

NORTH CAROLINA
MACON COUNTY AND JACKSON COUNTY

AMENDMENT TO AMENDED DECLARATIONS OF PROTECTIVE COVENANTS
AND RESTRICTIONS PROVIDING FOR HIGHLANDS FALLS
COMMUNITY ASSOCIATION, INC.

THIS AMENDMENT TO AMENDED DECLARATIONS OF PROTECTIVE COVENANTS AND **RESTRICTIONS PROVIDING FOR HIGHLANDS FALLS COMMUNITY ASSOCIATION, INC.**, made this the 18th day of July, 1994, by HIGHLANDS FALLS COMMUNITY ASSOCIATION, INC., a non-profit corporation organized under the laws of the State of North Carolina;

WITNESSETH:

THAT WHEREAS, the Amended Declaration of Protective Covenants and Restrictions Providing for Highlands Falls Community Association, Inc. dated August 19, 1980, recorded in Book H-13 at Page 15, Macon County Public Registry, and the Amended Declaration of Protective Covenants and Restrictions providing for Highlands Falls Community Association, Inc. dated February 2, 1982, recorded in Book K-14 at Page 204, Macon County Public Registry, and in Book 600 at Page 68, Jackson County Public Registry, as extended and amended by the supplemental declarations recorded in Book P- 15 at Page 223, Macon County Public Registry; Book P-16 at Page 21, Macon County Public Registry; Book V-17 at Page 224, Macon County Public Registry and Book 691 at Page 343, Jackson County Public Registry; Book K-18 at Page 528, Macon County Public Registry and Book 734 at Page 485, Jackson County Public Registry; Book V-18 at Pages 1077-1082, Macon County Public Registry and Book 763 at Page 489, Jackson County Public Registry; and Book L-19 at Pages 1379-1383, Macon County Public Registry (the "Declarations") affect and encumber certain real property located in Macon and Jackson Counties, North Carolina, known as Highlands Falls Country Club Subdivision ("Highlands Falls"); and

WHEREAS, Highlands Falls Community Association, Inc. (the "Association") is a non-profit corporation organized under the laws of the State of North Carolina and operates as an association of the owners of real property within Highlands Falls; and

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WHEREAS, the Declarations address the functions and duties of the Association and require membership in the Association of the owners of real property which they affect and encumber; and

WHEREAS, the majority of the real property within Highlands Falls is subject to and encumbered by the Declarations; and

WHEREAS, this instrument is made pursuant to ARTICLE VII, Section 2 of the Declarations for the purpose of amending the Declarations.

NOW, THEREFORE, the Association amends the Declarations as set forth hereinbelow and declares that the real property described hereinbelow shall be held, conveyed, hypothecated, encumbered, leased, rented, occupied, improved and otherwise used subject to the provisions contained hereinbelow, which provisions are intended to be and are agreed by the Members of the Association, their heirs, successors and assigns, to be in furtherance of a plan of development established for the purpose of enhancing and protecting the value, desirability and attractiveness of said real property.

The provisions of this instrument are intended to create mutual and equitable servitudes upon each parcel of real property described hereinbelow in favor of each and all other of said parcels; to create reciprocal rights among the respective Owners of all such parcels; to create privity of contract and privity of estate among the Owners of such parcels, their heirs, successors and assigns; and to operate as covenants running with the land for the benefit of each and every parcel in Highlands Falls made subject hereto and their respective owners, both present and future.

The Association declares as follows:

ONE

This Amendment shall amend the Restrictions and is executed pursuant to ARTICLE VII, Section 2 of the Restrictions. This Amendment was adopted by resolution of the Members of the Association at the annual meeting of the Members duly held on July 18, 1994. Notice of said annual meeting was given to each Member on June 17, 1994, in the manner specified in the Declarations and the by-laws of the Association. On July 18, 1994, the date of the meeting, the Members were entitled to cast the total of 383 votes and there were 304 votes represented at the meeting in person or by proxy; therefore, in excess of 60%

of the total number of votes entitled to be cast by the Members were represented at the meeting and a quorum was present. Of the 304 votes represented at the meeting, the affirmative vote of 228 were required in order to adopt this Amendment. 304 votes were cast in favor of and 0 votes were cast in opposition to the adoption of this Amendment. The resolution so adopted provided that this Amendment be executed by the president of the Association, attested by the secretary, with the corporate seal hereunto affixed, and that this Amendment be recorded in the Macon County Public Registry and in the Jackson County Public Registry as soon as possible after September 19, 1994, and that this Amendment shall become effective upon the date of the first such recordation.

TWO

To the extent particular provisions of this Amendment by their terms specifically delete and replace particular provisions of the Declarations, the replacement provisions shall prevail over the replaced provisions. The provisions of the Declarations that are not specifically deleted by this Amendment shall remain in full force and effect. In situations in which the Declarations contain provisions that are not specifically deleted by this Amendment and in which this Amendment contains provisions which address the same or similar subject matter, such provisions of this Amendment shall be construed, where reasonably possible, to supplement and explain the provisions of the Declarations, and where such a construction is not reasonably possible, such provisions of this Amendment shall prevail over and control such provisions of the Declarations. Should any provision, paragraph, sub-paragraph, sentence, phrase, or other portion of this Amendment be determined to be void, invalid, illegal or unenforceable for any reason by any court or tribunal of competent jurisdiction, such determination shall not affect the remaining provisions hereof, which provisions are declared to be severable and shall remain in full force and effect. With respect to any such provision, paragraph, sub-paragraph, sentence, phrase, or other portion of this Amendment which is so determined to be void, invalid, illegal or unenforceable, to the extent to which such provision replaced any provisions of the Declarations, such replaced provisions of the Declarations shall immediately upon such determination resume effectiveness.

THREE

The definitions contained in ARTICLE I of the Declarations shall remain in full force and effect, except as specifically amended in this paragraph THREE, and the definitions contained in said ARTICLE I are incorporated by reference herein and when used herein shall have the meanings set forth in the Declarations except as specifically amended hereinbelow. The following words and terms shall have the following definitions, which definitions shall apply when said words and terms are used in this Amendment and when said words and terms are used in the Declarations. To the extent the following definitions specifically contradict the definitions contained in the Declarations, the following definitions shall control when used in this Amendment and the Declarations; otherwise, the definitions contained hereinbelow shall be deemed to supplement and explain the definitions contained in the Declarations:

A. "Amendment" - This Amendment to the Amended Declarations of Protective Covenants and Restrictions Providing for Highlands Falls Community Association, Inc., which amends both of the Declarations.

B. "Association" - Highlands Falls Community Association, Inc., a Non-Profit Corporation organized under the laws of the State of North Carolina, and its successors and/or assigns as the property owners' association for Highlands Falls.

C. "By-Laws" - The By-Laws of the Association adopted July 18, 1994.

D. "Common Property" and "Common Properties" - Common Properties shall include the definition of Common Properties contained in the Declarations. In addition, the Common Properties shall include all property, real, personal or intangible, heretofore conveyed to and/or now owned by the Association and hereafter acquired by the Association, whether or not the conveyance designates the property conveyed as common property, provided the same is conveyed to and acquired by the Association for the common use and benefit of the Members of the Association. Common Property is a specific parcel or item of the Common Properties.

E. "Declarations" - The Amended Declaration of Protective Covenants and Restrictions Providing for Highlands Falls Community Association, Inc. dated August 19, 1980, recorded in Book H-13 at Page 15, Macon County Public Registry, and the Amended

Declaration of Protective Covenants and Restrictions providing for Highlands Falls Community Association, Inc. dated February 2, 1982, recorded in Book K-14 at Page 204, Macon County Public Registry, and in Book 600 at Page 68, Jackson County Public Registry, as extended and amended by the supplemental declarations recorded in Book P-15 at Page 223, Macon County Public Registry; Book P-16 at Page 21, Macon County Public Registry; Book V-17 at Page 224, Macon County Public Registry and Book 691 at Page 343, Jackson County Public Registry; Book K-18 at Page 528, Macon County Public Registry and Book 734 at Page 485, Jackson County Public Registry; Book V-18 at Pages 1077-1082, Macon County Public Registry and Book 763 at Page 489, Jackson County Public Registry; and Book L-19 at Pages 1379-1383, Macon County Public Registry.

F. "Developer" - Golf Properties and Associates, a North Carolina partnership (now terminated); its predecessor and successor, Golf Properties, Inc., a North Carolina corporation; and the successors and assigns of Golf Properties, Inc. as developer of Highlands Falls.

G. "Highlands Falls" - Highlands Falls Country Club Subdivision, which includes all of the real property described in paragraph Four hereinbelow and all real property contiguous thereto owned by Golf Properties, Inc. and Highlands Falls Country Club, Inc.

H. "Lot" or "Residential Lot" - Any subdivided parcel of land, whether or not improved, that has been platted and recorded by the Developer, located within Highlands Falls and designated for single-family residential use.

I. "Member" and "Associate Member" - Member means all Owners of real property within Highlands Falls which is subject to and encumbered by the Declarations, and includes Highlands Falls Country Club, Inc. Associate Member means any person, firm, corporation or other legal or commercial entity or combination thereof who or which owns real property outside Highlands Falls and who or which has the right to use the Association's central water system or central sewer system in accordance with any deed, instrument or contract with the Association. Associate Members shall pay all assessments and fees issued by the Association attributable to their water and/or sewer use and shall pay membership fees. Associate Members shall have the right to receive notice of and to attend all meetings of the Members of the Association, but they shall not have the right to vote at meetings of the Members or to serve as directors or officers of the Association.

J. "Neighborhood Area" - Neighborhood Area shall include the definition of Neighborhood Area contained in the Declarations, and shall include without limitation the subdivision known as Club Villas (the "Club Villas"); the planned unit development known as Golf Villa Neighborhood #1, also known as Golf Villa #1 Neighborhood (the "Golf Villas"); the subdivision known as Winterberry Court ("Winterberry Court"); the planned unit development known as Laurelwood Subdivision ("Laurelwood"); and the condominium known as Chestnut Cove, a Condominium ("Chestnut Cove"), all of which are located within Highlands Falls and are more particularly described in paragraph Four hereinbelow.

K. "Owner" - Owner shall include the definition of Owner contained in the Declarations. In addition, Owner shall mean:

Any person, firm, corporation or other legal or commercial entity or combination thereof who or which holds fee simple title to any Lot or Residential Unit; and

2. Any person, firm, corporation or other legal or commercial entity or combination thereof who or which has contracted to purchase fee simple title to any Lot or Residential Unit pursuant to a written agreement, and which written agreement entitles such person, firm, corporation or other legal or commercial entity or combination thereof to the exclusive right to possess and control such Lot or Residential Unit, in which case the record fee simple owner of such Lot or Residential Unit shall, for the purposes of the Declarations and this Amendment, cease to be the Owner of such Lot or Residential Unit for so long as said agreement is legally effective.

L. "Properties" - Properties shall include the definition of Properties contained in the Declarations. In addition, Properties shall have the same meaning as Highlands Falls.

M. "Residential Unit" - Residential Unit shall mean each dwelling unit located in each Neighborhood Area, including the Club Villas, the Golf Villas, Winterberry Court, Laurelwood, and Chestnut Cove, all of which are located within Highlands Falls and are more particularly described in paragraph Four hereinbelow.

N. "Subdivision" - Subdivision shall have the same meaning as Highlands Falls.

O. "Use Restrictions" - Use Restrictions mean the Declaration of Restrictive Covenants for Highlands Falls Country Club dated September 1, 1973, and the Supplemental Declaration attached thereto, recorded in Book V-9 at Page 100, Macon

County Public Registry, providing use restrictions for Lots in Section I of Highlands Falls, and the Declaration of Rights, Restrictions, Affirmative Obligations and Conditions Applicable to Highlands Falls Country Club Community recorded in Book K-14 at Page 203, Macon County Public Registry, providing use restrictions for Lots in Section II of Highlands Falls.

FOUR

The following described real property located in Macon County and Jackson County, North Carolina, shall be subject to and encumbered by the provisions of the Declarations and the provisions of this Amendment:

A. All real property now owned or hereafter acquired by the Association.

B. Those portions of Highlands Falls, Section I, as shown on the plats recorded in Plat Cabinet 1, Slide 225, Page 6, and Plat Cabinet 1, Slide 331, Page 6, Macon County Public Registry, including the subdivision known as Club Villas and all Residential Units located therein, which are subject to and encumbered by the Declarations.

C. Blocks A and B, Section II, Highlands Falls, as shown on the plats recorded in Plat Cabinet 1, Slide 261, Page 9, Plat Cabinet 1, Slide 295, Page 7, and Plat Cabinet 1, Slide 289, page 1, Macon County Public Registry; together with Block C, Section II, Highlands Falls, as shown on the plat recorded in Plat Cabinet 1, Slide 333, Page 8, Macon County Public Registry; together with Block D, Section H, Highlands Falls, as shown on the plat recorded in Plat Cabinet 1, Slide 319, Page 4, Macon County Public Registry; together with Block F, Section H, Highlands Falls, as shown on the plat recorded in Plat Cabinet 1, Slide 349, Page 1, Macon County Public Registry, and in Plat Cabinet 3, Slide 696, Jackson County Public Registry; together with Block G, Section II, Highlands Falls, as shown on the plats recorded on Plat Card #329, Plat Card #330 and Plat Card #786, Macon County Public Registry, and in Plat Cabinet 4, Slide 484, Plat Cabinet 4, Slide 485, and Plat Cabinet 5, Slide 424, Jackson County Public Registry; together with Block K, Section II, Highlands Falls, as shown on the plats recorded on Plat Card #329 and Plat Card #330, Macon County Public Registry, and in Plat Cabinet 4, Slide 484, and Plat Cabinet 4, Slide 485, Jackson County Public Registry; together with Block L, Section H, Highlands Falls, as shown on the plats recorded on Plat Card #562 and Plat Card #811, Macon County Public Registry; together with Block H, Section II, Highlands Falls, as shown on the plat recorded in Plat Cabinet 5, Slide 426, Jackson County Public Registry; together with Block J, Section II, Highlands Falls, as shown on the plat recorded on Plat Card #787, Macon County Public Registry, and in Plat Cabinet 5, Slide 425, Jackson County Public Registry; together with Block M, Section H, Highlands Falls, as shown on the plat recorded on Plat Card #1556, Macon County Public Registry.

D. All real property, including all Residential Units located within the planned unit development known as Golf Villa Neighborhood #1, also known as Golf Villa #1 Neighborhood, as shown on the plat recorded in Plat Cabinet 1, Slide 261, Page 9B, Macon County Public Registry, and all other recorded plats of the same.

E. All real property, including all Residential Units located within the subdivision known as Winterberry Court Subdivision as defined in the Declaration of Protective Covenants for Winterberry Court dated September 22, 1986, recorded in Book Z-16 at Page 570, Macon County Public Registry, and as shown on the plat recorded in Plat Cabinet 1, Slide 397, Page 5, Macon County Public Registry, together with the real property described in the deed recorded in Book Z-16 at Page 571, Macon County Public Registry.

F. All real property, including all Residential Units located within the condominium known as Chestnut Cove, a Condominium, as defined by the Declaration of Condominium for Chestnut Cove, a Condominium, dated December 1, 1987, recorded in Book Q-17 at Page 245, Macon County Public Registry, and the eleven amendments thereto recorded in the Macon County Public Registry.

G. All real property, including all Residential Units located within the planned unit development known as Laurelwood Subdivision, located upon the real property described as Parcel I, Block E, Section Highlands Falls Country Club Subdivision, as shown on the plat thereof recorded in Plat Cabinet 1, Slide 333, Page 7, Macon County Public Registry, as described in the deed recorded in Book Z-15 at Page 50, Macon County Public Registry.

H. All other real property that is currently subject to and encumbered by the Declarations.

I. All real property by any means hereafter subjected to the Declarations and/or this Amendment.

FIVE

The following provision is added to the Declarations: The Owner of each Lot and Residential Unit within Highlands Falls, including Lots resulting from any resubdivision or recombination of other Lots, must and shall automatically be a member of the Association including any successor organizations, and each such Owner and each Lot and Residential Unit within Highlands Falls shall be fully subject to all of the provisions of the Articles of Incorporation, by-laws, amendments or changes to the Articles of Incorporation or by-laws, resolutions, rules and regulations of the Association and its successors, specifically including but not limited to all obligations and duties that may from time to time be imposed thereby, including the obligation and duty to pay assessments, fees, charges and similar monetary obligations. The by-laws, resolutions, rules and regulations of the Association as from time to time in force may require payment of money by Owners of Lots and Residential Units over and above the payments specifically called for in this Amendment and the Declarations and in such case each such Owner and each such Lot and Residential Unit shall be fully subject to such requirement. No indicia of membership in the Association shall be provided; rather, ownership of a Lot or Residential Unit shall constitute full indicia of membership.

SIX

ARTICLE V, COVENANTS FOR ASSESSMENTS, contained in the Declarations is hereby deleted, and the following provisions shall prevail concerning the maintenance of the Subdivision roads, water system, sewer system, security system, and other Common Properties; Association assessments, fees, and charges; remedies for non-payment of the same; and related matters:

A. Subdivision road maintenance, repair and improvement. The Association owns fee simple title to or easements upon the road system of Highlands Falls. The Association does not own fee simple title to the internal road systems of the Club Villas, the Golf Villas, Winterberry Court, Laurelwood, or Chestnut Cove, although the Association owns easements upon some or all of the roads included in said internal road systems. The Association shall have the responsibility to maintain, repair, landscape, and to always keep in as good a condition as the same is now in the road system of Highlands Falls, not including any of said internal Neighborhood Area road systems. With respect to any and all roads so maintained by the Association, the Association shall have the authority to make improvements thereto. The Association may, in its discretion, decide to improve all of the roads, some of the roads, or none of the roads. The Association may, in its discretion, establish the degree to which to improve any road and may establish timetables and priorities for improvements and it shall generally have discretion in the improvement of roads.

B. Subdivision water system and sewer system maintenance, repair and improvement. The Association owns the water system of Highlands Falls and the sewer system of Highlands Falls and all facilities connected therewith. The Association does not own the internal water lines and sewer lines and related facilities of the Club Villas, the Golf Villas, Winterberry Court, Laurelwood, or Chestnut Cove, although the Association owns easements in connection with some or all of said internal water and sewer lines and facilities and provides water to and sewer collection from each Neighborhood Area. The Association shall have the responsibility to maintain, repair and to always keep in as good a condition as the same are now in the water system and the sewer system of Highlands Falls. The Association shall have the authority to make improvements to the water system

and sewer system of Highlands Falls and shall specifically have the responsibility to improve the same and increase the capacity of the same as required by the increasing population of the Subdivision and by applicable laws and regulations. The Association shall have the responsibility to always assure that the water system and the sewer system of Highlands Falls are in strict compliance with all applicable laws and regulations. Subject to the foregoing, the Association may, in its discretion, establish the degree to which to improve the water system or any portion thereof and the sewer system or any portion thereof, and it may establish timetables and priorities for such improvements and it shall generally have discretion in the improvement of the water system and the sewer system.

C. Subdivision utility line maintenance, repair and improvement. The Association owns the common water lines and sewer lines, and the conduits for electrical lines, telephone lines, cable television lines, and other utility lines within the Subdivision, subject to ownership rights of utility companies, not including the portions thereof within the Club Villas, the Golf Villas, Winterberry Court, Laurelwood, and Chestnut Cove, although the Association owns easements in some or all of said lines and conduits in said Neighborhood Areas. The Association shall have the responsibility to maintain and repair the Subdivision utility lines and conduits it owns, and to always keep them in as good a condition as they are now in. With respect to the utility lines and conduits within the Club Villas, the Golf Villas, Winterberry Court, Laurelwood, and Chestnut Cove, the Association shall have the responsibility to maintain and repair the sewer lines to the outside of the buildings in which the Residential Units are located, and to maintain and repair the water lines and other utility conduits to the curb stops near said buildings. The Association shall have the authority to make improvements to the utility lines and conduits of Highlands Falls and shall specifically have the responsibility to improve same and increase the capacity of the same as required by the increasing population of the Subdivision and by applicable laws and regulations. The Association shall have the responsibility to always assure that the utility lines and conduits of Highlands Falls are in strict compliance with all applicable laws and regulations. Subject to the foregoing, the Association may, in its discretion, establish the degree to which to improve the utility lines and conduits, and it may establish timetables and priorities for such improvements and it shall generally have reasonable discretion in the improvement of the utility lines and facilities.

D. Subdivision security system maintenance, repair and improvement. The Association owns the gatehouse area of Highlands Falls. The Association shall have the responsibility to maintain and repair the gatehouse area and to always keep the same in as good a condition as the same is now in, and to staff and operate the same in a reasonable manner. The Association shall have the authority to make improvements, changes and operating modifications with respect to the gatehouse and related facilities and the staffing thereof. The Association shall be authorized but shall not be required or have the responsibility to take more extensive measures in the future with regard to the security, safety and protection of persons and property within the Subdivision, such measures to include without limitation the provision of security guards, police protection, electronic surveillance, security devices, and the provision of electronic, mechanical, vehicular and technological support therefor.

E. Maintenance, repair and improvement of Common Properties. With respect to all other Common Properties owned by the Association from time to time, the Association shall have the responsibility to maintain and repair same, to keep the same in good condition, and the Association shall have authority and discretion to make improvements thereto.

F. Assessments against Lots and Residential Units.

1. Duty to pay regular annual assessments. It shall be the responsibility of each Owner and each Lot and Residential Unit to pay regular annual assessments to the Association. On or before January 31 of each year or such other date as the Association may establish, the Association shall cause to be given to one or more Owners of each Lot or Residential Unit notice of the amount of assessments to be due for that year and the due date of the assessments, which shall be no less than 60 days from the date of the notice. The assessments so made shall be delinquent if not paid on or before the due date so established. The notice shall be deemed to have been given to each Owner of any particular Lot or Residential Unit if given to one of the Owners of the Lot or Residential Unit. Such notice shall be deemed to have been properly given to an Owner and complete if it is hand delivered to such Owner personally or if it is deposited post-paid in a Post Office or official depository under the exclusive care and custody of the U.S. Postal Service

addressed to such Owner at the latest address shown in the records of the Association, or if none be shown to the address of such Owner on record with the taxing authorities of Macon County or Jackson County. It shall be the responsibility of each Owner to keep the Association furnished with his current address. If the Association should fail to timely give notice, or if notice is not actually received by any Owner of any Lot or Residential Unit, such fact shall not diminish or impair the requirement of the Owner to pay the assessments, and it shall be the affirmative responsibility of each Owner of each Lot and Residential Unit to pay the assessments on or before the due date each year, whether or not notice is properly or timely given or received.

2. Categories of assessments. The regular annual assessments against the Lots and Residential Units shall be separated into such categories and sub-categories as may seem appropriate to the Association and the notice of assessment shall reflect the amount due in each category. The categories shall include the following, but other categories and sub-categories may be established: (a) road maintenance and landscaping fees; (b) security/gatehouse fees; (c) water usage fees for developed Lots and Residential Units; (d) water availability fees for undeveloped Lots; (e) sewer usage fees for developed Lots and Residential Units; (f) sewer availability fees for undeveloped Lots; and (g) membership fees. Other categories and sub-categories which the Association is specifically authorized to establish include without limitation: (a) water system development fees; (b) working capital fees; (c) one-time construction fees; (d) water system impact or tap fees; and (e) sewer system impact or tap fees. Regular annual assessments against Associate Members shall be in the same amounts as the assessments against Lots and Residential Units in the category(ies) of services provided to each Associate Member, and Associate Members may also be assessed membership fees.

3. Reserve Funds. The Association shall establish reasonable reserve funds from its regular annual assessments for the purpose of financing improvement programs; for major rehabilitation and major repairs; for emergency and other repairs required as a result of storm, fire, flood, wind, natural disaster, or other casualty; and for initial costs of any new service to be performed by the Association.

4. Amount of assessments. The amount of the regular annual assessments against each Lot or Residential Unit shall be computed on a calendar year basis in the following manner:

a. Road maintenance and landscaping fees. Each Lot or Residential Unit shall be assessed an amount which when added to the amounts assessed against all other Lots, both developed and undeveloped, and all other Residential Units shall be sufficient to (1) pay the outstanding road maintenance, improvement and landscaping obligations; (2) create a fund of adequate size to pay all costs and expenses for road maintenance, improvement and landscaping expected to be incurred during the year to which the assessment is attributable; and (3) maintain a reasonable reserve for the purposes set forth in subparagraph F.3 hereinabove.

b. Water usage fees and water availability fees. Each Lot or Residential Unit shall be assessed an amount which when added to the amounts assessed against all other Lots, both developed and undeveloped, and all other Residential Units shall be sufficient to (1) pay the outstanding water system maintenance and improvement obligations; (2) create a fund of adequate size to pay all costs and expenses for water system maintenance and improvement expected to be incurred during the year to which the assessment is attributable; and (3) maintain a reasonable reserve for the purposes set forth in subparagraph F.3 hereinabove.

c. Sewer system fees. Each Lot or Residential Unit to which the sewer system is available shall be assessed an amount which when added to the amounts assessed against all other Lots, both developed and undeveloped, and all other Residential Units shall be sufficient to (1) pay the outstanding sewer system maintenance and improvement obligations; (2) create a fund of adequate size to pay all costs and expenses for sewer system maintenance and improvement expected to be incurred during the year to which the assessment is attributable; and (3) maintain a reasonable reserve for the purposes set forth in subparagraph F.3 hereinabove.

d. Security/gatehouse fees. Each Lot or Residential Unit shall be assessed an amount which when added to the amounts assessed against all other Lots, both developed and undeveloped, and all other Residential Units shall be sufficient to (1) pay

the outstanding obligations associated with the gatehouse, related facilities and staffing thereof, and other security, safety and protection programs implemented by the Association; (2) create a fund of adequate size to pay all costs and expenses for said gatehouse and security operations expected to be incurred during the year to which the assessment is attributable; and (3) maintain a reasonable reserve for the purposes set forth in subparagraph F.3 hereinabove.

e. Membership fees. Each Lot or Residential Unit shall be assessed an amount which when added to the amounts assessed against all other Lots, both developed and undeveloped, and all other Residential Units shall be sufficient to (1) pay the outstanding obligations of the Association for which payment from any other funds belonging to the Association would be inappropriate; (2) create a fund of adequate size to pay for such obligations expected to be incurred during the year to which the assessment is attributable; and (3) to pay the costs and expenses of the administration of the Association and of carrying out the duties and obligations of the Association as set forth in this Amendment, the Declarations, the Use Restrictions, and in the Association's by-laws, resolutions, rules and regulations expected to be incurred during the year to which the assessment is attributable.

f. Other assessments and fees. In the event the Association establishes other categories and sub-categories of assessments, each Lot or Residential Unit shall be assessed an amount in each category or sub-category which when added to the amounts assessed against all other Lots, both developed and undeveloped, and all other Residential Units shall be sufficient to (1) pay the outstanding obligations in such category or sub-category; (2) create a fund of adequate size to pay all costs and expenses expected to be incurred in such category or sub-category during the year to which the assessment is attributable; and (3) maintain a reasonable reserve for the purposes set forth in subparagraph F.3 hereinabove. Assessments attributable to expenses of the Association for specific acts or needs of individual Owners, such as, by way of example but not limitation, one time construction fees, water system impact or tap fees and sewer system impact or tap fees, shall be *in* such amount as may be reasonably calculated by the Association.

g. Improved Lots and Residential Units/Unimproved Lots.

Assessments in each category may be different in amount for developed Lots and Residential Units as opposed to undeveloped Lots, but the assessments in each category against all improved Lots and Residential Units must be equal in amount and the assessments against all unimproved Lots must be equal in amount.

h. Multiple Lots. For the purposes of subparagraphs F.4. a, b, c, d, e and f hereinabove, in the event two or more Lots are improved as a single unit, the Association may, in its discretion, elect to treat one or more of such improved Lots as improved Lots and one or more of such Lots as unimproved Lots or all of such Lots as one improved Lot.

5. Accounting methods. The Association shall apply proper accounting methods so as to distinguish between the various different categories and sub-categories of assessments, and assessments collected in one category or sub-category shall not be used or spent for purposes of other categories or sub-categories; provided, upon use of generally accepted accounting methods, and upon authorization of the Board of Directors, funds transfers may be made between categories and sub-categories. This provision, so long as it is otherwise complied with, shall not prohibit the Association from depositing the assessments collected from all categories and sub-categories into one account.

6. Special assessments. In addition to the foregoing regular annual assessments, the Association is empowered to make special assessments against the Owners of Lots and Residential Units for the purpose of financing improvement programs; for major rehabilitation or major repairs; for emergency and other repairs required as a result of storm, fire, flood, wind, natural disaster, or other casualty loss; and for initial costs of any new service to be performed by the Association. Special assessments against Associate Members shall be in the same amounts as the assessments against Lots and Residential Units in the category(ies) of services provided to each Associate Member. The Board of Directors shall be empowered to make special assessments of no more than \$200.00 each no more than once each calendar year; special assessments of an amount greater than \$200.00 or of a frequency of more than once each calendar year must be approved by the Members at a meeting of the Members.

7. Fines because of violation. The Association shall have the power to assess fines against Owners of Lots and Residential Units and Associate Members for the violation of the provisions of this Amendment, the Declarations, the Use Restrictions, and the by-laws, resolutions, rules and regulations of the Association, including violations because of non-payment of assessments, fees and charges. No fine shall exceed the amount of \$500.00. Such authority to fine shall not be an exclusive remedy and may be exercised in addition to or in the alternative to any other remedy whatsoever available at law, in equity or otherwise. Each violation, no matter how numerous or repeated the violations may be, may be assessed the maximum fine. The Board of Directors shall sit as an adjudicatory panel and shall accord the party charged with the violation notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. Notice of the Board's decision if a fine is imposed shall constitute an assessment against the Owner of the Lot or Residential Unit or Associate Member which shall be in addition to all other assessments imposed and which assessment shall be due immediately upon the rendering of the Board's decision.

8. Effect of non-payment of assessments; the personal obligation of the Owner; lien; remedies of the Association. If any assessment is not paid by the due date, such assessment shall be delinquent and shall bear interest from the due date at the rate of eighteen (18%) percent per annum (or the maximum interest rate allowed by law if the same is lower than 18% per annum). Any assessment remaining unpaid after the due date shall constitute a lien on the Owners' Lot or Residential Unit or the Associate Member's real property when filed of record in the Office of the Clerk of Superior Court for Macon County or Jackson County, North Carolina, in the manner provided therefor under Chapter 44A of the General Statutes, except that there shall be no time limitation within which a lien must be filed. The Association's lien may be foreclosed in like manner as a mortgage or deed of trust on real estate under power of sale under Chapter 45 of the General Statutes. The Association may appoint a trustee analogous to a trustee in a deed of trust to conduct the foreclosure. If any delinquent assessment is placed in the hands of an attorney for collection, there shall be added to the amount due all costs of collection, including all reasonable attorney's fees not to exceed fifteen (15%) percent of the

outstanding balance. The lien shall include the amount of all interest which accrues and continues to accrue upon the assessment and shall include the aforementioned costs of collection and attorney's fees. All assessments, interest, costs, and attorney's fees shall be and constitute the personal joint and several obligation of each Owner or Associate Member. The Association may, in addition or in the alternative to enforcing its lien, bring an action against the Owner or Associate Member to seek a money judgment for the amount of the assessments, interest, costs of collection and attorney's fees. The Association may purchase the Lot, Residential Unit or real property at any sale ordered pursuant to an action to foreclose the lien.

9. Estoppel certificates. The Association shall promptly furnish upon request by any Owner or Associate Member, a certificate in writing signed by an officer or agent of the Association setting forth the status of the Owner's or Associate Member's payment of assessments. Such certificate shall constitute sufficient evidence against the Association to be relied upon by all parties except the Owner or Associate Member that the statements contained therein are true.

10. Subordination to the lien of deeds of trust. The lien of the assessments set forth herein shall be subordinate to any deed of trust constituting a first lien upon any real property subject to such assessments; provided however, that such subordination shall be effective only with respect to assessments which become due and payable prior to sale following foreclosure of such deed of trust or the giving of a deed in lieu of foreclosure of such deed of trust, it being understood that such foreclosure sale or deed in lieu of foreclosure shall not relieve any Owner from liability for assessments accruing thereafter; provided further, that in the event of the foreclosure of any deed of trust to which assessments are subordinate, the proceeds of the foreclosure sale, if any there be after application to foreclosure costs and the indebtedness secured by such deed of trust, must be applied to such assessments.

11. Control of financial affairs. The Board of Directors shall have control of all financial affairs of the Association, and it shall administer assessments, income, expenditures, and all financial affairs whatsoever of the Association.

SEVEN

The Declarations are amended by adding the following language to ARTICLE VI, Section 1, after sub-paragraph (c): (d) For a sewer system, including a sewer treatment plant and sewer lines, for those portions of Section II of Highlands Falls currently having access to the sewer system.

EIGHT

Sub-paragraph (I) of ARTICLE VI, Section 2 of the Declarations is deleted, and the following language is inserted in its place and stead: (I) To establish an Architectural Review Committee to assure the development of the Subdivision and the improvement of the Lots and Residential Units therein in accordance with this Amendment, the Declarations and the Use Restrictions, and to control the type, nature and design of all buildings, structures, and other improvements constructed on the Property. No residence, structure or other improvement shall be erected, placed or altered on any Lot or Residential Unit within the Subdivision until the proposed building and plot plans showing detailed specifications, elevations, dimensions, exterior color and finish, location of improvements, drives and parking areas, and landscaping shall have been specifically approved in writing by the Architectural Review Committee. In addition, no swimming pool, wall, fence, hedge used as a wail, or other structure or man-made improvement whatsoever shall be erected, placed or altered on any Lot or Residential Unit within the Subdivision until the same shall have been specifically approved in writing by the Architectural Review Committee. No land clearing, filling, grading, shrub or tree removal or pruning or landscaping shall be done on any Lot or Residential Unit within the Subdivision until the plans for the same shall have been specifically approved in writing by the Architectural Review Committee. The Association and the Architectural Review Committee may promulgate rules and regulations governing requests and submissions to it and governing its operating procedures. The Architectural Review Committee shall review all plans and specifications of exterior design, color and location taking into consideration other structures and other Lots and Residential Units within the Subdivision. The Architectural Review Committee shall have the authority to grant variances from the set-back requirements contained in the Use Restrictions. The Architectural Review Committee shall have total authority to accept or reject any plans or

requests submitted to it, and the refusal or approval of submissions and requests to the Architectural Review Committee may be based upon any reasonable grounds, including purely aesthetic considerations. Any Owner may appeal from any decision of the Architectural Review Committee by filing the same in writing with the Board of Directors of the Association within thirty (30) days of the rendering of the decision. Upon appeal to the Board of Directors, the Board shall sit as an adjudicatory panel and shall accord the appealing party and the Architectural Review Committee with the opportunity to be heard and present evidence and notice of the decision. The decision of the Board of Directors shall be final and binding upon the Owner and the Architectural Review Committee.

The Architectural Review Committee shall be the same as and shall carry out the functions and duties of the Architectural Review Board and Environmental Control Committee as set forth in the Declarations and the Use Restrictions, and it shall perform all duties and have all rights of the Association with regard to review and approval of plans as specifically imposed upon and reserved to the Association in the Declarations and the Use Restrictions. Nothing contained in this paragraph Eight shall be construed to limit the powers, duties, and functions of the Architectural Review Committee (or the powers, duties and functions of the Architectural Review Board, Environmental Control Committee, or the Association as the same are required to be exercised by the Architectural Review Committee) as set forth in the Declarations or the Use Restrictions.

NINE

ARTICLE VI, Section 2 of the Declarations is amended by adding after subparagraph (q) the following: (r) To enter into contracts with associations governing the Neighborhood Areas (or if there is no association governing a Neighborhood Area, with the Owners within the Neighborhood Area), including the Club Villas, the Golf Villas, Winterberry Court, Laurelwood, and Chestnut Cove, wherein the Association would be responsible for repair and maintenance of any one or more or all of the internal common properties or common elements of said Neighborhood Areas, including without limitation road systems, water systems, and sewer systems, provided such contracts provide for full payment to the Association for its costs and expenses in providing such repair and maintenance services, including without limitation the costs of labor, materials, overhead and insurance.

TEN

The following provisions of the Declarations are deleted, because the substance of said provisions is addressed in the By-Laws: ARTICLE Section 3; ARTICLE III, Section 4; ARTICLE III, Section 5; and ARTICLE VII, Section 3.

ELEVEN

ARTICLE VII, Section 2 and ARTICLE VII, Section 3 of the Declarations are deleted, and the following language is inserted in their place and stead: Amendments. The Declarations and this Amendment may be altered or amended by the Members at a duly constituted meeting of the Members at which a quorum is present. The notice of the meeting at which such action is taken must specify the action proposed to be taken. If any proposed alteration or amendment is approved by the Members, the President and Secretary of the Association shall execute a recordable document setting forth the substance of the alterations or amendments, the date of the meeting at which such actions were taken, the date that notice of such meeting was given, the number of votes necessary to constitute a quorum, the number of votes present at the meeting, the number of votes cast in favor of the action, and the number of votes cast in opposition to the action. The document shall be recorded in the public registries of Macon County and Jackson County and shall become effective upon recordation.

IN TESTIMONY WHEREOF, this Amendment has been executed in the name of the Association by its President, attested by its Secretary with its corporate seal hereunto affixed by authority of its Board of Directors and Members as set forth hereinabove, this the day and year first above written.

HIGHLANDS FALLS COMMUNITY
ASSOCIATION, INC.,

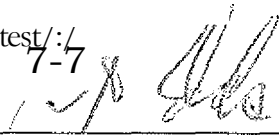
/ s /

By:

Edward Jones, Its President

(corporat

Attest: /s/



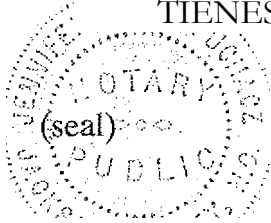
Its Secretary



1960

STATE OF NORTH CAROLINA
COUNTY OF MACON

I, _____ Notary Public, do hereby certify that _____ personally appeared before me this day and acknowledged that if W/she is _____ Secretary of HIGHLANDS FALLS COMMUNITY ASSOCIATION, INC., a North Carolina non-profit corporation, and that by authority duly given and as an act of the corporation, the foregoing instrument was signed in its name by its President sealed with its corporate seal and attested by him/her as its Secretary.



IN WITNESS my hand and Notarial Seal, this the _____ -day of July, 1994.

Notary Public

My commission expires: _____

NORTH CAROLINA
MACON COUNTY

The foregoing or annexed certificate or ~~---,--~~1 _____, a Notary Public, is certified to be correct. This instrument was presented for registration and recorded in this office in Book _____ at Pages _____

This ~~1st~~X~~th~~ day of _____

_____ o'clock P.M.

fz fry-Lar-D.

REGISTER OF DEEDS

NORTH CAROLINA
JACKSON COUNTY

The foregoing or annexed certificate of _____ (4,2,4,4) office in Book MY at Pages _____

This A/, ge, day of July, 1994, at 0,1c2.3

_____ o'clock **A.M.**

REGISTER OF DEEDS

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