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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, is made and entered into on the date hereinafter set forth by JOHN ALT (single), SCARLETT BREEDING (single) ("Declarants") and RITA J. PARHAM (single) ("Additional Declarant")

WITNESSETH:

Declarants are the owners of certain property in Randolph County, North Carolina which is more particularly described as:

All that certain parcel of land shown on the plat entitled Lorien which appears of record in the office of the Register of Deeds of Randolph County, North Carolina in Plat Book 21, Page 28; save and except therefrom Lot 3.

The Additional Declarant is the owner of Lot 3 of Lorien as per plat hereof recorded in Plat Book 21, Page 28, Randolph County Registry. The Additional Declarant desires to submit her lot to the terms and conditions of this Declaration and become a member of Lorien Charter, all as hereinafter set forth.

NOW, THEREFORE, Declarants and the Additional Declarant hereby declare 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, and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part hereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE ONE

DEFINITIONS

1.0 "Lorien Charter" shall mean and refer to the Lorien Charter, Inc., its successors and assigns.

2.0 "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

3.0 "Property" shall mean and refer to all of that real property described on that certain plat entitled "Lorien" recorded in Plat Book 21, Page 28, in the Randolph County Register of Deeds Office.

4.0 "Common Land" shall mean all real property owned by Lorien Charter for the common use and enjoyment of the Owners. The Common Land to be owned by Lorien Charter at the time of the conveyance of the first Lot is described as follows:

All that property shown as "Common Land" on the plat of Lorien recorded in the office of the Register of Deeds of Randolph County, North Carolina, in Plat Book 21, Page 28.

5.0 "Lot" shall mean and refer to any numbered plot of land shown on the plat of Lorien recorded in Plat Book 21, Page 38, of the Randolph County Register of Deeds Office, with the exception of the Common Land and dedicated streets.

6.0 "Member" shall mean and refer to every person or entity who holds membership with voting rights in Lorien Charter.

7.0 "Declarant" shall mean and refer to John Alt and Scarlett Breeding, their successors and assigns, if such successors and assigns shall acquire more than one undeveloped Lot from the Declarant for purposes of resale and development.

## ARTICLE TWO

### PROPERTY RIGHTS

2.1 Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Land which shall be appurtenant to and shall pass with the title to every Lot, subject to the following right of the Charter Table:

2.1.1 The Charter Table may suspend the voting rights and right of use to the Common Land by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

2.1.2 The Charter Table may dedicate and transfer all or any part of the Common Land to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by all Members. No such dedication or transfer shall be effective unless an instrument signed by all Members, agreeing to such dedication or transfer, has been recorded;

2.1.3 The Charter Table may impose regulations for the use and enjoyment of the Common Land and improvements thereon which regulations may further restrict the use of the Common Land.

2.2 Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his rights of enjoyment of the Common Land and facilities to members of his family, his tenants, or contract purchasers who reside on his Lot.

## ARTICLE THREE

### MEMBERSHIP AND VOTING RIGHTS

3.1 Every Owner of a Lot which is subject to a lien for assessment shall be a Member of Lorien Charter. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

3.2 All Owners shall be Members. When more than one person owns a fee interest in any Lot, all such persons shall also be Members. Each Owner shall have one vote regardless of the number of Lots owned. When an Owner is composed of more than one member, the vote of such Owner shall be exercised as the members composing the Owner themselves determine, but in no event shall more than one vote be cast by an Owner.

## ARTICLE FOUR

### COVENANT FOR MAINTENANCE ASSESSMENTS

4.1 Creation of Lien and Personal Obligation of Assessments. The Declarants and the Additional Declarant, for each Lot owned with the Property, hereby covenants, and each Owner of a Lot, 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 Lorien Charter: (1) annual assessments or charges for payment of ad valorem taxes on the Common Land and personal property of Lorien Charter and such insurance on the Common Land and any improvements thereon and personal property of Lorien Charter as Lorien Charter shall have acquired, and (2) special assessments for capital or other improvements and expenses, such assessments to be established and collected as hereinafter provided and (3) to the appropriate governmental taxing authority, a pro rata share of ad valorem taxes levied against the Common Land and a pro rata share of assessments for public improvements to the Common Land if Lorien Charter shall default in the payment thereof for a period of six (6) months, all as hereinafter provided. The annual and special assessments, together with interest, cost, and reasonable attorneys fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, cost and reasonable attorneys fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

4.2 Purpose of Assessments. Assessments by Lorien Charter shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Property and in particular for the improvement and maintenance of properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Land 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 assessed against the Common Land, the procurement and maintenance of insurance in accordance with the By-Laws, the employment of attorneys to represent Lorien Charter when necessary, and such other needs as may arise.

4.3 Maximum Annual Assessment. Until January 1, 1982, the maximum annual assessment shall be \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) per Owner.

4.3.1 The annual assessment for the calendar year of 1982 and for each calendar year thereafter shall be the sum of money sufficient to pay ad valorem taxes assessed against the Common Land (including improvements thereon) and personal property owned by Lorien Charter and such casualty, liability and other insurance on the Common Land and improvements of Lorien Charter property as acquired by the Charter Table.

4.3.2 The annual assessment for the calendar year of 1982 and for each calendar year thereafter may be increased without limit by the Charter Table, at a meeting duly called for this purpose to provide for sufficient funds to pay ad valorem taxes and insurance as provided above.

**4.4 Special Assessments for Capital and Other Improvements.** In addition to the annual assessments authorized above, Lorien Charter may make, from time to time, a special assessment for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital or other improvement of, in, or upon the Common Land, provided that any such assessment shall have the unanimous assent of the Charter Table at a meeting duly called for this purpose. All special assessments may be collected on a monthly basis or on such other basis as agreed upon by unanimous vote by the Charter Table.

**4.5 Rate of Annual Assessment.** Except as provided in paragraphs 4.5.1 and 4.5.2, both annual and special assessments shall be allocated to and paid by all Owners equally.

4.5.1 The cost for the maintenance of the road and utility service located on the sixty (60) foot easement contiguous to Lots 3, 4, 5, and 6 shall be paid by special assessment, which shall be solely assessed to and paid by the Owners of Lots 3, 4, 5, and 6 upon the following allocation:

<u>Lot</u>	<u>Percent of Special Assessment</u>
Lot 3	25%
Lot 4	25%
Lot 5	25%
Lot 6	25%

4.5.2 Except as otherwise provided in paragraph 4.5.1, in the event the Charter Table unanimously determines that the use and benefit of a special assessment shall inure to one or more Owners or Lots more than to other Owners or Lots, such special assessment may be assessed against the Owners as the Charter Table unanimously agrees. No such special assessment shall be effective unless and until there is unanimous agreement of the Charter Table as to the apportionment of such special assessment.

**4.6 Date of Commencement of Annual Assessments; Due Dates.** The annual assessments provided for herein shall be collected in monthly installments and shall commence on the first day of \_\_\_\_\_ . The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. At least thirty (30) days in advance of each annual assessment period, the Charter Table shall fix the amount of the annual assessment to every Owner subject thereto. The monthly installments due for each calendar month shall be due on the first (1st) day of each calendar month. Lorien Charter shall, upon demand, furnish a certificate signed by an officer of Lorien Charter setting forth whether the assessments on a specified Owner have been paid.

**4.7 Effective 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 eight percent (8%) per annum. Lorien Charter may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property in the same manner as the foreclosure of deeds of trust, and interest, cost and reasonable attorneys fees of such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or

escape or be released from liability for the assessment provided for herein by nonuse of the Common Land or abandonment of his Lot.

4.8 Effect of Default and Payment of Ad Valorem Taxes or Assessments for Public Improvements by Association. Upon default by Lorien Charter in the payment to the governmental authority entitled thereto of any ad valorem taxes levied against the Common Land or assessments for public improvements to the Common Land, which default shall continue for a period of six (6) months, each owner of a Lot in the Property shall become personally obligated to pay to the taxing or assessing governmental authority a portion of such unpaid taxes or assessments in an amount determined by dividing the total taxes and/or assessments due the governmental authority by the total number of Lots in the development. If such sum is not paid by the Owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the Lot of the then Owner, his heirs, devisees, personal representatives and assigns, and the taxing or assessing governmental authority may either bring an action at law or may elect to foreclose the lien against the Lot of the Owner.

4.9 Subordination of the Lien to Mortgages. The liens provided for herein shall be subordinate to the lien of any mortgage, mortgages, deed of trust or deeds of trust. The sale or transfer of any Lot shall not affect the assessment lien or liens provided for in the preceding section. However, the sale or transfer of any Lot which is subject to any mortgage or deed of trust pursuant to a foreclosure thereof or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to the payment thereof which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any mortgage, mortgages, deed of trust or deeds of trust.

#### ARTICLE FIVE

#### USE RESTRICTIONS

5.1 Land Use and Building Type. No Lot shall be used except for residential, agricultural, or incidental home occupation purposes. "Incidental home occupation" shall mean any use conducted within a single family dwelling or other structure permitted by this Declaration, and carried on by the Member who owns the Lot or his family, tenant, or contract purchaser residing on the Lot, which use is clearly incidental and secondary to the use of the Lot for residential purposes and does not change the character thereof, and in connection with which there is no display or advertising and no person, not a resident of the Lot, is employed specifically in connection with the incidental home occupation.

5.2 Buildings. No building shall be erected, altered, placed or permitted to remain on any Lot other than (1) one (1) detached single family dwelling and garage, (2) an additional residential unit, which shall not exceed 800 square feet of floor area, and (3) a structure, not to exceed 1,000 square feet constituting a workshop, studio, greenhouse, or similar structure used in connection with an incidental home occupation. No structure of a temporary character, including trailers, pre-fabricated

storage or mobile homes, shall be erected or allowed to remain on any Lot. The single family dwelling shall be designed so that solar heating shall contribute at least fifty percent (50%) of its total heating requirements.

5.3 No trees over ten inches in diameter, at their widest girth, shall be cut down on a Lot except to permit the construction of a permitted structure, driveway, waste treatment or disposal system or to provide solar penetration for the energy requirements of a permitted structure, or to eliminate tree disease.

5.4 The following uses are prohibited:

5.4.1 The testing, tune up, and operation of modified motor vehicles;

5.4.2 The firing or discharge of firearms for sport or recreation;

5.4.3 Any use which results in the production of disturbing sound to other Members of Lorien Charter;

5.4.4 The keeping of more than three (3) dogs for each Owner; and

5.4.5 The operation of motorized vehicles except for agricultural equipment on a Lot other than on driveways from the sixty (60) foot easement in the Common Land or State Road 1935 to a permitted structure.

5.5 All trash, garbage, and refuse shall be removed from the Lot by commercial garbage and trash collection service by other clean and sanitary methods acceptable to the Randolph County Health Department; provided that biodegradable trash, refuse, and garbage may be disposed of on the Lot by properly built and maintained composts.

5.6 All utilities shall be installed underground.

5.7 No junk, dismantled or wrecked automobiles, or parts thereof, or any man-made debris shall be allowed to remain on the Property.

5.8 No Lot shall be subdivided into parcels.

5.9 The use of high intensity outside lighting during hours of darkness.

5.10 The restraining of domestic animals by leashes, ropes, or other methods injurious to their health and safety.

5.11 No noxious or offensive activity shall be conducted upon any Lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

#### ARTICLE SIX

#### PLAN OF DEVELOPMENT

The Common Land shall be developed and improved in accordance with the By-Laws of Lorien Charter, as they presently exist or as hereafter amended.

ARTICLE SEVEN

GENERAL PROVISIONS

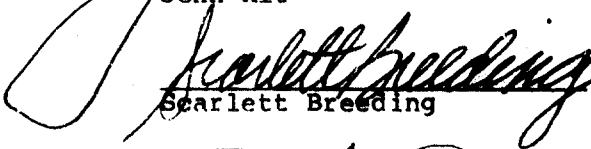
7.1 Enforcement. Lorien Charter or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, covenants, conditions, reservations, liens and charges now or hereafter imposed by the provisions of the Declaration. Failure by Lorien Charter or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

7.2 Severability. Invalidation of any of the covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

7.3 Amendment. The covenants and restrictions of this Declaration shall run with and by the land for a term of twenty (20) years from the date this Declaration is recorded, after which time, they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by all of the Owners; provided that no amendment shall alter any obligation to pay ad valorem taxes or assessments for public improvements, as herein provided, or affect any lien for the payment thereof established herein. All amendments shall be properly recorded in the Register of Deeds Office of Randolph County.

IN WITNESS WHEREOF, the undersigned, being the Declarants and the Additional Declarant have hereunto set their hands and seals this the 22 day of Sept., 1980.

  
John Alt

  
Scarlett Breeding

  
Rita J. Parham

NORTH CAROLINA  
GUILFORD COUNTY

I, Julie R. Gibson, Notary Public, do hereby certify that John Alt personally came before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial stamp, this 22 day of Sept., 1980.

Julie R. Gibson  
Notary Public

My Commission expires: 4-26-81

JULIE R. GIBSON  
NOTARY PUBLIC  
GUILFORD COUNTY, N. C.

MY COMMISSION EXPIRES APRIL 26, 1981

NORTH CAROLINA  
GUILFORD COUNTY

I, Julie R. Gibson, Notary Public, do hereby certify that Scarlett Breeding personally came before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial stamp, this 22 day of Sept., 1980.

Julie R. Gibson  
Notary Public

My Commission expires: 4-26-81

JULIE R. GIBSON  
NOTARY PUBLIC  
GUILFORD COUNTY, N. C.

MY COMMISSION EXPIRES APRIL 26, 1981

NORTH CAROLINA  
GUILFORD COUNTY

I, Julie R. Gibson, Notary Public, do hereby certify that Rita J. Parham personally came before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial stamp, this 22 day of Sept., 1980.

Julie R. Gibson  
Notary Public

My commission expires: 4-26-81

JULIE R. GIBSON  
NOTARY PUBLIC  
GUILFORD COUNTY, N. C.

MY COMMISSION EXPIRES APRIL 26, 1981

NORTH CAROLINA Randolph County

The foregoing certificate(s) of Julie R. Gibson, Notary Public of Guilford County N.C.

is (are) certified to be correct. This instrument was presented for registration and recorded in this office at Book 1122 Page 145. This 3 day of October, 1980 at 2:25 o'clock P.M.

Annie Shaw, Register of Deeds  
Annie Shaw Register of Deeds