

DECLARATION OF COVENANTS AND RESTRICTIONS
OF THE WOODCROFT COMMUNITY ASSOCIATION
AND WOODCROFT COMPANY, A NORTH
CAROLINA PARTNERSHIP

THIS DECLARATION, made this 2 day of July, 1984, by Woodcroft Community Association, Inc., a North Carolina non-profit corporation, hereinafter called "Association" and The Woodcroft Company, a North Carolina Partnership hereinafter called "Company".

W I T N E S S E T H:

WHEREAS, the Company is the owner of the real property described in Article II of this Declaration and desires to create thereon a planned development community with a balanced representation of residential, commercial, industrial, and recreational uses to be known as "Woodcroft";

WHEREAS, the Company desires to provide for the preservation of values and for the maintenance of common facilities and services and for a vehicle for the administration and enforcement of covenants and restrictions;

WHEREAS, the Company has caused to be incorporated under the laws of the State of North Carolina, a non-profit corporation, Woodcroft Community Association, Inc., for the purpose of exercising the functions aforesaid, and which are hereinafter more fully set forth;

NOW, THEREFORE, the Company declares that the real property described in Article II, and such additions thereto as may hereinafter be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed, given, donated, leased, occupied and used subject to the covenants, restrictions, conditions, easements, charges, assessments ("Assessments"), affirmative obligations, and liens (all hereinafter sometimes referred to as "the Covenants") hereinafter set forth.

ARTICLE I
DEFINITIONS

The following words and terms when used in this Declaration or any supplemental declaration (unless the context shall clearly indicate otherwise) shall have the following meanings:

- (a) "Association" shall mean and refer to Woodcroft

Community Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

(b) "Woodcroft" shall mean and refer to the lands in Durham, North Carolina, which are shown as a part of Woodcroft on the Company's Master Plan as revised from time to time.

(c) "Company" shall mean Woodcroft Company, a North Carolina partnership, its successors and assigns.

(d) "Developer" shall mean Woodcroft Company, a North Carolina Partnership, its successors and assigns.

(e) "Affiliate" shall mean any corporation more than fifty (50%) percent of the voting stock of which is owned or controlled by the Company or the Developer, and any partnership or joint venture in which the Company or the Developer has more than a fifty (50%) percent equity interest or an interest in fifty (50%) percent or more of the cash flow from such partnership or joint venture.

(f) The "Properties" shall mean and refer to the Existing Property described in Article II hereof, and additions thereto, as are subjected to this Declaration or any Supplementary Declaration under the provisions of Article II hereof.

(g) "Residential Lot" shall mean any subdivided parcel of land located within the Properties for which no building permit has been issued by the appropriate governmental authorities and which parcel is intended for use as a site for a Single Family Detached Dwelling, Single Family "D" Duplex Unit, or Patio Home (or Zero lot line) as shown upon any recorded final subdivision map or any part of the Properties. No parcel shall, however, be classified as a Residential Lot until the first day of the quarter of the year following after all of the following have occurred;

- (1) Recording of a Plat in the Register of Deeds Office of Durham County, North Carolina, showing such Residential Lot;
- (2) The Lot has been placed on an "Inventory List" (as defined in Section 3(c) of Article v) of lots for sale submitted to the Association by the Company, the Company's Affiliates, the Developer, or the Developer's Affiliates, in those cases where the Lot is owned by the Company, the Company's

Affiliates, the Developer, or the Developer's Affiliates.

- (3) The Lot is sufficiently developed to be subject to Assessment, in the sole and uncontrolled discretion of the Board of Directors, as a Residential Lot in those cases where the Lot is owned by any third party other than the Company, the Company's Affiliates, the Developer, or the Developer's Affiliates.

(h) "Multiple-Family Tract" shall mean any unimproved parcel of land located within the Properties, intended for development of Attached Residential Units including Townhouses, Condominiums and Apartments as defined and controlled by the applicable zoning for Woodcroft. For the purposes of this Declaration, a parcel of land shall not be deemed a "Multiple-Family Tract" until such time as its exact metes and bounds have been surveyed and a plat thereof identifying or designating such property for Multiple-Family use is recorded in the Register of Deeds Office of Durham County, North Carolina, provided, however, that any property within said parcel of land which also qualifies as an "Exempt Property" as defined in paragraph (n) of this Article I shall not be deemed part of said Multiple-Family Tract for the purposes of calculating Assessments or votes. A Multiple-Family Tract, or portions of said Multiple-Family Tract, shall be deemed to be unimproved until the improvements being constructed thereon are sufficiently complete to be subject to Assessment, in the sole and uncontrolled discretion of the Board of Directors, as improved properties as defined in Section 3(d) of Article V.

(i) "Public or Commercial Site" shall mean any unimproved parcel of land within the Properties, intended for use as a site for improvements designed to accomodate commercial, governmental, or business enterprises to serve Residents of Woodcroft and/or the public, including, but not limited to: business and professional offices; facilities for the retail sale of goods and services; banks and other financial institutions; social clubs; restaurants; hotels, motels, inns; theaters; lounges; indoor and outdoor recreational facilities; hospitals and medical clinics; laboratories and other research and development facilities; commercial warehouses; transportation terminals or stations; automobile parking facilities, gasoline stations, industrial plants; and residential dwelling units within multi-use public or commercial buildings or facilities; provided, however, that a "Public or Commercial Site" shall not include

property upon which improvements are to be built which also qualifies as a Multiple-Family Tract, nor shall it include any property which also qualifies as "Exempt Property" as defined in paragraph (n) of this Article I. For the purposes of this Declaration, a parcel of land shall not be deemed a "Public or Commercial Site" until such time as its exact metes and bounds have been surveyed and a plat thereof identifying or designating such property as a Public or Commercial Site is recorded in the Register of Deeds Office of Durham County, North Carolina. A Public or Commercial Site, or portions of said Site, shall be deemed to be unimproved until the improvements being constructed thereon are sufficiently complete to be subject to Assessment, in the sole and uncontrolled discretion of the Board of Directors, as improved properties as defined in Section 3(e) of Article V.

(j) "Development of Unit Parcel" shall mean and refer to any parcel or tract of land within the Properties, conveyed by the Company to any third party under Covenants and Restrictions permitting the division of such parcel or tract into smaller land units such as Residential Lots, Multiple-Family Tracts, or Public or Commercial Sites. For the purposes of this Declaration, a parcel of land shall not be deemed a "Development Unit Parcel" until such time as its exact metes and bounds have been surveyed and a plat thereof identifying or designating such property as a development Unit Parcel is recorded in the Register of Deeds Office of Durham County, North Carolina; provided, however, that a "Development Unit Parcel" shall not include any property which also qualifies as "Exempt Property" as defined in paragraph (n) of this Article I. A Development Unit Parcel, or portions thereof, shall remain classified as such until further subdivided and classifiable as a Residential Lot or Lots, Multiple-Family Tract, or Public or Commercial Site pursuant to Section 3(h) of Article V.

(k) "Unsubdivided Land" shall mean and refer to all land in the Existing Property described in Article II hereof, and additions thereto, as are subjected to this Declaration of any supplemental declaration under the provisions of Article II hereof, which has not been subdivided into and classified as Residential Lots, Multiple-Family Tracts, Public or Commercial Sites, or Development Unit Parcels, through metes and bounds subdivision plats recorded in the Register of Deeds of Durham County, North Carolina; provided, however, that "Unsubdivided Land" shall not include any property which also qualifies as "Exempt Property" in paragraph (n) of this Article I. Unsubdivided Land, or

portions thereof, shall remain classified as such until subdivided and classifiable as a Residential Lot or Lots, Multiple-Family Tract, Public or Commercial Site, or Development Unit Parcel pursuant to Section 3 of Article V.

(l) "Family Dwelling Unit" shall mean and refer to any improved property or any property formerly classified a Residential Lot for which a building permit has been issued by the appropriate governmental authorities, which property is located within the Properties and intended for use as a Single Family Dwelling, including without limitation, any Single-Family Detached Dwelling, Single Family "D" Duplex Unit, Patio Home (or Zero lot line), Condominium Unit, Townhouse Unit, Cooperative Apartment Unit or Apartment Unit located within the Properties.

(m) "Public or Commercial Unit" shall mean and include any improved parcel of land within the Properties which is intended and designed to accommodate public, commercial, governmental, or business enterprises to serve Residents and/or the public, including, but not limited to, all those enterprises to serve Residents and/or the public, including, but not limited, to all those enterprises enumerated in subparagraph (i); provided, however, that a "Public or Commercial Unit" shall not include any property which also qualifies as "Exempt Property" as defined in paragraph (n) of this Article I. A parcel of land shall not be deemed to be improved until the improvements being constructed on said parcel are sufficiently complete to be subject to Assessment, in the sole and uncontrolled discretion of the Board of Directors, as improved properties.

(n) "Exempt Property" shall mean and refer to the following classifications of property within the Properties which, for the purposes of this Declaration, shall not be deemed "Multiple-Family Tracts", "Public or Commercial Sites", "Development Unit Parcels", "Unsubdivided Land", or "Public or Commercial Units", and shall be expressly excepted from the definitions thereof:

- (1) All land designated on the Master Plan for intended use, or by actual use if applicable, for (i) indoor and outdoor recreational and community facilities owned and operated by the Company, the Company's Affiliates, the Developer, the Developer's Affiliates, the Association, and any other home owners association (hereinafter referred to as "Home Owners Association") organized by the Company or by others with the consent of the Company within

the Properties if such Home Owners Association operates such facilities for the private use of its members or the Members of the Association, including, but not limited to, tennis courts, platform tennis courts, handball courts, squash courts, basketball courts, swimming pools, gymnasiums, golf courses, ice skating rinks, and any showers, locker rooms, or other club facilities associated with such uses, putting greens, playgrounds, ball fields, spectator viewing pavilions, gazebos, picnic shelters, picnic tables, parks, horseback riding stables, riding arenas, riding trails, walking trails, bike trails, boardwalks, decks, bicycle rental facilities, operating farms and/or animal pastures, wildlife conservancies and feeding stations, nature interpretive areas, amphitheaters, community meeting facilities, and all rest room facilities, parking lots, service buildings, and concession-type food services associated with all such uses; and (ii) places of worship; libraries; fire stations and rescue squads; post offices; day care centers, nursery schools, and other schools and instructional centers; non-profit or charitable community, civil, or cultural clubs and institutions; and other similar community facilities which the Board of Directors, in its sole and uncontrolled discretion, may designate as Exempt Properties;

- (2) All lands and any improvements thereon designated in any way as Common Properties or Restricted Common Properties;
- (3) All lands and any improvements thereon committed to the Association through express, written notification by the Company to the Association of intent to convey to the Association, including, without limitation, Intended Common Properties and Intended Restricted Common Properties;
- (4) All lands designated on the Master Plan or on recorded plats as Open Space or Private Open Space (hereinafter referred to, respectively, as "Open Space Areas" and "Private Open Space Areas") as defined in the Declaration of Rights, Restrictions, Affirmative Obligations and Conditions Applicable to All Property in Woodcroft, and any improvements

thereon which are defined in subparagraph (1) of this paragraph (n);

(5) Property which is used for the maintenance, operation and service of facilities within Common Properties, Restricted Common Properties, Intended Common Properties, and Intended Restricted Common Properties, and facilities within Open Space Areas which are defined in subparagraph (1) of this paragraph (n);

(6) Property which is used for the maintenance, operation, and service of utilities within the Properties;

(o) "Owner" shall mean and refer to the Owner as shown by the Real Estate Records in the Register of Deeds Office of Durham County, North Carolina, whether it be one (1) or more persons, firms, associations, corporations, or other legal entities, of fee simple title to any Residential Lot, Family Dwelling Unit, Multiple-Family Tract, Public or Commercial Site, Public or Commercial Unit, Development Unit Parcel, or Unsubdivided Land situated upon the Properties but, notwithstanding any applicable theory of a deed of trust, shall not mean or refer to the mortgages or holder of a deed of trust, its successors or assigns, unless and pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or Tenant of an Owner. In the event that there is recorded in the Office of the Register of Deeds of Durham County, North Carolina, a long-term contract of sale covering any Lot or Parcel of land within the Properties, the Owner of such Lot or Parcel of land shall be the Purchaser under said contract and not the fee simple title holder. A long-term contract of sale shall be one where the Purchaser is required to make payments for the Property or a period extending beyond nine (9) months from the date of the contract and where the Purchaser does not receive title to the Property until all such payments are made, although the Purchaser is given the use of said Property.

(p) "Tenant" shall mean and refer to the lessee under a written agreement for the rent and hire of a Family Dwelling Unit or Public or Commercial Unit in Woodcroft.

(q) "Resident" shall mean and refer to each Owner and Tenant of a Family Dwelling Unit who resides in Woodcroft.

(r) "Member" shall mean and refer to all those Owners and Tenants who are Members of the Association as defined in Section 1 of Article III.

(s) "Master Plan" shall mean and refer to the drawing which represents the conceptual plan for the future development of Woodcroft. Since the concept of the future development of Woodcroft is subject to continuing revision and change by the Company, present and future references to the "Master Plan" shall be references to the latest revision thereof.

(t) "Intended for Use" shall mean the use intended for various parcels within the Properties as shown on the Master Plan of Woodcroft prepared by the Company as the same may be revised from time to time by the Company, or the use to which any particular parcel of land is restricted by Covenants expressly set forth or incorporated by reference in deeds by which the Company has conveyed the property.

(u) "Common Properties" shall mean and refer to those tracts of land with any improvements thereon which are deeded to the Association and designated in said deed or lease as "Common Properties." The term "Common Properties" shall also include any personal property acquired or leased by the Association if said property is designated a "Common Property." All Common Properties are to be devoted to and intended for the common use and enjoyment of the Members of the Association, their guests, and visiting members of the general public (to the extent permitted by the Board of Directors of the Association) subject to the fee schedules and operating rules adopted by the Association. Common Properties shall not include those tracts of land falling within the definition of "Restricted Common Properties" set forth below.

(v) "Restricted Common Properties" shall mean and refer to those tracts of land with any improvements thereon which are deeded to the Association and designated in such deed or lease as "Restricted Common Properties". The term "Restricted Common Properties" shall also include any personal property acquired or leased by the Association if said property is designated a "Restricted Common Property". All Restricted Common Properties are to be devoted to and intended for the common use and enjoyment of Type "A" Members of the Association, guests accompanying such Members, and the Company so long as the Company is a Type "A" Member of the Association, with all use of Restricted Common Properties to be subject to the fee schedules and operating rules adopted