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# DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR WINCREST

This DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, made and entered into this the 13 day of April, 2000, by and between SUN VALLEY INVESTORS, A NORTH CAROLINA GENERAL PARTNERSHIP, owner of WINCREST SUBDIVISION as shown on plat recorded in Plat Cabinet E, Files 795 Area 946, of the Union County, North Carolina Registry, (hereinafter "Declarant") and, PROSPECTIVE PURCHASERS of all lots in said subdivision.

## WITNESSETH:

WHEREAS, Declarant is the owner of the real property which is described in Article II hereof, and desires to create thereon an exclusive residential community of single-family houses to be named "Wincrest"; and

WHEREAS, Declarant desires to insure the attractiveness of the subdivision and to prevent any future impairment thereof, to prevent nuisances, to preserve, protect, and enhance the values and for the maintenance and upkeep of the Common Area, as hereinafter defined; and, to this end desires to subject the said real property to the covenants, conditions, restrictions, easements, charges, and liens hereafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Declarant has incorporated or will incorporate under North Carolina law the Wincrest Homeowners Association, Inc. as a nonprofit corporation for the purpose of exercising and performing the aforesaid functions.

NOW, THEREFORE, Declarant, by this Declaration of Covenants, Conditions and Restrictions, does declare that all of the property described in Article II hereof is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, conditions, restrictions, easements, charges, and liens set forth in this Declaration which shall run with the real property and be binding on all parties owning any right, title, or interest in said real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof; filed for record

## ARTICLE I DEFINITIONS

Date 11/23/2000  
Time 2:40 o'clock P.M.  
JUDY G. PRICE, Register of Deeds  
Union County, North Carolina

Section 1. "Homeowners Association" shall mean and refer to the Wincrest Homeowners Association, Inc., a North Carolina nonprofit corporation, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot (as hereinafter defined) which is a part of the properties, including contract sellers, but excluding Declarant and those having such interests merely as security for the performance of any obligation.

Section 3. "Properties" shall mean and refer to the property described in Article II hereof, and any additions thereto as are or shall become subject to this Declaration.

Section 4. "Common Area" shall mean all real property owned by the Homeowners Association for the common use and enjoyment of the Owners. Common Area within the Properties shall be shown on the Plat(s) of Wincrest recorded or to be recorded in the Union County Public Registry and designated thereon as "Common Areas," but shall exclude all Lots and public streets dedicated and excepted in accordance with Article IV, Section 3.

Section 5. "Lot" shall mean and refer to any numbered plot of land, with delineated boundary lines, appearing on any recorded subdivision map of the Properties with the exception of the Common Area and public streets dedicated and accepted in accordance with Article IV, Section 3.

Section 6. "Declarant" shall mean and refer to Sun Valley Investors, a North Carolina general partnership, and any party to whom Sun Valley Investors, a North Carolina general partnership, shall assign its rights as Declarant.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Homeowners Association.

Return to: Home Construction Company  
2605 Charlotte Ave. North  
Morrow, NC 28110

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**ARTICLE II**  
**PROPERTY SUBJECT TO THIS DECLARATION**  
**AND WITHIN THE JURISDICTION OF THE**  
**HOMEOWNERS ASSOCIATION**

**Section 1.** The real property which is and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration, and shall be within the jurisdiction of the Homeowners Association is located in Union County, North Carolina, and is more particularly described as Being all property shown as Wincrest on plat recorded in Plat Cabinet F, Files 995 and 996 of Union County, North Carolina Registry.

**Section 2.** Additions to Existing Property: Additional land may be brought within the scheme of and made subject to this Declaration and the Homeowners Association in the following manner:

- (a) All or part of the land adjacent to the property described above and owned by the Declarant may be added to the Properties by Declarant in future stages of development without the consent of any Owner or Owners, provided that said additions must occur within six (6) years after the date of this instrument.

- (b) The additions authorized under subsection (a) above shall be made by the recordation of Supplemental Declarations of Covenants, Conditions and Restrictions which shall be signed by the Declarant and shall specify the land to be added to the Properties. From and after the recordation of each Supplemental Declaration, the additional land specified therein shall be fully subject to this Declaration and to the benefits, agreements, restrictions and obligations set forth herein as if it had been a part of the Properties at the time this Declaration was recorded.

**Section 3. Union County Zoning Code:** The provisions of Union County's zoning code and any amendments thereto shall at all times be paramount to the restrictions set forth in this Declaration and in the event of a conflict, the former shall be controlling over the latter.

**ARTICLE III**  
**MEMBERSHIP AND VOTING RIGHTS**

**Section 1.** Every owner of a Lot which is subject to assessment shall be a Member of the Homeowners Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. Every Owner of a Lot shall notify the Homeowners Association of the owner's acquisition of title to a Lot within fifteen (15) days after title is acquired.

**Section 2.** The voting rights of the membership shall be appurtenant to the ownership of the Lots. There shall be two classes of Lots with respect to voting rights and assessments:

- (a) **Class A Lots.** Class A Lots shall be all Lots except Class B Lots as the same are hereinafter defined. Each Class A Lot shall entitle the Owner(s) of said Lot to one vote. When more than one person owns an interest (other than a leasehold or a security interest) in any Lot, all such persons shall be Members and the voting rights appurtenant to said Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any one Class A Lot.
- (b) **Class B Lots.** Class B Lots shall be all Lots owned by Declarant which have not been converted to Class A Lots as provided in (1) or (2) below. The Declarant shall be entitled to five votes for each Class B Lot owned by it. The Class B Lots shall cease to exist and shall be converted to Class A Lots on the first to occur of:
- (1) When the total number of votes appurtenant to the Class A Lots is greater than or equal to the total number of votes appurtenant to the Class B Lots, or
  - (2) April 15, 2005.

**Section 3.** Notwithstanding the provisions of Section 1 and Section 2 above, the total votes cast by any nonresident Owner, other than the Declarant, shall not exceed forty-nine percent (49%) of all votes cast on any matter for action by the Owners or the Homeowners Association.

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**ARTICLE IV  
PROPERTY RIGHTS**

**Section 1. Owner's Easement of Enjoyment.** Every Owner shall have a right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and pass with the title to every Lot, subject to the following provisions:

- (a) The right of the Homeowners Association to charge reasonable admission and other fees for the use of any recreation facilities situated upon the Common Area and to limit the use of said facilities to Owners who occupy a residence on the Properties as their principal residence in Union County, North Carolina, and to their families, tenants, contract purchasers and guests, as provided in Section 2 of this Article IV.
- (b) The right of the Homeowners Association to suspend the voting rights and rights to the use of the recreational facilities of any 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.
- (c) The right of the Homeowners Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members; provided, however, that such dedications or transfer shall comply with the conditions and requirements of the Union County Zoning Ordinance. No such dedication or transfer shall be effective unless the Members entitled to at least two-thirds (2/3) of the votes appurtenant to Class A Lots and at least two-thirds (2/3) of the votes appurtenant to Class B Lots consent to such dedication or transfer and signify their consent and agreement in a signed and recorded written instrument. This subsection shall not preclude the Board of Directors of the Homeowners Association from granting easements to public authorities or others for the installation and maintenance of sewerage, utilities and drainage facilities upon, over, under and across the Common Area without the assent of the membership when, in the sole opinion of such Board, such easements do not interfere with the use and enjoyment of the Properties or are necessary for the convenient use and enjoyment of the Properties.
- (d) The right of the Homeowners Association, with the written assent of the Members entitled to at least two-thirds (2/3) of the votes appurtenant to Class A Lots and at least two-thirds (2/3) of the votes appurtenant to Class B Lots to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

**Section 2. Delegation of Use.**

- (a) **Family.** The right and easement of enjoyment granted to every Owner in Section 1 of this Article IV may be exercised by members of the Owner's family who occupy the residence of the Owner within the Properties as their principal residence in Union County, North Carolina.
- (b) **Tenants or Contract Purchasers.** The right and easement of enjoyment granted to every Owner in Section 1 of this Article may be delegated by the Owner to his tenants or contract purchasers who occupy a residence within the Properties, or a portion of said residence, as their principal residence in Union County, North Carolina; provided that no such delegation shall relieve the Owner of his responsibility and obligations under this Declaration and the Owner shall remain fully responsible for the acts or omissions of any tenant or contract purchaser.
- (c) **Guests.** Recreational facilities situated upon the Properties may be utilized by guests of Owners, tenants, or contract purchasers subject to the rules and regulations of the Homeowners Association, as may be established by its Board of Directors governing said use. Owners, tenants and contract purchasers shall be responsible for the conduct, acts and omissions of their guests.

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**Section 3. Ownership of Common Areas.** Declarant shall convey the Common Areas to the Homeowner's Association free and clear of all liens and encumbrances. Notwithstanding the recordation of any map or any other action by Declarant or the Homeowner's Association, all Common areas, including cul-de-sacs and roads, if any, shall remain private property and shall not be considered as dedicated to the use and enjoyment of the public; provided, however, that the Declarant or the Homeowner's Association may offer such cul-de-sacs and roads for dedication to the appropriate governmental authorities. If accepted for dedication by such government authorities, then the cul-de-sacs or roads shall then be considered dedicated to the use and enjoyment of the public.

**Section 4. Owners' Easements for Ingress and Egress.** To the extent that cul-de-sacs and roads have not been dedicated to the use and enjoyment of the public sufficient to provide access to a Lot, every Lot shall be conveyed with and each Owner is hereby granted a perpetual, nonexclusive easement over any cul-de-sac or roadway which may be constructed by the Declarant and conveyed to the Homeowner's Association as part of the Common Area for the purpose of providing access to and from each Lot. Upon dedication and acceptance of such cul-de-sacs and roadways, these easement rights shall terminate with respect thereto.

#### ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS

**Section 1. Creation of the Lien and Personal Obligation of Assessments.** The Declarant, for each lot owned within the Properties, hereby covenants and each Owner of any 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 the Homeowners Association: (1) annual assessments and (2) special assessments, such assessments to be established and collected as hereinafter provided. Any such assessment, 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 such 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 not pass to his successors in title unless expressly assumed by them.

**Section 2. Purpose of Assessments.** The assessments levied by the Homeowners Association shall be used to promote the recreation, health, safety and welfare of the residents of the Properties in connection with the use and enjoyment of the Common Area, including, but not limited to, the cost of maintenance, repair, replacement or additions thereto, the cost of labor, equipment, materials, management and supervision thereof, the payment of taxes assessed against the Common Area, the procurement and maintenance of insurance in accordance with the Bylaws of the Homeowners Association, the employment of attorneys to represent the Homeowners Association, when necessary, and such other needs as may arise.

**Section 3. Maximum Annual Assessment.** Until January 1 of the year immediately following the conveyance of the first Lot by Declarant to an Owner, the maximum annual assessment shall be Two Hundred Dollars (\$200.00) per Class A Lot and Fifty Dollars (\$50.00) per Class B Lot.

- (a) From and after January 1 of the year immediately following the conveyance of the first Lot by Declarant to an Owner, the maximum annual assessment above established may be increased by the Board of Directors of the Homeowners Association, effective January 1 of each year, without a vote of membership by an amount not to exceed five percent (5%) of the maximum annual assessment of the previous year.

- (b) From and after January 1 of the year immediately following the conveyance of the first Lot by Declarant to an Owner, said maximum annual assessment may be increased without limitation, if such increase is approved by two-thirds (2/3) of the votes of all Members present in person or by proxy at a meeting duly called for this purpose.

**Section 4. Special Assessments.** In addition to the annual assessments authorized above, the Homeowners Association may levy in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, any operating cost deficit or other expense for which annual assessments receipts are insufficient or the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the same assent of the Members as provided in Section 3(b) of this Article.

**Section 5. Assessment Rate.** Both annual and special assessments must be fixed at a uniform rate for all Lots within each class and shall be collected on an annual basis.

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**Section 6. Notice and Quorum for Any Action Authorized Under Section 3 and 4.** Written notice of any meeting of the Homeowners Association called for the purpose of taking any action authorized under Section 3 or 4 above shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of the votes appurtenant to each Class of Lots (Class A and Class B) shall constitute a quorum. If the required quorum is not present, another meeting may be called for the same purpose and subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting date.

**Section 7. Date of Commencement of Annual Assessments; Due Dates; Certificate of Payment.** The annual assessments provided for herein shall commence when a Lot is conveyed by Declarant to an Owner.

At least thirty (30) days before January 1 of each year, the Board of Directors of the Homeowners Association shall fix the amount of annual assessments against each Lot for the next year and at least fifteen (15) days before January 1 shall send written notice of such fixed assessment to every Owner subject thereto. Failure of the Board of Directors or the Homeowners Association to fix the amount of annual assessment or to notify any Owners shall not relieve any Owner of the obligation to pay assessment when due. The due dates for the payment of annual and special assessments shall be established by the Board of Directors. The Homeowners Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Homeowners Association setting forth whether the assessments on a specified Lot have been paid.

**Section 8. Effect of Nonpayment of Assessments; Remedies of the Homeowners Association.** Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the annual rate of eighteen percent (18%) or the maximum interest rate permitted to be legally charged under the laws of the State of North Carolina at the time of such delinquency, whichever is the lesser. In addition to such interest charge, the delinquent Owner shall also pay such late charges as may have been theretofore established by the Board of Directors of the Homeowners Association to defray the costs of late payment. The Homeowners Association may bring an action at law against the Owner personally obligated to pay the same and/or foreclose the lien against the Lot by action or by power of sale to the extent permitted under North Carolina law, and interest, late payment fees, costs and reasonable attorney's fees of such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common Area or abandonment of his Lot.

**Section 9. Subordination of the Lien to Mortgages.** The liens provided for herein shall be subordinate to the lien of any mortgage or deed of trust on a Lot. Sale or transfer of any Lot shall not affect any assessment lien. However, the sale or transfer of any Lot which is subject to any mortgage or deed of trust pursuant to a foreclosure thereof shall extinguish the lien of such assessments to the extent the assessments became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any mortgage or deed of trust.

**Section 10. Exempt Property.** All property dedicated to, and accepted by, a local public authority and all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

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## ARTICLE VI ARCHITECTURAL CONTROL

**Section 1. Extent of Control.** No building, fence, wall, sidewalk, hedge, obstruction, driveway or other structure shall be commenced, erected or maintained upon any Lot nor shall any exterior addition, change or alteration thereto (including change of color) be made without the prior written approval of the Declarant. The areas over which Declarant shall have control shall include, but shall not be limited to, the size and plan of the residential structure, the location of the principal residential structure on the Lot, the size and plan of any attached garage, the location and manner of construction of any driveway, swimming pool, patio, mailbox or other exterior improvements, and the composition and color of all material used on the exterior of any structure. Declarant shall also have control over the removal of any trees or other vegetation from any Lot and no party shall grade, excavate upon or otherwise alter the topography of any Lot or remove any tree greater than a 5" caliper or other vegetation therefrom without obtaining the prior written approval of Declarant. It is provided, however, that nothing herein contained shall be construed to permit interference with the development of the Property by Declarant in accordance with its general plan of development. In order to assure that location of houses will be staggered where practical and appropriate, the structures will be located with regard to the ecological constraints and topography of each individual Lot, taking into consideration topography, the location of large trees and similar considerations. The Declarant reserves the right to control absolutely and solely to decide the precise site and location of any house or dwelling or other structure upon all Lots, provided, however, that such locations shall be determined only after reasonable opportunity is afforded the Lot Owner to recommend a specific site.

**Section 2. Procedure.** Any party requiring approval of any proposed improvements to any Lot shall submit to Declarant plans and specifications showing in such detail and manner as Declarant shall require the nature, shape, height, materials and locations of any such improvement. Declarant, in its sole and absolute discretion, may require in particular instances that such plans and specifications be accompanied by a plat prepared by a registered land surveyor showing the location of the proposed improvements on the Lot. All decisions by Declarant shall be based on Declarant's discretionary determination as to whether any particular improvement is suitable and harmonious with the development of the subdivision. Declarant's approval or disapproval of any proposed improvement shall be in writing. In the event that Declarant fails to approve or disapprove any such proposed improvement within thirty (30) days after plans and specifications in such detail as Declarant may require have been submitted to it, such plans and specification shall be deemed approved. Subsequent to the approval of any plans and specifications, the Owner shall have the responsibility for making such improvements in accordance with the plans and specifications as approved. Approval by Declarant of any proposed improvements shall not constitute or be construed as approval of the structural stability, design or quality of any improvement or the compliance of any such improvement with applicable laws and codes. Refusal or approval of plans, specification or location may be based upon any grounds, including purely aesthetic considerations, which in the opinion of and the sole and uncontrolled discretion of Declarant shall be deemed sufficient.

**Section 3. Duration of Control.** The Declarant will surrender the right of architectural control provided for herein after all Lots have become Class A Lots, following which the Board of Directors of the Homeowners Association shall appoint an architectural review board (the "Architectural Review Board"). The Architectural Review Board, when so appointed, shall have the right of architectural control as described in this Article.

## ARTICLE VII USE RESTRICTIONS

**Section 1. Land Use.** All Lots shall be known and described as residential lots. Lots are to be used exclusively for single-family residential purposes and are devoted exclusively to dwelling use. No structure shall be erected, altered, placed or permitted to remain on the property other than for use as a single-family residential dwelling. No mobile, manufactured or modular home may be erected, placed, or permitted to remain upon the property. No outbuildings shall be erected on the property unless the same is incidental to the residential use of the property. It is provided, however, that Developer or Builders, during the development and building stage, may maintain a mobile manufactured dwelling for use as a model home to aid sales in the subdivision or site construction trailer. After development has been completed, no such model home or construction trailer may be maintained in the subdivision.

**Section 2. Building Lines.** No building shall be located nearer to the front, side or rear property lines of a Lot than the building setbacks shown on the recorded plat(s) of the Properties. In no event, shall any building be placed nearer to any front, side or rear Lot line than permitted by the Union County's Zoning Ordinances.

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**Section 3. Subdivision of Lots.** No person or entity may subdivide or re-subdivide any Lot or Lots without the prior written consent of the Declarant.

**Section 4. Size of Structure.** No residential structure shall be created or placed on any Lot having a total finished heated area of less than one thousand three hundred (1,300) heated square feet in addition to at least a two-car garage of standard size. Such required garage may be used for any uses that are legal under the local laws and ordinances. Unintentional violations not exceeding two percent (2%) of the minimum square footage requirements herein set forth shall not be considered a violation of this section.

**Section 5. Construction Quality.** All dwellings and garages and outbuildings erected upon the property shall be constructed of material of good grade, quality and appearance; and all construction shall be performed in a good and workmanlike manner. The exterior wall construction of any dwelling shall be of brick-veneer, vinyl, masonry, cement board, stone, stucco or any other material specifically approved by the Developer. The front elevations of all foundations must be of brick-veneer. The sides and rear of the foundations may be brick-veneer, monolithic slab concrete, or parged concrete masonry units. All dwellings shall have simulated architectural roofing.

Only construction of a new residential dwelling and other structures on a lot shall be permitted. The moving and placement of an existing structure (including residence) from any other property to any lot in the subdivision shall be prohibited.

**Section 6. Garages and Construction of Driveways.** Each dwelling must contain an attached garage which shall accommodate a minimum of two automobiles (double garage). All garages must be equipped with an operating garage door or doors that has capability of closing and completely covering the interior of the garage. All lots must contain a poured concrete driveway a minimum of ten (10) feet in width extending from the curb to the garage entry, and shall provide a concrete pad for off-street parking of at least sixteen (16) feet by sixteen (16) feet.

**Section 7. Storage Buildings and Outbuildings.** All storage buildings and outbuildings erected upon the property shall be constructed of material of good grade, quality and appearance, and all construction shall be performed in a good and workmanlike manner. Outbuildings and storage buildings shall be permitted as long as they are constructed with exterior finishes and colors similar to the finish and color of the main dwelling. No metal outbuildings, or metal storage buildings shall be maintained upon the property.

**Section 8. Temporary Structures.** No structure of a temporary nature shall be erected or allowed to remain on any Lot unless and until permission for the same has been granted by the Homeowners Association, or its designated agent or representative. This Section shall not be applicable to temporary construction trailers, sales offices and material storage facilities used during construction.

**Section 9. Use of Common Area.** The Common Area shall not be used in any manner except as shall be set forth in this Declaration or as shall be approved or specifically permitted by the Homeowners Association.

**Section 10. Regulations.** Reasonable regulations governing the use of the Common Area may be made and amended from time to time by the Board of Directors of the Homeowners Association. All such regulations and amendments thereto shall be approved by a majority of the votes of Owners voting in person or by proxy at the annual meeting or a special meeting called for that purpose before the same shall become effective. Copies of such regulations and amendments thereto shall be furnished to each Member by the Homeowners Association upon request.

**Section 11. Clothes Drying.** All exterior clothes hanging and drying devices such as lines, reels, poles, frames, etc. shall be stored directly behind the residence, where not visible from any point on the street in front of the residence.

**Section 12. Nuisances.** No noxious or offensive trade or activity shall be carried on upon the property nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

**Section 13. Residence.** No trailer, basement, tent, shack, garage, barn or other outbuilding erected on the Properties shall be at any time used as a dwelling or residence, temporarily or permanently, nor shall any structure of a temporary character be used as a dwelling or residence.

**Section 14. Antennas and Satellite Dishes.** No free standing radio or television or electronic reception towers, antennas, dishes or disks shall be erected on any Lot. Only radio and television

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antennas not exceeding fifteen (15) feet in height above the roof line of the residence and only dishes or disks not exceeding two (2) feet in diameter and not visible from any point on the street in front of the residence shall be permitted.

**Section 15. Harmony of Structures.** No structure shall be constructed or moved onto any Lot unless it shall conform to and be in harmony with existing structures on the Properties.

**Section 16. Easements.** Declarant reserves a perpetual easement and the right to grant such easement to the appropriate governmental authorities or utility companies over the front and rear fifteen (15) feet of each Lot and seven and one-half (7 1/2) feet adjacent to all side Lot lines for the installation and maintenance of any and all utility lines and drainage facilities.

**Section 17. Signs.** No sign of any kind shall be displayed to the public view on any Lot except one professional sign of not more than one square foot; one sign of not more than five square feet, advertising the property for sale or rent; or signs used by a builder to advertise the property during the construction and sales period.

**Section 18. Animals.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs (with a limit of two exterior dogs), cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose.

**Section 19. Trash Disposal.** All rubbish, trash, garbage or waste of any kind shall be kept in sanitary containers and shall in no event be placed on Common Area. All equipment for the storage and disposal of such material shall be kept in a clean and sanitary condition.

**Section 20. Fences.** No chain link or barbed wire or wire mesh fence shall be erected on any Lot. However, a wood rail fence with wire mesh attached shall be specifically permitted. No fences (including invisible fencing) shall be erected on any Lot closer to any street line than the rear corners of the residence (or in any case between the residential structure located on the Lot and the road right-of-way). No fences shall be erected within any area reserved within this Declaration or as set forth on the recorded map of the subdivision as an easement area, nor shall any fence be erected except in accordance with the architectural control provisions of Article VI hereof. Provided, however, that notwithstanding anything contained in this Section or elsewhere to the contrary, Declarant may install decorative fencing on any Lot used by it containing a model home, and Declarant may install fences in the Common Area as Declarant deems to be necessary or appropriate.

**Section 21. Swimming Pools and Trampolines.** All swimming pools and trampolines shall not be erected nearer the front lot line of a Lot than the back face of the dwelling located on such Lot. All swimming pools must be enclosed with safety fencing as defined in the applicable building code. No above-ground swimming pools shall be permitted.

**Section 22. Sight Line Limitations.** No fence, wall, hedge or planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight-line limitations shall apply on any Lot within 10 feet from the intersection of a street property line with the edge of a driveway. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

**Section 23. Parking of Vehicles.** No commercial trucks that exceed 26,000 lb (GVW) gross vehicle weight shall be permitted to remain upon the property. No camper or like recreational vehicle, school bus, boat or boat trailer, nor any other vehicle, craft or watercraft, shall be permitted to remain upon the property unless it is located so as not to be visible from any street or road within the subdivision. These vehicles shall not be parked in the street, in a driveway, in the front yard or in a side yard of any Lot except as expressly permitted by the Board of Directors of the Homeowners Association or its designated subcommittee. No wrecked or junked motor vehicle or vehicle without current license plates and registration and current valid inspection shall be permitted to remain upon the property.

**Section 24. Certain Vehicles Prohibited.** No motorized, unlicensed, recreational vehicles, including, without limitation, all terrain vehicles, dirt bikes and go-carts shall be operated anywhere within the subdivision or within the common space.



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**Section 25. Mailbox and Newspaper Box.** Use of standard Developer approved mailbox and post is required. Furthermore, no brick or other type mailbox or mailbox stand which has not been approved by the North Carolina Department of Transportation or other agency having jurisdiction over mailboxes located within street rights of way shall be permitted in the subdivision.

**Section 26. Basketball Goal Support.** No basketball goal supports shall be created or placed within any street right of way, or in front of the rear corners of the residence.

**Section 27. Diligent Construction.** All construction, landscaping, or other work which has been commenced on any Lot must be continued with reasonable diligence to completion and no partially completed houses or other improvements shall be permitted to exist on any Lot, except during reasonable time period as is necessary for completion. All construction must be completed within one (1) year after the date upon which it commenced. Any damage to the streets, curbs, or sidewalks or any utility system caused by an Owner or Owner's builder or his subcontractors shall be repaired by such responsible Owner.

#### ARTICLE VIII EASEMENTS

**Section 1. General Easements.** Easements for the installation and maintenance of fences, driveways, walkways, parking areas, water lines, gas lines, telephone, cable TV, electric power lines, sanitary sewer and storm drainage facilities and for other utility installations are reserved as shown on the recorded plats and as further described in Article VII, Section 16 of this instrument. Within any such easements, no structure, planting, fencing or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of sewerage disposal facilities and utilities, or which may change the direction or flow or drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements. Declarant and its successors and assigns, hereby reserves and shall have temporary easements for itself, its agents and employees over the Common Area to facilitate construction of improvements to be completed in developing the Properties. The owner of each Lot shall maintain that portion of said Lot lying within the easement areas as defined herein and shall maintain such improvements as may be located thereon except those improvements installed and maintained by a public authority or utility company or the Homeowner's Association. No lot owner may dedicate, convey or permit an easement or right of way for ingress and egress to land located outside the subdivision boundaries as shown on the recorded plat.

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# ARTICLE IX GENERAL PROVISIONS

**Section 1. Repurchase of Unimproved Lot by Declarant.** In order to promote the timely development of the subdivision, it is the intention of Declarant that Owners begin construction of a house within a timely manner. Therefore, in the event an Owner has not begun construction of a house on its Lot within one (1) year after the date on which such Lot was originally sold by Declarant to the initial owner thereof, Declarant shall have the option at any time thereafter and so long as construction has not begun to purchase the Lot from Owner at the same price for which such unimproved Lot was originally sold by Declarant to the initial owner thereof ("Original Price"). The Original Price shall be the actual cash purchase price of such Lot and shall not include any additional expenses incurred by any party in connection with the purchase of such Lot. For purposes of this Section, construction shall be deemed not to have begun until Declarant has approved construction plans hereunder, a valid building permit has been issued, the foundation is in place, and framing has begun.

**Section 2. Enforcement.** The Homeowners Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. In any such action, the court may award reasonable attorney's fees to the prevailing party. Failure by the Homeowners Association or any Owner to enforce any covenant or restriction herein contained shall in no way be deemed a waiver of the right to do so thereafter.

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

**Section 4. Effect of Restrictions and Amendment.** The covenants and restrictions of this Declaration shall bind only the land specifically herein described and shall run with and bind that land. This Declaration may be amended prior to April 15, 2005, by an instrument signed by the Owners of not less than ninety percent (90%) of the Lots and by the Declarant, so long as Declarant still owns any Lots, and thereafter, by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots. Any amendment must be properly recorded.

**IN WITNESS WHEREOF,** Sun Valley Investors, a North Carolina general partnership, Declarant, by virtue of the provisions of the preamble of the aforesaid Declaration of Covenant, Conditions and Restrictions, has caused this instrument to be duly executed under seal as of the day and year first above written.

SUN VALLEY INVESTORS  
BY: LOVE CONSTRUCTION COMPANY, INC., PARTNER

*Wanda J. Love*  
PRESIDENT

ATTEST:  
SUN VALLEY INVESTORS  
BY: LOVE CONSTRUCTION COMPANY, INC., PARTNER

*Martha J. Love*  
SECRETARY

STATE OF NORTH CAROLINA  
COUNTY OF UNION

Before me, a Notary Public, personally appeared this day Martha G. Love who, being duly sworn, says that he/she is the Secretary and that Wanda J. Love is the President of LOVE CONSTRUCTION COMPANY, INC., the corporation described in and which executed the foregoing instrument; that he/she knows the common seal of said corporation; that the foregoing instrument was executed in its corporate name by the said President and attested to by the said Secretary who affixed the common seal thereto, all by order of the Board of Directors of said corporation and that the said instrument is the act and deed of the said corporation.

Witness my hand and notarial seal this 13 day of April, 2000.  
*William J. McPherson*  
Notary Public

My Commission Expires August 31, 2003

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STATE OF NORTH CAROLINA

COUNTY OF UNION

The foregoing certificate of Deborah S. Metcalfe

Notary(~~ies~~) Public of Waldo County, North Carolina, is/~~are~~ hereby certified to be  
correct. This instrument was presented for registration and recorded in this office in Book 1379  
page 54.

This 13<sup>th</sup> day of April, 2000, at 2:40 o'clock P.M.

SILVIA G. PAUL  
Register of Deeds

By: Mary S. Paul - Seal

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SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR WINCREST

This DECLARATION made on the date hereinafter set forth by SUN VALLEY INVESTORS, A NORTH CAROLINA GENERAL PARTNERSHIP, hereinafter referred to as "Declarant" and any and all persons, firms or corporations now owning and hereinafter acquiring any of the within described property.

## WITNESSETH:

WHEREAS, Declarant is the owner of the certain property in the Town of Indian Trail, Union County, North Carolina which is more particularly described by plats thereof recorded in Plat Cabinet G, Files 340 + 341 in the Union County, North Carolina Registry to which reference is hereby made for a more complete description.

WHEREAS, Declarant is the Declarant in that Declaration recorded in Book 1379, Page 054 covering a portion of Wincrest Subdivision as described therein; and

WHEREAS, Declarant desires that the property described on plat recorded in Plat Cabinet G, Files 340 + 341 be added to said original Declaration.

NOW, THEREFORE, the Declarant, hereby declares that all of the property described on said plat shall be held, sold, and conveyed subject to those easements, restrictions, covenants and conditions more particularly set out in that original Declaration dated the 13th day of April, 2000 and recorded in Book 1379, Page 054 in the Union County Registry.

IN WITNESS WHEREOF, Sun Valley Investors, a North Carolina general partnership, Declarant, has caused these presents to be executed this the 26th day of January, 2001.

SUN VALLEY INVESTORS  
BY: LOVE CONSTRUCTION COMPANY, INC., PARTNER

Martha J. Love  
PRESIDENT

ATTEST:  
SUN VALLEY INVESTORS  
BY: LOVE CONSTRUCTION COMPANY, INC., PARTNER  
Matthew D. Love  
SECRETARY

Filed for record  
Date 1-26-2001  
Time 2:30 o'clock P.M.  
ADV. & REC'D, Register of Deeds  
Union County, Monroe, North Carolina

STATE OF NORTH CAROLINA  
COUNTY OF UNION

Before me, a Notary Public, personally appeared this day Martha G. Love who, being duly sworn, says that he/she is the Secretary and that Vann J. Love is the President of LOVE CONSTRUCTION COMPANY, INC., the corporation described in and which executed the foregoing instrument; that he/she knows the common seal of said corporation; that the foregoing instrument was executed in its corporate name by the said President and attested to by the said Secretary who affixed the common seal thereto, all by order of the Board of Directors of said corporation and that the said instrument is the act and deed of the said corporation.

I, Witness my hand and notarial seal this 26 day of January, 2001.

Deborah J. McManus  
Notary Public

My commission expires:

My Commission Expires August 31, 2005

mailto:Sun Valley Investors

2675 Charlotte Ave North

Monroe, NC

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BK 1494 PG 156

STATE OF NORTH CAROLINA

COUNTY OF UNION

The foregoing certificate of Deborah J. McManus  
Notary(ies) Public of Union County, North Carolina, is/are hereby certified to be  
correct. This instrument was presented for registration and recorded in this office in Book 1494  
page 155.

This 31st day of Jan, 2001, at 2:30 o'clock P.m.

**JOY A. PRICE**

Register of Deeds

By: Deborah Cicca  
Deputy