

**AMENDMENT TO AND RESTATEMENT OF
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR PROVIDENCE COUNTRY CLUB SUBDIVISION**

This amendment to the Declaration of Covenants, Conditions and Restrictions for Providence Country Club Subdivision, is made this 1st day of September, 1988 by First Providence Investors, a North Carolina Joint Venture Partnership, having a principal place of business in Mecklenburg County, North Carolina (hereinafter referred to as "Declarant").

W I T N E S S E T H:

WHEREAS, Declarant is the owner of that certain subdivision in Mecklenburg and Union Counties, North Carolina, commonly known and identified as Providence Country Club Subdivision (the "subdivision"), plats thereof having been filed of record in one more of the aforesaid counties and as to Phase I of said subdivision, a Declaration of Covenants, Conditions and Restrictions (hereinafter referred to as the "Declaration") dated November 24, 1987 has heretofore been filed of record in the office of the Register of Deeds for Mecklenburg County in Book 5648 at page 419; and

WHEREAS, the Declaration has been amended by an Amendment dated December 16, 1987 (the "Amendment") recorded in the Mecklenburg Public Registry in Book 5663 at Page 99 which amendment, among other things, provides that the Declaration may be amended further without the assent of any of the Owners in order to comply with the requirements of the Federal National Mortgage Association ("FNMA") and the Federal Home Loan Mortgage Corporation ("FHLMC") so that subdivision approval may be obtained from one or more of such federal agencies;

WHEREAS, the Declarant has determined that certain additional amendments to the Declaration are necessary in order to comply with the requirements of such federal agencies; and

WHEREAS, Declarant now desires to amend the Declaration for the purpose of meeting the requirements of such federal agencies and to the end that provisions of this Amendment shall be an integral part of the Declaration; and

WHEREAS, Declarant desires to restate the Declaration in its entirety, as amended by the Amendment recorded in Book 5663 at Page 99 and as further amended by this Amendment to the end that the Declaration and all amendments thereto shall be integrated and consolidated into one Declaration.

NOW, THEREFORE, in consideration of the recitals, which recitals by this reference are made a substantive part of this Amendment, the Declarant hereby declares that the property that is subject to the Declaration as described in the Declaration and all amendments and supplements heretofore or hereafter made shall be held, sold, conveyed and used subject to the Declaration as hereby amended to the same extent and degree as if said Declaration were herein set out in its entirety, subject however to such additional covenants, conditions, easements and restrictions (hereinafter collectively referred to as "Restrictions") as are herein set forth. The declarations and restrictions herein shall be construed as covenants running with the land and shall be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner of the property or any part thereof herein below described.

ARTICLE I

AMENDMENTS TO THE DECLARATION

Section 1. Amendment to Section 9 of Article I. Section 9 of Article I is amended by deleting "First Providence Investors, Inc." and inserting in lieu thereof "Performance Investments, Inc."

Section 2. Amendments to Section 2 of Article II.

Subsection 2(a) of Article II is amended by inserting after the word "Association" found at line 8 of subparagraph (a) thereof, the following additional language: "(including, without limitation, the procuring, maintenance and payment of the costs, of insurance related to the Common Property and of surety and other bonds related to the management of the Common Property and the Association)" and by pluralizing the last word to read "flowers."

Section 3. Amendments to Section 6 of Article II.

Section 6 of Article II is amended by: (a) inserting in the caption, prior to the word "interest", the following: "Late Charges and", (b) inserting prior to the last word "bear" on line two, the following: "be subject to such late charges and shall", (c) inserting in line four, prior to the word "rate", the word "interest", and (d) deleting the period at the end of the section and adding the following:

"The initial late charge imposed for late payment of any assessment is \$25.00 and shall be charged as to any assessment that is not paid within 30 days of its due date. The initial interest rate for late payment is 18% per year (1.5% per month) which shall commence to accrue on any assessment or other account balance that is not paid within 30 days of the date due. The initial date upon which liens may be filed for failure to make payment of assessments and other charges is 30 days after the due date. The Board of

Directors may change the initial late charge, interest rate, due dates and lien assessment dates by majority vote of the Directors.”

Section 4. Amendments to Section 7 of Article II.

Section 7 of Article II is amended by inserting on the first line, after the underlined caption a subparagraph “(a)”, by inserting on the last line after the words “unpaid assessment” the following “together with all costs and expenses of collection, including without limitation, reasonable attorneys fees” and by inserting after the word “charge”, the word “lien” so that such subparagraph (a) shall then read:

Section 7. Lien for Unpaid Assessments.

“(a) In the event that the Owner of any Lot fails and refuses, after demand by the Association, to pay any annual or special assessment, then the Association shall have a lien against said Lot and may enforce collection of said assessment, together with reasonable attorneys’ fees, by any and all remedies afforded by law or in equity, including without limitation, the filing of a notice of lien and perfecting the same as by law provided, to the end that such unpaid assessment together with the costs and expenses of collection, including, without limitation, reasonable attorneys fees, shall be a charge and lien against the said Lot.”

and, thereafter, at the end of the paragraph, adding two new subparagraphs “(b)” and “(c)” as follows:

“(b) To secure the payment of the annual and special assessments as are levied by the Association, together with the costs of collection, including attorneys fees, all such charges shall be a continuing lien upon the Lot against which the assessments are made. Such charges shall also be the personal obligation of the person(s) who were the owner or owners of such Lot at the time the assessment came due. The personal obligation shall remain a lien upon the Lot upon transfer of title but shall not become the personal obligation of the purchasers thereof unless expressly assumed by them.”

“(c) Neither the assessments nor the costs of collection shall be a lien upon any Common Property nor shall the lien upon any Lot for such charges be senior to any first lien mortgage or first lien deed of trust regardless of the fact the lien arose prior to the date and time of recording of any such first lien mortgage or deed of trust. Neither shall any first mortgagee nor the beneficiary of any such first lien deed of trust nor any federal or state agencies or instrumentalities (including, without limitation, the Veterans Administration and the Federal Housing Administration) that acquires title to any such Lot whether as a result of foreclosure of said Lot or the conveyance to the holder of such indenture in lieu of foreclosure or as the result of any such agency or instrumentality becoming the owner of such Lot as a result of having insured or guaranteed the loan

secured by the mortgage or deed of trust that was subject to foreclosure or a deed in lieu thereof.”

Section 5. Amendments to Article VI of Section 1.

Section 1 of Article VI is amended by inserting on line 5 thereof, after the word “Owner”, the words “of an unimproved lot who wishes to sell such Lot” and inserting after the word “purchase” on line 8, the words “by such Owner of an unimproved Lot who wishes to sell such Lot.” Section 1 is further amended by adding a new sentence at end of the Section as follows:

This Section shall not be applicable with respect to any foreclosure sale of a first lien deed of trust or a first lien mortgage or deed in lieu thereof which deed is made and delivered in good faith.

Section 6. Amendments to Article X.

Article X is amended by inserting on line 6, before the word “majority”, the following “seventy-five (75%) percent”.

ARTICLE II

RATIFICATION OF DECLARATION

As modified hereby the Declarant ratifies and confirms said Declaration as heretofore amended.

ARTICLE III

BINDING EFFECT

This Amendment to the Declaration shall be binding upon and enure to the benefit of the Declarant, its successors, assigns and designees and of all persons, firms or corporations claiming by through or under the Declarant.

ARTICLE IV

RESTATEMENT OF DECLARATION

For clarity’s sake and in order to consolidate all amendments into the Declaration, Declarant hereby restates the Declaration and all amendments thereto as one integrated, consolidated and complete Declaration, provided Declarant reserves the right hereinafter to both supplement and amend the Declaration as permitted for by its provisions.

**RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
PROVIDENCE COUNTRY CLUB**

THIS RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF PROVIDENCE COUNTRY CLUB SUBDIVISION is made of this 6th day of September, 1988, by First Providence Investors, a North Carolina Joint Venture Partnership, hereinafter referred to as "Declarant", and any and all persons, firms, or corporations hereinafter acquiring any of the within described property or any of the property hereinafter made subject to this Declaration.

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property in Mecklenburg and Union County, North Carolina, the portions of the First Phase of which are more particularly described by plats thereof recorded in Map Book 22 at Pages 56, 104, 105, 127, 128, 129, 130, 131, 144, 195, 311 and 344 in the Mecklenburg County Public Registry, to which reference is hereby made for more complete descriptions;

WHEREAS, Declarant has agreed to establish a general plan of development as herein set out to restrict the use and occupancy of the property made subject to this Declaration for the protection of the property and the future owners thereof;

WHEREAS, either Declarant or Declarant's Managing Venturer (or an affiliate of such venture) intends to subject to this Declaration additional properties now owned or hereafter acquired for the purpose of extending the general scheme of development to such additional property and accordingly declares that Providence Country Club subdivision is an expandable subdivision; and

WHEREAS, Declarant desires to provide for the preservation of the values of the Property hereby and hereinafter made subject to this Declaration and for the preservation and maintenance of the Common Property established by the Declaration and by the supplements hereto.

NOW, THEREFORE, in accordance with the recitals which by this reference are made a substantive part hereof, Declarant declares that all of the property described on said plat and all of the property hereinafter made subject to this Declaration by recorded supplements hereto referencing subsequently recorded plats, shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of Providence Country Club subdivision as it now exists and is hereafter expanded and which shall run with said real property and be binding on all parties having any right, title or interest in the properties now or hereafter subjected to this Declaration

or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. “Association” shall mean and refer to Providence Country Club Homeowners Association, Inc., a not for profit North Carolina corporation, its successors and assigns.

Section 2. “Owner” shall mean and refer to any contract buyer and/or the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of any of the property made subject to this Declaration, but excluding those having such interest merely as security for the performance of an obligation, provided however, the Declarant shall not be deemed an Owner.

Section 3. “Property” shall mean and refer to that certain property shown on plats recorded in Map Book 22 at Pages 56, 104, 105, 127, 128, 129, 130, 131, 144, 195, 311, 344 and 394 in the Office of the Mecklenburg County Register of Deeds, and shall also mean and refer to such revisions thereto and additional property in Mecklenburg and Union Counties as may hereafter be added from time to time by Declarant by one or more subsequently recorded Supplemental Declarations which additional phase or phases shall become a part of the subdivision at the time of recording of each such Supplemental Declaration. The terms “Property” and “Subdivision” are interchangeable.

Section 4. “Lot” shall mean and refer to any improved or unimproved building lot shown upon any recorded subdivision plat of the Property.

Section 5. “Dwelling Unit” shall mean and refer to the completed single family home located upon a Lot.

Section 6. “Declarant” shall mean and refer to First Providence Investors, a North Carolina joint venture partnership, and its successors and assigns.

Section 7. “Common Property” shall mean all property owned by the Association for the common use and enjoyment of all or a designated class of members, including without limitation all existing and future roads and rights-of-way and all greenways, median strips, cul-de-sac centers, planting areas and recreational areas and all entry way, directional and informational signs (and the areas set aside for their location) and any other property as may be purchased or provided for the common use and benefit of the Declarant and the Owners, including without limitation such Common Property as may be shown on the recorded plats of the Property.

Section 8. "Committee" shall mean the Architectural Control Committee established by the Declarant for the purpose of administering architectural control as provided in Article V of this Declaration.

Section 9. "Managing Venturer" means Performance Investments, Inc. its successors and assigns, as provided for in the Joint Venture Agreement, as amended, under which the Declarant was formed and operates.

ARTICLE II

RIGHTS AND DUTIES OF THE ASSOCIATION AND PROPERTY OWNERS ASSESSMENTS

Section 1. Owner's Easements of Enjoyment. The Declarant and every Owner shall have a right and easement of ingress, egress, and regress over the Common Property and over the roads within the property, to be used in common with others, for the purpose of providing access to Lots owned or dwelling units owned by the owner for himself, his family, agents, licensees and invitees, subject to the provisions of this Declaration.

Section 2. Annual Assessments.

(a) The Association shall have the right, from time to time, to establish a reasonable assessment to be paid by each owner to be used to pay the operating and administrative expenses of the Association, including without limitation, the maintenance, upkeep and repair of all streets, roads, road rights-of-way, and other Common Property, and the salaries, administrative office and other expenses necessary or useful to maintain and operate the Association (including, without limitation, the procuring, maintenance and paying the costs, of insurance related to the Common Property and of surety and other bonds related to the management of the Common Property and the Association), it being understood (by way of example and without limitation) that the assessment funds shall be usable for such matters concerning Common Property as the following: seeding and re-seeding road rights-of-way and Common Areas; erosion control; repairing of road shoulders; surfacing, patching and resurfacing of road pavement; placement of gravel; and planting and maintenance of shrubs, trees and seasonal flowers.

(b) Commencing January 1, 1989 the annual assessment shall be \$200.00 per lot payable by the Owner thereof, which annual assessment shall be due and payable on January 1 of each year or at such other time or times as hereinafter provided by the Board of Directors of the Association.

(c) The annual assessment may be increased or decreased during any calendar year by the Board of Directors of the Association without a vote of the membership, to an amount not more than ten (10%) percent in excess of the annual assessment for the previous year. A majority

vote of each class of voting members of the Association must approve an increase or decrease in the yearly assessment if the increase or decrease exceeds the assessment for the previous year by more than ten (10%) percent.

(d) Not later than December 1 of the year in which annual assessments commence, and on the same date of each year thereafter, the Board of Directors of the Association shall have determined and shall have given written notice to each owner of the annual assessment affixed against each owner for the immediately succeeding calendar year.

Section 3. Special Assessments.

(a) In addition to the annual assessment referred to above, a one-time special assessment of \$200.00 shall be payable to the Association for every Lot purchased from the Declarant whether by deed or by land sales contract, such assessment to be due and payable upon the closing of such purchase. This assessment shall be used, in part, to defray the costs of Architectural review as provided for by Article V hereof. This one time special assessment shall be transferable in that: (1) upon the payment of the special assessment by the original purchaser of a Lot from the Declarant, the Association shall deem the special assessment satisfied so that no subsequent Owner of that Lot shall be obligated to pay such special assessment again, and (2) the original Lot purchaser from the Declarant and every seller of that Lot thereafter shall have the right, to seek from the purchaser from such seller the reimbursement of this special assessment. Neither the Declarant nor the Association shall have any duty to seek such reimbursement for the benefit of any person or party.

(b) In addition to the annual assessment, the Association may levy yearly special assessments in any calendar year for the purpose of supplementing the annual assessment if the same are inadequate to pay the reasonable maintenance expenses and operating costs of the Association as described in Section 2 (a) hereof; provided that any such special assessments shall have the assent of a majority of each class of the voting members of the Association at a duly called meeting. A special assessment may differ in amount as between owners of Dwelling Units and owners of unimproved Lots, provided that any difference is reasonable and equitably determined.

Section 4. Removal of Obstructions and Unsightly Growth, Debris and Materials.

(a) The Association without notice, may remove any obstructions of any nature located within road rights-of-way or other Common Property (including but not limited to trees, shrubs, and mailboxes) which, in the opinion of the Association, either might produce a hazard or might interfere with the ability or willingness of the State of North Carolina (or agency or department thereof) to take over the responsibility for maintenance of the roads. The Association shall have the right to use assessments collected for maintenance of roads, rights-of-way and other

Common Property (as such assessments are provided for elsewhere herein) for taking steps which are reasonably necessary or desirable to accomplish the said removal of obstructions.

(b) The Association shall have the right, in its sole discretion, to charge back the actual cost to it of removing obstructions against the Owner who directly or through his agents, contractors or invitees caused or permitted the obstruction to be placed in the road right-of-way or other Common Property, and such Owner shall indemnify and save the Association harmless from all liability, claims, damages and expense imposed upon the Association, at law or in equity, caused by or resulting from the placement of the obstruction in the road right-of-way or other common property. In the event that the Owner responsible for such charge or liability, as aforesaid, fails and refuses, after demand by the Association to pay said charge or liability, then the Association shall have a lien against his Lot thereon and may enforce collection of the charge or liability, together with reasonable attorneys' fees, by any and all remedies afforded by law or in equity, including without limitation, the filing of a notice of lien and perfecting the same as by law provided, to the end that such charge or liability shall become a charge against the said lot or dwelling unit.

(c) If the Association, in its sole discretion, determines that any Lot has become unsightly due to grass or weeds being left unmowed, or due to debris of any nature having accumulated on the Lot, then the Association shall have the right from time to time to enter the said Lot, for the purpose of mowing the grass or removing the debris. At least ten (10) days prior to entering a Lot for said purpose, the Association shall advise the Owner by letter, sent to his last-known address, of the action to be taken if the Owner does not remedy the problem within the said ten (10) day period. The Association shall take reasonable steps to avoid damage to any trees planted on such Lot, to the extent that the Association has been put on written notice in advance by the Owner of the approximate location on a chart or map of such Lot showing the location of planted trees to be avoided.

(d) The Association shall have the right, in its sole discretion, to pay from the above-described assessments, such costs as are reasonably necessary to allow it to cut the grass, weeds and underbrush and to remove debris and to charge the Owner of the Lot with the actual cost of the Association of such cutting and/or removal. In the event that such Owner fails or refuses, after demand by the Association, to pay such cost, then the Association shall have a lien against said Lot for such cost and may enforce collection of said cost, together with reasonable attorneys' fees by any and all remedies afforded by law or in equity, including, without limitation, the filing of a notice of lien and perfecting the same as by law provided, to the end that such unpaid cost and said associated collection expenses shall be a charge against said Lot.

Section 5. Duty to Make Repairs. Until accepted for maintenance by governmental authority, the obligation for the repairs, maintenance and improvements of the roads as shown on the aforesaid plat or any other common property shall be the responsibility of the Association with the Owner of each Lot except as provided herein, being responsible for payment of the

assessments levied by the Association, which assessments shall be the personal obligation of the Owner of each Lot.

The decision to expend Association funds to repair and maintain the roads or other Common Property shall be made by a majority of the Board of Directors of the Association. By such vote, the Board may delegate such authority to any committee of the Board. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use or abandonment of his Lot.

Notwithstanding the foregoing, each owner of a Lot shall be solely responsible for any repairs to a road right-of-way or other common property caused by the negligent act or acts of said owner, his or her invitees, agents, licensees, or guests. For these purposes, it shall be a negligent act for any building material to be unloaded on any road or road right-of-way.

Section 6. Late Charge and Interest on Unpaid Assessments. Any assessment not paid within thirty (30) days after the due date shall be subject to such late charges and shall bear interest at a rate per annum as shall be determined by the Board of Directors of the Association, which interest rate shall not exceed the highest rate of interest allowed by law. The initial late charge imposed for late payment of any assessment is \$25.00 and shall be charged as to any assessment that is not paid within 30 days of its due date. The initial interest rate for late payment is 18% per year (1.5% per month) which shall commence to accrue on any assessment or other account balance that is not paid within 30 days of the date due. The initial date upon which liens may be filed for failure to make payment of assessments and other charges is 30 days after the due date. The Board of Directors may change the initial late charge, interest rate, due dates and lien assessment dates by majority vote of the Directors.

Section 7. Lien For Unpaid Assessments.

(a) In the event that the Owner of any lot fails and refuses, after demand by the Association, to pay any annual or special assessment, then the Association shall have a lien against said Lot and may enforce collection of said assessment, together with reasonable attorneys' fees, by any and all remedies afforded by law or in equity, including, without limitation, the filing of a notice of lien and perfecting the same as by law provided, to the end that such unpaid assessment together with the costs and expenses of collection, including without limitation, reasonable attorneys fees, shall be a charge and lien against the said Lot.

(b) To secure the payment of the annual and special assessments as are levied by the Association, together with the costs of collection, including attorneys fees, all such charges shall be a continuing lien upon the Lot against which the assessments are made. Such charges shall also be the personal obligation of the person(s) who were the owner or owners of such Lot at the time the assessment came due. The personal obligation shall remain a lien upon the Lot upon transfer of title but shall not become the personal obligation of the purchasers thereof unless expressly assumed by them.

(c) Neither the assessments nor the costs of collection shall be a lien upon any Common Property nor shall the lien upon any Lot for such charges be senior to any first lien mortgage or first lien deed of trust regardless of the fact the lien arose prior to the date and time of recording of any such first lien mortgage or deed of trust. Neither shall any first mortgagee nor the beneficiary of any such first lien deed of trust nor any federal or state agencies or instrumentalities (including, without limitation, the Veterans Administration and the Federal Housing Administration) that acquire title to any such Lot whether as a result of foreclosure of said Lot or the conveyance to the holder of such indenture in lieu of foreclosure or as the result of any such agency or instrumentality becoming the owner of such Lot as a result of having insured or guaranteed the loan secured by the mortgage or deed of trust that was subject to foreclosure or a deed in lieu thereof.

Section B. Other Association Programs and Benefits.

Additionally, the Association shall provide such other programs and benefits for the Owners approved by a majority vote of a quorum of each class of members present in person or by proxy at meeting duly called for such purpose at which a quorum was present and acting throughout. The Declarant shall have no obligation for any such assessment or other costs or expenses with regard to any Lot owned by it or with respect to assessments accrued as to any Lots to which Declarant obtains title, either due to breach of sales contracts, deeds in lieu of foreclosure, or by foreclosure.

ARTICLE III

MEMBERSHIP, VOTING RIGHTS, OFFICERS AND MEETINGS

Section 1. Membership. Every owner of a Lot which is subject to this Declaration shall be a member of the Association. Membership is appurtenant to and may not be assessment. As Declarant develops additional phases in Providence Country Club, the owners of those Lots shall be members of the Association. The Declarant shall also be a member so long as it owns property within this expandable Subdivision.

Section 2. Class Membership Voting. The Association shall have two (2) classes of membership:

Class A

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

Class B

(a) Class B members shall be entitled to vote ten (10) votes for each Lot owned. Class B membership shall consist of the Declarant, until the happening of either of the following events, whichever occurs earlier:

1. The earlier of four months after seventy-five (75%) percent of all the Lots in the Subdivision are sold and conveyed by the Declarant to unrelated third parties or person or five years; or

2. At such time as Declarant voluntarily relinquishes majority control of the Association by a duly recorded instrument.

(b) Upon the happening of the earlier of either of the two above-described events, Class B membership (described hereinafter) shall cease and terminate and shall be converted to Class A membership.

Section 3. Board of Directors. There shall be five (5) members of the Board of Directors of the Association who shall serve until such time as their successors are duly elected and agree to serve. The Directors shall have annual meetings and such other meetings as may be called at the request of the President of the Association or by any two (2) directors. So long as the Declarant, or its successors or assigns, is the Class B member, it shall select the Board, provided it must select two (2) of the members from the Lot Owners other than the Declarant.

Section 4. Suspension of Voting Rights. The Association shall have the right to:

(a) Suspend the voting rights (if any) of an Owner for any period during which assessment on his Lot remains unpaid and enforce collection of the same; and

(b) Suspend the voting rights (if any) of each Owner who is a contract buyer for any period of time during which payments to the Declarant pursuant to terms of said contract are delinquent during which period of time the Declarant shall succeed to the voting rights of said contract buyer.

ARTICLE IV

CONVEYANCE OF COMMON PROPERTY

Declarant by deed will convey its right, title and interest in and over the road rights-of-way and any other Common Property within the Subdivision to the Association.

ARTICLE V

ARCHITECTURAL CONTROL

Section 1. Except within the building site, no trees of any kind in excess of 12 inches in diameter may be removed the prior written approval of the Committee. No building, fence wall, outbuilding or any other accessory feature to the dwelling or any other structure upon any Lot shall be commenced, erected, placed, maintained or altered on any Lot or combination of contiguous Lots, until the complete construction plans (the "Plans") are approved, in writing, by the Committee or its designated agent. The Plans include the complete construction plans, the plot plan (showing proposed location and elevation of such building, fences, walks, drives, parking area, etc.), proposed building plans and specifications, exterior color, finish and materials and the proposed landscaping plan. The areas over which the approval shall be required shall include but shall not be limited to the size and plan of the principal residential structure, and all accessory buildings, the location of the principal residential structure and all accessory buildings, structures and improvements on the lot, the size and plan of the garage or attached carport, location and manner of construction of each driveway, swimming pool, utility building, patio, tennis court and other improvements for athletic, recreational or gymnastic purposes, and all other exterior improvements, the composition and color of raw and finished materials used on the exterior of all structures and the location and type of any shrubbery and other plantings. The Committee or its designated agent shall have 15 days after physical receipt of the Plans to accept or reject the same in whole or in part. If no response by the Committee has been made in writing within said 15 days, the Lot Owner or his builder shall notify the Committee c/o the managing general partner of the Declarant by certified mail at address for such notices set forth in the current edition of the Architectural Guidelines for the Subdivision that no response has been made to the plans submission and that the Committee has 15 days left to make such response or the plans will be automatically approved as submitted. Thereafter, if no approval is given within 15 days after such notice is given the Committee, the Plans shall be deemed to be approved as submitted. After the Plans are approved and after the Committee gives written permission for construction to begin, the actual construction shall be commenced and completed in accordance with the approved Plans, together with the requirements of the Declaration. The actual construction shall be the responsibility of the Owner of the Lot and his builder. Any permission granted for construction under this covenant shall not constitute or be construed as approval by the Declarant or the Committee or its designated agent of the structural stability, design or quality of any building or other improvement. The Committee shall have the right to waive minor setback violations, not to exceed a variance of 10% in any single instance, when the remedial costs of correcting such violation opinion, impose undue hardship upon the Owner who violates such setback. The architectural control approval as provided herein shall remain in the Declarant, or its successors and assigns. The Declarant shall appoint all members of the Committee until such time as the principal use has been established and a certificate of occupancy granted for the house constructed on each Lot in the Subdivision. Thereafter the right

of approval set forth herein shall be vested in a committee composed of three (3) persons who shall be elected by a majority vote, at a meeting of the Association called for, among other things, such purpose.

Section 2. The driveways, walkways, landscaping and the exterior of all houses and other structures must be completed within one year after the construction of same has commenced except where such completion is impossible or would result in great hardship to the Owner or builder due to causes beyond their reasonable control as determined by the Committee or its designated agent.

ARTICLE VI

DECLARANTS' RIGHTS OF FIRST REFUSAL

AND OPTIONS TO PURCHASE

Section 1. Before any unimproved Lot may be sold to any person, firm or corporation other than the Declarant or its successors, the Owner or Owners of such Lot shall offer first in writing, to sell the Lot to the Declarant or its successors at a price equal to the contract purchase price to such Owner of an unimproved Lot who wishes to sell such Lot (excluding all finance charges related to the purchase) which contract price shall be increased by 5% simple interest per year from the closing date of the purchase by such Owner of an unimproved Lot to the date the written offer is made to the Declarant or its successors less the costs of removing all liens and encumbrances and customary Seller's closing costs. If the Declarant or its successor does not accept or reject in writing said offer of sale within thirty (30) days from the date of receipt of same, then the Owner or Owners of such Lot shall have the right to sell the same without any further additional obligation to offer the same to the Declarant. This Section shall not be applicable with respect to any foreclosure sale of a first lien deed of trust of first lien mortgage or deed in lieu thereof which deed is made and delivered in good faith.

Section 2. In the event that any Owner fails to commence construction of a Dwelling Unit, without the Declarant's prior written approval, within 36 months of the date the Owner acquires legal or equitable title to the Lot, then the Declarant, its successors or assigns, shall have the right and option exercisable at any time within five (5) years after the expiration of said 36 months by written notice to the Owners, to purchase said Lot at the original purchase price increased by 5% simple interest per year from the closing date to the date Declarant exercises its option less the costs of removing all liens and encumbrances upon the Lot and less customary seller's closing costs.

ARTICLE VII

GENERAL USE RESTRICTIONS

Declarant does hereby covenant and agree with all persons, firms or corporations hereafter acquiring title to any portion of the Property, that the Property is hereby subject to restrictive covenants as to the use thereof, which restrictions may be modified or supplemented as to any additional phases, if added to the Subdivision, upon the recorded of the Supplemental Declaration with respect thereto.

1. Except as otherwise provided in this Declaration, the Lots shall be used for residential purposes only, and no structure shall be erected, placed, altered or permitted to remain on any lot other than one detached, single-family dwelling, together with outbuildings customarily incidental to the residential use of the lot, except that Declarant reserves the exclusive right to construct a roadway over any Lot owned by it in order to grant access to other property acquired by Declarant and in such cases, the remainder of any such lot not used for the roadway shall still be subject to this Declaration.

2. Each single family dwelling shall have an enclosed, heated living area of the main structure, exclusive of open porches, garages, and other unheated spaces, of not less than Two Thousand Four Hundred (2,400) square feet. All residential dwellings must have a garage or attached carport accommodation at least two vehicles under roof.

3. Garages and attached carports shall have only rear or side car entrance in relation to the "front line" of the Dwelling Unit or Lot on which the same is located. All driveways shall be constructed of either concrete or asphalt or other decorative type of material approved by the Committee.

4. More than one (1) Lot (as shown on said plats) or parts thereof, may be combined to form one (1) or more Lots by (or with the written consent of) Declarant, or its successors or assigns, and in such event the building line requirements prescribed herein shall apply to such Lots, as combined. No Lot may be subdivided by sale or otherwise, except Declarant, its successors and assigns, reserves the right to subdivide any Lot which it owns. Upon combination or subdivision of Lots, the easements reserved herein shall be applicable to the rear, side and front lot lines of such Lot as combined or subdivided.

5. Construction of new residential buildings only shall be permitted, it being the intent of this covenant to prohibit the moving of any existing building or portion thereof on a Lot and remodeling or converting the same into a dwelling unit in this subdivision excepting however Declarant's mobile offices provided for hereinbelow. Any dwelling constructed upon a lot must be completed within one (1) year subsequent to commencement of construction, except with the written consent of Declarant, its successors or assigns.

6. No noxious or offensive trade or activity shall be carried on upon any Lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. No animals or poultry of any kind may be kept or maintained on any of said Lots, except a reasonable number of dogs and cats and other indoor household pets such as goldfish, tropical

fish, and caged songbirds that shall be kept as household pets, and further except that some Common Property may be devoted to equestrian purposes. Dogs must be leashed off the Owner's Lot. No dogs shall be permitted to roam the Property and the Association may have strays and dogs that are not leashed and are found off their Owner's Lot picked up by governmental authorities

7. Declarant shall be permitted to erect one or more mobile offices or houses on any Lots that it owns for the purpose of maintaining sales information centers and construction coordination offices.

8. Water and sewage disposal shall be by community systems. The costs of tap fees and monthly service shall be borne by the Owner of each Lot. Wells may only be drilled for non-household purposes and heating and cooling systems. No wells can be located on any lot without the approval of the Committee.

9. Except for stump burial pits located with the prior approval of the Committee, no portion or part of any lot shall be used or maintained as a dumping ground for rubbish or other refuse. Trash, garbage, or other waste shall not be kept, except in sanitary containers screened from view from all roads, other Lots, Common Property and all portions of the golf course.

10. Easements ten (10) feet in width along the Lot lines of all Lots are reserved for installation, repair, replacement and maintenance of utilities, including the right to keep said easements free and clear of all obstructions. An easement of fifteen (15) feet is reserved for such purposes along the rear line of all Lots that do not adjoin other Lots or properties within the Subdivision. A perpetual easement fifteen (15) feet in width is reserved for the use and benefit of, and hereby granted to, the Association along each right of way margin of Providence Country Club Drive for the location and maintenance of trees and other landscape plantings, and in this regard the Association is granted free rights of ingress, egress and regress, from time to time, as may be advisable to plant, seed, prune, fertilize, spray and otherwise care for such trees and plantings.

11. All mailboxes shall be of a uniform type, size, materials, and color approved in advance and designated for use by the Committee.

12. No outside clotheslines shall be permitted. No outside antennae or satellite dishes shall be permitted unless concealed from view from all lots, open space and all portions of the golf course and the design of enclosures are approved by the Committee.

13. Unless located within enclosed garages, no house trailer, travel trailer, motor home, ship, boat, raft, float, boat trailer, camper, tent, shed, truck (in excess of a 1 and ½ ton pick-up truck) or any other such vehicle, trailer, vessel or temporary structure shall be kept or maintained or located upon any Lot. No vehicles that are disabled or under repair shall be kept upon any Lot unless located within enclosed garages.

14. No signs of any description shall be displayed upon any Lot with the exception of rental or sales signs which must be approved by the Committee in advance as to size, content, color and materials.

15. Nothing herein contained shall be construed as imposing any covenants and restrictions on any property of the owner of this subdivision other than the Property that is subjected to the Declaration.

ARTICLE VIII

EXPANDING THE SUBDIVISION

Declarant owns additional property in Mecklenburg and Union Counties, North Carolina. Declarant's managing joint venturer (or an Affiliate or designee of such Venturer) may acquire all or part of such additional property and may acquire other properties abutting upon the Subdivision as it now exists or is hereinafter expanded. The Declarant and the Managing Venturer contemplate that all or part of such now owned or future acquired properties may be subjected to this Declaration and the covenants herein contained by Declarant or the Managing Venturer or one or more of its Affiliates filing of record one or more plats and one or more Supplemental Declarations showing the additional properties to be held, used, enjoyed, sold and conveyed subject to this Declaration, and for this purpose, Declarant grants unto the Managing Venturer its irrevocable power of attorney to make and file such plats and execute and record such Supplemental Declarations so that the properties owned by the Managing Venturer (or an Affiliate) may be so subjected. "Affiliate" means any person, firm or corporation, directly or indirectly, controlled by, controlling, or under common control with the Managing Venturer. Declarant reserves the right to execute and file additional Supplements and plats with reference to property it now owns or hereafter acquires that it desires to subject to this Declaration.

ARTICLE IX

CAPTIONS, ENFORCEMENT AND INVALIDATION

Section 1. Whenever the context and construction so require, all words used in the singular number herein shall be deemed to have been used in the plural, and vice versa, and the masculine gender shall include the feminine and neuter and the neuter shall include the masculine and feminine.

Section 2. The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration nor the intent of any provisions hereof.

Section 3. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages. In the event it is necessary to enforce this Declaration by appropriate legal or equitable proceedings, the party or parties violating or attempting to violate the same shall be liable for the cost of such proceedings including reasonable attorney's fee.

Section 4. Invalidation of any one or more of these covenants by judgment or court shall not adversely affect the balance of this Declaration, which shall remain in full force and effect.

Section 5. The Declarant reserves the right to amend this Declaration from time to time without joinder of any of the Owners for the following purposes:

- (a) To clarify the meaning of or to correct clerical errors in the Declaration;
- (b) To correct grammar, spelling, capitalization and other matters of syntax; and
- (c) To modify the provisions of the Declaration in order to comply with the requirements of the Federal National Mortgage Association ("FNMA") and the Federal Home Loan Mortgage Association ("FHLMC") so that subdivision approval may be obtained from FNMA and FHLMC.

Supplements to the Declaration expanding the Subdivision as provided in Article VIII may also be made by the Declarant acting alone. All other amendments to this Declaration shall require an affirmative vote of at least seventy-five (75%) percent of the Owners.

ARTICLE X

THIS DECLARATION RUNS WITH THE LAND

These covenants are to run with the land and shall be binding on all parties and persons claiming under them for a period of thirty (30) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by a seventy-five (75%) percent majority of the then owners of the Lots has been recorded agreeing to change said covenants in whole or in part.

IN WITNESS WHEREOF, the Declarant has caused this Amendment to the Declaration to be duly executed this 6th day of September, 1988

(Affix Corporate Seal)

Attest:

Secretary

(Affix Corporate Seal)

Attest:

Secretary

(Affix Corporate Seal)

Attest:

Secretary

FIRST PROVIDENCE INVESTORS, (Seal) a
North Carolina joint venture partnership

By: PERFORMANCE INVESTMENTS, INC.
partner and managing venturer

By: _____
President

By: FIRST PROVIDENCE REALITY, INC.,
Partner

By: _____
President

AND BY
FCI REALITY AND MANAGEMENT, INC.,
Partner

By: _____
President

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, a Notary Public of the Country and State aforesaid, that _____ personally came before me this day and acknowledged that she is the ____ Secretary of FIRST PROVIDENCE REALTY, INC., a North Carolina corporation, that said corporation is a joint venture partner in First Providence Investors, and that by authority duly given and as the act of the corporation is a joint venture partner in First Providence Investors, the foregoing instrument was signed in its name by its ____ President, sealed with its corporate seal and attested by her as its ____ Secretary Witness my hand and official stamp or seal. This 31st day of August, 1988.

My commission expires:

Notary Public

1/08/90

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, a Notary Public of the County and State aforesaid, that _____ personally came before me this day and acknowledged that ____ is the ____ Secretary of FCI REALTY AND MANAGEMENT, INC., a North Carolina corporation, that said corporation is a joint venture partner in First Providence Investors, the foregoing instrument was signed in its name by its ____ President, sealed with its corporate seal and attested by ____ as its _____ Secretary. Witness my hand and official stamp or seal, this 6th day of September, 1988.

My commission expires:

Notary Public

4/02/90

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, a Notary Public of the County and State aforesaid, that _____ personally came before me this day and acknowledged that ___ is the ___ Secretary of FCI REALTY AND MANAGEMENT, INC., a North Carolina corporation, that said corporation is a joint venture partner in First Providence Investors, the foregoing instrument was signed in its name by its ___ President, sealed with its corporate seal and attested by ___ as its _____ Secretary. Witness my hand and official stamp or seal, this 31st day of August, 1988.

My commission expires:

Notary Public

1/03/90

***** Please note: Original signed Declaration of Covenants, Conditions and Restrictions are on file at the Association office.**