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J. LEE WARREN JR.  
REGISTER OF DEEDS  
CUMBERLAND CO., N.C.

RESTRICTIVE COVENANTS OF McKINLEY RESERVE SUBDIVISION  
SECTION ONE

Prepared By/Return to:  
Rebecca F. Person

THIS DECLARATION OF RESTRICTIVE COVENANTS (this "Declaration") is made this the 15 day of June, 2004, by KAMENBURY DEVELOPMENT, LLC, a North Carolina limited liability company, with its principal place of business in Cumberland County, North Carolina, hereinafter referred to as the "Developer":

STATEMENT OF PURPOSE

Developer is the owner of certain real property in Cross Creek Township, Cumberland County, North Carolina, which is known as McKINLEY RESERVE, SECTION ONE, as shown on the plat of same prepared by Larry King & Associates, RLS, PA, and duly recorded in Book of Plats 111, Page 187, Cumberland County, North Carolina, Registry.

Developer desires to insure the attractiveness of McKINLEY RESERVE and to prevent any future impairment thereof, to prevent nuisances, to preserve, protect and enhance the values and amenities of all properties within McKINLEY RESERVE and to provide for the maintenance and upkeep of all common areas in McKINLEY RESERVE. To this end the Developer desires to subject the real property described herein, together with such additions as may hereafter be made thereto, to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof.

Developer further desires to create a homeowners association to which will be delegated and assigned the powers of owning, maintaining and administering the common areas in McKINLEY RESERVE, administering and enforcing the covenants and restrictions contained herein, and collecting and disbursing the assessments and charges hereinafter created in order to efficiently preserve, protect and enhance the values and amenities in McKINLEY RESERVE to insure the residents' enjoyment of the specific rights, privileges and easements in the common area, and to provide for the maintenance and upkeep of the common area.

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To that end the Developer has or will cause to be incorporated under North Carolina law, McKinley Reserve Owners Association as a non-profit corporation for the purpose of exercising and performing the aforesaid functions.

NOW, THEREFORE, Developer hereby declares that all of the properties described above 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 the land, and which shall run with the real property and be binding on all parties or hereafter having any right, title or interest in the described properties or any part thereof; and these Restrictive Covenants shall be binding on all present and subsequent property owners, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

#### ARTICLE I DEFINITIONS

(a) "Association" shall mean and refer to MCKINLEY RESERVE OWNERS ASSOCIATION, INC., a North Carolina non-profit corporation, its successors and assigns.

(b) "Board" or "Board of Directors" shall mean those persons elected or appointed and acting collectively as the Board of Directors of the Association.

(c) "Common Properties" shall mean and refer to those tracts of land with any improvements thereon which are deeded or leased to the Association and designated in said deed or lease as "Common Properties." The term "Common Properties" shall also include any personal property acquired by the Association if said property is designated a "Common Property." All Common Properties are to be devoted to and intended for the common use and enjoyment of the Owners, persons occupying dwelling places or accommodations of owners on a guest or tenant basis, subject to the operating rules adopted by the Association; provided, however, that any lands which are leased by the Association for use as Common Properties shall lose their character as Common Properties upon the expiration of such Lease. Reference to Common Properties in these covenants does not imply or guarantee that the Property affected by these covenants or any future section(s) of McKinley Reserve will have any Common Properties.

(d) "Lot" shall mean and refer to any numbered plot of land shown upon any recorded subdivision map of the Property, as such map or maps may be from time to time amended or modified.

(e) "Owner" shall mean and refer to the Owner as shown by the records in the Register of Deeds of Cumberland County, North Carolina, whether it be one or more persons, firms, associations, corporations, or other legal entities, including the Developer,

of fee title to any Lot depicted on the plat recorded in Plat Book 111, Page 187, and on plats of any future sections of McKinley Reserve, but shall not mean or refer to the mortgagee or holder of a deed of trust, its successors or assigns, unless and until such mortgagee or holder of a deed of trust has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or tenant of an Owner.

(f) "Period of Declarant Control" means the period commencing on the date hereof and continuing until the later of (i) ten (10) years after the date of the first conveyance of a Lot to an owner other than Developer; or (ii) when Developer no longer owns a Lot in McKinley Reserve; or any property added to said subdivision.

(g) "Property" shall mean and refer to McKinley Reserve Section One as shown on plat recorded in Plat Book 111, Page 187 of the Cumberland County, North Carolina Registry. "Property" shall also include future sections of McKinley Reserve as the same may be developed from time to time except that such future sections of McKinley Reserve shall become subject to these covenants only from and after the recording of the plat or plats for said future section(s) and the recording of a Supplemental Declaration which incorporates by reference this Declaration and which expressly makes the new section(s) subject to these covenants, or portions of same. The Supplemental Declaration may contain such complementary additions and/or modifications of the covenants and restrictions contained in this Declaration as may be necessary or convenient, in the sole judgment of Developer, to reflect the different character, if any, of the new section, but such modification shall have no effect on the Property described in McKinley Reserve, Section One hereinafter.

## ARTICLE II THE PROPERTY AND ADDITIONS THERETO

**Section 1. Property.** The real property which is and shall be held, transferred, sold, conveyed, given, donated, leased and occupied subject to these covenants is depicted on the plat entitled MCKINLEY RESERVE, SECTION ONE, as shown on the plat of same prepared by Larry King & Associates, RLS, PA, and duly recorded in Book of Plats 111, Page 187, Cumberland County, North Carolina, Registry (hereinafter sometimes referred to as the "Property").

**Section 2. Other Additions.** The Company may also include future sections of McKinley Reserve as the same may be developed from time to time except that such future sections of McKinley Reserve shall become subject to these covenants only from and after the recording of the plat or plats for said future sections(s) and the recording of a Supplemental Declaration which incorporates by reference this Declaration and which expressly makes the new section(s) subject to these covenants. The Supplemental Declaration may contain such complementary additions and/or modifications of the covenants and restrictions contained in this Declaration as may be necessary or

convenient, in the sole judgment of the Developer, to reflect the different character, if any, of the new section, but such modification shall have no effect on the Property described above.

Section 3. Special Declarant Rights. Developer reserves the following special declarant rights for the entire Property, including any future sections of McKinley Reserve during the period of Declarant control:

- (a) To complete any and all improvements indicated on the plats and plans;
- (b) To exercise any development right reserved in this Declaration;
- (c) To construct and maintain any sales office, signs advertising the Property or any property which may be added thereto, management office or model on any of the Lots or on any of the Common Properties shown on the plat;
- (d) To use easements through the Common Properties for the purpose of making improvements within the Property or any property added thereto; or
- (e) To alter the size of any Lot, combine or merge two or more Lots, to subdivide Lots or other Property into Common Property; or
- (f) To appoint or remove any officer or executive board member of the association or any master association during any period of declarant control.

### ARTICLE III PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. Owners' Easement of Enjoyment in Common Properties. Subject to the provisions of these Covenants, the rules and regulations of the Association, and any fees or charges established by the Association, every Owner and every tenant and guest of such Owner shall have a right of easement of enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title of every Lot. The privilege granted to guests and tenants of Owners to use and enjoy the Common Properties, subject to the rules, regulations and fees, if any, established by the Association for such use, may be denied to or withdrawn from such guests or tenants by an affirmative vote of ninety percent (90%) of the votes cast at a meeting of the Association called for the purpose of voting on such denial or withdrawal.

Section 2. Title to Common Properties. The Company covenants for itself, its successors or assigns, that, upon the completion of the surveying, platting of same and recordation of the plat, it shall convey to the Association by limited warranty deed those properties designated as "Common Properties". The obligation to convey shall apply only to common properties which are delineated on the plat being currently recorded notwithstanding that there may be other or additional "Common Properties" delineated on subsequent additions to McKinley Reserve. All said parcels of land may be conveyed to the Association subject to: (1) all restrictive covenants of record at that time, including but by no means limited to this Declaration; (2) all existing mortgages; (3) a reservation by the Company of the right to substitute or add new mortgages thereon;

provided, however, that in no event shall the Association be obligated to assume the payment of principal or interest on any such mortgage; and (4) easements reserved by the Declarant herein for special declarant rights.

Section 3. Extent of Owners' Easement. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) the right of the Association, in accordance with its Bylaws, to borrow money from the Company or any other lender for the purpose of improving and/or maintaining the Common Properties and providing services authorized herein and in aid thereof to mortgage said properties; and

(b) the right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosures; and

(c) the right of the Association, as provided in its By-laws to suspend the rights and easements of enjoyment of any Owner, or any Tenant or Guest of any Owner, for any period during which the payment of any assessment against property owned by such Owner remains delinquent, and for any period not to exceed sixty (60) days for any infraction of its published rules and regulations, it being understood that any suspension for either nonpayment of any assessment or a breach of the rules and regulations of the Association shall not constitute a waiver or discharge of the Owner's obligation to pay the assessment; and

(d) the right of the Association to charge reasonable admission and other fees for the use of the Common Properties and any facilities included therein.

(e) the right of the Developer or the Association by its Board of Directors to dedicate or transfer to any public or private utility, utility easements on any part of the Common Properties; and

(f) the right of the Association to give or sell all or any part of the Common Properties, including leasehold interests, to any public agency, authority, public service district, or private concern for such other purposes and subject to such conditions as may be agreed to by the Owners, provided that no such gift or sale or determination as to the purposes or as to the conditions thereof shall be effective unless such dedication, transfers and determinations as to purposes and conditions shall be authorized by (i) the Company as long as it owns any portion of the Property and (ii) the affirmative vote of three-fourths (3/4) of the votes cast at a duly called meeting of the Association, and unless written notice of the meeting and of the proposed agreement and action thereunder is sent to every Owner of the Association at least thirty (30) days prior to such meeting.

(g) the special declarant rights reserved herein.

#### ARTICLE IV

## USE RESTRICTIONS

Section 1. Land Use. All numbered lots shall be used for residential purposes only. The lots may be developed as zero lot line lots and pursuant to Cumberland County ordinance, Appendix B, Subdivision Regulations, Section 3.24, as amended, or applicable ordinance, and may contain a variety of housing schemes in accordance with the zero lot line development ordinance, or a combination of such schemes except that only one single family residence or dwelling shall be permitted on any one lot, and no lot may be used for any business purpose; provided, however, that Developer reserves the right to use any Lot and any improvement thereon as a model home with sales office. Group family homes are prohibited.

Section 2. Building Type. No structure shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling not to exceed two stories in height and a private garage for not more than three cars (side entry preferred) and other outbuildings incidental to residential use of the lot. All outbuildings erected, altered, placed or permitted shall be of the same quality, workmanship and material as the principal dwelling structure, and will be erected and placed to the rear of the dwelling structure. All outbuildings shall be approved by the Architectural Committee and/or the Developer. All structures and outbuildings shall be brick or stone. Hardiplank or wood accents are allowed upon prior approval by the Architectural Committee and/or the Developer.

Section 3. Set Back Requirements. Set back requirements shall be 40' from the street right-of-way on which the house fronts. For the purposes of these covenants, eaves, steps and overhangs shall not be considered as a part of the building, provided however, that this shall not be construed to permit any portion of an improvement on a lot to encroach upon another lot. The building line set-back as provided for in this paragraph may be varied by as much as ten (10) percent with the express consent of Developer, which said consent document need not be on record in the Office of the Register of Deeds, Cumberland County, North Carolina.

Section 4. Reservation of Lot or Lots for Well and Water System. Notwithstanding any restrictions or limitations on use of the property described herein, Developer reserves the right for itself, its successors or assigns, to construct, install and maintain a well, elevated or ground water tank, pumphouse and any necessary appurtenances on any of the lots subject to these Restrictive Covenants.

Section 5. Minimum Size of Each Dwelling. No dwelling shall be erected or allowed to remain on any of the said lots which shall have a market value at the time of erection of less than Two Hundred Thousand and no/100 (\$200,000.00) Dollars or contain a heated-area living space of less than two thousand five hundred (2,500) square feet. Heated-area living space shall mean the ordinary living space in a house which is

designed and structured so as to be capable of being heated for regular living use in cold weather. In the computation of floor space, furnace room areas, garages, carports, and porches shall not be counted. No residence or other building, and no fence, wall, utility yard, driveway, swimming pool or other structure or improvement, regardless of size or purposes, whether attached to or detached from the main residence, shall be commenced, placed, erected or allowed to remain on any building lot, nor shall any addition to or exterior change or alteration thereto be made, unless and until building plans and specifications covering the same, showing the nature, kind, shape, height, size, materials, floor plans, exterior color schemes with paint samples, location and orientation on the building lot and approximate square footage, construction schedule, on-site sewage and water facilities, and such other information as the Developer shall require, including, if so required, plans for the grading and landscaping of the building lot showing any changes proposed to be made in the elevation of surface contours of the land, have been submitted to and approved in writing by the Developer and/or Architectural Committee and until a copy of all such plans and specifications, as finally approved by the Developer and/or Architectural Committee have been lodged permanently with the Developer. The Developer and/or Architectural Committee shall have the absolute and exclusive right to refuse to approve any such building plans and specifications and lot-grading and landscaping plans which are not suitable or desirable in its opinion for any reason, including purely aesthetic reasons connected with future development plans of the Developer of said land or contiguous lands. In passing upon such building plans and specifications and lot-grading and landscaping plans, the Developer may take into consideration the suitability and desirability of the proposed construction and of the materials of which the same are proposed to be built to the building lot upon which it proposes to erect the same, the quality of the proposed workmanship and materials, the harmony of external design with the surrounding neighborhood and existing structures therein, and the effect and appearance of such construction as viewed from neighboring properties. In the event the Developer fails to approve or disapprove such building plans and specifications within thirty (30) days after the same have been submitted to it as required above, or the foundation of the building has been completed and approved by the local building inspection department, the approval of the Developer shall be presumed and the provisions of this paragraph shall be deemed to have been complied with. However, no residence or other building, structure or improvements which violates any of the covenants and restriction herein contained or which is not in harmony with the surrounding neighborhood and the existing structures therein shall be erected or allowed to remain on any part of a lot.

Section 6. Driveways, Street Lights and Mailbox Locations, Etc. All driveways shall be constructed of concrete or brick pavers. The Developer must approve or may designate in its sole discretion the precise site, design and materials of any driveway, street light and mailbox (including newspaper receptacles) placed upon any right of way; provided, however, that the owner shall be given the opportunity to recommend a specific site for such improvements. No basketball goals are permitted in the road right-

of-way. No sign or signs other than a "For Sale", "For Rent", or a sign identifying the subdivision, shall be displayed on the property; provided, however, that Developer reserves the right to erect signs identifying his model home.

Section 7. Temporary Structures. No trailer, tent, shack garage, barn or similar type outbuilding shall be placed, erected or allowed to remain on said property without the prior written consent of Developer, its successors or assigns. Nor shall any structure of a temporary character be used as a residence temporarily, permanently, or otherwise.

Section 8. Restricted Activities. No commercial, noxious or offensive trade or activity shall be carried on upon any lot, nor shall anything be done which may be or become an annoyance or nuisance to the neighborhood.

Section 9. Animals. No animals or poultry of any kind, except common pets, shall be placed or kept on any part of the premises. No dog that may be perceived by members of the general public as being dangerous or having a propensity for being dangerous, nor any dog that has at any time bitten a person, nor any dog that has been trained as an attack dog, shall be permitted on the premises unless such dog is at all times confined within fencing with a locked gate to prohibit entry by children as follows: On all sides of the confinement area by a privacy fence (i.e. a fence of solid type construction through which a person cannot see, e.g. board on board fence) six feet (6') in height. The fence shall extend from the rear corners of the principal dwelling structure back for a distance of not less than fifty feet from the principal dwelling structure, and closed with a fence parallel to the rear of said structure. All pets must be kept under control at all times, and must not become a nuisance by barking or other acts. Leash laws must be obeyed.

Section 10. Motor Vehicles Trailers and Boats. No automobile or other motor vehicle may be dismantled or repaired on said property. No mechanically defective automobile, motor vehicle, mechanical device, machine, machinery, or junk car shall be placed or allowed to remain on said property at any time. No commercial vehicles, personal vehicles with commercial messages, school buses or non-private vehicles shall be parked on the streets except for the duration of the services being rendered in the area. No trailers (including boat trailer, camper or horse trailers) or habitable motor vehicles of any nature shall be kept on or stored on any part of the property except in an enclosed area, or screened from the view of other lots. No commercial trucks or non-private vehicles of any nature shall be parked overnight on any parcel except in a properly screened area, or unless specifically approved by the Developer. No boats or canoes on or off trailers may be parked on any part of the property unless properly screened or specifically approved by the Developer. These prohibitions also apply to the common easement area.

Section 11. Fences & Walls. Any fence, bulkhead or wall for any purpose shall be erected or located on any building lot no closer to the front lot line than the rear of the



residence and only after the plans and specifications showing the nature, shape, height, materials and location for said fence or wall shall have been approved by the Architectural Committee.

Section 12. Satellite Disc. No satellite discs may be erected, installed or maintained on any lot unless it conforms to the following requirements:

Discs shall be no more than 18 inches in diameter.

Discs shall not be located in the front yard. Discs may be mounted on the eaves of the house in the rear. The view of the disc from the front of the house shall be kept to a minimum and the exact location of the disc shall be approved by the Developer and/or Architectural Committee in advance of erection.

Section 13. Other Prohibited Activities. In order to ensure proper development and to protect property values, the following will not be permitted:

Burning of garbage, trash or refuse;

Street parking other than deliveries or occasional visitors;

Above-ground swimming pools; or

Outside clothes drying lines anywhere except the back yard.

Section 14. Trash. All garbage or trash must be kept bagged or wrapped and placed in a closed container and not allowed to accumulate on the premises.

Section 15. Fuel Tanks and Similar Storage Receptacles: All fuel tanks and similar storage receptacles may be installed only within an accessory building or within a screened area (so as not to be generally visible from the road or adjoining lots) or buried underground; provided, however, that nothing contained herein shall prevent the Developer from erecting, placing or permitting the placing of tanks, or other apparatus, on the property for uses related to the provision of utility or other service. All heating and air units must be screened from public view by the same material as the principal dwelling.

Section 16. Erosion Control. The builder and/or the homeowner will be responsible for all erosion control measures prior, during and after construction. It is the responsibility of the lot owner to ensure that there is no erosion problem resulting from the construction on their lot. If erosion occurs onto the street, into the drainage structures or the creek, it is the responsibility of the lot owner to pay for any repairs and cost of clean up from such erosion.

Section 17. Wetlands Regulations. Portions of the Lots may meet requirements for designation as a regulatory wetland. Any subsequent fill or alteration of this wetland shall conform to the requirements of the state wetland rules adopted by the State of North Carolina in force at the time of the proposed alteration. The intent of this

provision is to prevent additional wetland fill, so the property owner should not assume that a future application for fill would be approved. The property owner shall report the name of the subdivision in any application pertaining to said wetland rules. This covenant is intended to ensure continued compliance with wetland rules adopted by the State of North Carolina and therefore benefits may be enforced by the State of North Carolina.

Section 18. Lakefront Lots. Developer does not have control over the level of water in the lake or over the dam affecting the lake. Developer cannot guarantee lake levels at any height to purchasers of lake front lots.

#### ARTICLE V UTILITIES AND UTILITY AND DRAINAGE EASEMENTS

Section 1. Utilities. The Developer reserves the right to subject any of the real property in this subdivision to a contract for the installation of water and/or sewer, underground electric cables and/or the installation of street lighting, or any of them, any of which may require an initial payment and/or a continuing monthly payment by the owner of each lot.

Section 2. Utility and Drainage Easements. Easements for drainage and for drainage swales, and easements for installation and maintenance for utilities and drainage facilities, including pipelines, are reserved as shown on the recorded plat; and in addition thereto, an additional ten (10) foot easement for all such purposes is reserved along all interior lot lines, such ten (10) foot easement being five (5) feet on each side of each interior lot line of each of the aforesaid lots; provided that if Developer, at the time of the initial conveyance of any lot or lots of said subdivision shall change the size or shape of any building lot by adding a strip of land to a lot by deleting a strip of land from another lot, in that event the ten (10) foot easement herein reserved shall be five (5) feet on each side of the interior lot line of the lot as initially conveyed by Developer. All areas indicated as streets and easements on said plat are hereby dedicated to public use for such uses forever. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage, or which may obstruct or retard the flow of water. All areas indicated as streets and easements on the recorded plat are hereby dedicated to public use for such uses forever except side yard easement which are for the use and benefit of those persons and lots as described herein.

#### ARTICLE VI MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be

appurtenant to any may not be separated from ownership of any lot which is subject to assessment.

Section 2. Votes. The Association shall have only one class of voting membership. Members shall be all owners of Lots and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Section 3. Composition of Board. The Association shall be governed by a Board of Directors consisting of three (3) members, with the number in subsequent years to be determined as provided for in the By-Laws of the Association. The Company shall have the right to appoint and remove all three (3) persons on the Board and to appoint and remove all officers of the Association during the period of declarant control.

Section 4. Cumulative Voting Prohibited. Each Member shall be entitled to as many votes as equals the number of votes he is ordinarily entitled to multiplied by the number of Directors to be elected, but may not cast all of such votes for any one (1) Director and must distribute them among the number to be voted for, and all votes must be cast in whole numbers and not fractions thereof. It is the intent of this Section to prohibit cumulative voting.

## ARTICLE VII DESIGN AND ARCHITECTURAL CONTROL

Section 1. Architectural Committee. Developer shall establish an Architectural Committee ("Committee") which shall consist of three (3) members of the Association. The three (3) members shall be appointed by the Developer during the period of declarant control. The regular term of office for each member shall be one (1) year. Any member appointed by the Developer may be removed with or without cause by the Developer any time by written notice to such appointee. A successor or successors appointed to fill such vacancy shall serve the remainder of the term of the former members. When control of the Committee functions is transferred to the Association, members of the Committee shall be elected by the Board of Directors of the Association and any member so elected may resign or be removed by the Board in the same manner as provided in the By-Laws of the Association for the resignation and removal of officers of the Board. During the period of declarant control, Developer shall function as the Architectural Committee, (the "Committee") until at such time as the Committee is formed

Section 2. Definitions. For the purposes of the Article VII, the following terms shall have the following meanings unless the context clearly requires a different meaning:

- A. "Accessory building" means every detached garage, barn, carport, tool

shed, storage or utility building, guest quarters, detached servants' quarters or other similar building constructed on a Lot which is not a dwelling;

B. "Buildings" mean accessory buildings and dwellings;

C. "Dwelling" means a building constructed for residential use but excluding servants' quarters and guest quarters; and

D. "Improvements" or "structures" means buildings and all walls, fences, bulkheads, decks, patios, planters, terraces, mail receptacles, swimming pools, or anything else constructed or placed on a lot.

Section 3. General Outlines:

A. Reservations: The Developer reserves the right to change, alter or re-designate roads, utility and drainage facilities, plus such other present and proposed amenities or facilities as may in the sole judgment of the Developer be necessary or desirable.

B. Variances: The Developer shall be empowered to allow adjustments of the conditions and restrictions stated herein in order to overcome practical difficulties and prevent unnecessary hardships in the application of the regulations contained herein, provided, however, that such is done in conformity to the intent and purposes hereof, and provided, also, that in every instance such variance or adjustment will not be materially detrimental or injurious to other property or improvements in the neighborhood. Variances and adjustments of height, size and setback requirements may be granted hereunder.

C. Development Concept: It is the express intention of the Developer to maintain in this residential community a uniform plan of development that will blend with and not detract from the natural environment with respect to design, type and general appearance of the structures to be erected on the Lots.

D. Approval of Plans: The proposed dwelling and building plans and specifications, exterior colors and finishes; and construction schedule must be approved by the Committee. One (1) copy of all plans and related data shall be furnished to the Committee for its records. Until all of the above listed prerequisite plans are approved, no improvements or structures shall be erected, placed or altered on any residential lot. The material used, as well as the design, shall be subject to the prior written approval of the Committee.

Upon the written request of a Lot owner for approval of plans, the Committee shall have thirty (30) days within which to approve or disapprove plans. In the event of failure to approve or disapprove within thirty (30) days, such approval will not be required provided the design of proposed building is in harmony with the existing

structures in this area. If the Committee approves the construction of such improvements, it shall issue a letter evidencing such approval..

Disapproval of any such plans or specifications may be based by the Committee upon grounds, including purely aesthetic and environmental considerations, that in the sole and absolute discretion of the Committee shall seem sufficient.

Without the prior written consent of the Committee, no changes or deviations in or from such plans or specification as approved shall be made. No alterations in the exterior appearance of any building or structure, or in the grade, elevation or physical characteristics of any lot shall be made without like approval by the Committee.

E Subdividing: No Lot shall be subdivided, or its boundary lines changed except with the prior written consent of the Committee. However, the Developer hereby expressly reserves to itself, its successors or assigns, the right to re-plat any two (2) or more lots shown on the plat of any subdivision in order to create a modified building lot or lots; and to take such steps as are reasonable necessary to make such re-platted lot suitable and fit as a building site, said steps to include but not be limited to the relocation of easements, walkways and rights of way to conform to the new boundaries of the said re-platted lots.

Section 4. Site Improvements:

A. Use of Fill and Changes in Elevation: No changes in the elevation of the land shall be made on any lot, nor any fill placed within the common easement areas or within the regulatory setback lines; nor shall any lot be increased in size by filling in the waters on which it abuts without prior written approval of the Committee plus state and federal agencies, when applicable.

B. Adequate Drainage Requirement: It shall be the obligation of the Lot Owner to provide adequate drainage of his or her Lot to the end that the property or properties adjacent to said lot shall not be subjected other than the natural flow of drainage presently existing.

C. Underground Electric Requirements: All electric transmission or service lines within the perimeter bounds of any lot or common easement shall be installed beneath the surface of the ground.

ARTICLE VIII  
COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessment. Each

Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association annual assessment or charges as herein set forth.

The annual assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment, together with interest costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall also pass to his successors in title.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the paying of common expenses to promote the recreation, health, safety, and welfare of the Owners of Lots; and, in particular, but not limited to, for the acquisition, improvement and maintenance, and landscaping of the Common Properties, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes and public assessments assessed against the Common Properties, the procurement and maintenance of insurance in accordance with the Bylaws or as deemed appropriate by the Board, the payment of utilities services, the employment of counsel, accountants and other professionals for the Association when necessary, and such other needs as may arise.

Section 3. Annual Assessment.

A. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be \$300.00 per Lot.

B. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the annual assessment may be increased each year not more than 10% above the assessment for the previous year by a vote of 2/3 of the members who are voting in person or proxy at a meeting duly called for this purpose.

C. The annual assessment shall not be increased above the foregoing limit without the unanimous approval of all members.

D. In addition to the regular assessments to be charged and paid hereunder, each Lot Owner shall, at the time of the initial sale of each Lot by Developer, pay to the Association a sum equal to the initial year's assessment on that lot as additional working capital of the Association. These amounts need not be segregated but may be commingled with regular assessment funds. This working capital amount shall be paid by the Lot Owner notwithstanding the fact that Developer may have made prior regular

assessment payments to the Association on the Lot being sold pursuant to the provisions of the first sentence hereunder.

Section 4. Notice and Quorum for Any Action Authorized Under Section 3. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty percent (50%) of all the membership votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 5. Uniform Rate of Assessment. Assessments must be fixed at a uniform rate for all Lots and shall be collected on an annual basis.

Section 6. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of January following the conveyance of the Lot by Developer. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors and the Board of Directors shall have the authority to require the assessments to be paid pro-rata monthly installments. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 7. Effect of Nonpayment of Assessments, Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 12 per cent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use or abandonment of his Lot.

Section 8. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE IX  
INCORPORATION OF APPLICABLE ORDINANCE

Section 1. Zero Lot Line Development. It is the intent of the Developer that all of the Properties described herein shall be developed as a zero lot line development or subdivision. The applicable provisions of the Cumberland County Ordinance are incorporated herein by reference.

Section 2. Conflicting Provisions. To the extent the provisions of these Restrictive Covenants conflict with any applicable provisions of any appropriate municipality and/or the Cumberland County Ordinance shall control.

ARTICLE X  
GENERAL PROVISIONS

Section 1. Amendment. Developer reserves the right to alter or amend these Restrictive Covenants, as they apply to any unsold lots, as long as Developer owns any lot or lots in the said subdivision. After Developer ceases to own any lots in the subdivision, these Restrictive Covenants may be amended by a written and recorded instrument signed by a minimum of sixty (60) percent of the then owners of the lots in MCKINLEY RESERVE, SECTION ONE. Each lot shall be entitled to one vote. These Restrictive Covenants shall run with and bind the land for a term of Twenty (20) years from the date the Restrictive Covenants are recorded, after which time they shall be automatically extended for successive periods of Ten (10) years.

Section 2. Enforcement. If the parties hereto, or any of them or their heirs or assigns shall violate or attempt to violate any of the covenants herein it shall be lawful for any other person or persons owning real property situated in said subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate said covenants and either to prevent him or them from so doing or to recover damages or other dues for such violation.

Section 3. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no ways affect any other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF Developer has caused this instrument to be signed in its name all by proper authority duly granted the day and year first above written.

KAMENBURY DEVELOPMENT, LLC

By: Terry A. Bill  
Terry A. Bill  
Member/Manager

By: William Dale Bill  
William Dale Bill  
Member/Manager

By: Debra B. McDuffie  
Debra B. McDuffie

By: Darrell Ray Bill  
Darrell Ray Bill



Member/Manager

Member/Manager

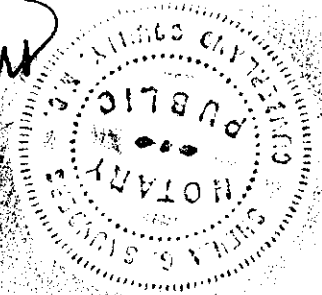
NORTH CAROLINA  
CUMBERLAND COUNTY

I, Sheila G. Saunders, a Notary Public for said County and State, do hereby certify that Terry A. Bill, William Dale Bill, Debra B. McDuffie and Darrell Ray Bill, Member/Managers of KAMENBURY DEVELOPMENT, LLC, personally appeared before me and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal, this the 15<sup>th</sup> day of June, 2004.

Sheila G. Saunders  
Notary Public

My commission expires: 5-17-09



The foregoing Certificate(s) of Sheila G. Saunders

is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

By J. Lee Warren, Jr. REGISTER OF DEEDS FOR CUMBERLAND COUNTY, Deputy/Assistant - Register of Deeds