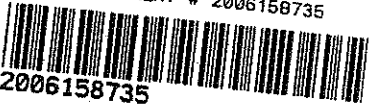


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FOR REGISTRATION JUDITH A. GIBSON  
REGISTER OF DEEDS  
MECKLENBURG COUNTY, NC  
2006 AUG 03 10:54 AM  
BK:20852 PG:493-519 FEE:\$89.00  
INSTRUMENT # 2006158735  
  
2006158735

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
POPLAR FOREST**

**THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR POPLAR FOREST (the "Declaration") IS MADE THIS 2nd DAY OF August, 2006 by WILLIAM TROTTER DEVELOPMENT COMPANY, a North Carolina Corporation and WILLIAM TROTTER COMPANY, a North Carolina Corporation (hereinafter referred to as the "Declarant").**

**WITNESSETH:**

**WHEREAS**, Declarant is the owner of the real property in Mecklenburg County, North Carolina, shown on recorded maps and more particularly described in Article I below, and desires to create thereon an exclusive residential community of single-family residential lots to be named **POPLAR FOREST** (such community hereinafter referred to as the "community" and/or "**POPLAR FOREST**"); and

**WHEREAS**, Declarant desires to ensure the attractiveness of the community, to prevent any future impairment thereof, to prevent nuisances, to preserve, protect and enhance the values and amenities of all properties within the community and to provide for certain maintenance and upkeep (as more particularly set forth herein) on residential lots and the Common Area, as hereinafter defined; and to this end desires to subject the real property shown upon the attached Exhibit A to the coverage of the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property described below, and each owner thereof; and

**WHEREAS**, the Declarant has deemed it desirable, for the efficient preservation, protection and enhancement of the values and amenities in the community and to provide for certain maintenance and upkeep (as more particularly set forth herein) on residential lots and the Common Area, to create an organization to which will be delegated and assigned the power of owning, maintaining and administering the Common Area and certain maintenance and upkeep (as more particularly set forth herein) on residential lots and administering and enforcing the covenants and

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restrictions and collecting and disbursing the assessments and charges hereinafter created; and

**WHEREAS**, Declarant has, or will have prior to the conveyance of any Lot, as hereinafter defined, incorporated under North Carolina Law, **POPLAR FOREST OWNERS ASSOCIATION, INC.** as a non-profit corporation for the purpose of exercising and performing the aforesaid functions.

Declarant hereby declares that all of the properties described in Article I, Section 1 below, and such additions thereto as may be hereafter made pursuant to Article I, Section 2 hereof, shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

#### **ARTICLE I PROPERTIES SUBJECT TO THIS DECLARATION**

Section One.        Existing Property.    The property that is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration and within the jurisdiction for the Association is located in Mecklenburg County, North Carolina, and is described as follows:

Being all of the property described on Exhibit A attached hereto and incorporated herein by reference.

Section Two.        Additions to Existing Property.    Additional land may be brought within the scheme of this Declaration in the following manner:

- (a)    Additional land may be annexed to the existing property by Declarant, in future stages or development, without the consent of any other lot owner or owners, provided that said annexations must occur within eight (8) years after the date of this instrument;
  
- (b)    The additions authorized under subsection (a) above shall be made by filing a record Supplement to Declaration of Covenants, Conditions and Restrictions with respect to the additional properties, which shall extend the scheme of this Declaration to such properties and thereby subject such additions to the benefits, agreements, restrictions and obligations set forth herein.

## ARTICLE II DEFINITIONS

- Section One. "Additional Amenity Areas" shall mean and refer to any additional recreational amenity or facility (other than the Initial Amenity Area) constructed over a portion of the Common Area for the common use and enjoyment of all Owners.
- Section Two. "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Association.
- Section Three. "Association" shall mean and refer to **POPLAR FOREST OWNERS ASSOCIATION, INC.**, its successors and/or assigns.
- Section Four. "Board of Directors" shall mean and refer to the Board of Directors of the Association, which shall be elected and shall serve pursuant to the Bylaws.
- Section Five. "Bylaws" shall mean and refer to the Bylaws of the Association.
- Section Six. "Common Area" shall mean all real and personal property owned by the Association and the easements granted to the Association for the common use and enjoyment of the owners. Common Areas, with respect to the property subject to this Declaration, shall be shown on the various plats of **POPLAR FOREST** recorded or to be recorded in the Mecklenburg County Public Registry and designated thereon as "Common Areas," but shall exclude all Lots and all public streets shown thereon. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is more particularly shown on the plat(s) of the Properties to be recorded in the Mecklenburg County Public Registry.
- Section Seven. "Declarant" shall mean and refer to **WILLIAM TROTTER DEVELOPMENT COMPANY and WILLIAM TROTTER COMPANY**, and shall also mean and refer to any person, firm or corporation which shall also be designated as a "Declarant" by **WILLIAM TROTTER DEVELOPMENT COMPANY** hereafter when such designee becomes vested with title to two or more undeveloped Lots for the purpose of causing dwellings(s) to be constructed thereon, and any such successor shall be a Declarant during such period of time as said party is vested with title to two or more such Lots (whether undeveloped or developed and un conveyed), but not longer.

Section Eight. "Initial Amenity Area" shall mean and refer to the Common Area dedicated to the Association for the common use and enjoyment of all Owners. As required by Article V, Section 2, the Association shall accept such dedication.

Section Nine. "Lot" shall mean and refer to any numbered plot of land shown upon any recorded subdivision map of the Properties, with the exception of the Common Area, and shall include all improvements thereon.

Section Ten. "Members" shall mean and refer to every individual and legal entity that is a member of the Association.

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

Section Twelve. "Person" shall mean and refer to any natural person, corporation, joint venture, partnership (general or limited), limited liability company, association, trust or other legal entity.

Section Thirteen. "Properties" shall mean and refer to that certain real property described on Exhibit A attached hereto and such additional real property that is subjected to this Declaration pursuant to Article I, Section 2.

### ARTICLE III PROPERTY RIGHTS

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

- (a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- (b) The right of the Association to suspend the voting rights and right of use of the recreational facilities by an Owner for any period not to exceed sixty (60) days for any infraction of its published rules and regulations;

- (c) The right of the 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. No such dedication or transfer shall be effective unless an instrument signed by eighty percent (80%) of each class of Members, agreeing to such dedication or transfer, has been recorded.
- (d) The right of the Association, in accordance with its Articles of Incorporation and Bylaws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said Common Area or portion thereof and the rights of such mortgagee in said Common Area or portion thereof shall be subordinate to the rights of the Owners hereunder; provided, however, in accordance with North Carolina General Statute § 47F-3-112, that no encumbrance or transfer of the Common Area shall be effective unless an instrument signed by eighty percent (80%) of each class of Members, agreeing to such encumbrance or transfer has been recorded.
- (e) The right of the Association to adopt, publish, and enforce rules and regulations as provided in Article IX;
- (f) The right of the Association to enter any Lot in order to perform any maintenance, alteration, or repair required herein to be performed by the Association and the Owner of such Lot shall permit the Association or its representative to enter for such purpose at reasonable times and with reasonable advance notice. Provided, however, routine scheduled maintenance such as grass cutting shall not require any advance notice.

Section Two.

Title to the Common Area. The Declarant hereby covenants for himself, his heirs and assigns, that he will convey fee simple title to the Common Area to the Association, free and clear of all encumbrances and liens, prior to the conveyance of the first Lot, except utility and storm drainage easements and as otherwise set forth herein.

**ARTICLE IV  
MEMBERSHIP AND VOTING RIGHTS**

Section One.

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

Section Two.

The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners with the exception of the Declarant and shall be entitled to one (1) 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.

Class B. The Class B Member(s) shall be the Declarant 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 occurs earlier:

- (a) when the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership; or
- (b) on August 1, 2013.

**ARTICLE V  
COVENANT FOR MAINTENANCE ASSESSMENTS**

Section One.

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 Association; (1) annual assessments or charges and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made and, if unpaid, the Association may file such lien of record in accordance with the provisions of North Carolina General Statute §47F-3-116. Each such assessment, together with interest, cost 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.

Section Two.

Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents of the Properties and, in particular, for the improvement and maintenance of the Common Area.

(a) Common Area. The Association shall maintain, repair and reconstruct (as necessary) the Common Area including, but not limited to any walks located on the Common Area. Such maintenance shall include the cutting and removal of weeds and grass, the removal of trash and rubbish, or any other necessary maintenance for the use and enjoyment of the Common Area, including, but not limited to, the cost of repairs, replacements and additions; the cost of labor, equipment, materials, management and supervision; the payment of taxes and public assessments assessed against the Common Area.

Notwithstanding anything herein to the contrary, if an Owner is legally responsible for damage inflicted on any Common Area, the Association may direct such Owner to repair such damage or the Association may make the repair and recover damages from the responsible Owner. If the damages are less than or equal to the jurisdictional amount established for small claims under North Carolina General Statute § 7A-210, the Owner may request a hearing before the Board of Directors or an adjudicatory panel the Board of Directors appoints pursuant to North Carolina General Statute. § 47F-3-107.

Further, in order to help maintain quality yards on the Lots in **POPLAR FOREST**, the Association shall maintain the grassed area on each Lot, except for any portion of any Lot where the grassed area is fenced (other than a non-enclosed, decorative fence) or otherwise enclosed by the house or garage in a manner that access to the grassed area is only available through the house, garage or a gate in the fence (any such fenced or enclosed portion being referred to herein as "fenced"). All non-fenced portions of grassed areas on any such Lot shall be maintained by the Association. Such maintenance shall include mowing, fertilization and aeration of the grassed area; provided, however, that these activities shall be performed in such manner and at such times as directed by the Board of Directors acting in its discretion. The Association shall not maintain any raised planted beds or potted plants of the Lots. Further, there shall be no reduction in the

monthly assessments of those Owners who's fenced or partially fenced Lots are not directly or fully benefited by this service.

Section Three.

Reserves. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Area. Such reserve fund is to be established out of regular annual assessments.

Section Four.

Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be \$4200.00 per Lot. The maximum annual assessment for Lots owned by Declarant which have not been issued a certificate of occupancy shall be \$5.00 per Lot. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased effective January 1 of each year without a vote of membership, but subject to the limitation that any such increase shall not exceed the greater of ten percent (10%) or the percentage increase in the Consumer Price Index (published by the Department of Labor, Washington, D.C.) for all cities over the preceding twelve (12) month period ending in October.

Section Five.

Budgeting and Allocating Common Expenses. At least 60 days before the beginning of each fiscal year, the Board of Directors shall prepare a budget of the estimated common expenses for the coming year, including any contributions to be made to a reserve fund. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses.

The budget is subject to ratification by the Owners at a meeting. The Board of Directors shall send a summary of the proposed budget and notice of the meeting to consider ratification of the budget not less than 10 or more than 60 days prior to the date of meeting. A quorum need not be present at the meeting and the notice to Owners shall include a statement that the budget may be ratified without a quorum being present. The budget shall be ratified unless, at such meeting, the Members representing a majority of each class of membership shall disapprove the budget.

If any proposed budget is disapproved or the Board of Directors fail for any reason to determine the budget for any year, then the budget most recently in effect shall continue to effect until a new budget is determined.

The Board of Directors may revise the budget and adjust the Annual Assessment from time to time during the year, subject to



the notice requirements and the right of the Members to disapprove the revised budget as set forth above.

Section Six.

Special Assessment for Capital Improvements. In addition to the annual assessments authorized above, the 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, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section Seven.

Notice and Quorum for any Action Authorized under Section Six. Written notice of any meeting called for the purpose of taking any action authorized under Section Six shall be sent to all Members no 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 all the votes of each class of membership 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 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.

Section Eight.

Uniform Rate of Assessment. Both annual and special assessments shall, except as herein otherwise specifically provided, be fixed at a uniform rate for all Lots and shall be collected on a monthly basis; provided, however, that the assessment for Lots owned by Declarant which are not occupied as a residence shall be as set forth in Section Four above.

Section Nine.

Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. Such annual assessments shall be paid ratably on a monthly basis. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. In accordance with North Carolina General Statute §47F-3-103, written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge,

furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section Ten.            Effect of Nonpayment of Assessments. Remedies of the Association. A late charge of Fifteen and No/100 Dollars (\$15.00) shall be assessed fifteen (15) days after the due date, together with interest from the due date at six percent (6%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property and, in either event, interest, costs, and reasonable attorney's fees of any such action shall be added to the assessment. Further, the Association may take all such action as is prescribed in North Carolina General Statute 47F-3-116. 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 Eleven.       Subordination of the lien to Mortgages and Ad Valorem Taxes. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage and ad valorem taxes. Sale or transfer of any Lot shall not affect the assessment lien; however, the sale or transfer of any Lot pursuant to mortgage or tax foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section Twelve.      Exempt Property. All Properties dedicated to and accepted by a local public authority and all Properties owned by a charitable or non-profit 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.

## ARTICLE VI ARCHITECTURAL CONTROL

Except for improvements placed or erected on the properties by Declarant or at its direction, no building, fence, signs, wall, or other structure shall be commenced, erected, or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein (including but not limited to, color or painting of the exterior and type of exterior finish) be made, except in the exceptional cases, when in such case, three (3) copies of the plans and specifications showing the nature, kind, shape, height,

materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board of Directors (said committee being hereinafter referred to as the "Architectural Control Committee"). In the event said Board, or the Architectural Control Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required, and this Article will be deemed to have been fully complied with.

The Homeowners Association shall have the right to charge a reasonable fee for receiving such application in an amount not to exceed \$25.00. Neither the Board of Directors nor the Architectural Control Committee shall approve any alterations, decorations, or modifications which would jeopardize or impair the soundness, safety, or appearance of any Lot or the Common Area. Provided, however, that nothing herein contained shall be construed to permit interference with the development of the Properties by the Declarant in accordance with its general plan of development.

In the event an Owner of any Lot in the Properties shall make unauthorized changes to the premises and the improvements situated thereon in a manner unsatisfactory to the said Board of Directors or the Architectural Control Committee, said Board of Directors or the Architectural Control Committee shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain and restore the Lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance and any other costs or attorney's fees incurred in the enforcement of the rights under these provisions shall be added to and become a part of the assessments to which such Lot is subject. Any approval by the said Board of Directors or the Architectural Control Committee shall be in accordance with the requirements set forth hereafter.

The Architectural Control Committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee, or its designated representative, fails to approve or disapprove within thirty (30) days after the plans and specifications have been submitted to it, approval will not be required and the related covenants shall be deemed to have been fully complied with.

Notwithstanding the foregoing, the Declarant's (or its successor's) work (contracted or otherwise) upon the Properties shall not be subject to the approvals required by this Article VI.

## **ARTICLE VII INSURANCE**

Section One. Insurance coverage on the Properties shall be governed by the following provisions:

- (a) Coverage. All buildings and improvements upon the land and all personal property of the Association included in the Common Area and facilities shall be insured in an amount equal to one hundred percent (100%) insurable replacement value as determined annually by the Association with the assistance of the insurance company providing coverage. Such coverage shall provide protection against:
- (i) Loss or damage by fire and other hazards covered by endorsement;
  - (ii) Such other risks as from time to time shall be customarily covered with respect to buildings on the land; and
  - (iii) Such policies shall contain clauses providing for waiver of subrogation.
- (b) Liability. Public liability insurance covering each member of the Board of Directors, the managing agent, if any, and each Owner with respect to his liability arising out of the ownership, maintenance, or repair of the Common Area shall be secured by the Association with limits of liability of no less than One Million Dollars (\$1,000,000.00) per occurrence against liability for bodily injury, including death resulting therefrom, and damage to property, including loss of use thereof, occurring upon, in or about, or arising from or relating to, the Properties or any portion thereof. Such insurance shall include endorsements covering cross liability claims of one insured against another, including the liability of the Owners as a group to a single Owner. There shall also be obtained such other insurance coverage as the Association shall determine from time to time to be desirable and necessary.
- (c) Premiums. Premiums for insurance policies purchased by the Association shall be paid by the Association and shall be included as part of the annual assessment described in Article V above.
- (d) Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and shall provide that all proceeds thereof shall be payable to the Association as insurance trustee under this Declaration. The sole duty of the Association as insurance trustee shall be to

receive such proceeds as are paid and to hold the same in trust for the purpose stated herein or stated in the Bylaws.

Section Two.

Distribution of Insurance Proceeds. Proceeds of insurance policies received by the Association as insurance trustee shall be distributed in the following manner:

- (a) Expense of the Trust. All expenses of the insurance trustee shall be first paid or provisions made therefor.
- (b) Reconstruction or Repair. The remaining proceeds shall be paid to defray the cost of repairs. Any proceeds remaining after defraying such cost shall be deposited in the reserve fund.

Damage improvements on the Common Area shall be repaired or reconstructed unless the Members representing at least 80% of the total Class A votes in the Association, and the Class B Member, if any, decide within 60 days after the loss not to repair or reconstruct. If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed 60 additional days. No mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

Section Three.

Fidelity Insurance. The Association shall also be required to obtain fidelity coverage against dishonest acts on the part of all persons, whether officers, directors, trustees, employees, agents or independent contractors, responsible for handling funds belonging to or administered by the Association, in an amount determined by the Board of Directors in its discretion. An appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.

**ARTICLE VIII  
CONDEMNATION**

Section One.

Partial Taking Without Direct Effect on Lots. If part of the Properties shall be taken or condemned by any authority having the power of eminent domain, such that no Lot is taken, all

compensation and damages for and on account of the taking of the Common Area, exclusive of compensation for consequential damages to certain affected Lots, shall be paid to the Association in trust for all Owners and their mortgagees according to the loss or damages to their respective interests in such Common Area. The Association, acting through the Board of Directors, shall have the right to act on behalf of the Owners with respect to the negotiation and litigation of the issues with respect to the taking and compensation affecting the Common Area, without limitation on the right of the Owners to represent their own interests. Each Owner, by his acceptance of a deed to a Lot, hereby appoints the Association as his attorney-in-fact to negotiate, litigate or settle on his behalf all claims arising from the condemnation of the Common Area. Such proceeds shall be used to restore the Common Area with the excess, if any, to be retained by the Association and applied to future operating expenses by the Board of Directors, in its sole discretion. Nothing herein is to prevent Owners whose Lots are specifically affected by the taking or condemnation from joining in the condemnation proceedings and petitioning on their own behalf for consequential damages relating to loss of value of the affected Lots, or improvements, fixtures or personal property thereon, exclusive of damages relating to the Common Area. In the event that the condemnation award does not allocate consequential damages to specific Owners, but by its terms includes an award for reduction in value of Lots without such allocation, the award shall be divided between affected Owners and the Association, as their interests may appear, by the Board of Directors in its sole discretion.

Section Two.

Partial or Total Taking Directly Affecting Lots. If part or all of the Properties shall be taken or condemned by any authority having the power of eminent domain, such that any Lot or a part thereof (including specific easements assigned to any Lot) is taken, the Association shall have the right to act on behalf of the Owners with respect to Common Area as provided in Section 1 of this Article and the proceeds shall be payable as outlined therein. The Owners directly affected by such taking shall represent and negotiate for themselves with respect to the damages affecting their respective Lots. All compensation and damages for and on account of the taking of any one or more of the Lots or improvements, fixtures or personal property thereon, shall be paid to the Owners of the affected Lots and their mortgagees, as their interests may appear. If all of the Properties shall be taken such that the Association no longer has reason to exist and shall thereafter be dissolved and/or liquidated, all compensation and damages for and on account of the taking of the Common Area shall be distributed with the other

assets of the Association in accordance with the Articles of Incorporation.

## ARTICLE IX USE RESTRICTIONS

### Section One.

Rules and Regulations. The Board of Directors of the Association shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the front yard space of each Lot and the Common Area; provided, further, it is intended that such power shall at all times be limited as set forth herein and that the Board of Directors shall exercise restraint and moderation in the use of such power. Such rules and regulations may provide for imposition of fines or penalties for the violation thereof or for the violation of any of the covenants and conditions contained in this Declaration; provided, however, any particular rule or regulation promulgated by the Board of Directors may be objected to by any Owner(s) at any meeting of the Members held in accordance with the Bylaws. Any Owner(s) may request a vote to rescind any rule or regulation and such rule or regulation shall be rescinded upon a vote in favor of the same by a majority of the votes of each class of Members who are voting in person or by proxy at such meeting (the quorum required for such vote shall be as set forth in the Bylaws).

Further, with the approval of the Board of Directors and subject to any costs or restrictions imposed by them for such use, the Common Area may be used for cultural exhibits, markets, festivals, parties or other similar activities.

### Section Two.

Antennas. No outside antenna, including a satellite dish antenna, shall be erected by an Owner within the Properties may be erected or installed without approval of the Architectural Control Committee. Approval of the customary outdoor television receiving antenna, including a satellite dish antenna shall not be unreasonable withheld by the Architectural Control Committee.

### Section Three.

Land Use. No Lot shall be used except for residential purposes. No structure shall be erected, altered, placed or permitted to remain on any Lot other than on detached single-family dwelling, not to exceed two and one-half stories in height (excluding basements) and a private garage for each unit for not more than three cars and other accessory structures customarily incidental tot the use of the Lot.

Section Four.            Building Location. No building shall be located nearer to the front or side lines that the building setback lines shown on the recorded plat, if such lines are shown. ( For the purposes of this covenant, eaves, steps and open porches shall not be considered as a part of a building; provided, however, that this shall not be construed to permit any portion of a building on a Lot to encroach upon another Lot.) In any event, no building shall be placed nearer to any front, side, or rear setback line that required by the Mecklenburg County Zoning Ordinances or any other applicable zoning ordinance.

Section Five.            Parking of Vehicles and Use of Property. No house trailer, boat, boat trailer, camper, tent, shed, or any other such vehicle, trailer, vessel or temporary structure shall be permitted on any Lot unless in the garage (or, if an automobile, in the driveway on the Lot); provided, however, temporary buildings and other structures shall be permitted during the construction period of houses or as a temporary real estate sales office of Declarant for the sale of lots.

Section Six.            Signs. No sign of any kind shall be displayed to the public view on any Lot except for one professional sign of not more than one (1) square foot in size; one sign of not more than five square feet in size advertising the property for sale or rent; or signs used by a builder to advertise the property during the construction and sales period.

Section Seven.        Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot; provided, however, dogs, cats or other household pets may be kept, provided they are not kept, bred or maintained for any commercial purposes and provided facilities for such pets and pets themselves do not create a nuisance as determined by the Board of Directors or its designated committee, in which case the nuisance will immediately be abated upon request of said Board of Directors or its designated committee.

Section Eight.        Control of Dogs. Every person owning or having possession, charge, care, custody or control of any dog, shall keep such dog exclusively upon his own Lot; provided, however, that such dog may be off the Lot if it is under the control of a competent person and restrained by a chain, leash or other means of adequate physical control.

It is the obligation of each Owner to clean up after his or her dog. The Association will address violations of the preceding only after



the complaining Owner has attempted to resolve the matter with the violating Owner without success.

Section Nine.

Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish, and all trash, garbage or other waste shall be stored in sanitary containers in accordance with the rules and regulations of any health or public safety authority having jurisdiction over the property. All incinerators or other equipment shall be kept in clean and sanitary condition. No trash, garbage or other waste may be placed within the Common Area, except in containers approved by the Board of Directors.

Section Ten.

Nuisances. No activity deemed noxious or offensive by the Board of Directors of the Association or its designated committee shall be carried on upon any Lot or within the Common Area, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood as determined by the Architectural Control Committee. Examples of such offensive activities shall include, but not be limited to, the origination or emission of any loud or disturbing noise or vibrations, the maintenance of an auto repair site, the maintenance of unsightly outdoor storage of personal property (including toys, motorcycles or other motor vehicles, tricycles, bicycles, wood piles or other miscellaneous items) on porches, patios, terraces or yards or similar unsightly activity not in keeping with the aesthetic character and high level of appearance of the community. The Architectural Control Committee, with the approval of the Board of Directors, may establish reasonable rules and regulations for enforcing the provision of this Section Ten.

Section Eleven.

Subdivision of Lots. No person or entity may subdivide or resubdivide any lot or lots without the prior written consent of the Declarant.

Section Twelve.

Dwelling Cost, Quality and Size. No dwelling shall be permitted on any Lot at a cost to purchaser, including said Lot, of less than \$160,000.00, based upon cost levels prevailing on the date these covenants are recorded, it being the intention and purpose of this covenant to assure that all dwellings shall be of a quality of workmanship and materials substantially the same or better that that which can be produced on the date these covenants are recorded at the minimum cost stated herein for the minimum permitted dwelling area and size. The heated floor area of the main structure, exclusive of one-story open porches and garages, shall not be less than 2,100 square feet and each dwelling shall have a minimum two car garage. The exterior of all dwellings will be

composed of a combination of building materials, but at least 75% of the exterior wall surfaces, exclusive of doors, windows and window frames, dormers and gables will be composed of brick.

Unintentional violations not exceeding ten percent (10%) of the minimum square footage requirements herein set forth shall not be considered a violation of this section.

Section 17.

Fences. No fence shall 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.

Section 18.

Sight Line Limitations. No fence, wall, hedge, or shrub 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 or alley pavement. No tree shall be permitted to remain within such distances or such intersections unless the foliage line maintained at sufficient height to prevent obstruction of such sight lines.

Section 19.

Mailboxes. Each mailbox must be of the type approved by the Architectural Control Committee.

## ARTICLE X EASEMENTS

All of the Properties, including Lots and Common Area, shall be subject to such easements for driveways, walkways, parking areas, water lines, sanitary sewer, storm drainage facilities, gas lines, telephone, and electric power line and other public utilities as shall be established by the Declarant or by his predecessors in title, prior to the subjecting of the Properties to this Declaration; and the Association shall have the power and authority to grant and establish upon, over, under, and across the Common Area conveyed to it, such further easements as are requisite for the convenient use and enjoyment of the Properties. In addition, there is hereby reserved in the Declarant and his agents and employees an easement and right of ingress, egress, and regress across all Common Area, now or hereafter owned by the Association, for the purpose of construction of improvements within the Properties.

Declarant hereby specifically reserves a ten foot utility easement along the front property line of each Lot and a Storm Water Easement along each Lot, which Storm Water Easement will allow the Declarant to install swales as needed to divert water from the Lots.

Further, each Owner hereby grants an easement to the Association for the maintenance and upkeep of the grassed (and non-fenced) areas on such Owner's Lot, all as more particularly set forth in Article V, Section Two.

## ARTICLE XI GENERAL PROVISIONS

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

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

Section Three.      Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. Subject to Section Ten of this Article, this Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. The Association shall not enter into voluntary dissolution without first having transferred its said system and facilities to some person, corporation or other entity acceptable to and approved by the Commission by the issuance of a permit.

Notwithstanding anything in this Section Three to the contrary, Declarant may, at Declarant's option, amend this Declaration without obtaining the consent or approval of any other person or entity if such amendment is necessary to cause this Declaration to comply with the requirements of FHA, VA, the Federal National Mortgage Association or other similar agency. In addition, Declarant, without obtaining the approval of any other person or entity, may make amendments or modifications hereto which do not

involve a change which materially adversely affects the rights, duties or obligations specified herein.

Section Four.            Management and Contract Rights of Association. Declarant shall enter into a contract with a management company or manager for the purposes of providing all elements of the operation, care, supervision, maintenance, and management of the property. However, no such contract shall be binding upon the Association except through express adoption or ratification of the terms and conditions of such contract. Any contract or lease entered into by Declarant or by the Association while Declarant is in control thereof shall contain a provision allowing the Association to terminate such contract without justification or penalty after transfer of management by Declarant to the Association.

Section Five.           FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior written approval of the Federal Housing Administration or the Veterans Administration: annexation of additional Properties, dedication of Common Area and Amendment of the Declaration of Covenants, Conditions and Restrictions.

Section Six.            Rights of Noteholders. Any institutional holder of the first mortgage on a Lot will, upon request, be entitled to (a) inspect the books and records of the Association during normal business hours, (b) receive an annual financial statement of the Association within ninety (90) days following the end of its fiscal year, (c) receive written notice of all meetings of the Association and the right to designate a representative to attend all such meetings, (d) receive written notice of any condemnations or casualty loss that affects either a material portion of the project or the unit securing its mortgage, (e) receive written notice of any sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of any unit on which it holds the mortgage, (f) receive written notice of a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Owners' Association, (g) receive written notice of any proposed action that requires the consent of a specified percentage of mortgage holders, and (h) be furnished with a copy of the master insurance policy.

Section Seven.        Marketing and Sales Activities. Notwithstanding anything to the contrary herein, the Declarant and builders authorized by the Declarant may construct and maintain upon portions of the Common Area or Lots which they own such facilities and activities as, in the Declarant's sole opinion, may be reasonably required, convenient, or incidental to the construction or sale of Lots,

including, but not limited to, business offices, signs, model homes, and sales offices. The Declarant and authorized builders shall have easements for access to and use of such facilities at no charge. Builders' rights under this section are subject to Declarant's consent.

Further, the Declarant shall be permitted to use photographs or other similar reproductions of homes or amenities in **POPLAR FOREST** for any reasonable purposes including, without limitation, advertisements, award competitions and web sites. No fee or other remuneration shall be owed to the Association or any Owner for such use by Declarant.

Section Eight.

Right to Develop. The Declarant and its employees, agents and designees shall have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing, and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

Every Person that acquires any interest in **POPLAR FOREST** acknowledges that **POPLAR FOREST** is a planned community, the development and building of which is likely to extend over many years, and agrees not to protest, challenge or otherwise object to the building and development activities of the Declarant or its agents, employees, contractors or assigns.

Section Nine.

Initiation of Litigation by Association. The Association shall not initiate any judicial or administrative proceeding unless first approved by a vote of 75% of the total Class A votes in the Association, except that no such approval shall be required for actions or proceedings:

- (a) initiated during the period of existence of Class B membership;
- (b) initiated to enforce the provisions of this Covenant, including collection of assessments and foreclosure of liens;
- (c) initiated to challenge ad valorem taxation or condemnation proceedings;
- (d) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies;  
or

- (e) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it; or

This section shall not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings.

Section Ten.

Right of Class B Member to Disapprove Actions. So long as the Class B membership exists, the Class B Member shall have a right to disapprove any action, policy, or program of the Association, the Board of Directors, and any committee which, in the sole judgment of the Class B member, would tend to impair rights of the Declarant or builders under the Declaration, or interfere with development of or construction on any portion of **POPLAR FOREST**, or diminish the level of services being provided by the Association.

- (a) The Class B Member shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the Board of Directors or any committee.
- (b) The Class B Member shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein.

No action, policy or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met.

The Class B Member, its representatives or agents shall make its concerns, thoughts, and suggestions known to the Board of Directors and/or the members of the subject committee. The Class B Member, acting through any officer or steward, agent, or authorized representative, may exercise its right to disapprove at any time within 10 days following the meeting at which such actions was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within 10 days following receipt of written notice of the proposed action. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of any committee, or the Board of Directors or the Association. The Class B Member shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital

repairs or any expenditure required to comply with applicable laws and regulations.

Section Eleven.

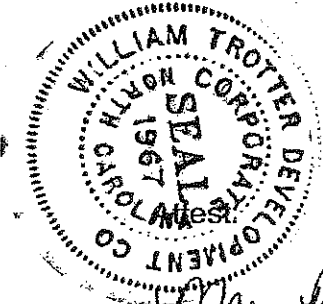
Safety and Security. Each Owner and occupant of a Lot, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in **POPLAR FOREST**. The Association may, but shall not be obligated to, maintain or support certain activities within **POPLAR FOREST** designed to enhance the level of safety or security which each person provides for himself and his property. Neither the Association nor the Declarant shall in any way be considered insurers or guarantors of safety or security within **POPLAR FOREST**, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

No representative or warranty is made that any systems or measures, including any mechanism or system for limiting access to **POPLAR FOREST**, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing its tenants and all occupants of its Lot that the Association, its Board of Directors and committees, and the Declarant are not insurers or guarantors of security or safety and that each person within **POPLAR FOREST** assumes all risks of personal injury and loss or damage to property, including Lots and the contents of Lots, resulting from acts of third parties.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set his hand and seal, the day and year first above written.

WILLIAM TROTTER DEVELOPMENT COMPANY

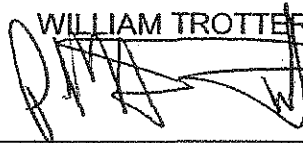
BY:



Mary P. Maples

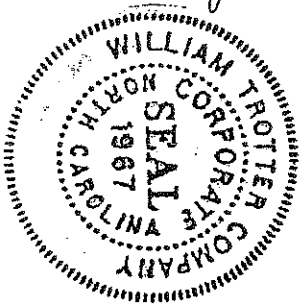
WILLIAM TROTTER COMPANY

BY:



Attest:

Mary P. Maples



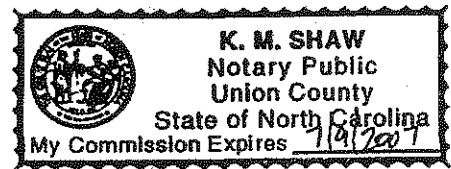


STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG UNION

I, K M SHAW, a Notary Public of the County of Mecklenburg, State of North Carolina, do hereby certify that MARY P. MARES, either being personally known to me or proven by satisfactory evidence personally appeared before me this day and acknowledged that he/she is Secretary of William Trotter Development Company, a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was voluntarily signed in its name by its President, sealed with its corporate seal and voluntarily attested by him/her as its Secretary for the purposes stated therein.

WITNESS my hand and official seal this 2<sup>ND</sup> day of AUGUST, 2006.  
[Signature]  
Notary Public

My Commission Expires: July 9<sup>TH</sup>, 2007

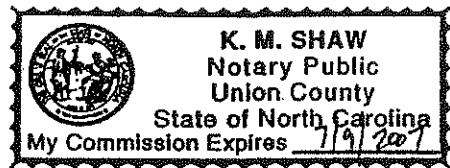


STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG UNION

I, K M SHAW, a Notary Public of the County of Mecklenburg, State of North Carolina, do hereby certify that MARY P. MARES, either being personally known to me or proven by satisfactory evidence personally appeared before me this day and acknowledged that he/she is Secretary of William Trotter Company, a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was voluntarily signed in its name by its President, sealed with its corporate seal and voluntarily attested by him/her as its Secretary for the purposes stated therein.

WITNESS my hand and official seal this 2<sup>ND</sup> day of AUGUST, 2006.  
[Signature]  
Notary Public

My Commission Expires: July 9<sup>TH</sup>, 2007



Drawn by and Mail to:  
Michelle C. Psaroudis, Esq.  
McMillan & Terry, P.A.  
6101 Carnegie Blvd., Suite 310  
Charlotte, North Carolina 28209

Exhibit A

Legal Description of the Property

BEING all of Lots 1-25, inclusive and Lots 64-67, inclusive, of POPLAR FOREST, Phase 1, Map 1 as shown on a map thereof recorded in Map Book 44 at Page 105 as revised in Map Book 45 at Page 231 in the Mecklenburg County Public Registry, reference to which map is hereby made for a more particular description.



JUDITH A. GIBSON  
REGISTER OF DEEDS, MECKLENBURG  
COUNTY & COURTS OFFICE BUILDING  
720 EAST FOURTH STREET  
CHARLOTTE, NC 28202

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