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SHIRLEY B. WALLACE
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Prepared by and return to:
John M. Logsdon, McElwee Firm, PLLC
906 Main Street, North Wilkesboro, NC 28659

NORTH CAROLINA

ASHE COUNTY

**DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS FOR
TIMBERWILDE**

THIS DECLARATION is made on the 30th day of November, 2005 by
TIMBERWILDE DEVELOPERS, LLC., a North Carolina limited liability company,
hereinafter referred to as "Declarant" or "Developer."

WITNESSETH:

WHEREAS, Declarant is the owner of certain real estate located in Ashe County, North Carolina, which is more particularly described as follows:

BEING ALL the property, including all lots, common areas, rights of way and easements, as shown on the plat entitled "Timberwilde" recorded in Plat Book 6, Page 268 of the Ashe County Registry of Deeds, to which reference is made for a more particular description.

WHEREAS, Declarant proposes to sell and convey certain lots shown on the aforesaid plat to be used for residential purposes and to develop said lots and additional property which may be acquired by the Declarant into a well-planned community; and

WHEREAS, the Declarant, prior to selling and conveying the residential lots, desires to impose upon such lots certain mutual and beneficial restrictions, covenants and conditions and charges (hereinafter collectively referred to as "restrictions") for the benefit and complement of all of the residential lots in the subdivision in order to promote the best interests and protect the investments of the Declarant and prospective owners;

ARTICLE I Definitions

As used in this Declaration, the following words and phrases shall have the following meanings:

Association means and refers to the Timberwilde Property Owners' Association.

By-laws means the by-laws adopted by the Timberwilde Property Owners' Association, Inc.

Board of Directors or *Board* means the board of directors of Timberwilde Property Owners' Association, Inc.

Common area means all the real property owned by the Association for the common use and enjoyment of the Owners of Lots within the Property.

Common expenses means all sums lawfully assessed by the Association against its Members, expenses of administration, maintenance, repair or replacement of Common Areas, and/or Landscaped Rights of Way, private storm water devices and private sanitary sewer lines and facilities, ad valorem expenses for payment of taxes and assessments levied against the Common Properties, expenses declared to be or described as Common Expenses by the provisions of this Declaration, premiums for hazard, liability, or other insurance as may be obtained by the Association and expenses agreed by the members of the Association to be Common Expenses of the Association.

Lot means any improved or unimproved parcel of land, with delineated boundary lines, appearing on any recorded subdivision map of the Property, including such parcels delineated on any amendment, with the exception of the common area and any rights of way dedicated for public use.

Owner means the record owner, whether one or more persons or entities, of the fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the repayment of debt or performance of an obligation.

Property or *Development* means the property described on page 1 of this declaration and any additions as may be subjected to this declaration by amendment.

Association Member means every person that holds membership with voting rights in the Timberwilde Property Owners' Association, Inc.

Wildlife Club means Ashe County Wildlife Club, Inc., a North Carolina corporation

ARTICLE II
Property Rights and Easements

A. Every owner shall have a 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 right of the Association to impose reasonable regulations for the use and enjoyment of the Common Area and improvements thereon, which regulations may further restrict the use of the Common Area, and the right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area.

B. The Declarant hereby conveys for itself, its successors and assigns, that it will convey fee simple title to the Common Areas to the Association, free and clear of all encumbrances and liens, except utility and storm drainage easements.

C. Every Owner shall have the right to use and enjoy the easements and roads shown on the recorded plats of the Development and every Lot upon which portions of the easements are located is subject to the use of the easements by all other Owners, their lessees, tenants, invitees and licensees. The easements shall be appurtenant to and shall pass with the title of every Lot subject to the following:

(1) the Declarant hereby reserves the right, but not the obligation, to control the use of all streets and roads, including the right to prohibit any use thereof, which, in its sole opinion, would or might result in damage to said streets or roads, or improvements thereon, or which might be or become an annoyance or nuisance to the neighborhood; and the Declarant further reserves the right, but not the obligation, to control and prohibit parking on any part of all said streets and roads;

(2) the Owner, by accepting title to the property conveyed subject to this Declaration, agrees that ingress and egress to his Lot may be limited to existing roads in the Development or roads in the Development built or to be built by the Developer.

(3) every Lot shall be conveyed with a perpetual right to use any roadway which forms a part of the system of roads in the Development as the same are shown on any recorded plats of the Development.

(4) the Developer reserves the right for itself, its successors and assigns, but not the obligation, to maintain gates controlling access to such roads, and the right to limit access to the Lots to Owners, lessees, tenants, invitees and licensees.

D. Each lot is subject to easements for the purpose of affording drainage and the installation of utilities (including, but not limited to electricity, telephone, natural gas, cable television, water and sewer) within the rights of way for streets shown on the recorded subdivision plat, within a ten feet wide strip adjoining the right of way for any street, and within a ten feet wide strip adjoining any interior lot line.

ARTICLE III

Property Owners' Association

A. A Corporation named Timberwilde Property Owners' Association, Inc. has been or will be formed pursuant to the rules and requirements of the North Carolina Nonprofit Corporation Act. Its primary purposes are to own, manage, maintain and operate the Common Areas; to maintain the roadways within the Development; and to enforce the restrictions contained herein.

B. Each Owner of a Lot in the Development shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot of the development. The Declarant, by this declaration, and the Owners, by their acceptance of individual deeds to the Lots, covenant and agree with respect to the Association that:

1) For so long as each is an Owner of a Lot within the Development, each will perform all acts necessary to remain in good and current standing as a member of the Association

2) Each shall be subject to the rules and regulations of the Association with regard to ownership of a Lot.

C. The Association shall have two classes of voting membership:

1) Class A members shall be all Owners with the exception of the Developer. Class A members shall be entitled to one vote for each Lots owned. When more than one person holds an interest in any Lots, all such persons shall be members. The vote for such Lots shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot; fractional voting with respect to any Lot is prohibited.

2) The Developer, its successor and assigns, shall be a Class B member and shall be entitled to three (3) votes for each Lot owned. Class B membership shall cease and be converted to Class A membership when the Developer shall own eleven or fewer Lots within the Development. Provided, however, that if Developer conveys any Lot and subsequently re-acquires such Lot, Developer shall be deemed to be a Class A member as to that lot and entitled to one vote for each such re-acquired lot.

ARTICLE IV

Maintenance and Assessments

A. Each owner of a Lot in the Development, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association annual assessments or charges and special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. Developer shall not be obligated to pay assessments on any Lot which it may own unless such Lot has been conveyed to another Owner and thereafter reacquired by Developer.

B. The annual and special assessments, together with the interest, costs, and reasonable attorneys' fees necessary to collect such assessments, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a rate of eight percent (8%) per annum. The lien of the assessments provided herein shall be subordinate to the lien of any first mortgage and ad valorem taxes. Each assessment, together with interest, costs, and reasonable attorneys' fees shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for the delinquent assessment shall not pass to his successors in title unless expressly assumed by them.

C. The assessments levied by the Association shall be used exclusively to promote the health, safety, and welfare of the residents of the Development. In particular, the assessments may be used for payment of Common Expenses, for maintenance and repair of access roads and hiking easements, for enforcing and carrying out the terms and provisions hereof and any amendment supplementing this Declaration, and for carrying out the duties and the purposes of the Association.

D. All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense of operating and managing the property, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation, and the By-laws. As monies for any assessment are paid unto the Association by any Lot owner, the same may be commingled with monies paid to the Association by the other Lot owners. Although all funds and common surplus, including other assets of the Association, and any increments thereto or profits derived therefrom shall be held for the benefit of the members of the Association, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Lot. When a Lot owner shall cease to be a member of the Association by reason of his divestment of ownership of his Lot, by whatever means, the Association shall not be required to account to such owner for any share of the fund or assets of the Association, or which may have been paid to the Association by such owner, as all monies which any owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the property.

E. The amount of the annual assessment shall be established by the Board of Directors as specified in the by-laws of the Association. The initial annual assessment will be \$400.00 per year. Special assessments for capitol improvements may be levied anytime during the calendar year, for any purpose deemed necessary by the membership. Procedure for voting and notice of meetings to discuss and take action on annual or special assessments shall be as specified in the by-laws of the Association. Both annual and special assessments shall be a uniform amount for each Lot in the Development. The Developer shall not be required to pay either annual or special assessments for unsold Lots in the Development.

ARTICLE V
Architectural Control

A. In order to insure that all homes in the Development will blend into the environment and to create as much natural harmony as practical, the Association reserves the right to control all proposed building plans and other changes to the exterior portions of any dwelling.

B. No residence, building, fence, wall, outside antennae, satellite dish or other structure shall be erected upon the property comprising the Development, nor shall any alteration to the exterior part of any improvements on any Lot be commenced without the prior written consent of the Board of Directors of the Association, or by an Architectural Committee composed of three or more representatives appointed by the Board.

C. No mobile homes, manufactured homes shall be permitted to be placed or allowed to remain on any Lot. Modular homes or systems-built homes must specifically be approved by the Board of Directors or Architectural Committee. The Board of Directors may establish written Building Standards to be used by the Architectural Committee as the criterion for the approval of proposed improvements.

D. Plans and specifications showing the proposed building or other structure or changes to the exterior portion of any improvements on any Lot, shall be submitted to the Board or Architectural Committee for its approval. Such plans and specifications shall include a site plan showing the location of the proposed improvements relative to the exterior boundary lines of the lot. The Board or Architectural Committee specifically reserves the right to control absolutely and solely the precise site and location of any house or dwelling and all other structures upon all lots.

E. In the event said Board or Architectural Committee takes no action on the plans and specifications submitted for their review within 30 days after receiving said plans and specifications, the plans and specifications submitted shall be deemed to be approved and no further action will be necessary by the applicant. Provided, however, that in the event no action is taken within the prescribed time, the following restrictions shall apply:

(i) The residence must be constructed of logs or with log siding.

(ii) No dwelling shall be constructed or permitted to remain on any lot having an area of the main structure, heated and finished, exclusive of open porches and decks, of less than 1,600 square feet in the case of a one-story structure, not less than 1,200 square feet of ground floor area in the case of a multi-story structure

(iii) The building set-backs stated in Article VI, Section F shall apply without variation.

The purpose of this provision is to insure compatibility of building styles within the Development, while allowing variations specifically approved by the Board or Architectural Committee.

ARTICLE VI Use Restrictions

A. All lots in this subdivision shall be used for residential purposes only. No structure shall be erected, altered or placed on any lot other than one detached, single family dwelling. Provided, however, a small, one-story accessory building which may include a detached, private garage or carport for not more than three cars. A guest suite or a like facility without a kitchen may be included as part of the accessory building, but such suite may not be rented or leased except as part of the entire premises, including the main dwelling.

B. No lot may be subdivided and sold or used for the construction thereon of more than one residence or dwelling, nor may any lot be used by any purchaser as a means of access or easement to any other property including any adjoining property. Provided, however, that the Developer reserves the right to designate any lot at that time remaining in the ownership of the Developer for use as a right of way or easement to provide access from the streets within the Development to any other adjoining property. Provided further, however, that in the event one owner purchases two or more lots and desires or wishes to build on the total tract made by combining the lots, then the above setback provisions will be waived and not apply to the interior lot line or lot lines of said adjacent lots forming a larger tract, but said building setback lines shall still apply to the overall tract or lot made up of a combination of the lots. Provided further that if lot owners having one or more lots between their respective lots and purchase a portion of said lot or lots so that their overall tracts become adjacent to one another by each acquiring one-half or some other portion of a prior existing, individual lot, then, in that event, the above building setback lines shall no longer apply to the original lot lines but shall apply to the new combined lot lines.

C. No unlawful, noxious or offensive activities shall be conducted upon the property comprising the Development nor shall anything be done thereon which may or may become an annoyance or nuisance to the neighborhood. It shall be the responsibility and obligation of each lot owner to prevent the development of any unclean, unsightly or unkept condition of buildings or grounds which would tend to substantially decrease the beauty or the neighborhood as a whole or the specific lot or area in question.

D. No animals, livestock or poultry of any kind may be kept on any lot or in any dwelling, except normal household pets, which must be confined to the Owners' Lot or on a leash at all times. Violations of this restriction may result in fines as established by the Association, or a requirement that the animal(s) be removed from the Development, or both.

E. No structure of a temporary character shall be placed upon any lot at any time; provided, however, that this prohibition shall not apply to shelters used by the contractor during the construction of the main dwelling house, it being clearly understood that these temporary

structures may not, at any time, be used as residences or permitted to remain on the lot after completion of construction of the permanent improvements thereon.

F. No building shall be located on any lot nearer than thirty (30) feet from the front property line, nor nearer than thirty (30) feet from the property line along a street at the side of a lot, nor nearer than twenty (20) feet from an interior side property line, nor nearer than thirty (30) feet from the rear property line. Provided, however, that the Architectural Committee shall have the authority to grant adjustments to the building setback requirements if it is found that these requirements impose an undue hardship on an Owner. Provided further, that if Owners having one or more lots between their respective lots purchase a portion of said lots so that their overall tracts become adjacent to one another by each acquiring a portion of the prior existing lot, the above building setback lines shall no longer apply to the original lot lines but shall apply to the new combined lot lines. In no event shall any building be located on a site nearer to a property line than the minimum setback requirements of the Ashe County Subdivision Regulations then in effect. For the purposes of this section, steps, carports and open porches shall be considered a part of a building.

G. All houses and other structures must be completed within one year after the start of construction, except where completion is impossible or would result in great hardship to the owner or builder due to strikes, fires, weather, or national emergencies or calamities. The Association may promulgate and distribute reasonable rules and requirements to be implemented during construction, each Owner hereby agrees to abide by such requirements during construction.

H. No commercial signs or other similar signs shall be erected or maintained on any lot except with the written permission of the Board or Architectural Committee, except a single sign as is customarily used in association with the sale of residential properties.

I. The Developer reserves a perpetual, alienable and assignable easement and right on, over and under the ground to erect, maintain and use electrical and telephone poles, wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of the electricity, telephone equipment, gas, sewer, water, and other public conveniences or utilities on, in or over the street side ten (10) feet of each lot, and ten (10) feet along each side of each lot, and ten (10) feet across the rear line of each lot, and such areas as are shown on any duly recorded plat of the development (or any additions thereto) of record in the office of the Register of Deeds of Ashe County. Provided further, that the Developer may cut drainageways for surface water wherever and whenever such action may appear to the Developer to be necessary in order to maintain reasonable standards of health, safety and appearance. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, grade the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety, and appearance. The Developer further reserve the right to locate wells, pumping stations and tanks within residential areas on any walkways or common residential areas designated for such use on the recorded plat or plats of the development, or to locate the same upon any Lot with the permission of the Owner of such lot, or upon any lot still owned by the Declarant. Such rights may be exercised by any

licensee of the Developer, but this reservation shall not be considered an obligation of the Developer to provide or maintain any such utility or service.

ARTICLE VII Ashe County Wildlife Club

A. Each Owner if qualified is entitled to be a member of Ashe County Wildlife Club, Inc., a North Carolina corporation established for the purpose of promoting sportsmanship, conservation of wildlife, the safe use of firearms and other sporting equipment, and the cooperation with local, state and federal agencies in the protection and restoration of our natural ecological environment. Membership in the Wildlife Club shall be a privilege associated with Lot ownership, and shall pass with title to each Lot.

B. The Developer shall pay the initial membership fee to the Wildlife Club at the time of the first conveyance of each Lot. A transfer fee shall be paid to the Wildlife Club upon each subsequent transfer of title of a Lot, in an amount established by the Wildlife Club but not less than \$500. The transfer fee shall be paid by or on behalf of the purchaser of any Lot to the Association as a Special Assessment at the time of transfer of title to such Lot. Failure to pay the transfer fee shall give rise to a lien against the Lot and may be collected by the Association in the same manner as other assessments, as provided Article IV.

C. Each Owner shall comply with the bylaws, rules and regulations of the Wildlife Club, and shall be subject to such disciplinary procedures as provided therein, including, without limitation, termination of membership privileges.

D. By acceptance of title to any Lot, each Owner acknowledges and accepts the following:

- i. The property of the Wildlife Club adjoins Timberwilde;
- ii. The activities of the Wildlife Club may cause noise which can be heard from such Lot, including noises association with shooting ranges and other use of firearms.
- iii. Participation in activities of the Wildlife Club may involve certain risks, including those normally associated with firearms, water sports, fishing and hiking.

Each Owner shall hold the Developer, the Association and the Wildlife Club harmless from and against any claims arising out of the location and proximity of the Wildlife Club, including claims for nuisance relating to noise or other activities normally associated with organizations similar to the Wildlife Club. Each Owner further assumes the risks of participating in the activities of the Wildlife Club.

ARTICLE VIII

Annexation of Additional Properties

Developer and its successors and assigns, shall have the right, but not the obligation, to add such additional Lots to the Development as they might desire. Developer and its successors and assigns shall have the absolute right to amend this Declaration and any exhibits hereto in order to include such additional Lots and to make all such other amendments as may be necessary, proper, or convenient to effectuate the inclusion of additional Lots. Any such additions to this project will subject the Owners thereof to these covenants, conditions, and restrictions. All future owners of Lots added to this project at a later date will also be subject to all assessments levied against their Lot pursuant to this Declaration. It is further understood that such expansion and annexation may include Common Areas to be used by all of the Lot Owners.

ARTICLE IX General Provisions

A. The Association, or any owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens or charges now or hereafter imposed by the provision of the Declaration. Failure by the Association or by any owner to enforce any covenant or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

B. All of the provision hereof shall be construed according to the laws of the State of North Carolina, provided, however, that it is specifically intended that the provisions hereof and of all exhibits hereto shall be liberally construed to effectuate the purposes set forth. Invalidation of any one of the covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

C. The covenants and restrictions of this Declaration shall run with and bind the land for a term of 20 years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of 10 years.

D. The remedies provided by this Declaration are in addition to, cumulative with and are not in lieu of other remedies provided by law. In the event of a suit or action to enforce any provision of this Declaration or to collect any money due hereunder or to foreclose a lien, the unsuccessful party in such suit or action shall pay to the prevailing party all costs and expenses, including attorney's fees, that the prevailing party has incurred in connection with the suit or action.

E. This Declaration may be amended during the first 20 year period by an instrument signed by Owners (including the Developer) representing not less than 90% of the eligible votes of the Association, and thereafter by an instrument signed by Owners (including the Developer) representing not less than 75% of the eligible votes. Any amendment must be properly recorded.

F. The rights and obligations of the Developer may be assigned to the Association at such time the Developer owns fewer than 25% of the Lots within Timberwilde development, through the recording of a written document signed by the Declarant and recorded in the Office

of the Register of Deeds for Ashe County. In addition, the rights and obligations of the Developer may be assigned to successor who acquires all or substantially all of Developer's interest in Timberwilde development, provided that a written document signed by the Developer and its successor is recorded in the Office of the Register of Deeds for Ashe County, which document shall indicate that the successor is assuming the responsibilities and obligations of the Developer.

ARTICLE X
Rights Reserved Unto Institutional Lenders

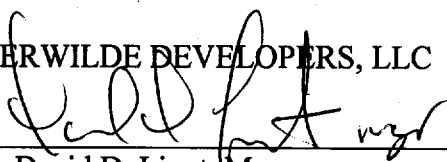
"Institutional Lender" as the term is used herein, shall mean and refer to banks, savings and loan associations, insurance companies or other firms or entities customarily affording loans secured by first liens on residences.

So long as any Institutional Lender shall hold any first lien upon any Lot, or shall be the Owner of any Lot, such Institutional Lender shall have the following rights:

- (a) To inspect the books and records of the Association during normal business hours.
- (b) To be given notice by the Association of the call of any meeting of the membership to be held for the purpose of considering any proposed amendment to this Declaration or the Articles of Incorporation or By-Laws of the Association.
- (c) To receive notice of any condemnation of the Common Area or any portion thereof.
- (d) To have the right to approve of any alienation, release, transfer, hypothecation or other encumbrance of the Common Area, other than those specific rights vested in the Association.

Whenever any Institutional Lender desires to avail itself of the provisions of this Article, it shall furnish written notice thereof to the Association by CERTIFIED MAIL at the address shown in the Articles of Incorporation identifying the Lot or Lots upon which any such Institutional Lender holds any first lien or identifying any Lot or Lots owned by such Institutional Lender and such notice shall designate the place to which notices, reports or information are to be given by the Association to such Institutional Lender. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust on a Lot.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be signed in its name by its Manager on this, the 30th day of November, 2005.

TIMBERWILDE DEVELOPERS, LLC
By: 
David D. Liput, Manager

FLORIDA, ORANGE COUNTY

I, Melissa Fry a Notary Public of the county and state aforesaid, certify that David Liput personally appeared before me this day and acknowledged that he is Manager of Timberwilde Developers, LLC, , a North Carolina Limited Liability Company, and that the foregoing instrument was signed and sealed by him in behalf of the Company by its authority duly given and as the act and deed of the Company.

Witness my hand and official stamp or seal, this the 30th day of November, 2005.

Melissa Fry
Notary Public
My Commission expires: 2/9/08



~~NORTH CAROLINA, ASHE COUNTY~~

~~The foregoing certificate of _____ is certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.~~

~~SHIRLEY B. WALLACE
Register of Deeds for Ashe County~~

~~By: _____
Deputy / Assistant Register of Deeds~~