered, licensed and inoculated as required by law – not to exceed four per household) are permitted.
- b. Any activity which violates Applicable Laws;
- c. Institutional uses, including but not limited to day care centers, churches, temples or shrines, rest homes, schools, medical care facilities, lodges, inns, beds and breakfasts; and
- d. Any business or trade, except that an Owner or Occupant residing on a Lot may conduct business activities upon that Lot so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the residence; (ii) the business activity conforms to all zoning requirements; (iii) the business activity does not involve regular visitation of the Lot by clients, customers, suppliers, or other business invitees; (iv) the business activity does not involve any service, construction or delivery business in which a commercial vehicle used in such business would be parked overnight on the Lot, or for which any material amount of parts, equipment, supplies, raw materials, components, trailers or tools are stored on the Lot and (v) the business activity is consistent with other

residential character of Sunset Pointe at High Rock Lake and does not constitute an unreasonable disturbance to other Owners and Occupants, a nuisance, or a hazardous or offensive use. The foregoing shall not preclude occasional garage sales, moving sales, rummage sales, or similar activities provided that such activities are not held on a Lot more than once in any six-month period. The terms "business" and "trade" as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required. The leasing of any Lot for single-family residential use shall not be considered a business or trade within the meaning of this subsection.

- e. Camping on any unimproved Lot.

Declarant may convert any Lot owned by Declarant to a Common Area designation and use.

Section 2. Dwelling Size. Within Sunset Pointe at High Rock Lake, each single family residential dwelling shall comply with the following size requirements:

- a. One Story dwellings on Water Front Lots shall not contain less than 2,000 square feet of Heated Living Area and One Story dwellings on Interior Lots shall not contain less than 1,800 square feet of Heated Living Area; Patio Homes shall not contain less than 1200 square feet of Heated Living Area; Condominium Homes shall not contain less than 1000 square feet of Heated Living Area.
- b. One and a Half Story dwellings on Water Front Lots shall not contain less than 2,200 square feet of Heated Living Area and One and a Half Story dwellings on Interior Lots shall not contain less than 2,000 square feet of Heated Living Area;
- c. Two (or more) Story dwellings on Water Front Lots shall not contain less than 2,400 square feet of Heated Living Area with at least 1,400 square feet of Heated Living Area on the ground story. Two (or more) Story dwellings on Interior Lots shall not be less than 2,200 square feet of Heated Living Area with at least 1,400 square feet of Heated Living Area on the ground Story.

Section 3. Building Construction and Quality. All buildings and outbuildings erected upon any Lot shall be constructed of new material of good grade, quality and appearance and shall be constructed in a high quality, workmanlike manner. No building shall be erected unless it is completely underpinned with a solid brick, or stucco, brick or stone-covered foundation.

The exterior surfaces of all dwellings and accessory structures shall be covered only in brick, stone, hard stucco (synthetic stucco is not permitted), wood, or siding (no logs or siding with a log appearance) consisting of wood, composite or cement base material; provided, that any horizontal siding must be completely back supported to maintain a straight and even outer surface and must

be fully and properly finished. No Vinyl siding or Vinyl shapes is allowed as a siding material on any side of the home. Vinyl Soffit is acceptable.

All dwellings shall have roofs (except for dormers, porches and bay windows) of not less than 6 in 12 pitch and not less than 12 in overhang, covered with slate, cedar shakes, terra cotta tile, copper sheathing, or architectural fiberglass shingles.

Section 4. Temporary Structures. No residence or building of a temporary nature shall be erected or allowed to remain on any Lot, except that nothing herein shall prohibit Declarant from erecting or moving temporary buildings onto the Lots owned by Declarant, to be used for storage or construction or sales offices.

Section 5. Building Setback Lines. No building on any Lot (including any stoops, porches, or decks, whether attached or unattached) shall be erected or permitted to remain within any Side Setback, Street Setback, or Rear Setback as defined in this Declaration or as noted on the Map. Piers and dock facilities area exempt from the Rear Setback Restrictions. In the event any zoning or subdivision ordinance, floodway regulation or other ordinance, law or regulation applicable to a Lot shall prescribe greater setbacks, then all buildings erected during the pendency of that zoning or subdivision ordinance, floodway regulations or other ordinance, law or regulation shall conform to said requirements. No masonry mailboxes or other Improvements may be constructed or placed within any Private Road or public road right of way.

Section 6. Minor Setback Violations. In the event of the unintentional violation of any of the building setbacks set forth in this Declaration by an amount of ten percent (10%) or less, Declarant reserves the right, which right shall be vested in and may be exercised by the Association after Declarant's Founder's Class Membership in the Association has converted to Owner's Class Membership, but is not obligated, to waive in writing such violation of the setback upon agreement of the Owner of the Lot upon which the violation occurs and the Owner of any Lot adjoining the violated setback, provided that such a change is not in violation of any zoning or subdivision ordinance or other applicable law or regulation, or, if in violation, provided that a variance or other similar approval has been received from the appropriate governmental authority.

Section 7. Combination or Subdivision Lots. Except as otherwise set forth herein, no Lot shall be subdivided by sale or otherwise so as to reduce the Lot area shown on the Map. However, a Lot Owner may combine with a portion or all of another contiguous Lot so long as the parcel or parcels which result from such combination do not violate any zoning ordinance or other Applicable Law. In the event that two or more Lots are completely combined so as to create one parcel, the resulting parcel shall be considered as one Lot for the purposes of this Article X, but shall continue to be considered as two Lots for all other purposes (including voting and assessments). Furthermore, the Owner of any Lot which combines with all or a portion of a contiguous Lot shall be solely responsible for any costs which may result from such combination, including the costs of relocating any existing easements. Notwithstanding the foregoing, Declarant reserves the right to change the boundaries or dimensions of any Lots still owned by Declarant as may be need to meet Septic System requirements or for any other reason.

Section 8. Utility Easements. Declarant hereby reserves easements for the installation and maintenance of utilities (electricity, sewer (including private septic lines), water, gas, telephone,

catv, street lights, etc.) and drainage facilities over all of the area labeled on the Map as "Common Open Space", front and rear ten (10) feet of each other Lot [with the exception of the Lots along the waters of High Rock Lake, which will not have a ten (10) foot easement over the rear of each such lot (i.e. the High Rock Lake Side) and fifteen (15) feet in width along each side lot line of all lots.

Declarant additionally imposes an easement over and upon all Common Area for the installation, maintenance and repair of Septic System piping, lines, pumps and equipment installed by Declarant and used to transport sewage from any Offsite Septic Lot to its Appurtenant Septic Easement Area.

Section 9. Entrance Monument Easement. Declarant hereby grants, establishes and reserves, for the benefit of Declarant and the Association, and their successors and assigns, a non-exclusive perpetual easement (the "Entrance Monument Easement") for the purpose of erected and maintaining the Entrance Monument for the Subdivision over any portion of the Subdivision identified as "Entrance Monument Easement" on the Map.

Declarant or the Association shall have the right to enter, landscape and maintain the Entrance Monument Easement as any entryway to the Subdivision. Further, Declarant or the Association may erect and maintain one or more monuments, with an entrance sign thereon and may erect and maintain lighting, planters and other Improvements typically used for an entryway.

Section 10. Stormwater Drainage Easement. Declarant hereby establishes and reserves over the Common Areas an easement for drainage of stormwater runoff from the Lots and Private Roads within the Subdivision.

Section 11. Flood Easement. Yadkin, Inc. has reserved easements and rights with respect to the Subdivision for the right to clear and flood property up to the elevation of 665 feet above mean sea level, in connection with the operation of its power facility. The clear and flood easements may affect building plans for the Lots.

Section 12. Fences and Walls. No fence or freestanding wall, may be erected nearer the front lot line of a Lot than the front face of the dwelling located on Such Lot. In the case of a corner Lot, no side yard fence shall be located nearer than the side of the house facing the side street line. No fences or walls, greater than five (5) in height are permitted. Chain link or metal fencing is not permitted, except that decorative wrought iron or high quality aluminum or vinyl-clad fencing made with the appearance of wrought iron is permitted. Perimeter fencing shall not have more than fifty (50) percent of any of its surface closed as viewed from a point on a line of sight perpendicular to the line of the fence. A wall constructed of brick or stone and used in lieu of a fence is exempt from the openness test. The restrictions described in this Section 12 shall not apply to any Improvements originally installed by Declarant on any Common Area.

Section 13. Signs. No signs may be erected or displayed on any Lot except for the following, which may not exceed six (6) square feet in size: (a) one sign on the Lot only advertising the Lot of sale or rent; (b) one sign on the Lot only used by a builder to advertise the Lot during the

construction and sales period (such sign may list subcontractors, suppliers, lenders, architects, engineers and like parties involved in the sign, not on separate signs); and (c) political, yard-sale or similar temporary signs. Strictly prohibited during the period of construction on a Lot are the following: (a) separate signage listing subcontractors; (b) signage advertising services or goods for sale, specifically including construction services; and (c) general advertising in the nature of handbills.

These restrictions do not apply to the Entrance Monument, to temporary entry signs or advertising by Declarant, or "for sale" signs installed by Declarant or its agents prior to the sellout of the Subdivision. Declarant reserves the right to erect and maintain such signs designating streets, Amenities, and such other signs that will aid in the development of the Subdivision.

Use of unapproved signage shall be violation of this Declaration and the Declarant or the Association may levy a fine of not more than One Hundred Fifty Dollars (\$150.00) per day for such violation. Such fines shall be assessments and shall constitute a lien upon the Owners Lot when a claim of lien is filed of record in the office of the Clerk of Superior Court of Rowan County. Owners are strictly responsible for all signage erected by their agents, contractors, subcontractors, suppliers, and any other parties employed directly or indirectly by Owner, or who provide services or materials to the Owners Lot. Declarant or the Association may enter onto a Lot at any time to remove signage which is in violation of this Article X, Section 13.

Section 14. Antennas; Satellite Dishes or Discs. Except as hereinafter provided, no transmission or reception towers, antenna, dishes or discs shall be erected or maintained on any Lot. The following are specifically permitted:

1. Any antenna designed to receive direct broadcast satellite service, including direct-to-home satellite service, of one meter or less in diameter;
2. An antenna designed to receive video programming services via multi-point distribution services, including multi-channel, multi-point distribution services, instructional television fixed services, or local multi-point distribution services, of one meter or less in diameter or diagonal measurement; or
3. An antenna designed to receive television broadcast signals.

A roof-mounted antenna may be mounted on the roof of the house; provided, however, no antenna or related structures may be mounted on the masts exceeding ten (10) feet in height above the highest roof line ridge of the house. Any dish, disc or antenna (with associated mast if any) shall be reasonably screened from view from High Rock Lake and the Street, and shall not be located in the area between the street right-of-way line and the front of any house or within the setbacks of Buffer applicable to the Lot. No antenna, discs or like transmission or reception device shall be mounted on a freestanding tower without the express consent of the committee.

Section 15. Lot Maintenance; Trash Disposal. Each Owner shall keep his Lot in a clean and orderly condition and shall keep the Improvement thereon in a suitable state of painting and repair, promptly repairing any damage thereto by fire or other casualty. No Lot shall be used in whole or

in part for storage of trash of any character whatsoever and no trash, rubbish, stored materials or similar unsightly items shall be allowed to remain on any Lot outside of any enclosed structure, except when temporarily placed in closed, sanitary containers pending collection by trash collection authorities or companies. Structures, equipment or other items which are visible from any road or adjacent property which have become rusty, dilapidated, or otherwise fallen into disrepair, shall not be kept on any Lot. Owners shall not allow trash cans to remain at the curb for more than 24 hours for each pick up date.

Section 16. Off-Road Parking; Off-Water Boat Storage. The residence on each Lot shall be served by a driveway constructed of concrete, asphalt, brick or other hard finished surface approved by the Committee. If any driveway crosses a drainage ditch or swale, the Owner is required to install, at the Owner's expense, any necessary piping or culverts before the commencement of any other construction or grading on the Lot. Specifications for any such piping or culvert must be approved by the Committee and installed in accordance with the approved specifications and Applicable Laws.

No truck or commercial vehicle in excess of one-ton load capacity, any truck of more than two axles, any vehicle under repair, or wrecked or junked motor vehicle shall be parked upon or permitted to remain on any Lot, the Amenity Area, Parking Area, or any other Common Area. No boat or boat trailer may be parked, left or stored on an Amenity Area or Parking Area unless such Amenity Area is a designated dry storage area for boats and trailers. No trailer, motor home, recreational vehicle or camper shall be used as a residence, either temporarily or permanently, or be parked upon or be permitted to remain on any Lot of a period exceeding 24 hours unless it is parked off the street and not within the street or side setbacks of the Lot. All trucks, trailers, campers, motor homes and recreational vehicles must have a current license plate affixed. All automobiles must have a current license plate affixed and must be parked in a carport, enclosed garage, or driveway.

Other than incidental street parking for not more than twenty-four (24) hours at a time, all automobiles and other vehicles must be parked in a carport, enclosed garage, or driveway. From time to time guests, however, may park automobiles in the streets when an Owner conducts social functions and the like. This is limited right of street parking may be restricted by reasonable rules adopted by the Committee if such parking creates a bona-fide nuisance or safety hazard.

Unless parked within an enclosed garage, no "large" (over 28 feet in length) boat and/or boat trailer, shall be kept upon any Lot. Boats or boat trailers less than 28 feet in length, not stored within an enclosed garage, must be stored to the rear of the house, but not within the Side Setback.

Section 17. Sewage Disposal Every dwelling unit erected on any Lot shall be served by an approved septic system for the disposal of sewage, or connected to a private or public sewage disposal system. If a private or public system becomes available then all lots must hook up to the private or public system. All well water and septic systems or other private sewage disposal systems shall be approved by, and constructed and maintained in accordance with, all the regulations and requirements of all governmental authorities and regulatory agencies having jurisdiction.

Declarant hereby reserves and grants unto itself, its successors in interest, and assigns, a right and easement benefiting Declarant and burdening each Lot for the purpose of permitting Declarant to modify and reassign the permissible construction envelope for wells and septic systems. Declarant reserves this right and easement in order to address problems caused by Lot Owners encountering non-porous rock or other conditions making a well in the originally designated location (or approved alternate locations) impossible or uneconomic. If a third party Owner has expended money to install part or all of a well on a Lot where Declarant desires to realign the permissible well or septic system location, the Declarant shall install a comparable well system in the new location, pay any applicable governmental fees, and arrange for the switch in hookup to the residence, all at the Declarant's sole cost and expense.

Owners are advised that grading or other alteration to the designated septic field area may void existing improvement permits and no such alteration should be performed without the consent of the applicable health department.

Section 18. Nuisances. No noxious or offensive trade or activity shall be carried on upon any Lot or in any residential dwelling or outbuilding, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No substance, thing or material shall be kept upon any Lot that will emit foul or obnoxious odors, or that will cause any noise that will disturb the peace and quiet of the Owners or Occupants of the surrounding Lots.

Section 19. Diligent Construction, Construction Site Hygiene. All construction, landscaping or other work which has been commenced on any Lot must be continued with reasonable diligence to completion and no partially completed houses or other Improvements shall be permitted to exist on any Lot or Common Area, except during such reasonable time period as is necessary for completion. (See Article IX, Section 9)

No construction materials of any kind may be stored within twenty five (25) feet of any Private Road or public road curbs on any Lot.

Any damage to any street, curb, shoulder, side ditch, street planting, or any part of any Common Area or any utility system caused by Declarant, any owner or any builder shall be repaired by such responsible party. If such responsible party fails to repair such damage, Declarant or the Association may make or provide for such repairs, and the responsible Owner shall immediately reimburse the repairing party for its out of pocket expenses in making such repairs.

In the event that the responsible Owner fails to reimburse the repairing party, the Declarant or Association may take reimbursement from the Construction Deposit posted by the Owner. The Owner thereafter immediately deposits an additional sum to the Construction Deposit so that the balance is not less than \$500.00.

The Owner of each Lot and any builders shall at all times keep contiguous public and private areas free from any dirt, mud, garbage, trash or other debris which is occasioned by construction of Improvements on the Lot or Common Area. Declarant or the Association may provide for the cleaning of public and private areas due to the activities of the responsible party and may assess the responsible party a reasonable charge no the exceed the actual cost for such cleaning. All

Owners and builders shall, consistent with standard construction practices: (i) keep all portions of the Lots and Common Areas free of unsightly construction debris; (ii) shall at all times during construction provide dumpsters for the containment of garbage, trash or other debris which is occasioned by construction of Improvements on a Lot or Common Areas; (iii) keep the Lot and all Common Areas free of such garbage, trash or other debris; and (iv) provide a port-a-john on the construction site maintained in a sanitary manner. Each Owner and any Owner's builder shall be responsible for erosion control protection during any earth-disturbing operation.

Section 20. Removal of Trees and Other Vegetation – Enforcement. Declarant and/or the Association shall have the authority, but no the obligation, in their sole discretion, to assess a fine against an Owner who cuts, damages, or removes any trees, shrubs or other vegetation on any part of the Common Areas, its Lot or any other Lot or Common Area contrary to the above provisions of this Declaration.

Section 21. Docks, Piers, and Boat Houses. Yadkin, Inc. manages access to, use of, and water levels in High Rock Lake. Any Owner, the Declarant and the Association must receive permission from Yakin, Inc. (or a successor manager of High Rock Lake under authority from FERC) prior to placing or constructing any pier of other Improvement within or upon, or conducting any activity altering the topography of High Rock Lake. Declarant makes no oral, express or implied representation or commitment as to the likelihood of any Owner obtaining such permission, nor as to the continued existing purity, depth or levels (including clearance of over-water bridges or trestles) of water in High Rock Lake, and Declarant shall have no liability with respect to these matters.

Any waterfront Improvement shall have an open design to minimize obstruction of neighbors' views. Covered boatslips, enclosed or multi-level docks, and boat houses will not be allowed.

The placement, construction, or use of the Pier, Boatslips, and of any other pier, dock, boatslip structures or other Improvements within or upon, or the conducting of any activity altering the topography of High Rock Lake, is and shall be subject to each of the following:

- (a) Easements, restrictions, rules and regulations for construction and use promulgated by the Association;
- (b) All laws, statutes, ordinances and regulations of all Federal, State and local governmental bodies having jurisdiction thereof, including without limitation, FERC;
- (c) Rules and regulations, privileges, and easements affecting the Property and the waters and submerged land of High Rock Lake established by Yadkin, Inc., its successors and assigns. Yadkin, Inc. is the manager of High Rock Lake under authority granted by FERC; its current management plan runs through August 31, 2008. As manager of High Rock Lake, Yadkin, Inc. manages access to, and the use and level of, the waters of High Rock Lake; and

Section 22. Boat Ramps. No private boat ramps of any kind shall be permitted on any Lot.

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Section 23. Grading Rights. Until such time as the Owner's plans have been approved by the Committee, Declarant may make cuts and fills upon any Lot or other portion of the Subdivision and do such grading, panning, and earth moving, as in its sole reasonable discretion, may be necessary to improve or maintain the streets within the Subdivision or to drain surface waters from them.

Section 24. Violations. In the event that any Lot is developed other than in strict conformity with this Declaration and the approval of the Committee, such development must be removed or altered so as to be in compliance. Any unauthorized use of the Lot must be ended so as to extinguish any violations of this Declaration or the approval granted by the Committee. At any time a violation of this Declaration or the approval granted by the Committee may be found to exist, regardless of the length of time such violation, the Declarant or the Committee may deliver written notice of such violation to the Owner of the Lot in violation and any other responsible parties. If reasonable measures have not been taken by the Owner or other responsible parties to terminate the violation within ten (10) business days, the Declarant or Committee may, through agents or employees, enter onto the Lot and take such measures as may reasonably be necessary to abate the violation. Such entry shall not be deemed a trespass and those parties entering on behalf of Declarant or the Committee shall have no liability to the Owner or other parties having an interest in the Lot for any entry taken in connection with the abatement of a violation. All costs and expenses, including legal fees, permits, mobilization costs and insurance plus a fifteen percent (15%) allowance for general overhead and intangible costs, shall be a binding obligation of the Owner of the Lot in violation. In addition, all costs shall be a lien upon the Lot, enforceable in the same manner as an assessment made upon the Lot.

Section 25. Construction. Construction of all Improvements and other development upon the Lot shall be the responsibility of the Owner. Neither Declarant nor the Committee shall have any responsibility whatsoever for monitoring or control of construction.

There shall be no occupancy of any residence until such time as the residence and all other completed Improvements and work upon the Lot (including any off site Septic Easement Area) are inspected and approved by the Committee as being in accordance with the plans approved by the Committee. Upon written notice of completion of a residence, the Committee shall have ten (10) days to make such reasonable inspections as it deems necessary. In the event that the Committee discovers that Improvements or other work upon the Lot have been done other than in accordance with the plans approved, the Committee shall give Owner written notice of such violations. In the event that the Committee finds that all Improvements and work upon the Lot have been accomplished in accordance with the plans approved, then, the Committee may, upon request of the Owner, issue a certificate of compliance to the Owner.

Section 26. General Repair and Maintenance. It shall be the duty of Owner to keep and maintain all of the Lot, except as expressly stated otherwise herein, including those areas within setbacks, utility easements, and the like. The Owner shall keep the entire Lot safe, neat, free of hazards and shall comply with all fire, zoning, health, environmental and other requirements as may legally apply to the Lot. Owner shall keep the Lot clear, clean and free of all unsightly scrap, rubbish or other materials at all times, including the construction period.

Section 27. Utility Lines. All utility service lines from the street or from existing power or telephone poles to the Improvements (and between any Improvements) on any Lot shall be installed underground.

Section 28. Non-Waiver. No delay or failure on the part of an aggrieved party to invoke an available remedy in respect to a violation of any provision contained herein or referred to herein shall be held to be a waiver by that party of any right available to the party upon the recurrence or continuance of said violation or the occurrence of a different violation.

Section 29. Rights of Yadkin, Inc. Yadkin, Inc. has certain privileges and easements affecting the Subdivision which include the right to enforce certain restrictive covenants, and the right, privilege and easement of backing, ponding, raising, flooding, or diverting the waters of High Rock Lake and its tributaries upon and over the Subdivision.

Section 30. Private Road Easement. Declarant specifically establishes, reserves, and grants to the Owners of the Lots, the Association and Declarant, their heirs, successors and assigns, non-exclusive, perpetual easements over any Private Roads which may be constructed, in the widths and in the locations as may be shown on the Map, for the purpose of pedestrian and vehicular access, including golf carts and bicycles, as well as ingress and egress to the Lots and Common Areas, and for the installation and maintenance of paved roadways and of utilities and drainage facilities. Within the Private Roads, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of the roadways located therein or the other utilities or drainage facilities installed therein.

Section 31. Mailboxes. Mailboxes shall be of a consistent design, color and material designated by the Declarant or, if the Declarant so delegates, by the Committee, and may not violate North Carolina Department of Transportation standards. See Article VIII, Section 8 for further restrictions

Section 32. Driveways. All connections of private driveways to the North Carolina State or any municipal road system, and all connections of private easements and right-of-ways to that road system shall be constructed and maintained in accordance with all Applicable Laws and the rules, regulations and specifications as approved from time to time by the Committee.

Section 33. House Numbers. House numbers are to be displayed in compliance with all Rowan County ordinances.

ARTICLE XI Environmental Hygiene

Underground storage tanks for chemicals, or other substances having the potential to cause damage by accidental discharge into the soil, are prohibited in the Subdivision.

ARTICLE XII Duration, Modification and Termination

Section 1. Amendment. The covenants, conditions and restrictions of this Declaration may be amended at any time and from time to time by an agreement signed by Owners holding a majority of votes appurtenant to the Lots which are then subject to this Declaration; provided, however, that such amendment must be consented to by Declarant so long as Declarant is the Owner of any Lot in the Subdivision including any Additional Property. Any such amendment shall not become effective until the instrument evidencing such change has been filed. The consent of a majority of the Owners of Lots, plus the written consent of Declarant shall be required to withdraw any portion of the Property from the requirements of this Declaration.

Notwithstanding anything in this Article XII, Section 1 to the contrary, Declarant may, at Declarant's option, amend this Declaration without obtaining the consent or approval of any other person or entity if such amendment is necessary to cause this Declaration to comply with the requirements of FHA, VA, The Federal National Mortgage Association, or other similar agency. Declarant, without obtaining the approval of any other person or entity, may also make amendments or modifications hereto which are correctional in nature only and do not involve a change which materially adversely affects the rights, duties or obligation specified herein.

Section 2. Term. The covenants and restrictions of this Declaration are to run with the land and shall be binding upon all parties and all persons claiming under term for a period of twenty-five (25) years from the date this Declaration is originally Filed; after which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by Owners holding a majority of the votes appurtenant to the Lots, plus Declarant, if Declarant then owns any Lot, has been recorded, agreeing to terminate or modify said covenants and restrictions in whole or in part. Provided, however: [i] the residential use restriction set forth in Article X Section 1 of this Declaration shall run with the land and shall be binding upon all parties and persons claiming under them in perpetuity and [ii] this Declaration shall not be terminated except by a Filed instrument signed by Owners holding 100% of the votes appurtenant to the Lots, plus Declarant, if Declarant then owns any Lot, so long as any septic percolation/drain field and Septic System is operated for the benefit of any Offsite Septic Lot or so long as any Private Roads are Maintained by the Association and have not been accepted for public maintenance.

ARTICLE XIII Enforcement

Any violation of this Declaration, whether in whole or in part, is hereby declared to be a nuisance and, without limitation, any party empowered to enforce this Declaration may avail itself of all remedies available under Applicable Laws for the abatement of a nuisance in addition to all other rights and remedies set forth hereunder or otherwise available at law. This Declaration may be enforced by Declarant, its successors and assigns (including without limitation the Association after the termination of Founders Class Membership), by proceedings at law or in equity against the person or entity violating or attempting to violate any covenant or restriction, either to restrain the violation thereof, abate or to remediate damage caused by the violation, or to recover damages, all together with reasonable attorney's fees and court costs. Further, after the termination of Declarant's Founder Class membership in the Association, in the event the Association fails to act

to enforce any covenant or restriction herein, any Owner of any Lot may enforce these covenants and restrictions as aforesaid against any other Owner.

ARTICLE XIV **Declarant Retained Rights and Septic Easements**

Section 1. Assignability of Rights. All rights, powers and reservations of Declarant stated herein may be assigned. If at any time Declarant ceases to exist and has not previously made an assignment of his rights, a successor of Declarant may be appointed by the written vote of a majority of the Owners. Any assignment made pursuant to the terms of this section shall be Filed in Rowan County, North Carolina.

Section 2. Exoneration of Declarant. It is agreed by all Owners and by any other party having an interest in any Lot that Declarant has no duty to enforce any of the covenants and restrictions contained herein. Declarant shall not be subject to Liability to any party by reason of its failure to enforce any covenant, condition or restriction herein.

Section 3. Septic Easements. Non-exclusive easements for septic service and septic drainage fields (the "Septic Easements") are reserved and granted, over, across and under the Septic Easement Areas, to the Declarant and any Offsite Septic Lot Owners. After transfer from the Declarant, the Association shall hold title to the Septic Easement Area subject to any and all Septic Easements. As long as the Subdivision is not serviced by a public or private sewer line, the Association shall not transfer, mortgage, encumber or otherwise convey any Septic Easement Area or any portion thereof to any other party.

Each Septic Easement shall be appurtenant to the Offsite Septic Lot to which it is servient. Any deed, deed of trust, mortgage, transfer or other conveyance of any Offsite Septic Lot shall also transfer or convey the Septic Easement appurtenant to the Offsite Septic Lot, even if no expressly stated in the instrument of transfer.

Each Septic Easement herein reserved and granted shall include the right, at the sole expense of the Owner of the Offsite Septic Lot, to construct, maintain, operate, remove and reinstall a Septic System in an upon the appurtenant Septic Easement Area and to clear (and continue to clear as necessary) trees, brush and other plants for the proper construction, installation and maintenance of said system. The Owner of the Offsite Septic Lot shall immediately restore the surface of the Septic Easement Area disturbed by installation and maintenance of a Septic System to a stable, reasonably compact and safe grade, seed (with the seeding covered with hay or other appropriate material) or planted and maintained substantially similar to that condition existing prior to the Owner's work. Failure to completely fulfill the requirements of the preceding sentence, including seeding, shall result in a charge of Five Hundred Dollars (\$500.00) for each violation which charge shall be a lien upon the Owner's Lot. If any Owner's attempted seeding does not "take", the Owner is required to repeat the process until a stable grass cover, sufficient to prevent erosion and washing in obtained. Should the owner of such Lot fail to restore the surface of the Septic Easement Area, in the sole judgment of the Declarant or the Board of Directors, then the Board of Directors shall have the power to specially assess such Owner for any costs of restoration in excess of the Five Hundred Dollar (\$500.00) initial charge. The Declarant or the Association may extract

the Five Hundred Dollar (\$500.00) charge or any excess cost of restoration from the Owner's Construction Deposit. No Owner shall occupy the residence on his or her Offsite Septic Lot until the restored surface of the Septic Easement Area meets the requirements of this paragraph.

Owners of each of the Offsite Septic Lots and their agents are granted the right of ingress, egress and regress over and across such portions of the Septic Easement Areas as may be necessary to access the Septic Easement Area appurtenant to such Owner's Offsite Septic Lot.

The Owner of the Lot for which a Septic System is being installed shall be responsible for obtaining all permits for the use of said Septic System and shall hold the Declarant and the Association, its successors and assigns, harmless from any loss, damage or liability relating thereto, except to the extent that such loss, damage or liability results from the negligent or willful act of the Declarant or the Association. Prior to the installation of a Septic System within the Septic Easement Area, the Owner of the Offsite Septic Lot for which the Septic System is being installed shall have the proposed location of such Septic System staked and approved by the appropriate authorities, and such Septic System shall be approved by, and constructed and maintained in accordance with all regulations and requirements of all governmental authorities and agencies having jurisdiction. The Owner of the Offsite Septic Lot to which a Septic System Easement Area is appurtenant shall be responsible to operate and maintain the Septic System located thereon at such Owner's sole cost and expense.

The Septic Easements hereby granted and reserved shall run with the title to the Offsite Septic Lots to which they are appurtenant. At such time as any Offsite Septic Lot is connected to a public or private sewer line and is serviced thereby, then the Septic Easement reserved and granted for the benefit of that Offsite Septic Lot shall terminate.

Declarant hereby reserves and grants unto itself, its successors in interest, and assigns, a right and easement benefiting Declarant and burdening each Offsite Septic Lot for the purpose of connecting any residence(s) upon such Lot(s) to any public or private sewer line providing service accessible to such Lots, including access across the Lots and to the right to install any pipes and apparatus as may be necessary to connect any such residence(s) to such sewer line (the "Sewer Connection Easement"). By reserving the Sewer Connection Easement, Declarant has not obligated itself or its successors or assigns to connect any public or private sewer line to the above-described Lots or to make any sewer service available to such Lots. The exercise of such rights and the Sewer Connection Easement shall be at the sole discretion of the Declarant, its successors in interest and assigns.

Declarant hereby further reserves unto itself and its successors in interest, a right an easement benefiting Declarant and burdening each Offsite Septic Lot. Declarant may, in its discretion, replace the original Septic Easement Area appurtenant to that Offsite Septic Lot. The replacement shall be evidenced by a Filed revision of that portion of the Map showing the Offsite Septic Lot and the appurtenant Septic Easement Area if the Offsite Septic Lot is then still owned by the Declarant. In the event that the Offsite Septic Lot is then owned by a third party Owner, such Owner shall cooperate with Declarant by executing such title transfer documents as are necessary to consummate the replacement of the original Septic Easement Area with a replacement Septic Easement Area. If the third party owner has expended money to install part or all of a septic

system in the original Septic Easement area, Declarant shall install a comparable system in the new Septic Easement Area, pay any applicable governmental fees, and arrange for the switch in service, all at Declarant's sole cost and expense.

Portions of septic connector lines from multiple Offsite Septic Lots may be buried in one or more common trenches to connect Offsite Septic Lots with the percolation/drain field area of the Septic Easement Areas appurtenant to those Lots. The Septic Easement Areas of multiple Offsite Septic Lots will overlap in the area of such trenches. In the event of damage to, or leakage from, the portion of any septic connector line which is: (i) buried in a common trench; and (ii) located between the Lot line of an Offsite Septic Lot and the percolation/drain field of that Lot's appurtenant Septic Easement Area; the repair of such septic connector line shall be the responsibility of the Association and all costs shall be deemed an expense for the Common Area maintenance. This allocation of repair duty and expense is made so that the Association may control and monitor all work in the common trench area where use of contractors unfamiliar with the installation could result in errors and damage with resulting loss of septic function to multiple Owners.

The Association shall promptly act to repair any damage or leakage and will seek expeditious repair when any affected Owner might otherwise be without a functional Septic System. The Association shall, by subrogation, succeed to the rights of any affected Owner against any parties who caused damage to such septic connector lines.

Section 4. Temporary Construction Easements. Declarant reserves for itself and its agents the right and easement to, from time to time, go over and upon (including trucks, equipment and the like) any Lot for the purpose of installing wells, septic systems, infrastructure or other work necessary in the Subdivision, whether the work benefits the Lot over which access is made or other Lots. Declarant will repair any material damage to the Lot over which access is made and will exercise care to minimize the time of such work and the damage made by the work or access.

Section 5. Reservation of Maintenance Option and General Monument Easement. Declarant hereby reserves, for the benefit of the Association, any option of maintenance (including landscaping and beautification) upon and over the frontage of any Lot up to ten (10) feet in width. This option shall run along and with the margin of the right of way of all public or private roads within or adjoining the Subdivision. The Association may exercise its option of maintenance either on a continuing basis or from time to time at its sole discretion. This option may be exercised with respect to all Lots or only to selected area, all in the sole discretion of the Association. All expenses of this maintenance option shall be assessed by the Association as annual or special assessments. An easement is reserved in favor of the Association and its agents to go upon the front ten feet (10') of each Lot in order to carry out the maintenance option created herein and also to perform any permissible work upon the shoulder or drainage facilities of any public roadway or Private Road.

Declarant hereby also grants, establishes and reserves, for the benefit of Declarant and Association, and their successors and assigns, a non-exclusive perpetual easement (the "General Monument Easement") upon the front ten feet (10') of each Lot (along the margin of the right of way of all public or private roads within or adjoining the Subdivision) for the purpose of erecting

and maintaining "General Monuments" in the nature of piers, columns, decorative fencing, lighting, or other Improvements which may serve to identify the Subdivision. Declarant or the Association shall have the right to enter the Entrance Monument Easement to construct, inspect, maintain, repair or replace the monuments of Improvements erected therein.

ARTICLE XV

Partial Taking

In the event that any portion of the Subdivision is taken or purchased in any manner in the nature of a condemnation or other governmental taking, such taking will not render invalid any provision contained in this Declaration.

ARTICLE XVI

General

Section 1. Mortgagees' Protection. Violation of this Declaration shall not defeat the lien of any Mortgage made in good faith and for value upon any portion of the Property. Any lien created hereunder shall be subordinate to any such Mortgage unless a lis pendens or notice of the lien shall have been Filed prior to the recordation of such Mortgage; provided, however, that any Mortgagee in actual possession or any purchaser at any trustee's mortgagee's or foreclosure sale shall be bound by and be subject to this Declaration as fully as any other Owner.

Section 2. Chain of Title. Each grantee, lessee or other person in interest or occupancy accepting a conveyance of a fee or lesser interest, the demise of a leasehold interest, or a license, in any Lot, whether or not the instrument of conveyance refers to this Declaration, covenants for himself, his heirs, successors and assigns to observe and perform and be bound by this Declaration and to incorporate this Declaration by reference in any conveyance, demise of a leasehold estate, or the grant of a license, of all or any portion of his interest in any real property subject hereto.

Section 3. Ambiguities. If any discrepancy, conflict or ambiguity is found to exist with respect to any matters set forth in this Declaration, such ambiguity, conflict or discrepancy shall be resolved and determined by Declarant in its sole discretion. Declarant shall have the right to interpret the provisions of this Declaration and, in the absence of an adjudication by a court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all parties or property benefited or bound by the provisions hereof. Any conflict between any construction or interpretation of Declarant and that of any other person or entity entitled to enforce any of the provisions hereof shall be resolved in favor of the construction or interpretation of Declarant.

Section 4. No Reversionary Interest. This Declaration shall not be construed as creating conditions subsequent, or as creating a possibility of reverter.

Section 5. Zoning Requirements. This Declaration shall not be interpreted as permitting any action or thing prohibited by applicable zoning laws, or any other Applicable Laws, or by specific restrictions imposed by any deed or other conveyance. In the event of any conflicts, the most restrictive provision among the conflicting terms shall be taken to govern and control.

Section 6. Effect of Invalidation. If any provision of this Declaration is held to be invalid by any court or other body of competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of this Declaration and all remaining restriction, covenants, reservations, easements and agreements contained herein shall continue in full force and effect.

Section 7. Gender. All pronouns used herein shall be deemed to be singular, plural, masculine, feminine or neuter as application to specific circumstances may require.

Section 8. Liability Limitations. Neither Declarant, nor any Owner nor any officers, directors, agents or employees of any of them shall be personally liable for debts contracted for or otherwise incurred by the Association. Neither Declarant, nor the Association, nor their directors, officers, agents or employees shall be liable for any incidental or consequential damages for failure to inspect any premises, Improvements of portions thereof or for failure to repair or maintain the same. Declarant, the Association or any other person, firm or association making such repairs or maintenance shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any premises, Improvements or portions, thereof. The Association shall, to the extent permitted by the applicable law, indemnify and defend all members of the Board, its officers, employees and agents from and against any and all loss, cost, expense, damage, liability, claim, action or cause of action arising from or relating to the performance by the Board of its duties and obligations, except for such resulting from the gross negligence or willful misconduct of the person(s) to be indemnified. The Association may maintain liability insurance for members of its Board, its officers, employees and agents.

All Owners acknowledge that they and their invitees will use any walking paths constructed by Declarant at their own risk and do hereby release and agree to hold harmless and indemnify Declarant and the Association from liability for any property damage or injury suffered through such use.

SECTION 9. GOVERNMENTAL REQUIREMENTS. *Declarant may (at Declarant's option) amend and modify this Declaration without obtaining the consent or approval of the Owners if such amendment or modification is necessary to cause this Declaration to comply with the requirements of the Department of Housing and Urban Development, the North Carolina Department of Natural Resources, the US Army Corps of Engineers, the North Carolina Division of Coastal Management or other similar agency.*

Any such amendment must be with the consent and approval of such agency and must be properly recorded.

IN WITNESS WHEREOF, the undersigned, has caused these presents to be executed in its company name by its duly authorized Manager this the 12th day of ~~OCTOBER~~ December, 2005.

HIGH ROCK DEVELOPMENT COMPANY, LLC.

By: *Daniel L. Fisher*
Manager

STATE OF NORTH CAROLINA

COUNTY OF Rowan

I, Margaret M. Thompson, a Notary Public in and for Rowan County, North Carolina, do hereby certify that Daniel L. Fisher, Manager of HIGH ROCK DEVELOPMENT COMPANY, LLC., personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the company.

Witness my hand and official seal, this the 12th day of December, 2005.

SEAL

Margaret M. Thompson
Notary Public

My commission expires: 6-18-2008

