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STATE OF NORTH CAROLINA  
MITCHELL COUNTY

## GRACE RIDGE SUBDIVISION

FIRST AMENDED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,  
EASEMENTS, AND PROPERTY OWNERS ASSOCIATION

**THIS AMENDED DECLARATION**, made this 23<sup>rd</sup> day of April, 2009, by **Grace Ridge, LLC**, (hereinafter referred to as Declarant),

**WHEREAS** Grace Ridge Subdivision, as originally shown on that certain plat recorded in plat book 3 at page 151 of the Mitchell County Registry, was owned by Grace Ridge Subdivision, LLC, as Declarant, and the use and maintenance thereof was organized to be governed by the Declaration of Covenants, Conditions, Restrictions, Easements and Property Owners Association recorded in Book 485 at page 827 of the Mitchell County Registry (hereinafter referred to as the "Declaration", or "Original Declaration"), and;

**WHEREAS** by deed dated April 28, 2009, Grace Ridge Subdivision, LLC conveyed all its right title and interest in and to Grace Ridge Subdivision to Grace Ridge LLC, a North Carolina limited liability company, including all of the development rights and reserved easements of every kind and nature relating to Grace Ridge Subdivision, as specifically set forth in said Declaration, and in said deed, and;

**WHEREAS** Declarant Grace Ridge LLC now desires to make certain amendments to the Declaration in order to better serve the original purpose of protecting the value and desirability of the property and of the lots, to bring into the subdivision additional property, to except certain other property from the subdivision, and to make the following noted changes to the terms and conditions of the Original Declaration. For this purpose Declarant has caused to be made a new plat of the subdivision (the "Plat") which reflects such additional property and such exceptions, and which modifies the system of subdivision roadways in a manner that does not affect previously conveyed subdivision property.

**NOW THEREFORE**, the undersigned Declarant hereby amends the Declaration by substituting the following First Amended Declaration in lieu thereof, the terms of which shall supercede and override the original Declaration in every respect so that the Original Declaration shall be withdrawn and shall be null and void and shall be replaced by the following:

WITNESSETH:

- A. The Declarant owns a certain tract of land located in Grassy Creek Township, Mitchell County, North Carolina (hereinafter call the "Property") consisting of all the lands shown on the subdivision plat, recorded in the Mitchell County Deed Registry at Plat Book \_\_\_\_\_, Page(s) \_\_\_\_\_, and having been conveyed to Declarant by deed dated April 23rd, 2009.
- B. The Declarant desires to subject the Property and the lots located therein (the "lots"), to the covenants, conditions restrictions and easements set forth below which are for the purpose of protecting the value and desirability of the property and the lots and providing for the continued maintenance and upkeep of the roads and common areas.
- C. The Declarant hereby declares that the Property shall be held, sold and conveyed subject to these covenants, conditions and restrictions which are for the purpose of protecting the value and desirability of, and which shall run with title to the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE ONE  
COVENANTS, CONDITIONS AND RESTRICTIONS**

- 1. The lots in the subdivision as shown on the above plat shall be known and described as single-family residential lots and used for single-family residential purposes only. Except as set forth herein, no trade, commercial, service establishment, or commercial agricultural or manufacturing activity or establishment, including retail establishment, factory, mill, shop, tenement, apartment house, boarding house, bed & breakfast, house designed for use by more than one family, or house or building to be used as a sanitarium or hospital of any kind, school or church, religious establishment, or for any other purpose other than a single-family residence, shall be erected or licensed or suffered to be erected or maintained on any lot in the above described property. Provided, however, that the foregoing restriction shall not prohibit the lot owner from maintaining a family garden no greater than one-tenth (1/10) of an acre in size for a non-commercial purpose on any lot in the subdivision. The lots and any building or structure now or hereafter erected on a lot shall be occupied and used exclusively as a single-family residence and no building shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling house, not to exceed two stories in height, with or without a private two- or three car garage, (maximum) except as herein below set forth.

Poolhouses and other structures commonly considered outbuildings must be attached to the main dwelling structure.

2. Before any owner of any lot shall commence construction of improvements on such lot, which improvements include the construction of any driveway, the clearing of any building site or the construction of any structure, the owner shall submit plans and specifications of such improvements to the property owners association, or to any architectural review committee that may at any time be established by such Association. The Association may establish rules and standards for such submissions, to require items including, but not limited to drawings sufficient to establish the proposed location, design and construction method of any such improvements, information on any contractors to be used, and the final finishes and general design of the finished improvement. Such submissions shall contain such detail as may be necessary to insure that such improvements shall be in all respects in compliance with the terms of this Declaration, and the Association, or the committee may required such additional information as may be needed to make such determination. The Association or the committee shall respond to the owner within thirty days, either i) requiring more information, ii) approving such improvement, iii) approving the improvement subject to conditions, or iv) rejecting such improvements for reasons stated in writing. Any approval shall be conditional upon continued adherence to the terms of this Declaration during the entire construction of the improvements, and the Association of the architectural review committee shall have the right and authority to bring action to enjoin any violations thereof and to collect the cost of any such action including reasonable attorneys fees.
3. No structure shall be erected, placed, altered or permitted to remain on any lot nearer to any street than the minimum building setback line for the lot as set forth herein. Where two adjacent dwelling houses are located on lots fronting on a street and are set back different distances from the street, no fence or wall between them (other than necessary retaining walls) shall be closer to the street than the front corner of the house most distant from the street.
  - a) All structures shall be located not less than fifteen (15) feet from the margin of the street right of way on which the structure fronts;
  - b) All structures shall be located not less than ten (10) feet from each side boundary line of each lot;
  - c) All structures shall be located not less than fifteen (15) feet from the rear boundary line of each lot;
  - d) All structures shall comply with any applicable county ordinance;
  - e) It is understood and agreed that the Declarant or the Property Owners Association shall reserve the right to adjust the setback requirements if necessary to alleviate an undue hardship on any lot owner, by a written waiver of setback, to be duly executed, acknowledged and recorded in the Mitchell County Deed Registry;
  - f) A dwelling unit may be located upon a single platted lot or combination of platted lots, and in such event the side setback lines shall apply to the outermost lot lines to preserve line of sight for neighboring properties.

4. Barbed wire or electric fences shall not be erected on any lot, nor shall any chain link fence be erected on any lot. Nothing herein shall prohibit or preclude the installation of underground fencing designed for retaining pets.
5. The floor area of a dwelling constructed on any lot shall contain no less than 1,500 square feet. No more than one separate garage (not to exceed 1,000 square feet at ground level) and one other outbuilding shall be placed on any lot. Open decks, porches, garages, breezeways, carports and basements shall not be considered in computing minimum floor areas required. No building shall be more than two stories in height, excluding the basement area. There shall be no exposed unfinished block showing on any foundation. All foundations shall be finished in either brick, stone or masonry or other approved veneer finish. No obnoxious color scheme may be employed on the outside finish of any dwelling located within the subdivision.
6. No building shall be constructed which will exhibit exposed cement, concrete, or cinder block on the exterior thereof. No building shall be constructed which will exhibit exposed siding composed of aluminum, vinyl or asbestos shingles. No "3-tab" shingles shall be placed on any dwelling within the subdivision, and shingle specifications shall be of an architectural grade or better.
7. No Animals shall be kept, maintained or bred on any lot or in any dwelling house or structure erected thereon, except that domestic pet dogs (excluding hunting dogs or coon dogs), cats, or similar domestic pets may be kept on the lot provided they are not kept, bred, or maintained for any commercial purpose and provided further that they are kept in such a manner as to avoid becoming a nuisance to neighbors or adjoining property owners. Provided further, that no more than two horses may be kept on any lot provided they are not kept, bred, or maintained for any commercial purpose and provided further that they are kept in such a manner as to avoid becoming a nuisance to neighbors or adjoining property owners. Provided further, that no more than two horses may be kept on any lot provided they are kept and housed in such a manner so as not to be a nuisance to other lot owners.
8. No lot shall be further subdivided into smaller lots by any owner, except Declarant, provided that this provision shall not be construed to prohibit corrective deeds or similar corrective instruments. The Declarant shall have the right, without the consent of any owner, to subdivide lots or cause such lots to be subdivided for the purposes of construction of a road or right of way, and the restrictions to use contained herein shall not be applicable to such lots. In addition the Declarant shall have the right to modify the subdivision plat or plats on the property so long as such modification does not affect lots previously conveyed by Declarants to owners.
9. All structures built on any lot shall adhere to the North Carolina State Building Code, as well as local building codes, now in effect or hereafter adopted.
10. No nuisance shall be maintained, allowed, or permitted on any part of the Property, and no use thereof shall be made or permitted which may be noxious or detrimental to health.

11. No owner of any lot in the subdivision shall carry-on, engage in, promote, or permit any obnoxious or offensive activity to take place upon the owner's lot or tract, nor shall any activity be permitted upon any lot or tract which may become an annoyance or nuisance to the neighborhood.
12. No owner of any lot or tract in said subdivision shall be permitted to maintain any unsanitary conditions upon said lot or tract.
13. Unsightly accumulation of garbage or trash shall not be permitted on any lot. All refuse, rubbish, trash, garbage or waste shall be kept, disposed of or removed in a sanitary manner. All household refuse and rubbish, trash, garbage or waste shall be kept in closed containers until taken to a disposal place operated or licensed by the proper public authority for such disposal. No household refuse, rubbish, trash, garbage or waste other than dead leaves and fallen limbs shall be permitted to remain exposed on a lot. In any event, the maximum amount of time trash containers may remain exposed on any lots shall be twenty four hours. At all other times trash containers shall be enclosed so that they are not visible from either the street or other lots in the subdivision.
14. Each lot and the structures thereon shall be kept in good order and repair and free of debris; lawns shall be seeded and mowed, shrubbery trimmed and exterior surfaces properly maintained, all in a manner and with such frequency as is consistent with good property management. Prior to commencement of construction of dwelling on a lot, which is unwooded or a portion of which is unwooded, lot owners shall mow and maintain the same in good order and free of debris. In the event such landscaping and mowing is not accomplished, the property owners' association may cause the same to be done and the cost and expense thereof shall be governed by the provisions of Article Four, Paragraph 3 (b) of this Declaration.
15. No structure other than a dwelling house shall be used at any time as a residence, either temporarily or permanently, except that garage apartments shall be permitted. No boats, trailers, or recreation vehicles shall be regularly parked or stored on any street or any lot except in a garage. No commercial vehicle shall be parked on any street or lot longer than is reasonably necessary for the driver thereof to perform the business functions to which the commercial vehicle relates.
16. No trailer, mobile travel trailer, camper, tent, shack, garage or other outbuilding or structure of a temporary nature may be used on any lot or tract as a residence except that lot owners are not prohibited from overnight stays in professionally manufactured equipment, provided the camping equipment is not left on any Lot for more than five (5) out of any thirty (30) day period. Tent camping is allowed provided tents are not visible from any road or roadway or adjacent lot. No mobile home or modular home shall be placed, parked or stored upon any lot in the subdivision, provided however that factory built log homes by Blue Ridge Log Homes of Campobello South Carolina are allowed if approved by the Association of the architectural review committee. A structure of a temporary or mobile nature, motor home, camper truck, tent, travel trailer, camper trailer

or other vehicle used or designated for camping or being mobile in nature, shall not be inhabited within the boundaries of the subdivision except as provided in this paragraph.

17. Firearms, explosives or arrows shall not be shot or discharged within the subdivision and no hunting shall be permitted within the boundaries of the subdivision.
18. No owner of any lot or tract in the subdivision shall keep, or allow to be kept, upon any lot, road, common area, any truck or mobile vehicle with a capacity of greater than one (1) ton, nor shall any owner park, or allow to be parked, any such vehicle on the street in front of, or adjacent to said owner's lot; and further, no owner of any lot shall park or store or allow to be parked or stored, any vehicle outside a carport or garage unless such vehicle is in a drivable condition, and is, in fact, regularly used as a means of transportation. Further, no wrecked, junk cars, unlicensed or improper vehicles shall be permitted on any lot. No vehicle, whether self-propelled or not, shall be parked on any lot in such a manner so as to constitute a nuisance to other lot owners, to wit: such as making repairs or leaving the vehicle exposed for an indefinite period of time at a location other than next to the lot owner's residence. No trucks, except pickup trucks or similar size vans or recreational vehicles and no commercial type vehicles shall be stored or parked on any lot or at any place within the subdivision. No assembly or disassembly of a motor vehicle, or any noxious or dangerous or unsightly activity of any kind whatsoever shall be carried on upon any lot. Nothing shall be done to any tract which may be or become an annoyance, nuisance, health hazard or safety hazard to the neighborhood. No metal utility buildings, metal carports, or metal fences may be erected within the subdivision and there shall be no stockpiling of cars, automotive parts, school buses, furniture or junk.
19. No swimming pool shall be constructed, erected, or placed in front of any residence structure, nor may any swimming pool be located in violation of the side or rear setback lines on any lot, and further, any swimming pool constructed, erected or placed, upon Any lot or tract in said subdivision shall be fenced or enclosed in such a manner as to reduce the hazard or risk to any other lot owners, their families and guests, which may arise from the maintenance of said pool. All pool construction shall be subject to easement provisions set forth in these covenants and no pool shall be constructed in any manner which shall interfere with any easement reserved or established herein. All pool constructions shall be of an underground nature and "above ground" pools shall be strictly prohibited.
20. No Advertising or display signs of any character shall be placed or maintained on any lot or any Property or any structure located within the subdivision except with a written consent of the Declarant, except customary "For Sale" signs, not larger than twenty-eight inches wide and twenty inches high, on or in front of a dwelling house by the owner thereof. No real estate or bank finance sign shall remain on any part of the subdivision for a period of more than twelve consecutive months: thereafter the real estate company or bank shall seek permission from the Declarant for an extension. The Declarant reserves the right to allow or disallow any sign related to the subdivision.

21. No outside television, radio antenna, or satellite dish shall be erected, installed, or maintained on any lot, or on any structures thereon, except that outside television or radio antennae not more than four feet in height shall be permitted on the roof or chimney of a dwelling house. Small digital dishes less than 24" in diameter shall be allowed; provided they are installed in a discrete and appropriate location.
22. No individual sewer disposal systems shall be permitted on any lot and all equipment for the storage or disposal of garbage or trash shall be kept in a clean and sanitary condition. It is understood that septic tank systems, duly approved by the Mitchell County Health Department shall be allowed.
23. No permanent exterior clothes dryer shall be erected, installed, or maintained on any lot, or on any structure thereon. Only collapsible or retractable clothes dryers shall be used and they shall be collapsed or retracted when not in use and shall be located in the rear yard behind the dwelling house.
24. No trees or shrubs shall be located on any lot which blocks the view of operators of motor vehicles so as to create a traffic hazard. Additionally, all holiday decorations attached to the house or in the lot where the dwelling is situated must be removed within thirty days post holiday.
25. Once construction has commenced on any lot or tract in the subdivision, all outside work, including grading and clean-up of unused material shall be completed within one (1) year from the date construction commences. During construction of any structure upon any lot, the owner shall insure against soil erosion and sedimentation by the installation of such sedimentation and erosion control devices and practices (including, but not limited to, siltation screens) as are sufficient to retain sediment generated by land disturbing activities within the boundaries of the subject lot. Disturbed areas shall be seeded and grassed, or afforded other appropriate cover, as soon as practicable during the construction period.
26. Building connections for all utilities, including, but not limited to water electricity, and telephone, shall be run underground from the proper connecting points to the dwelling unit in such a manner as will be acceptable to the governing utility authority.
27. Solar energy and other energy conservation devices are not prohibited or discouraged, but the design and appearance of such devices will be closely scrutinized and controlled by the Declarant to assure consistency with neighborhood aesthetics. Requests for approval of any type of solar or energy conservation equipment shall be made to the Declarant in writing and shall include the plans and specifications for the proposed improvement, which must be constructed in accordance therewith, if the Declarant grants approval.
28. All tennis courts and play structures shall be located at the rear of the dwelling home, or on the inside portion of a corner lot within setback lines. No platforms, dog houses, dog lots, tennis courts, or playhouse or structure of a similar kind of nature shall be

constructed on any part of a lot located in front of the rear line of the dwelling unit constructed thereon, and such structures and equipment shall be constructed so as not to adversely affect the adjacent lots or the use thereof in the subdivision.

29. No hazardous or toxic materials or pollutants shall be discharged, maintained, stored, released, or disposed of upon the property except in the strict compliance with applicable rules and regulations.
30. No mining operations, quarrying, tunnels, mineral excavations, or shafts shall be permitted upon, in, or under any lot.
31. Driveways serving residential improvements on all lots shall have a minimum width of at least ten (10) feet of asphalt, concrete or gravel. Said surface material must be in play within twelve (12) months of the beginning of construction of any residence on a lot or upon completion of construction whichever is the first to occur. Commencement or start of construction shall begin with the grading of the lot. Each driveway entrance where it intersects the private roadway affording access to a lot shall contain a culvert underneath the same at least fifteen (15) inches in diameter. Declarant may waive the provisions of this covenant but in the absence of an express waiver, this covenant shall be strictly enforced. All culverts shall be corrugated, galvanized and one joint in length. All lot owners shall be responsible for returning roads to their original condition after construction, if damages occurred during construction by the use of construction equipment.
32. All fuel oil storage tanks shall be installed underground, and under no circumstances shall above ground storage tanks be permitted to remain on any lot or tract. Propane tanks may be installed provided that the maximum size of said tank shall be 120 gallons; further, these tanks shall be located directly behind the dwelling served and shall be enclosed by a wooden fence which shall be high enough to shield the tank on all sides.
33. Window air condition units are not permitted on any structure located on any lot within the subdivision. All compressor units shall be ground mounted. Compressor units shall be screened by fencing or planting, approved by the Declarant, and thereafter the Association.
34. Specifically prohibited is the operation of any two-wheeled, three-wheeled, or four-wheeled internal combustion engine driven off-road vehicle, motor bikes, motorcycle, "four-wheeler" or any toy engine driven vehicles on any part of the subdivision property or roads, except by the developer for purposes of inspection, maintenance, and repair of the property and lot owners for quiet, two-wheel engine driven road vehicles used by lot owners to commute to and from work and approved by developers.
35. No lot within Grace Ridge Subdivision shall be accessed except from roadways shown on the plat, or from the public roadway abutting such lot. No subdivision roadway shall be used to access any property outside Grace Ridge Subdivision, except that the

Declarant reserves the right to expand the subdivision using subdivision roadways, to include additional and similarly restricted land. In addition certain rights to use parts of the subdivision held by owners of abutting property are shown on the recorded plat

36. The covenants, conditions and restrictions hereinabove set forth shall run with the land and bind the property and shall be enforceable by the Declarant, its successors and assigns, and by owners of any lot or any portion of the Property until the fortieth anniversary date of this declaration and thereafter for successive 10 year periods unless, prior to the expiration of the current term, a written instrument shall be executed by the then owners seventy-five percent (75%) of the lots then subject to the Covenants and recorded with the Register of Deeds of the jurisdiction referred to above, stating that the Covenants shall expire at the end of the then current term. All or any part of the rights and powers (including discretionary powers and rights) reserved by or conferred upon the Declarant by this Declaration may be assigned or transferred by the Declarant to any successor of all or any part of the Property, or to any community or home owners association or architectural committee composed of residents of the Property. Any such assignment or transfer shall be evidenced by an appropriate instrument recorded with the Register of Deeds of the jurisdiction referred to above, and upon recordation thereof the grantee or grantees of such rights and powers shall thereafter have the right to exercise and perform all of the rights and powers reserved by or conferred upon the Declarant by this Declaration.

## **ARTICLE TWO RESERVED EASEMENTS**

1. Each owner of any lot shall have a perpetual and non-exclusive easement for all purposes consistent with this Declaration over each of the subdivision streets shown on the referenced plat, subject to the terms and provisions hereof and the right of the Association to maintain and control the use of such roadways.
2. The owners of lot eight (8) and nine (9) shall have a perpetual easement for the installation, maintenance and operation of an underground septic system to be located as shown on the plat on lots ten (10) and twelve (12) respectively. This easement includes the right to install and maintain a fully permitted and professionally installed septic absorption system entirely within the confines of the said easement area as shown on the Plat. In the installation of such system, such benefitted owner will remove all debris, including excess dirt, trees or tree limbs, and will leave the area of the easement in a smooth and properly graded state, seeded and mulched so as to leave the area clean, attractive and fully in compliance with all subdivision standards and all regulations governing sediment control. It shall be a condition of this easement that any such owner shall prior to beginning any construction of the system, present to the encumbered lot owner and to the Association, full plans and specifications of the proposed system, including a construction schedule, and a fully executed contract for the installation of such system by a licensed professional installation company.

3. Easements for the installation and maintenance of utilities and drainage facilities are hereby reserved over the front, side and rear twenty feet of each lot for the installation and maintenance of utilities, storm sewers, septic drain fields, and surface drains. Neither the Declarant subdivider, lot owner, or any utility company using easements herein referred to shall be liable for any damage done by them or their assigns, employees, and servants to grass, shrubs, trees, flowers, or to any other property belonging to any party which may be located within the easement area. No structure, planting, or other material shall be placed or permitted to remain within these easements or within any utility, road, or similar easements shown on the plat, which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of the flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements whose maintenance is the responsibility of a governmental body or agency or a public authority or utility company. No conveyance by the Declarant of any lot, or any interest therein, shall be deemed to be, or construed as, a conveyance or release of these easements, or any of them, even though the conveyance purports to convey the right in fee simple, or by other language purports to convey the Declarant's entire interest therein, but such effect shall only arise if the conveyance specifically recites it to be the intention of the Declarant or its successors to thereby convey or release the easements.
4. The Declarant further reserves to itself or its successor and assigns, easements, together with the right to grant easements, rights-of-way, and licenses to any person, individual, corporate body, or municipalities, to install and maintain pipelines, underground or above ground lines, with the appurtenances necessary thereto, for public utilities or quasi-public utilities, or to grant such other licenses or permits as the declarant may deem necessary for the improvement of the property in, over, through, upon, and across any and all of the roadways and open spaces, and in, over, through and upon, and across each and every lot in the easement area reserved hereinabove. The Declarant further reserves to itself and its successors and assigns, the right to dedicate all streets, avenues, roads, courts, open spaces, and easements for public use. No street, avenue, road, court, open space or easement shall be laid out or constructed through or across any lot, except as set forth in this Declaration, or as laid down and shown on the plat, without the prior written approval of the Declarant.

**ARTICLE THREE  
PROPERTY OWNERS' ASSOCIATION**

1. Grace Ridge Subdivision Property Owners' Association, Inc. has been or will be formed pursuant to the rules and requirements of the North Carolina Non Profit Corporation Act as an association of the owners of lots. The association is a not-for-profit corporation charged with duties invested with powers set forth in the North Carolina General Statutes for not-for-profits corporations, the Articles of Incorporation, the Bylaws and this

Declaration. A Board of Directors of the Association, and officers elected as provided in the Articles and Bylaws, shall conduct the affairs of the Association in accordance with this Declaration, the Articles and Bylaws.

2. Every owner of a lot or dwelling unit which is subject to this Declaration shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is the subject of this Declaration.
3. The Association shall have two (2) classes of voting membership, defined as follows:
  - a) Class A Members shall be the owners of lots with the exception of Declarant, and there shall be one (1) vote for each lot.
  - b) Class B Members shall be the Declarant who shall be entitled to the number of votes equal to the number of lots from time to time subject to the Declaration or which are depicted on a preliminary plan for the Property which the Declarant intends to plat as a part of the Property plus one. The total number of votes of the Class B Member shall be increased at the time of submission of the preliminary plat to the County or upon Commencement of Declarant marketing such lots to include the number of lots contained within additional property as hereinbelow defined plus 1. The Class B membership shall cease upon the happening of the first of the following events to occur: when the Declarant has conveyed 100% of the property or additional property which it owns; twenty (20) years from the date of recording this Declaration; or when the Declarant, in its sole discretion, elects to transfer control to Class A Members.
  - c) For the purposes of this section, a lot shall be deemed to be a part of the Property at the time at which a preliminary plat thereof has been delivered to Declarant.
4. Whenever in this Declaration a proposed action or issue must be approved by a specified percentage of the vote of the Members of the Association, such approval may be obtained by:
  - a) The specified percentage of Members of each class of members casting their respective votes to approve such action or issue in person or by proxy at duly noticed and constituted meetings of the Members at which a quorum is present, or
  - b) The specified percentage of Members of each class of Members holding all votes giving the approval by written consent to approve the action or issue.

To the extent that a meeting of all Members is impractical, then meetings may take place in the manner set forth in the Bylaws and the total votes of each meeting shall be calculated as set forth in the Bylaws.

5. The Property Owners Association shall have all the rights and powers set forth in Article Six hereof, and in the NC Planned Communities Act with respect to enforcement of these covenants, the making of rules and regulations providing for the orderly administration of the plan of development, the general powers of administration of such plan, and the maintenance of the subdivision including the roadways, entrance, and rights of ways reserved herein or shown on the plat.

**ARTICLE FOUR  
COVENANT FOR MAINTENANCE ASSESSMENTS**

1. Each owner of any lot except Declarant, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association the following:
  - a) Annual Assessments which are herein defined as those funds regularly collected from owners of lots in the subdivision for the improvement, maintenance and repair of the common property, streets and roads, and for the operation and maintenance of the Association, for the establishment of a maintenance, repair and reserve account for the payment of taxes and insurance on the common property, and for such other purposes and obligations of the Association as are required hereunder or permitted in this Declaration, the Articles or the Bylaws.
  - b) Special Assessments which are herein defined as those funds which are established and assessed from owners for expenses incurred which affect all owners on a limited or special basis or may be assessed against specified Owners(s) for failure to comply with the terms and conditions of this Declaration.

The Annual and Special Assessments together with interest, costs, and reasonable attorney's fees, shall be a charge on the lots and shall be a continuing lien upon the lot against which each such Assessment is made. Each such Assessment together with interest, costs, and reasonable attorney's fees, shall also be personal obligations of the person who was the owner of said lot at the time the Assessment fell due. The personal obligation for delinquent Assessments shall be the joint obligation of the grantor and grantee under a deed, without affecting the grantee's right to recover the grantor's share from the grantor. There is to be no diminution or abatement of any Assessment based on alleged failure of the Association to perform some function required of it, or any alleged negligent or wrongful act of the Association, its officers, agents or employees or based on any owner's abandonment or non use of his lot or the common property.

- c) Construction Assessments: The Association shall have a lien for assessments pursuant to this article against lot owners and their lots for any damages done to subdivision roads in the course of construction of any structure on a lot within the subdivision. The lien shall be in the amount of the cost of repairing the damage and shall be due and payable within 15 days of delivery of an invoice for the cost and repairs to the lot owner(s).
2. The Board of Directors shall have the right, power and authority, during any fiscal year, to set or increase the Annual Assessments for the purpose of meeting the

Common Expenses on a current basis. The Annual Assessments shall be computed on an equal basis for lots.

- a) Special Assessments may be levied by the Board of Directors as follows: In addition to the Annual Assessments authorized above, the Association may levy, in any Assessment year, a Special Assessment applicable to that year only and for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon any of the roads or common property, including fixtures and personal property related thereto, and for making up any budget deficit, provided that any such Assessment shall have the approval of a two-thirds (2/3) majority vote of the Board unless the Special Assessment is required due to the inadequacy of the insurance proceeds to cover the cost of a repair to common property where no approval shall be required.
  - b) In the event that an owner fails to maintain his lot or dwelling or any appurtenant improvement as required herein, the Association shall give written notice specifying such failure to the owner and if the owner fails to correct such under performed maintenance within ten (10) days from the Association's written notice, the association may perform such maintenance and the cost of such shall constitute a Special Assessment for which a claim of lien may be filed and enforced.
3. Such Annual Assessments and Special Assessments, except for the failure to maintain as set forth hereinabove, must be fixed at a uniform rate for all lots and must be applied uniformly.
  4. A lot shall be deemed substantially complete and subject to Assessments when the common roads necessary to provide access to the lot have been constructed. The Declarant shall not be obligated to pay Assessments for lots which it owns provided that if Declarant owns lots upon which it constructs dwelling units for purchase by third parties, the Assessments for those lots will commence on the completion of construction of said residences.
  5. The Board of Directors shall fix the amount of the Annual Assessment against each lot or Dwelling Unit at least thirty (30) days in advance of each Annual Assessment period. Written notice of the Assessment shall be sent to every owner subject thereto. Annual Assessments shall be payable within sixty (60) days from receipt of Notice of Assessment. Until January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum Annual Assessment per lot shall be \$300.00 per year.
  6. 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 for a specified lot have been paid. A properly executed certificate of the Association as to the status of Assessments on a lot is binding upon the Association as of the date of its issuance.

7. Any Assessment not paid within fifteen (15) days after the due date, shall be subject to a late charge in the amount of fifteen dollars (\$15.00). Further, any Assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the highest rate of interest permitted by law. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose a lien against the lot of Dwelling Unit. Costs and reasonable attorneys fee occurred in any such action may be awarded to the prevailing party.
8. The lien of the Assessments provided for herein shall be subordinate to the lien of any first deed of trust held by a Mortgagee. The sale or transfer of any lot shall not affect the Assessment lien. However, the sale or transfer of any lot pursuant to a mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien and such Assessment as to payments which became due prior to said sale or transfer. No sale or transfer shall relieve such lot or Dwelling Unit from liability for any Assessment thereafter becoming due or from the lien thereof. Any such delinquent Assessment which was extinguished pursuant to the foregoing may be reallocated and assessed against all of the lots as part of the annual budget.
9. Budget.
  - a) The fiscal year for the Association shall be the calendar year commencing on January 1 of each year.
  - b) The initial budget shall be established by the Declarant and shall be based upon estimates the Declarant can establish using the financial data for similar properties.
  - c) Commencing approximately one (1) month before the expiration of each budget year, the Board of Directors shall adopt a budget for the next fiscal year based on the actual expenditures of the Association in the previous fiscal years including, without limitation, expenses for wages, employee benefits, materials, insurance premiums, services, supplies and for reserves set forth below. Upon adoption by the Board such budget shall be in effect for the fiscal year and each owner shall pay its pro rata share of the Annual Assessment as set forth in such budget. Provided, however, no budget which results in Annual Assessments for each lot which exceeds one hundred and twenty five percent (125%) of the prior years Annual Assessment shall be adopted unless approved by two thirds of the members of the Board of Directors.
  - d) The Board shall establish and maintain an adequate reserve fund for periodic maintenance, repair and replacement of roads and improvements on the common property and a reserve for working capital and contingencies. This reserve fund shall constitute a portion of the annual budget. In addition, the Board of Directors may establish a reserve fund from Annual Assessments to be held in an interest bearing account for major rehabilitation or major repairs, emergencies and other repairs required as a result of storm, fire, natural disaster or other casualty loss and initial cost of any new service to be

performed by the Association. The failure or delay of the board to prepare or adopt an annual budget for any fiscal year or to send any written notice of the budget shall not constitute a waiver or release in any manner of the owner's obligation to pay any Assessment as herein provided, whenever the same shall be determined or a notice sent. In the absence of any annual budget or written notice, each owner shall continue to pay the Assessment as established for the previous year.

#### **ARTICLE FIVE ADDITIONAL PROPERTY**

1. The area of the property subject to this Declaration may be increased by filing with the Register of Deeds of Mitchell County, North Carolina, supplements to this Declaration, subjecting additional property, including property not shown on the map and plat provided such property shall be adjacent to the property shown on the same, to this Declaration, signed by the Declarant, or its successors and assigns, and duly acknowledged.
2. Declarant has the right, by Instrument duly recorded with the Register of Deeds of Mitchell County, which only need to be signed by the Declarant and holder of any mortgage or deed of trust or similar lien on a portion of the property then owned by the Declarant, to modify the provisions of this Declaration if a modification is required by the Veterans Administration, Federal Housing Administration, the Federal Home loan Mortgage Corporation, Federal National Mortgage Association, or Government National Mortgage Association or any successor agency thereto as a condition of the approval by such agency of the property or any part thereof or any lot thereon for approved mortgage financing purposes. In addition, the Declarant, so long as it remains a Class B Member in the Association, and thereafter, the Association, Shall have the right to modify or waive provisions of these Covenants to relieve undue hardship on any lot owner so long as the general standards established by these Covenants for the preservation of economic values in the subdivision are not materially altered.

#### **ARTICLE SIX ENFORCEMENT**

In the event of a violation of these Covenants, their terms, conditions and restrictions, the Declarant, the Association, or owners of other lots in the subdivision shall be entitled to bring an action at law or in equity in the General Court of Justice of Mitchell County, North Carolina for damages, any form of injunctive relief, and for such other and further relief as may be appropriate. In the event a violation for the non-payment of any Annual or Special Assessment occurs, the Association shall the payment of any Annual or Special Assessment occurs, the Association shall have the right to suspend the offending owners voting rights for any period during which an Assessment against a lot remains unpaid. In the event the party seeking enforcement prevails, the offending lot owner or owners shall be required to pay the Plaintiff's reasonable attorney fees. Provided however, that no judicial or administrative proceeding shall be commenced or prosecuted by the Association itself unless the same is approved by a vote of

seventy-five (75%) percent of the Members at a general meeting. This section shall not apply however to actions brought by the Association to enforce the provisions of this Declaration including, with limitation, foreclosure of liens, the imposition of assessments as provided, proceedings involving challenges to ad valorem taxes or counterclaims brought by the Association and proceedings instituted against it. Provided further, that this Declaration shall not be amended unless such amendment is made by the Declarant as above provided or is approved by the percentage vote, and pursuant to the same procedures, necessary to institute legal proceedings as provided above.

#### ARTICLE SEVEN ROADWAYS

1. The designation of streets, avenues, roads, courts, and open spaces on the plat is for the purpose of description only and not dedication, and the rights of the Developer in the same are specifically reserved, subject to the provisions of these covenants. The Declarant hereby reserves to itself and its successors and assigns, the right to grade, regrade, and improve the streets, avenues, roads, courts and open spaces as the same may be located on the plat, including the creation or extension of slopes, banks, or excavation in connection therewith and in the construction of and installation of drainage structures therein.
2. Subdivision roadways showing rights of way of at least forty-five (45) feet shall be maintained by the Property Owners Association, except that Bluebird Lane shall be maintained only to the southern corner of Lot 17 until such time as Developer or the owner of the abutting property may use such roadway to access other property. Other roadways shown on the plat having rights of way shown as less than 45 feet shall be initially constructed by the Declarant, but thereafter shall constitute private driveways accessible by and maintained entirely by any lots accessed by such driveway. Any owner of a lot which is accessed by such driveway shall have a perpetual easement and right of way to access such lot over such driveway for any purpose appropriate under this Declaration, including access and installation of utilities, and shall have the right and authority to maintain and improve such roadway. All owners actually using such driveway shall be equally responsible to each other for the pro rata cost of maintaining such driveway in open passable condition, accessible by automobile in all weather, free of ruts and holes, and being properly ditched and drained.
3. The roadways shown on plat recorded in Map book 3 at page 151 are hereby withdrawn. Roadways shown on such plat, to the extent different from those shown on the revised plat of Grace Ridge Subdivision, shall not constitute or establish any rights of way.

IN WITNESS WHEREOF, the undersigned, being the Declarant, has hereunto caused its name and seal to be affixed hereto this the 23rd day of April, 2009.

(Execution follows on next page)

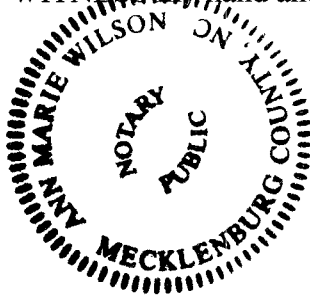
GRACE RIDGE, LLC

By: Mark R. Adkins (SEAL)  
Mark R. Adkins, Attorney in Fact

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

I, Ann Marie Wilson Notary Public, do hereby certify that  
Mark R. Adkins personally appeared before me this day and acknowledged the  
due execution of the foregoing Instrument for all purposes therein expressed.

WITNESS my hand and Notarial Seal this the 23rd day of April, 2009.



Ann Marie Wilson  
NOTARY PUBLIC  
My Commission Expires 7/28/12

Prepared by: Hugh Franklin, Attorney at Law  
17505 West Catawba Avenue, Suite 180  
Cornelius, NC 28031

**EXHIBIT "A"**

**FIRST TRACT: BEING** Lot No.'s 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17 of Grace Ridge Subdivision as shown on a map and plat of record in the Mitchell County Deed Registry at Plat Cabinet 3, Page 151 reference to which is hereby made for the incorporation of metes and bounds descriptions.

**THIS CONVEYANCE** is made subject to that certain Declaration of Covenants, Conditions, Restrictions, Easements and Association for Grace Ridge Subdivision, appearing of record in the Mitchell County Deed Registry at Instrument Book 485, Page 827.

**ALSO CONVEYED HEREWITH** is a perpetual and nonexclusive easement and road right of way to travel over and upon the western half of Bluebird Lane as the same bounds Lot No.'s 13, 16 and 17 as shown on said map and plat together with rights of ingress, egress and regress for purposes of construction, maintenance, and repair of the said Bluebird Lane as shown on said map and plat within the bounds of that portion of the right of way located on property owned by Cynthia Grace.

**RESERVING** unto the GRANTOR, Cynthia Grace, her heirs, successors and assigns, a perpetual and nonexclusive easement and road right of way to travel over and upon those portions of Blue Bird Lane hereinabove referenced for access to and from her adjacent property, provided however, that nothing contained in this paragraph shall be construed to reserve unto the GRANTOR the right to travel over and upon subdivision roads to get to and from the public road.

**THIS CONVEYANCE** is made subject to the right of way of the North Carolina Department of Transportation for NCSR 1160 (Rabbit Hop Road), to its full legal width, as the same traverses the premises and is shown and reflected on the above referenced map and plat, together with utility easements, if any, as the same traverse the premises.

**ALSO CONVEYED HEREWITH** are each and every developer right either created for or reserved in favor of the Declarant in the above referenced Declaration of Covenant, Conditions Restrictions, Easements and Association for Grace Ridge Subdivision.

**FOR TITLE REFERENCE** see a quitclaim deed dated 12 November, 2008 appearing of record in the Mitchell County Deed Registry at Book 483, Page 726 and for further back reference see Mitchell County Deed Registry at Book 313, Page 721.

**EXCEPTING AND EXCLUDING HEREFROM** the following described parcel or tract of land which is a portion of Lot 1 of Grace Ridge Subdivision:

BEGINNING at an iron pin in the Northeastern Line of Lot 1 of "Grace Ridge" Subdivision, said pin bears S 40 degrees 02 minutes 14 seconds E for a distance of 112.01 feet from the Centerline of Rabbit Hop Road; thence with the Northeast Line of Lot 1 and the Southern Line of Cynthia Grace (Deed Book 451, Page 537) S 40 degrees 02 minutes 14 seconds E for a distance of 133.74 feet to an iron pin found, thence S 40 degrees 02 minutes 14 seconds E for a distance of 18.01 feet to the center of a branch, thence with the Centerline of said branch the following (4) calls:

- (1) S 15 degrees 38 minutes 39 seconds W for a distance of 13.06 feet to a point
- (2) S 10 degrees 46 minutes 27 seconds E for a distance of 22.74 feet to a point
- (3) S 05 degrees 05 minutes 42 seconds W for a distance of 12.24 feet to a point
- (4) S 21 degrees 14 minutes 48 seconds W for a distance of 14.48 feet to a point

THENCE leaving the Branch and severing Lot 1 N 27 degrees 29 minutes 42 seconds W for a distance of 19.32 feet to an iron pin set, N 27 degrees 29 minutes 42 seconds W for a distance of 179.99 feet to the POINT AND PLACE OF BEGINNING.

Containing by coordinate geometry 0.077 Acres by a survey by Fred C. Howell, PLS #1483, dated April 9, 2009.

**SECOND TRACT: BEGINNING** at a point in the Centerline of Waterside Loop (a 45.0 foot Right of Way) Said point also being the Northeast corner of Lot 9 of "Grace Ridge" Subdivision (recorded in Plat Book 3, Page 151) and the Southeast corner of the Cynthia L. Grace Property described at Mitchell County Deed Book 313, Page 721.

THENCE with the Northern Line of said Lot 9 S 86 degrees 20 minutes 15 seconds W for a distance of 29.30 feet to an iron pin found, S 86 degrees 20 minutes 15 seconds W for a distance of 327.90 feet to an iron pin found, S 86 degrees 20 minutes 15 seconds W for a distance of 41.36 feet to the Center of Crabtree Creek.

THENCE with the Centerline of Crabtree Creek the following two (2) calls:

- (1) N 02 degrees 44 minutes 07 seconds W for a distance of 42.37 feet to a point
- (2) N 09 degrees 48 minutes 52 seconds W for a distance of 62.36 feet to a point

THENCE leaving Crabtree Creek and severing the Cynthia L. Grace Property N 64 degrees 28 minutes 18 seconds E for a distance of 39.06 feet to an iron pin set, N 64 degrees 28 minutes 18 seconds E for a distance of 304.40 feet to an iron pin set, N 64 degrees 28 minutes 18 seconds E for a distance of 61.43 feet to a point in the Centerline of Waterside Loop.

THENCE with the Centerline of Waterside Loop the following four (4) calls:

- (1) a curve to the Left having a radius of 350.00 feet, a length of 84.50 feet, a chord of 84.29 feet, and a chord bearing of S 51 degrees 56 minutes 28 seconds W to a point
- (2) a curve to the Left having a radius of 55.01 feet, a length of 93.47 feet, a chord of 82.61 feet, and a chord bearing of S 03 degrees 39 minutes 46 seconds E to a point
- (3) a tangent of S 52 degrees 20 minutes 37 seconds E for a distance of 114.33 feet to a point
- (4) a curve to the Right having a radius of 45.00 feet, a length of 54.22 feet, a chord of 51.00 feet, and a chord bearing of S 17 degrees 49 minutes 37 seconds E to the POINT AND PLACE OF BEGINNING.

Containing 1.328 Acres as computed by coordinate geometry and surveyed by Fred C. Howell, PLS # 1483, on April 09, 2009.

**THIRD TRACT: BEGINNING** at a point in the Centerline of Crabtree Creek, said point being the Southern most corner of Lot 6 of "Grace Ridge" subdivision as recorded in Plat Book 3, Page 151 and at an intersection of a small branch.

THENCE with the Centerline of said Branch and the Eastern Line of Lot 6, the following twelve (12) calls:

- (1) N 48 degrees 11 minutes 37 seconds E for a distance of 38.82 feet to a point
- (2) N 17 degrees 24 minutes 46 seconds W for a distance of 44.81 feet to a point
- (3) N 12 degrees 17 minutes 09 seconds E for a distance of 16.78 feet to a point
- (4) N 66 degrees 58 minutes 54 seconds E for a distance of 25.78 feet to a point
- (5) N 67 degrees 13 minutes 43 seconds E for a distance of 61.83 feet to a point
- (6) N 72 degrees 43 minutes 05 seconds E for a distance of 46.85 feet to a point
- (7) S 72 degrees 39 minutes 58 seconds E for a distance of 27.78 feet to a point

- (8) N 16 degrees 30 minutes 59 seconds E for a distance of 21.08 feet to a point
- (9) N 46 degrees 55 minutes 56 seconds E for a distance of 47.77 feet to a point
- (10) N 09 degrees 49 minutes 25 seconds E for a distance of 39.58 feet to a point
- (11) N 36 degrees 32 minutes 56 seconds E for a distance of 61.68 feet to a point
- (12) N 07 degrees 11 minutes 32 seconds W for a distance of 59.09 feet to a point

SAID POINT also being the Southern most corner of Lot 5 of said "Grace Ridge" Subdivision.

THENCE continuing with the Centerline of said Branch and the Eastern Line of Lot 5 the following ten (10) calls:

- (1) N 19 degrees 38 minutes 16 seconds E for a distance of 32.71 feet to a point
- (2) N 45 degrees 14 minutes 19 seconds E for a distance of 38.24 feet to a point
- (3) N 21 degrees 53 minutes 58 seconds E for a distance of 40.19 feet to a point
- (4) N 05 degrees 17 minutes 09 seconds E for a distance of 76.70 feet to a point
- (5) N 18 degrees 16 minutes 51 seconds E for a distance of 75.05 feet to a point
- (6) N 57 degrees 29 minutes 33 seconds W for a distance of 43.50 feet to a point
- (7) N 23 degrees 33 minutes 30 seconds E for a distance of 171.88 feet to a point
- (8) N 29 degrees 31 minutes 17 seconds E for a distance of 33.74 feet to a point
- (9) N 00 degrees 32 minutes 03 seconds W for a distance of 16.48 feet to a point
- (10) N 62 degrees 31 minutes 37 seconds E for a distance of 9.42 feet to a point

SAID point being the terminus of a Crabapple Lane and the Southeastern corner of Lot 4 of said "Grace Ridge".

THENCE continuing with the Centerline of the Branch and the Eastern Line of Lot 4, N 62 degrees 37 minutes 07 seconds E for a distance of 40.34 feet to a point.

THENCE leaving the Branch and severing the Cynthia Grace Property S 46 degrees 07 minutes 37 seconds E and passing through an iron pin at 10.00 feet in all 82.21 feet to a ½ inch rebar found. Said ½ inch rebar being the Northern most corner of the William C. Jo A. Prendergast Property as recorded in Deed Book 404 Page 565.

THENCE with the Prendergast Western line the following three (3) calls:

- (1) S 14 degrees 15 minutes 32 seconds W for a distance of 210.41 feet to a 1/2 inch rebar found
- (2) S 14 degrees 34 minutes 37 seconds W for a distance of 177.27 feet to a 1/2 inch rebar found

(3) S 19 degrees 44 minutes 48 seconds W for a distance of 196.08 feet to a 1/2 inch rebar found at the Northern most corner of the William C Jo A. Prendergast Property as recorded in Deed Book 404 page 567.

THENCE with the Prendergast Western line the following two (2) calls:

- (1) S 41 degrees 06 minutes 44 seconds W for a distance of 309.02 feet to a 1/2 inch rebar found
- (2) S 29 degrees 27 minutes 14 seconds W for a distance of 53.13 feet to a point in the Centerline of Crabtree Creek.

THENCE with the Centerline of Crabtree Creek, N 49 degrees 13 minutes 47 seconds W for a distance of 121.11 feet to THE POINT OF BEGINNING.

Containing 2.308 Acres computed by coordinate geometry and surveyed by Fred C. Howell, RLS # 1483, on April 08, 2009.

**IT IS UNDERSTOOD** and agreed by and between the parties, their heirs, successors and assigns, that no structures shall be erected or maintained on the Third Tract hereinabove described and that this restriction shall run with the land and shall benefit the adjoining lands of the GRANTOR, Cynthia Grace, her successors and assigns as well as the First and Second Tracts above described.

**THE FOREGOING** First, Second and Third parcels are the same lands shown on a map and plat of Tennessee Land Surveying Co. and Fred C. Howell, Professional Land Surveyor, L-1483 recorded simultaneously herewith in Mitchell County Plat Cabinet \_\_\_\_\_, Page \_\_\_\_\_, reference to which is also made for incorporation herein by reference of metes and bounds descriptions.