DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR WINDWARD COVE

THIS DECLARATION is made this 14 day of June, 1995, by FIRST COLONY GROUP, LTD., a North Carolina corporation, referred to in this instrument as "Developer."

STATEMENT OF PURPOSE

Developer is the owner of that certain parcel of land which is known as Windward Cove located in Mecklenburg County, North Carolina, more particularly described on Exhibit A attached hereto (the "Property").

It is in the best interest of Developer, as well as to the benefit, interest and advantage of each person or other entity later acquiring any property in Windward Cove that certain covenants, conditions, easements, and restrictions governing and regulating the use and occupancy of the same be established, fixed and set forth and declared to be covenants running with the land in order to provide for the preservation of the values and the desirability and attractiveness of the real property in Windward Cove.

DECLARATION

In consideration of the premises and for the purposes stated, Developer hereby declares that all of the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions (all of which are collectively referred to in this instrument as "Restrictions" or "Declaration"), which Restrictions shall be construed as covenants running with the land and shall be binding on all parties having any right, title or interest in the described Property or any part thereof, and their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

Drawn by and Mail to:

Cheryl D. Steele
Horack, Talley, Pharr & Lowndes, P.A.
2600 One First Union Center
301 South College Street
Charlotte, North Carolina 28202-6038
(Box 74)

ARTICLE I. DEFINITIONS

The following words when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

(1.1) "Owner" shall mean the developer as defined in Section 1.3 herein and the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of Windward Cove, including those having such interest merely as security for the performance of an obligation.

(1.2) "Lot" shall mean any numbered plot of land to be used for residential purposes shown upon any recorded subdivision plat of the Property subject to this Declaration.

(1.3) "Developer" shall mean and refer to First Colony Group, Ltd., and its successors and assigns and shall also mean and refer to any person, firm or corporation which shall hereafter become vested, at any given time, with title to two or more undeveloped Lots for the purpose of causing residence building(s) to be constructed thereon, and any such successor in title to First Colony Group, Ltd. shall be a Developer during such period of time as said party is vested with title to two or more such Lots so long as said Lots are undeveloped, developed but unconveyed, or improvements constructed thereon are unoccupied, but only during such period.

(1.4) "Person" shall mean a natural person, as well as a corporation, partnership, firm, association, trust or other legal entity. The use of the masculine pronoun shall include the neuter and feminine, and the use of the singular shall include the plural where the context so requires.

(1.5) "FHA and VA" shall mean and refer to the Federal Housing Administration, U.S. Department of Housing and Urban Development, and the Veteran's Administration, respectively. If either or both of these federal agencies shall hereafter cease to exist or perform the same or similar functions they now serve, references hereto to FHA or VA shall be deemed to mean and refer to such agency or agencies as may succeed to the duties and services now performed by either or both of these departments.

(1.6) "Association" shall mean Windward Cove Homeowners' Association, Inc., a nonprofit corporation organized and existing under the laws of the State of North Carolina and its successors and assigns.

(1.7) "Board of Directors" shall mean the current board of directors of the Association.

(1.8) "Properties" shall mean the Property and such real property as may subsequently be brought within the jurisdiction of the Association.

(1.9) "Common Area" shall mean all easements and/or real property owned by the Association in Windward Cove for the common use and enjoyment of members of the Association lying within the boundaries of the Property. Common Areas with respect to the Property subject to this Declaration, shall be shown on the plats of Windward Cove recorded in Mecklenburg County Public Registry and designated therein as "Common Area" or "Common Area Easement".

(1.10) "Amenities Area" shall mean that portion of the Common Area of Windward Cove abutting Lake Wylie which shall be used as a boat ramp and dock for daily use only. The Amenities Area shall not be used for overnight storage of any boat, trailer or motor vehicle of any kind. The Amenities Area shall be designed as such on recorded plats of Windward Cove.

(1.11) "Private Driveway" shall mean the twenty-four (24) foot private driveway easement shown upon the plats of Windward Cove recorded in the Mecklenburg County Public Registry and described on Exhibit C attached hereto.

ARTICLE II. PROPERTY SUBJECT TO THIS DECLARATION

(2.1) The Property shall be held, transferred, sold, conveyed and occupied subject to this Declaration. Without further assent or permit, Developer hereby shall also have the right within seven (7) years from the date of this Declaration, exercisable from time to time, to subject other real property within the area described on Exhibit B attached hereto in order to extend the scheme of this Declaration to other property to be developed as part of Windward Cove Subdivision and thereby bring such additional properties within the jurisdiction of the Association (provided that the FHA and VA determine that the annexation of such area is in accord with Developer's General Plan of Development of Windward Cove Subdivision as previously approved by them, if such determination and approval are necessary).

(2.2) Any addition of real property subjected to this Declaration shall be made by filing of record one or more supplemental declarations in respect to the property to be then made subject to this Declaration and the jurisdiction of the Association shall thereby then extend to such property and subject such additional property to the assessment provided in this instrument for a just and proportionate share of the Association's expenses. Each supplemental declaration may contain such complimentary additions and modifications of the covenants, conditions and restrictions contained herein that may be necessary to reflect the different character of the added properties and that are not inconsistent with the provisions of this Declaration. Annexation of additional property requires HUD/VA approval as long as there is a Class B Membership.

ARTICLE III. PROPERTY RIGHTS

(3.1) Every Owner shall have a nonexclusive easement right of enjoyment in and to the Common Area and Amenities Area which shall be appurtenant to and shall pass with the title to every Lot subject to the provisions of this Declaration, including but not limited to the following:

(a) The right of the Association to suspend the voting rights of an Owner for any period during which any assessment against his Lot remains unpaid, or for any infraction of the Association's published rules and regulations, if any;

(b) The right of the Association to dedicate or transfer all or any part of the Common Area or Amenities Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Association members. No such dedication or transfer shall be effective unless the members entitled to at least two-thirds (2/3) of the vote appurtenant to Class A Lots and Class B Lots agree to such dedication or transfer and signify their agreement by a signed and recorded written document, provided that this paragraph shall not preclude the Board of Directors of the Association from granting easements for the installation and maintenance of electrical, telephone, cablevision, water and sewerage utilities and drainage facilities upon, over, under and across the Common Area Easement or Amenities Area without the assent of the membership if such easements are requisite for the convenient use and enjoyment of the Property.

(c) The right of the Association to abandon the use of the Amenities Area as a boat ramp and dock upon a vote of at least a majority of the Class A and Class B Lots. Upon such majority vote, the Association shall terminate use of monthly assessments for maintenance of the Amenities Area.

ARTICLE IV. MEMBERSHIP AND VOTING RIGHTS

(4.1) Every Owner of a Lot shall be a member of the Association and subject to assessment. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

The Association shall have two classes of voting membership:

(a) Class A. Class A members shall be all Owners with the exception of Developer and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

(b) Class B. The Class B member shall be Developer and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever first occurs:

(i) When the total votes outstanding in the Class A membership equal the total votes outstanding in Class B membership; or

(ii) Seven years from the date of this Declaration.

(4.2) During any period in which a member shall be in default in the payment of any quarterly, special or other periodic assessment levied by the Association, the voting rights of such member may be suspended by the Board of Directors until such assessment, is paid. In the event of violation by a member of any rules or regulations established by the Board of Directors, such member's voting rights may be suspended by the board after a hearing. Such hearings shall only be held by the board or a committee thereof after giving a member ten (10) days prior written notice specifying each alleged violation and setting the time, place and date of the hearing. Determination of the violation shall be made by a majority vote of the board or the committee thereof. During any period in which a member shall be in default in the payment of any quarterly, special or other periodic assessment levied by the Association or in violation of any rules or regulations established by the Board of Directors, such member shall be subject to a fine imposed by the Board of Directors which shall be the personal obligation of the person who is the Owner of such Lot at the time when the fine was levied.

ARTICLE V. COVENANT FOR MAINTENANCE ASSESSMENTS

(5.1) The assessments levied by the Association shall be used: (a) to provide funds for maintenance, upkeep, landscaping and beautification of the Common Area, Private Driveway and Amenities Area in Windward Cove described on recorded plats of the Property; (b) to provide services for the Association members; (c) to promote the health, safety and welfare of the residents of Windward Cove; (d) for the payment of monthly electric and water bills and any other expense resulting from the maintenance or beautification of the Common Area, Private Driveway and Amenities Area; (e) to provide for the employment of attorneys, accountants and other professionals to represent the Association when necessary or useful in the employment of security personnel; and (f) to provide any service which is not readily available from any governmental authority related to the use, occupancy and enjoyment of the Property which the Association shall decide to provide. The Private Driveway assessments levied by the Association Board of Directors shall be used to provide funds for the improvement, maintenance and upkeep of the Private Driveway as well as for the payment of taxes, insurance, and the employment of attorneys, accountants and other professionals when necessary or useful, as determined by the aforesaid Board.

(5.2) The Developer, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a Deed therefor, whether or not it shall be so expressed in said Deed, is deemed to covenant and agree to pay to the Association;

(a) Quarterly assessments ("Quarterly Assessments") for the purposes specified above in the amount hereinafter set forth; and

(b) Special assessments ("Special Assessments") for the purposes specified above as may be approved by the members, to be established, and collected as provided herein.

(c) Private Driveway Assessments ("Private Driveway Assessments"), if a Lot abuts or touches the Private Driveway, for the purposes specified in Section 5.1 in an amount to be determined by the Board of Directors of the Association.

(5.3) In order to secure payment of the Quarterly, Special and Private Driveway, Assessments, such charges as may be levied by the Association against any Lot, together with interest, costs of collection and reasonable attorney's fees, shall be a continuing lien upon the Lot against which each such assessment or charge is made. Each such assessment, together with interest, fines, late charges, costs of collection and reasonable attorney's fees shall also be the personal obligation of the person who is the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to an Owner's successor in title unless expressly assumed by them. Such assumption shall not relieve an Owner of his obligation.

(5.4) The assessments, charges and liens created under this Article shall not apply to any Lot the title to which is vested either in any first mortgagee subsequent to foreclosure or in the Secretary of Housing and Urban Development or the Administrator of Veterans Affairs or any other state or federal governmental agency which acquires title by reason of such agency's guarantee or insurance of a foreclosed mortgage loan; provided, however, that upon the resale of such property by such first mortgagee or such governmental agency the assessments shall again accrue on such Lot. Any Lot which Developer may hereafter designate for common use as part of the Common Areas shall also be exempt by a local public authority, and all land granted to or used by a utility company shall be exempt from the assessments created herein.

(5.5) The maximum Quarterly Assessment shall be Ninety-Eight and 75/100 Dollars ($98.75) on each Lot not abutting the Private Driveway and One Hundred Twenty-Three and 75/100 Dollars ($123.75) on each Lot abutting the Private Driveway due and payable to the Association on a quarterly basis to begin the month following the activation of the Association by Developer. The Developer may, at its election, however, postpone in whole or in part the date on which the assessment shall commence provided

that the Developer maintains the Common Area for which no assessment is being collected during the period of such postponement.

(5.6) From and after January 1 of the year immediately following the activation of the Association, the maximum Quarterly Assessment may be increased each year not more than ten percent (10%) above the maximum Quarterly Assessment for the previous year or the maximum Quarterly Assessment may be reduced, by an amount determined by the Board of Directors, without a vote of the membership. From and after January 1 of the year immediately following the activation of the Association, the maximum Quarterly Assessment may be increased above ten percent (10%) of the previous year's Quarterly Assessment by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose. The Board of Directors may fix the Quarterly Assessment at an amount not in excess of the maximum herein provided.

(5.7) In addition to the Quarterly Assessment authorized above, the Association may levy, in any assessment year, a Special Assessment applicable to that year only provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the Association members who are voting in person or by proxy at a meeting duly called for this purpose.

(5.8) In addition to the assessments authorized above, the Board of Directors of the Association may levy, in any assessment year, a Private Driveway Assessment against the owners of Lots which abut or touch the Private Driveway to provide funds for the services contained in Section (5.1) herein.

(5.9) Written notice of any meeting called for the purpose of taking any action authorized under this Article shall be sent to all members not less than ten (10) days nor more than fifty (50) days in advance of the meeting. At the first such meeting called, the presence in person or by proxy of members entitled to cast fifty-one percent (51%) of all the votes of each class shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be two-thirds (2/3) of the required quorum at the preceding meeting. This process of reducing the quorum to two-thirds (2/3) of the previously required quorum may be continued until a quorum is present at the meeting.

(5.10) From the date on which the Quarterly Assessments commence on a Lot until the date on which the Lot is sold by the Developer to a purchaser, the Developer shall be liable for Quarterly Assessments at a rate which is one-third of the rate otherwise payable. The first Quarterly Assessment shall be adjusted according to the number of days remaining in the calendar month when filed. At least thirty (30) days before January 1 of each year, the Board of Directors shall fix the amount of the Quarterly Assessment against each Lot and in the event the Board elects not to fix such assessment rate as herein provided, the amount of the prior year's Quarterly Assessment

shall be the fixed amount. Written notice of any change in assessment rate shall be sent to every Owner after activation of the Association by the Developer. The Quarterly Assessments shall be due and payable quarterly on the first day of each month of each quarter of the year and the due dates for the payment of Special Assessments shall be established by the Board of Directors. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid to date.

(5.11) Any assessment not paid within fifteen (15) days after the due date shall be assessed a late charge as determined by the Board of Directors of the Association and/or bear interest from the due date at an annual rate of eight percent (8%) or the legal rate of interest, whichever is higher. The Association, or its agent or representative, may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot to which the assessment relates, and interest, costs and reasonable attorney's fees for such action or foreclosure shall be added to the amount of such assessment to the extent allowed by law. 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.

(5.12) The lien of the assessments provided for herein shall be subordinate to the lien of any first priority deed of trust or first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot which is subject to any first mortgage pursuant to a foreclosure thereof or under a power of sale or any proceeding in lieu of foreclosure thereof shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof.

(5.13) Upon the sale of a Lot by Developer, the purchaser shall pay to the Association at the closing of the sale that amount of money that is equal to that portion of the Quarterly Assessment attributable to the balance of the quarter in which the closing takes place if the Association has been activated. Any Special or Private Driveway Assessment made before, but falling due after, the date of closing of the sale of a Lot by Developer shall be paid in full to the Association by the purchaser at the closing of the sale. In addition such purchaser shall pay an amount equal to one quarter of the initial Quarterly Assessment as a contribution to the working capital fund of the Association.

ARTICLE VI. USE RESTRICTIONS

(6.1) Residential Use. All Lots shall be used for single family residential purposes only and subject to the following restrictions. Single family shall be defined as one family related by blood, adoption or marriage excluding, however, aunts, uncles and cousins. No structure shall be erected, altered, placed or permitted to remain on any Lot

other than a single-family dwelling not to exceed two and one-half (2 1/2) stories in height and a private garage for each unit for not more than three (3) cars and other accessary structures customarily incidental to the use of the Lot.

(6.2) Building Line Requirements. No building shall be located nearer to the front property line or any side street line than the building setback line as shown on the recorded maps of the Property. No building shall be located nearer any side Lot line than the applicable zoning ordinance shall allow. For purposes of this provision, patios, steps, eaves, and bay windows shall not be considered part of the building and are not required to be located behind the building setback lines shown on the recorded maps. Minimum setback lines which may be shown on any recorded plat of the Property are not necessarily intended to create uniformity of setbacks; they are meant primarily to avoid overcrowding and monotony. It is intended that setbacks may be staggered where appropriate so as to preserve the trees and other natural vegetation, and to insure each Owner the greatest benefit and enjoyment of his/her Lot. Any deviation from the building line requirements not in excess of ten (10) percent thereof shall not be construed as a violation of the building line requirements as long as such deviation does not violate any local ordinance, including, but not limited to, zoning.

(6.3) Animals and Pets. No animals, livestock or poultry of any kind shall be raised, bred, pastured, or maintained on any Lot except generally accepted household pets, which may be kept thereon for the sole pleasure and use of the occupants but not for any commercial use or purpose and no more than three (3) pets over the age of six (6) months shall be permitted at any time. Birds shall be confined in cages. In no instance shall household pets become a nuisance to other Owners, or infringe upon the property rights of other Owners.

(6.4) Signs. No advertising signs of any type or kind shall be erected, placed or permitted to remain upon or above any Lot or Common Area with the exception of a single sign "For Rent" or "For Sale," which sign shall not exceed two feet by three feet in dimension and shall refer only to the premises on which displayed, there being only one sign to a Lot. Notwithstanding the above, the Developer may erect and place permanent and temporary signs on or above any unsold Lot. Developer shall also have the right of ingress, egress and regress over the aforesaid Lots in order to maintain and replace any such signs until 100% of the Lots have been sold.

(6.5) Nuisances. No offensive or illegal activity shall be carried on upon any Lot, nor shall anything be done thereof which is or may become an annoyance or nuisance, as determined by the Developer or the Board of Directors, to any other Owner. No Lot or right-of-way shall be used in whole or in part for storage of rubbish of any type whatsoever or for the storage of any property or thing that will cause such Lot or right-of-way to appear unclean, untidy or unsightly; nor shall any substance, thing or material be kept upon any Lot or right-of-way that will emit a foul odor or that will cause any noise that will or might disturb the peace and quiet of the occupants of surrounding

Lots. However, the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish and other such debris for pick up by governmental and other similar garbage and trash removal service units but such deposits shall only be permitted upon the specific day of pick up as determined by governmental and other similar garbage and trash removal service units. In the event any Owner fails or refuses to keep his Lot free from unsightly objects, weeds or underbrush or to maintain and to repair the main dwelling, outbuildings, sheds, garages and other similar structures on each Lot in a manner satisfactory to the Developer or Board of Directors, the Developer or the Board of Directors may, through its agent or representative, five days after posting a notice on such Lot or mailing a notice to the Owner thereof at his property requesting the Owner to comply with the requirements of this paragraph, enter and remove all such unsightly objects, debris or other vegetation at Owner's expense and Owner, by acquiring any Lot subject to this Declaration, agrees to pay such costs incurred by the Developer or Board of Directors in the enforcement of this paragraph promptly upon demand. No such entry as provided herein shall be deemed a trespass. The foregoing provisions shall not apply to the Developer while constructing residences upon any Lots.

(6.6) Clotheslines, Garbage Cans, Etc. All clothes lines, garbage cans, lawnmowers, stored materials, wrecked unlicensed or inoperable vehicles, and similar equipment shall be kept in an enclosed structure or adequately screened by planting or fencing, as determined by the Developer, so as to conceal the same from the view of neighboring Owners and to conceal the same from the view in front of the residence. Incinerators for garbage, trash or other refuse shall not be used nor permitted to be erected or placed on any Lot.

(6.7) Antennas. No freestanding radio or television transmission or reception towers, antennas, dishes or discs shall be erected on a Lot. Radio and television antennas not exceeding seven and one-half (7½) feet in height above the roofline of the residence and dishes or disks not exceeding three (3) feet in diameter and not visible from the street in front of the residence shall be allowed to be attached to the structure of the residence only.

(6.8) Walls, Fences and Hedges. Walls and fences are permitted as long as both sides of such structures are constructed of identical materials and identical designs. For masonry walls, no exposed concrete block will be permitted. Hedges shall be maintained in a neatly trimmed and clean condition on both sides. All walls, fences, and hedges shall comply with all local ordinances and shall not be located within setbacks or site triangles as described herein or shown on record maps of the Property.

(6.9) Pools. Pools shall be permitted upon Lots but such pools must be located directly behind the residence of each Lot, screened from view by a six-foot privacy fence, and be at least twenty (20) feet from both side Lot lines and the rear Lot line of each Lot.

(6.10) Driveways and Parking Areas. Only driveways and parking areas constructed of concrete or brick shall be permitted upon any Lot.

(6.11) Recreational Vehicles, Boats and Trailers. No boats, trailers, recreational vehicles or similar items shall be allowed to remain upon any Lot unless they are enclosed by four walls, a roof and a closed door such as a garage or detached garage with a closing door.

(6.12) Use of Outbuildings and Similar Structures. No structure of a temporary nature shall be erected or allowed to remain on any Lot, and no trailer, shed, tent, garage, carport, or any other structure of a similar nature shall be used as a residence, either temporarily or permanently. Provided, however, this paragraph shall not be construed to prevent the Developer from using sheds or other temporary structures during construction for such purposes as Developer deems necessary. Provided, further, this paragraph shall not be construed to prevent Owners from constructing a permanent detached garage, carport, or utility shed, not to exceed 12 feet by 12 feet in area, if constructed of materials similar to those used in the residence located upon such Lot, if located behind the rear wall of the residence for such Lot, if constructed in conformity to and in harmony with existing structures and residences located within the immediate area, and if not located within any easements reserved to the Developer or utility companies or shown on any recorded plat for Windward Cove. In addition, one commercially manufactured metal building no larger than 10' x 10' shall be permitted upon a Lot if not located within any easements reserved to Developer or utility companies and if located behind the rear wall of the residence for such Lot.

(6.13) Basketball Goals and Mailboxes. Basketball goals shall be permitted if placed a minimum of twelve feet (12 ft.) behind the concrete curb into such Lot and placed outside of the recorded public right-of-way. All goals and surrounding areas are to be maintained in a neat and orderly condition so as not to create a nuisance as described in Section 6.5. No stone or masonry mailbox structures are permitted. All mailboxes are to be constructed of break-away materials as approved by the North Carolina Department of Transportation, such as 4" x 4" wooden posts or small diameter metal posts.

(6.14) Minimum Square Footage. Single family dwellings shall contain not less than a minimum of 1,100 square feet of heated floor area, exclusive of garage, carport, unheated storage areas and non-living space for dwellings.

(6.15) Side Yards and Rear Yards. No building shall be located nearer the side yard or rear yard than permitted by zoning and recorded plats of the Property and no building shall be erected on any easement described within this document. For the purpose of this covenant, eaves, steps, and uncovered porches, patios, or terraces shall not constitute a part of any building, provided, however, that this exception shall not be construed to permit encroachment upon an adjacent Lot or upon any easement shown on recorded maps or plats or described within this document. Provided further that the

Zoning Ordinance for Mecklenburg County, North Carolina, as amended from time to time, shall prevail if a conflict shall arise between this Declaration and the Zoning Ordinance requirements. No solid fence, wall or similar obstruction shall be permitted within the building setback line or sight triangles shown on the recorded maps.

(6.16) Waiver. Developer reserves the right, but shall not be obligated, to waive in writing any violation of the designated and approved building location lines on either side yard Lot line, horizontal measurement only, provided that such violation does not exceed 10% of the applicable requirements and provided such violation does not violate any local ordinance, including, but not limited to, zoning.

(6.17) Subdivision of Lots. No Lot shall be subdivided by sale or otherwise so as to reduce the total lot area shown on the recorded maps or plats, except by and with the written consent of Developer and in compliance with local ordinances.

(6.19) Corner Lots. Any single family dwelling erected on a Lot other than a corner Lot shall face the street on which the Lot abuts, and on corner Lots single family dwellings may be erected so as to face the intersection of the two streets on which the Lot abuts.

(6.20) Fire. In the event any home or structure within this subdivision is destroyed or partially destroyed by fire, act of God, or as a result of any other act or thing, said damage must be repaired and the improvement reconstructed within 12 months after such damage or destruction.

(6.21) Easements. Developer reserves an easement of a 10-foot right of way over, under and along the rear line of each Lot for the installation or maintenance of lines, conduits, pipes and other equipment necessary to or useful for furnishing electric power, gas, telephone service, cablevision or other utilities including water, sanitary sewage service and storm water drainage facilities. Developer also reserves an easement of a 5-foot right of way over, under and along the side lines of each Lot for the same uses and purposes set forth in this Paragraph. In addition, the Lots abutting the Private Driveway and the Common Area containing the access road to the Amenities Area, as shown on recorded plats of the Property shall have a fifteen-foot (15') easement of ingress, egress and regress over the Common Area adjacent to such Lots as determined by the Developer or Board of Directors.

ARTICLE VII. EASEMENTS

(7.1) General. Each Lot now or hereafter subjected to this Declaration shall be subject to all easements shown or set forth on the recorded plat or plats of surveys upon which such Lot is shown. No structure of any type shall be erected or placed upon any part of a Lot which will interfere with rights and use of any and all easements shown on said recorded plat.

(7.2) Utility and Drainage. An easement on each Lot is hereby reserved by Developer for itself and its successors and assigns along, over, under and upon a strip of land ten (10) feet in width along the rear lot lines of all Lots shown on recorded plats, and easements five (5) feet in width along the front and side lot lines of all Lots shown on recorded plats, in addition to such other easements as may appear on a recorded subdivision plat for Windward Cove. The purpose of these easements shall be to provide, install, maintain, construct and operate drainage facilities now or in the future and utility service lines to, from or for each of the Lots. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities, or which may change the direction or flow of drainage channels in the easements except for party walls located on a portion of the side line or lines of a Lot. The easement area of each and all improvements in it shall be maintained continuously by Owner, except for those improvements for which a public authority or utility company is responsible. With ten (10) days prior written notice to Owner, Developer or Board of Directors may exercise the right to remove obstructions in such easements upon Owner's failure to do so at Owner's expense and Owner, by acquiring any Lot subject to this Declaration, agrees to pay such costs incurred by the Developer or Board of Directors in the enforcement of this paragraph promptly upon demand. For the purpose of this covenant, Developer reserves the right to modify or extinguish the herein reserved easements along any Lot lines when in its sole discretion adequate reserved easements are otherwise available for the installation of drainage facilities and/or utility service lines. For the duration of these restrictions, no such utilities shall be permitted to occupy or otherwise encroach upon any of the easement areas reserved without first obtaining the prior written consent of Developer; provided, however, local service from utilities within easement areas to residences constructed upon any such Lots may be established without first obtaining separate consents therefor from Developer.

(7.3) Control of Signs. Developer shall have the right to place permanent and temporary signs of any size or shape on unsold Lots until one hundred percent (100%) of the Lots have been sold.

(7.4) Emergency. There is hereby reserved without further assent or permit and to the extent allowed by law, a general easement to all firemen, ambulance personnel, police and security guards employed by Developer and all similar persons to enter upon the Properties or any portion thereof, in the performance of their respective duties.

ARTICLE VIII. DEVELOPER'S RIGHTS

(8.1) Transfer of Rights. Any and all of the special rights and obligations of the Developer may be transferred to other persons or entities, provided that the transfer shall not reduce an obligation or enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by

the Developer and duly recorded in the public records of Mecklenburg County, North Carolina.

(8.2) Developer's Consent to Sales Material. Until 100% of Lots are sold, all sales, promotional, and advertising materials, and all forms of deeds, contracts for sale, and other closing documents for the subdivision and sale of property in the Properties by any Developer or builder shall be subject to the prior approval of Developer, which approval shall not be unreasonably withheld. Developer shall deliver notice to any builder of Developer's approval or disapproval of all such materials and documents within thirty (30) days of receipt of such materials and documents and, if disapproved, the specific changes requested. If Developer fails to so notify any builder within such thirty (30) day period, Developer shall be deemed to have waived any objections to such materials and documents and to have approved the foregoing. Upon disapproval, the foregoing procedures shall be repeated until approval is obtained or deemed to be obtained.

(8.3) Developer's Consent to Amendments. These Covenants, Conditions and Restrictions may not be amended without the express written consent of the Developer until 100% of Lots have been sold; provided, however, the rights contained in this Article shall terminate upon the earlier of (a) 20 years from the date this Declaration is recorded, or (b) upon recording by Developer of a written statement that all sales activity has ceased.

ARTICLE IX. GENERAL PROVISIONS

(9.1) Covenants Running with the Land. All provisions of this Declaration shall be construed to be covenants running with the land, and with every part thereof and interest therein, and every Owner or any other person or legal entity claiming an interest in any Lot, and his heirs, executors, administrators, successors and assigns, shall be bound by all of the provisions of this Declaration.

(9.2) Duration. The covenants, conditions and restrictions of this Declaration shall be binding for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive and additional periods of ten (10) years each.

(9.3) Amendments and Termination. This Declaration may be terminated during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Owners, and thereafter may be terminated by an instrument signed by not less than seventy-five percent (75%) of the Owners. This Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of at least seventy-five (75%) percent of the Class A and Class B members; provided, however that the Developer may amend this Declaration to correct minor and clerical errors, as determined by the Developer, without approval of Owners and should the Federal

National Mortgage Association (FNMA) or the Federal Home Loan Mortgage Corporation (FHLMC) subsequently delete any of their requirements which necessitate certain provisions of this Declaration or make any such requirements less stringent, the Developer, without approval of Owners, may amend this Declaration to reflect such changes. Any such amendment or termination shall not be effective until an instrument evidencing such change has been filed of record in the Mecklenburg County Public Registry. In addition, Amendment requires HUD/VA approval as long as there is a Class B Membership.

(9.4) Enforcement. If any Owner shall violate or attempt to violate any of these restrictions, failure to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief, or both, maintainable by the Developer or Board of Directors, or, in proper case, by an aggrieved Owner. Any failure by Developer or any other Owner to enforce any of the foregoing restrictions or other provisions shall in no event be deemed a waiver of their right to do so thereafter. Invalidation of any covenant, condition or restriction or other provision of this Declaration shall not affect the validity of the remaining portions thereof which shall remain in full force and effect.

(9.5) Headings. Headings are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular paragraphs to which they refer.

(9.6) Unintentional Violation of Restrictions. In the event of an unintentional violation of any of the foregoing restrictions with respect to any Lot, the Developer or its successors reserves the right (by and with the mutual written consent of the then Owner or Owners of such Lot) to change, amend, or release any portion of the foregoing restrictions as the same may apply to that particular Lot.

(9.7) Severability. The provisions of this Declaration are severable and the invalidity of one or more provisions hereof shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder hereof.

IN WITNESS WHEREOF, the Developer has caused this Declaration to be executed under seal on the day and year first above written.

FIRST COLONY GROUP, LTD.

[CORPORATE SEAL]

By: _____
Vice President

ATTEST:

_____
Assist Secretary

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

This 14th day of June, 1995, before me, the undersigned Notary Public in and for the County and State aforesaid, personally came James A. Coates, who, being duly sworn, says that he is Vice President of FIRST COLONY GROUP, LTD., and that the seal affixed to the foregoing instrument in writing is the corporate seal of said corporation, and that he signed and sealed said instrument on behalf of said corporation by its authority duly given. And the said Vice President acknowledged said instrument to be the act and deed of said corporation.

WITNESS my hand and seal this 14th day of June, 1995.

Julieann Tommarello
Notary Public

My Commission Expires:
4-8-99

JULIEANN TOMMARELLO

EXHIBIT A

Lying and being in the Steele Creek Township, Mecklenburg County, North Carolina and being described as follows:

BEGINNING at a point marked by an angle iron located in the northwesternmost corner of that property conveyed to D.L. Phillips (now or formerly) in Deed Book 2009 at Page 106 in the Mecklenburg County Public Registry said BEGINNING POINT being also located the following four (4) courses and distances from a P-K nail marking the intersection of the centerline of Rock Island Road (SR-1145) and the centerline (if extended) of Saw Mill Road (SR-1416): (1) S 39-43-18 E 88.65 feet to a nail, (2) N 02-18-27 E 54.88 feet to an iron pin in the northerly margin of the 60 foot right-of-way of Rock Island Road, (3) N 04-39-13 E 386.68 feet to an iron pipe and (4) N 26-27-56 W 317.87 feet to an angle iron marking the point and place of BEGINNING and running from said BEGINNING POINT along the westerly margin of the aforesaid D.L. Phillips Estate (now or formerly) property S 26-27-56 E 317.87 feet to an existing iron pipe located in the westerly margin of that property conveyed to David P. Heffron (now or formerly) in Deed Book 6835 at Page 118 in the Mecklenburg County Public Registry and thence running along the westerly margin of the aforesaid David P. Heffron property (now or formerly) S 04-39-13 W 386.68 feet to an existing iron pipe located in the northerly margin of the aforesaid 60 foot public right-of-way known as Rock Island Road and thence running along the northerly margin of the 60 foot right-of-way known as Rock Island Road the following eight (8) courses and distances: (1) N 47-00-29 W 762.74 feet to an iron pin, (2) running with the arc of a circular curve to the right having a radius of 485.19 feet an arc distance of 192.75 feet and a chord bearing and distance of N 35-37-37 W 191.49 feet to an iron pipe, (3) N 24-14-45 W 307.61 feet to an iron pipe, (4) with an arc of a circular curve to the left having a radius of 518.82 feet an arc distance of 210.98 feet and a chord bearing and distance of N 35-53-44 W 209.53 feet to an iron pipe, (5) N 47-32-42 W 297.67 feet to an iron pipe, (6) thence with the arc of a circular curve to the right having a radius of 43.51 feet an arc distance of 59.58 feet and a chord bearing and distance of N 08-19-23 W 55.03 feet to an iron pipe, (7) with the arc of a circular curve to the right, having a radius of 70.00 feet an arc distance of 58.87 feet and a chord bearing and distance of N 54-59-31 E 57.15 feet to an iron pipe, and (8) with the arc of a circular curve to the left having a radius of 50.00 feet an arc distance of 66.15 feet and a chord bearing and distance of N 41-11-09 E 61.43 feet to an iron pipe; thence leaving the northerly margin of the 60 foot public right-of-way known as Rock Island Road and running along the southerly margin of that property conveyed to Barlow G. Remick (now or formerly) in Deed Book 4962 at Page 718 in the Mecklenburg County Public Registry, N 67-32-06 E 240.14 feet to an iron pipe found; thence running along the 570-foot contour line of Lake Wylie the following thirty-six (36) courses and distances: (1) S 71-20-11 E 22.15 feet to a point, (2) S 61-17-15 E 17.58

feet to a point, (3) S 39-53-12 E 32.55 feet to a point, (4) S 73-48-18 E 18.19 feet to a point, (5) S 46-37-44 E 23.52 feet to a point, (6) S 62-40-18 E 37.42 feet to a point, (7) S 77-33-35 E 40.92 feet to a point, (8) N 80-41-27 E 69.0 feet to a nail in a root, (9) S 69-40-20 E 17.85 feet to a point, (10) S 50-44-22 E 19.77 feet to a point, (11) S 31-09-41 E 61.09 feet to a point, (12) S 64-02-57 E 23.34 feet to a point, (13) S 41-36-41 E 36.46 feet to a point, (14) S 25-49-53 E 24.78 feet to a point, (15) S 55-29-25 E 47.81 feet to a point, (16) S 25-38-54 E 17.14 feet to a point, (17) N 81-05-29 E 17.12 feet to a point, (18) S 51-39-36 E 19.57 feet to a point, (19) S 79-33-07 E 58.42 feet to a point, (20) N 86-24-01 E 17.79 feet to a point, (21) S 66-26-15 E 34.71 feet to a point, (22) S 39-13-01 E 136.97 feet to a point, (23) S 24-16-58 E 99.31 feet to a point, (24) S 54-51-45 E 54.76 feet to a point, (25) S 63-33-31 E 44.52 feet to a point, (26) S 48-18-12 E 63.66 feet to a point, (27) S 81-06-03 E 31.57 feet to a point, (28) S 50-40-43 E 35.40 feet to a point, (29) S 48-44-44 E 47.06 feet to a point, (30) S 83-10-45 E 51.27 feet to a point, (31) N 20-43-56 E 11.66 feet to a point, (32) N 68-34-33 W 11.67 feet to a point, (33) N 03-45-39 E 18.69 feet to a point, (34) N 34-29-52 E 40.57 feet to a point, (35) N 73-26-43 E 85.22 feet to a point, and (36) S 12-56-00 E 36.37 feet to a point in the westerly margin of that property conveyed to Crescent Resources, Inc. (now or formerly) in Deed Book 3146 at Page 165 in the Mecklenburg County Public Registry and thence running with the westerly margin of the aforesaid Crescent Resources, Inc. property (now or formerly) S 23-49-01 E 137.59 feet to a point in the aforesaid property of D.L Phillips Estate (now or formerly) and thence running with the northerly margin of the D.L. Phillips Estate property (now or formerly) S 65-15-18 W 417.85 feet to the point and place of BEGINNING and containing approximately 19.65 acres as more particularly described on boundary survey for First Colony Group Limited prepared by Everett L. Killough, N.C.R.L.S. dated June 30, 1994.

EXHIBIT B

being
more

roperty located in Steel Creek Township, Mecklenburg County, North Carolina, within one (1) mile of that property described on Exhibit A attached hereto.

AMENDMENT OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR WINDWARD COVE

THIS AMENDMENT OF DECLARATION is made this 6 day of September, 1995 by **FIRST COLONY GROUP, LTD.**, a North Carolina corporation (referred to in this instrument as "Developer").

STATEMENT OF PURPOSE

Developer is the owner of that certain parcel of land which is known as Windward Cove located in Mecklenburg County, North Carolina, and more particularly described in that Declaration of Covenants, Conditions and Restrictions for Windward Cove (hereinafter "Declaration") recorded in Book 8181 at Page 237 in the Mecklenburg County Public Registry.

The Declarant is the owner of more than 75% of the lots in Windward Cove and desires to amend the Declaration as follows:

Paragraph (6.12) Use of Out Buildings and Similar Structures of the Declaration, shall be deleted and replaced with the following paragraph:

> (6.12) Use of Out-Buildings and Similar Structures. No structure of a temporary nature shall be erected or allowed to remain on any Lot, and no trailer, shed, tent, garage, carport, or any other structure of a similar nature shall be used as a residence, either temporarily or permanently. Provided, however, this paragraph shall not be construed to prevent the Developer from using sheds or other temporary structures during construction for such purposes as Developer deems necessary. Provided, further, this paragraph shall not be construed to prevent Owners from constructing a permanent detached garage or carport not to exceed 25 feet by 25 feet in area, if constructed of materials similar to those used in the residence located upon such Lot, if located behind the rear wall of the residence for such Lot, if constructed in conformity to and in harmony with existing structures and residences located within the immediate area, and if not located within any easements reserved to the Developer or utility companies or shown on any recorded plat for Wind-Ward Cove. In addition, one commercially manufactured wood building no larger than 12 feet by 14 feet shall be permitted upon a Lot if not located within any easements

reserved to Developer or utility companies and if located behind the rear wall of the residence of such Lot.

Paragraph (6.14) Minimum Square Footage. of the Declaration shall be deleted and replaced with the following paragraph:

> (6.14) Minimum Square Footage. Single family dwellings shall contain not less than a minimum of 1,600 square feet of heated floor area, exclusive of garage, carport, unheated storage areas and nonliving space for dwellings.

All other provisions of the Declaration not specifically referred to in this Amendment shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned has caused this Amendment to Declaration to be executed under seal on the day and year first above written.

FIRST COLONY GROUP, LTD.

[CORPORATE SEAL]

By: _____
VICE President

ATTEST:

_____
ASSIST Secretary

STATE OF NORTH CAROLINA

COUNTY OF ~~MECKLENBURG~~ GASTON

This 16th day of September, 1995, before me, the undersigned Notary Public in and for the County and State aforesaid, personally came James A. Coates, who, being duly sworn, says that he is Vice President of **FIRST COLONY GROUP, LTD.**, and that the seal affixed to the foregoing instrument in writing is the corporate seal of said corporation, and that he signed and sealed said instrument on behalf of said corporation by its authority duly given. And the said James A Coates acknowledged said instrument to be the act and deed of said corporation.

WITNESS my hand and seal this 16th day of September, 1995.

Lisa C. Howe
Notary Public

My Commission Expires: December 7, 1999

C:\DOCS\CDS.AMD