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REGISTRATION

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KENNETH S. JAMES  
REGISTER OF DEEDS  
WAKE COUNTY

**NORTH CAROLINA  
WAKE COUNTY**

**DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR BREELAND PARK SUBDIVISION**

**THIS DECLARATION, made on January 5, 1995, by PALISADES  
PARTNERS, A NORTH CAROLINA LIMITED PARTNERSHIP, (the "Declarant").**

**RECITALS**

**A. Declarant is the Owner of that certain property in Wake County, North Carolina, which is more particularly described in Exhibit A attached (the "Property").**

**B. Declarant will convey the Property subject to the protective covenants, conditions and restrictions described below (together the "Protective Covenants").**

**C. The Property is made subject to the Protective Covenants for the purpose of insuring the best use and most appropriate development and improvement of each Lot; to protect the Owners against such improper use of surrounding Lots as will depreciate the value of the Property; to preserve, so far as practicable, the natural beauty of the Property; to guard against the erection of poorly designed or proportioned structures, and structures built of improper and unsuitable materials; to obtain harmonious color schemes; to insure the highest and best development of the Property; to encourage and secure the erection of attractive structures with appropriate locations on the Lots; to secure and maintain proper set backs from streets and adequate free spaces between structures; and in general to provide adequately for a high type and quality of improvements in the Property and thereby to enhance the values of investments made by the Owners.**

**D. THEREFORE, Declarant declares that all of the Property together with such additions as may subsequently be added shall be held, sold and conveyed subject to the Protective Covenants which shall run with the land and be binding on all parties having any right, title, or interest in the Property or any part thereof, their heirs, successors, and assigns and shall inure to the benefit of each Owner thereof.**

**1. DEFINITIONS.**

**1.1. "Additional Properties" means any real property, other than the Property, subjected to the Protective Covenants.**

**1.2. "Articles" means the Association's Articles of Incorporation.**

**1.3. "Association" means Breeland Park Homeowners Association, Inc., a non-profit**

North Carolina corporation.

1.4. "Association's Board" means the Board of Directors for the Association.

1.5. "Bylaws" means the Association's Bylaws.

1.6. "Common Area" means all real property owned by the Association and the easements granted thereto for the common use and enjoyment of the Owners. The Common Area to be owned by the Association shall be described in deeds to the Association and designated as such on each recorded plat of the Property. Common areas shall also mean all water lines, sewer lines, sewer easements, stormwater ponds, and water retention and detention devices located within the Property which are not otherwise dedicated to a governmental entity or serving only a single Lot.

1.7. "Declarant" means Palisades Partners, a North Carolina Limited Partnership, and its successors and assigns designated as Declarant.

1.8. "Improvements" means any structure of any type or kind, including, but not limited to buildings, outbuildings, parking areas, loading areas, screening walls, retaining walls, hedges, mass plantings, lawns, sidewalks, poles, signs, and utility lines and facilities.

1.9. "Lot" means any plot of land described by a metes and bounds description shown upon any recorded subdivision plat of the Property with the exception of the Common Area.

1.10. "Lot in Use" means any Lot which has been conveyed by the Declarant to a subsequent purchaser. Except, in the event the Lot is a vacant lot, the Lot does not become a Lot in Use until such time as a certificate of occupancy for Improvements on the Lot is initially granted or six (6) months from the date of conveyance, whichever is earlier. In no event shall it mean a Lot owned by the Declarant on which no Improvements have been constructed.

1.11. "Member" means every Person who holds membership in the Association.

1.12. "Owner" means the record owner, whether one or more Persons, of a fee simple title to any Lot, except those having an interest merely as security for the performance of an obligation.

1.13. "Person" means an individual, a trust, an estate, or a domestic corporation, a foreign corporation, a professional corporation, a partnership, a limited partnership, a limited liability company, a foreign limited liability company, an unincorporated association, or other entity.

1.14. "Property" is as defined above, but shall also include any Additional Properties.

1.15. "Subdivision" means Breeland Park subdivision as shown on the recorded subdivision plat(s) of the Property.

2. PROPERTY RIGHTS.

2.1. Title the Common Area: The Declarant shall convey fee simple title in the Common Area to the Association, subject to these Protective Covenants, current and subsequent years ad valorem taxes, and rights-of-way, restrictive covenants and easements of record. Conveyance of title to the Common Area to the Association shall be done promptly after the recording of the plat reflecting that particular Common Area and, in any event, prior to the sale by the Declarant of the first Lot included in that plat.

2.2. Owners' Easement of Enjoyment: Every Owner shall have a right and easement of enjoyment in and to the Common Area (the "Owners' Easement"), including specifically an easement for access, ingress and egress from and to public streets and walkways. The Owners' Easement shall be appurtenant to and shall pass with the title to every Lot subject to the following provisions:

A. Dedication and Transfer of Common Area: The Association's right to dedicate or transfer fee simple title to all or any part of the Common Area to any public agency, authority, utility, or non-profit corporation. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each Class of Members agreeing to the dedication or transfer has been recorded in the appropriate County Registry. Any dedication or transfer shall be made subject to that portion of the Owners' Easement providing for access, ingress and egress to public streets and walkways.

B. Borrowing for Improvements: The Association's right, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and facilities and to mortgage those properties to secure those borrowings; provided the mortgage is subordinate to the Owners' Easement.

C. Rules and Regulations. The Association's right to impose and enforce rules and regulations which may restrict the use and enjoyment of the Common Areas.

D. Additional Easements. The Association and Declarant shall have the authority to grant and/or establish upon, over, under and across the Common Areas further easements (including, but not limited to those provided in these Protective Covenants) as are required for the convenient use and enjoyment of the Property.

2.3. Delegation of Use: Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to his members of his family and tenants who reside at his Lot and to his guests.

### 3. MEMBERSHIP AND VOTING RIGHTS.

3.1. Ownership of a Lot shall be the sole qualification for membership in the Association. The Association's Board may make reasonable rules relating to the proof of ownership of a Lot. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

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

(a) Class A Members shall be all Owners with the exception of the Declarant. Declarant may, however, be a Class A member upon the termination of Class B membership. Class A members shall be entitled to one (1) vote for each Lot owned. When more than one Person holds an interest in any one Lot, all such Persons shall be Members. The vote of that Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Lot. Fractional voting is prohibited.

(b) The Class B Member shall be the Declarant. Class B Members shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership upon the earlier of:

(i) the date the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; provided that the Class B membership shall be reinstated with all rights, privileges, responsibilities and voting power if, after conversion of the Class B membership to Class A membership, additional lands are annexed to the Property by the Declarant as provided in the Declaration; or

(ii) December 31, 1999; or

(iii) the effective date of the Declarant's written consent to termination.

### 4. ANNEXATION OF ADDITIONAL PROPERTIES.

4.1. Annexation by Members: Except as provided in 4.2, Additional Properties may be added and annexed to the Property only if two-thirds (2/3) of each class of all the votes entitled to be cast in such class by Members are cast in favor of annexation.

4.2. Annexation by Declarant: As long as Class B membership exists, the Declarant may, from time to time, annex Additional Properties to the Property without the consent of the Members, if the Declarant should develop an additional tract or tracts of land consisting of any property contiguous to the Property. The annexation will be accomplished by recording with the appropriate Register of Deeds a Declaration of Annexation, duly executed by Declarant, describing the lands annexed and incorporating the provisions of this Declaration. No other action or consent shall be necessary. Subsequent to recordation of the Declaration of

Annexation, the Declarant shall deliver to the Association one or more deeds conveying any property that will be designated as Common Area within the Additional Properties as such designated property is developed. Title to these Common Areas shall be conveyed subject to the same exceptions noted in Section 2.1.

4.3. Reserved Declarant Rights. As long as Class B membership exists, the Declarant reserves the following development rights: (i) to add real estate to the Property in accordance with Section 4.2 of this Declaration; (ii) to add Common Areas; (iii) to reallocate Lots within the Property; and (iv) prior to a conveyance of that real estate to an Owner, to withdraw real estate from the Property.

5. COVENANT FOR MAINTENANCE ASSESSMENTS.

5.1. Lien of Assessments:

5.1.1. The Declarant, for each Lot, covenants, and each Owner of any Lot 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 the Association Annual Assessments and Special Assessments, as described below (together the "Assessments"). Provided, however, that the Association shall also have the authority, through the Association's Board, to establish, fix and levy an individual assessment on any Lot to secure the liability of that Owner to the Association arising from Owner's breach of any of the provisions of this Declaration.

5.1.2. The Assessments shall be set on a calendar year basis (the "Annual Assessment Period") by the Association's Board and may be collected on a monthly or yearly basis as determined by the Association's Board. Annual Assessments shall be charged to each Owner of a Lot in Use. Special Assessments shall be charged to each Lot without regard as to whether or not it is a Lot in Use. Assessments, together with interest thereon and the costs of collection (including reasonable attorney fees), shall be a lien on the applicable Lot from the due date for the assessment as set by the Association's Board, continuing until paid in full, as well as a personal obligation of the person who was the Owner of the Lot at the time when the assessment fell due. The personal obligation shall not pass to that Owner's successors in title unless expressly assumed by the successor.

5.2. Purpose of Assessments: The Assessments shall be used exclusively for the purpose of promoting the beautification of the Property, the health, safety and welfare of the Owners, and the improvement and maintenance of the Common Area. Expenses to be funded with the Assessments shall include, but not be limited to, taxes and assessments, liability insurance, Association operational costs, management fees, and maintenance of the Common Areas (together the "Common Expenses"). The Association shall maintain a reserve fund for periodic maintenance, repair, and replacement of improvements to the Common Area.

**5.3. Annual Assessments:**

5.3.1. On or before December 1st of each year, the Association's Board of Director's shall adopt the Budget (as defined below) for the upcoming Annual Assessment Period. The annual budget for the Association shall include all anticipated revenues (including revenues from Annual Assessments to be charged in the next Annual Assessment Period - the "Anticipated Annual Assessments") and anticipated costs for the Association for the upcoming Annual Assessment Period (together the "Budget"). The Anticipated Annual Assessments for the approved Budget shall be the basis for calculating the Annual Assessment to be charged each Owner for the upcoming Annual Assessment Period.

**5.3.2. Notwithstanding the above to the contrary:**

(a) Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum Annual Assessment shall be \$60.00; and

(b) An annual increase in the Annual Assessments shall not be more than twenty (20%) percent except by approval by two-thirds (2/3) of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose.

5.3.3. As long as Declarant has a majority of the total votes, Declarant will loan the Association any money to the extent that Annual Assessments paid by the Owners are inadequate. This advance shall be to the Association and on terms generally available to Declarant from its lending institution. Declarant shall also be responsible for the payment of Assessments as otherwise required by this Article.

5.4. **Special Assessments:** In addition to the Annual Assessments, the Association may levy in any Annual Assessment Period a special assessment applicable to that year only (the "Special Assessment") for the purpose of defraying in whole or in part the cost of any unexpected expense. A Special Assessment shall require the assent of two-thirds (2/3) of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose.

5.5. **Fines.** The Association's Board may impose fines against any Lot for a failure to comply with the Protective Covenants. These fines shall be treated as a Special Assessment otherwise due to the Association from that Owner. Fines shall be paid not later than thirty (30) days after notice of the assessment is given to the offending Owner. These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled. Any fine paid by the offending Owner shall nevertheless be deducted from or offset against any damages that the Association may otherwise be entitled to recover by law from that Owner. Fines shall be as follows:

- (a) First non-compliance or violation: a fine not in excess of Fifty Dollars (\$50.00).
- (b) Second non-compliance or violation: a fine not in excess of One Hundred Dollars (\$100.00).
- (c) Third and subsequent non-compliance or violation, or violations that are of a continuing nature: a fine not in excess of One Hundred Dollars (\$100.00) for each week of continued violation or non-compliance.

5.6. Uniform Rate of Assessment. Both Annual Assessments and Special Assessments must be fixed at a uniform rate for all Lots in Use or Lots, as the case may be. Provided, however, that the Association shall also have the authority, through the Board of Directors, to establish, fix and levy a Special Assessment on any Lot to secure the liability of that Owner to the Association arising from that Owner's breach of any of the provisions of this Declaration.

5.7. Date of Commencement of Annual Assessment/Due Dates. The Annual Assessments shall commence as to a Lot on the first day of the month following the date it becomes a Lot in Use. The first Annual Assessment shall be adjusted according to the number of months remaining in the calendar year. Written notice of the Annual Assessment shall be sent to every Owner subject thereto at least fifteen (15) days in advance of each Annual Assessment Period. The due date shall be established by the Board of Directors. The Association shall, upon demand at any time, furnish a certificate in writing signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. These certificates shall be conclusive evidence of payment of any Assessment as to third parties acting in reliance on the statement.

5.8. Non-Payment of Assessment Remedies of the Association. Any Assessments which are not paid when due shall be delinquent. The Association shall have the option to declare the outstanding balance of any Assessment due and payable if any installment thereof becomes delinquent. If the Assessment is not paid within thirty (30) days after the due date, the assessment shall incur a late charge of \$25.00 and bear interest from the date of delinquency at the rate set by the Association's Board and the Association may bring an action at law against the responsible Owner and/or foreclose the lien against the applicable Lot. Interest, costs, and reasonable attorney fees of any such action shall be added to the amount of the delinquent Assessment. Each Owner, by the acceptance of a deed to a Lot, expressly vests in the Association, its agents or assigns, the right and power to bring all actions against the Owner personally liable for the collection of a debt and to enforce the lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or a deed of trust lien on real property. Each Owner also expressly grants to the Association a power of sale in connection with foreclosure of a lien for Assessments. The lien provided for in this Article shall be in favor of the Association acting on behalf of the Owners, which shall have the power to bid in at foreclosure and to acquire and

hold, lease, mortgage and convey the foreclosed Lot. No Owner may waive or otherwise escape liability for Assessments by non-use of the Common Area or abandonment of his Lot.

5.9. Subordination of the Lien. The lien of the Assessments shall be subordinated to the lien of the first mortgage on a Lot. Except in those instances described below, the sale or transfer of a Lot shall not release or otherwise affect the lien of delinquent Assessments. Provided the Association is given prior written notice of such, the sale or transfer of a Lot pursuant to the foreclosure of a first mortgage or pursuant to a deed in lieu given in satisfaction of a first mortgage shall extinguish the lien of the delinquent Assessments for that Lot. In no event, however, shall a sale or transfer relieve the Lot from liability for any Assessments subsequently becoming due or from the lien thereof.

5.10. Exempt Property. All Lots dedicated to and accepted by a local public authority and the Common Area shall be exempt from the Assessments.

## 6. INSURANCE.

6.1. Coverage. The Association shall obtain a broad-form public liability policy covering all Common Area and all damage or injury caused by the negligence of the Association or any of its agents. This insurance may include coverage against vandalism. All persons responsible for or authorized to expend funds or otherwise deal in the Association's assets shall first be bonded by a fidelity insurer to indemnify the Association for any loss or default in the performance of their duties. This coverage shall be in an amount equal to at least one-half the Annual Assessment plus reserves accumulated. The Association shall also obtain such other insurance coverage as it deems desirable and necessary.

6.2. Ownership/Proceeds. All contracts of insurance purchased by the Association shall be for the benefit of the Association and its mortgagees, if any, as their interest may appear, and the Owners, and shall provide that all proceeds thereof shall be payable to the Association as insurance trustee. The sole duty of the Association as insurance trustee shall be to receive any proceeds as are paid and to hold them in trust for the purposes stated in these Protective Covenants. The proceeds received by the insurance trustee shall be distributed to or for the benefit of the appropriate beneficiary(ies).

6.3. Premiums. Premiums for contracts of insurance purchased by the Association shall be paid by the Association and shall be included in Common Expenses.

6.4. Prohibited Acts. No Owner shall do or keep anything on the Property which shall cause an increase in the premiums for or the cancellation of any insurance maintained by the Association.



## 7. EASEMENTS.

7.1. **Blanket Utility Easement.** A blanket easement upon, across, over, and under all of the Common Area is reserved for ingress and egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to water, sewer, gas, telephones, and electricity. Notwithstanding such, no sewers, electrical lines, water lines, or other utility equipment or facilities may be installed or relocated in the Common Area except as approved by the Declarant or the Association (after the termination of Class B membership). Should any utility furnishing a service covered by this general easement request a specific easement by separate recordable documents, Declarant or the Association (after the termination of Class B membership) will have the right and authority to grant such easement. The easement provided for in this Article shall in no way affect other recorded easements on the Property.

7.2. **Association Easement.** An easement is granted to the Association, its officers, agents, employees, and to any management company retained by the Association to enter in or to cross over the Common Area. Every Lot shall be subject to an easement for entry by the Association (and the Persons described above) for the purpose of correcting, repairing, or alleviating any emergency condition which arises upon any Lot and that endangers any improvement or portion of the Common Area.

7.3. **Temporary Construction Access and Disturbance Easement.** An easement over, through and to the Common Area is reserved and established in favor of Declarant and all Owners for purposes of ingress, egress, regress, conduct of construction activity, storage of construction materials and the necessary disturbance of land for construction on any Lot. This easement shall be used only as and when necessary to facilitate the construction of improvements at any time on a Lot by Declarant or Owner as well as the extension of driveways, sidewalks, underground drainage and utility conduit and hookups to any dwelling structure situated on a Lot. In each instance, the Person exercising these easement rights shall use its best efforts to minimize any soil or land disturbance activities, and shall restore the land to a condition which is graded smooth and in harmony with surrounding areas. Should that Person fail to restore the disturbed land as required, the Association may restore the land to the required condition and that Person shall indemnify the Association for the reasonable expense incurred in performing that restoration. This easement shall be restricted to that Common Area which shall be reasonably servient and proximate to the Lot(s) upon which the construction is taking place.

7.4. **Drainage Easement.** For a period of eighteen (18) months following the initial conveyance of a Lot to an Owner by the Declarant, that Lot shall be subject to an easement for entry and encroachment by the Declarant for the purpose of correcting any grading or drainage problems with respect to that Lot or adjoining Lots. After such an entry, the Declarant, at its expense, shall, to the extent reasonably practicable, restore the affected Lot(s) to their original condition.

7.5. Easement for Minor Encroachments. All Lots and the Common Area shall be subject to a perpetual easement for the encroachment of initial improvements constructed on Lots to the extent that such initial improvements actually encroach. These authorized encroachments shall include, but not be limited to, such items as overhanging eaves, roofs, gutters, downspouts, exterior storage rooms, bay windows, stoops, decks, patios, porches, steps and walls.

7.6. Governmental Easements.

7.6.1. Declarant reserves an easement for the benefit of the appropriate governmental entity over all Common Area and over an area 10 feet behind the curb line of any street or roadway in the Property existing now or in the future for the setting, removal, and reading of water meters, the maintenance and replacement of water, sewage, and drainage facilities and the collection of garbage.

7.6.2. An easement is also granted to all police, fire protection, garbage, mail delivery, ambulance, and all similar persons to enter upon the streets and Common Area in the performance of their duties.

8. ARCHITECTURAL COMMITTEE.

8.1. Members. The Architectural Committee shall consist of one (1) or more persons designated by the Declarant. At such time as Declarant no longer owns any real property within the Property (or earlier if the Declarant shall surrender this right in a written instrument in recordable form executed by Declarant), the Declarant shall assign to the Association the rights, powers, duties and obligations of the Architectural Committee. Upon this assignment, the Board shall appoint three (3) or more persons as the members of the Architectural Committee.

8.2. Powers. The Architectural Committee shall have the right to refuse to approve any plans and specifications for Improvements proposed to be constructed on a Lot (the "Plans & Specifications") which are not suitable or desirable, in its sole discretion, for aesthetic or any other reasons, provided such approval is not unreasonably withheld. In approving or disapproving Plans & Specifications, the Architectural Committee shall consider the suitability of the proposed Improvements and materials to be used in those Improvements, the site upon which it is proposed to be erected, and the effect of the Improvements on adjacent or neighboring property. There is specifically reserved unto the Architectural Committee the right of entry and inspection upon any Lot for the purpose of determining whether there exists any construction of any Improvements which violates the terms of any approval by the Architectural Control Committee or the terms of this Declaration or of any other applicable covenants, conditions and restrictions. The Architectural Committee and the Board of Directors is specifically empowered to enforce the provisions of this Declaration by any legal or equitable remedy. In the event it becomes necessary to resort to litigation to determine the propriety of any constructed Improvement, or to remove any unapproved Improvements, the prevailing party shall be entitled to recovery of all court costs and expenses (including reasonable attorney's fees).

9. ARCHITECTURAL CONTROL AND USE RESTRICTIONS.

9.1. **Building Sites.** Each Lot, as approved by the appropriate governmental entity, shall constitute a building site (a "Building Site") and shall be used for single-family, residential purposes only. The lay of the Lots as shown on the recorded plat shall be substantially adhered to; provided, however, that with the prior written approval of the Declarant (as long as Class B Membership exists), or the Association's Board or the Architectural Committee and the appropriate governmental authority, the size and shape of any Lot may be altered. More than one Lot may be used as one Building Site. In no event, however, shall a Lot or group of Lots be resubdivided or recombined in violation of any applicable zoning or other laws in force at the time of the change.

9.2. **Setbacks.** No structure shall be located on any Building Site nearer than thirty (30) feet to the front lot line, nearer than eighteen (18) feet to any side street line, nearer than ten (10) feet to an interior lot line, or nearer than twenty (20) feet to the rear lot line. For the purposes of this covenant, eaves, steps, carports 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 Building Site to encroach upon another Lot. Provided it otherwise complies with the applicable zoning ordinances and the setbacks, if any, shown on the applicable recorded plat, the Declarant and/or the Architectural Committee may approve by written waiver a violation of these requirements.

9.3. **Structures.** Improvements on any Building Site shall be limited to a single, single-family, residential structure. No residential structure, which has a minimum area of less than 1600 square feet of heated area for a one story residence and 1800 square feet for a one and one-half or two story residence exclusive of porches, basement and garage, shall be erected or placed on any Building Site. All buildings and structures erected upon Lots shall be of new construction and no building or structures, other than detached single-family homes (not to exceed three (3) stories in height) shall be constructed. No structures of a temporary character, manufactured home, trailer, basement, tent, shack, garage, barn or other out-building shall be used on any portion of the Property at any time as a residence, either temporarily or permanently.

9.4. **Approval of Plans & Specs.** No Improvement shall be commenced, erected, or maintained upon the Property, nor shall an Improvement be repaired or rebuilt after destruction by any hazard until the Plans & Specifications, showing the nature, kind, space, height, materials, and location of the Improvement shall have been submitted to and approved in writing by the Architectural Committee. A failure to approve or disapprove the Plans & Specifications within thirty (30) days after they have been submitted shall be deemed to be an approval of those Plans & Specifications. Neither the Association, the Association's Board, the Declarant, the Architectural Committee or any officer, employee, director or members thereof shall be liable for damages to any persons by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval, disapproval or failure to approve any Plans & Specifications. Every person who submits Plans & Specifications for approval agrees, by

submission of such Plans & Specifications, that it will not bring any action or suit to recover any such damages.

9.5. Declarant Facilities. Notwithstanding any provision in this Article to the contrary, during the period of development and sale of the Lots the Declarant is permitted, subject to the laws of the City of Raleigh, to maintain such facilities as Declarant deems reasonably required, convenient, or incidental to the development and sale of the Lots. These facilities shall include but not be limited to a business/sales office, storage area, construction yards and signs.

9.6. Animals. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on the Lots, except that a reasonable number of domesticated, household pets may be kept, provided they are not maintained for commercial purposes.

9.7. Screening. All clothes line, equipment, garbage cans, service yards, wood piles, or storage piles shall be kept screened by adequate Improvements so as to screen them from view from the street and adjoining Lots. All garbage, trash, or rubbish shall be regularly removed from the Lot and shall not be allowed to unreasonably accumulate.

9.8. Leasing. No Lot or any portion of the Improvements thereon shall be leased for transient or hotel purposes, except that an Owner may lease not less than the entire residential structure on its Lot; provided that each lease must be in writing, must be for a period of not less than ninety (90) days, and must provide that it is subject to this Declaration and the Bylaws and that any failure by a tenant to comply with such shall be a default under the lease.

9.9. Utility Devices. Without the prior written approval and the authorization of the Declarant (as long as Class B Membership exists), the Association's Board or the Architectural Committee, no exterior television or radio antennas, satellite dishes or solar panels or other utility devices, of any sort shall be placed, allowed or permitted upon any portion of the exterior of the Improvements to be located upon the Property.

9.10. Business/Obnoxious Activity. No business activity of any kind or any obnoxious or offensive activity shall be carried on the Property or Improvements thereon, nor shall anything be done which may be or may become a nuisance or annoyance to the neighborhood. Nor shall the Property be used in any way or for any purpose which may endanger the health or unreasonably disturb an Owner or his tenants or invitees. No "For Sale" signs (except as otherwise specifically authorized by the Association), advertising signs or rent signs, bill boards, unsightly objects or nuisances shall be erected, placed or permitted to remain on the Property, and in no event in the Common Area. The foregoing covenants shall not, however, apply to the business activities, signs, and billboards or the construction and maintenance of buildings, if any, of Declarant, its agent and assigns, during the construction and sales period for the Breeland Park Subdivision. This right of the Declarant shall nevertheless be subject to the laws of the City of Raleigh.

9.11. Vehicles. No boats, recreation vehicles, or trailers (the "Vehicles") of any Owner or member of his family, his tenants, guest or contract purchasers shall be parked within the Common Area, or within the right-of-way of any street in or adjacent to the Property. All Vehicles shall be stored either within the Owner's garage or other facilities not located on the Property or screened from public view from the street and adjoining Lots. No Vehicle may be located closer to the street than the front foundation of the house, the exact location to be approved by the Association's Board or Architectural Committee. No Owner shall park or store an inoperative or abandoned Vehicle or automobile on any Lot or on the streets in the Property.

9.12. Above-Ground Tanks. No exposed above-ground tanks (except for approved recreational swimming pools) will be permitted for the storage of fuel or water or any other substance. Notwithstanding such, tanks may be placed above-ground provided they are kept in a screened enclosure which must exceed in height by at least one (1) foot any such tank as may be placed therein. The screened enclosure shall be subject to the Architectural Committee's prior approval.

9.13. Lawn Ornaments. Decorative lawn ornaments shall be approved in writing by the Architectural Committee prior to installation or placement on any Lot.

9.14. Parking Rights. Adequate off-street parking shall be provided by the Owner of each Lot for the parking of automobiles and Vehicles owned by that Owner. Owners shall not be permitted to park their automobiles and Vehicles on the streets in the subdivision.

9.15. Maintenance. Each Owner shall keep his Lot free of tall grass, undergrowth, dead trees, trash and rubbish and shall otherwise properly maintain its Lot and its Improvements so as to present a pleasing appearance. In the event an Owner does not, in the reasonable opinion of the Architectural Committee, properly maintain its Lot and/or Improvements, the Declarant and/or Association may have the required work done and the costs incurred shall be assessed against the Owner.

9.16. Governmental Regulations. Each Owner shall comply with all laws, ordinances, governmental building codes, health regulations, zoning restrictions and the like applicable to its Lot and/or Common Areas. In the event of any conflict between any provision of such governmental code, regulation or restriction and any provision of this Declaration, the more restrictive provision shall apply.

9.17. Additional Restrictions. The Association, the Association's Board, or the Architectural Committee shall have the power to formulate, amend, publish and enforce other reasonable rules and regulations concerning the architectural control and use of the Property.

9.18. Anti-Discrimination. No action shall at any time be taken by the Association, the Association's Board, or the Architectural Committee in the enforcement or interpretation of these Protective Covenants which in any manner would unfairly discriminate against any Owner in

favor of any of the other Owners.

9.19. Waiver. Notwithstanding anything above to the contrary, the Declarant (as long as Class B Membership exists), the Association's Board, or the Architectural Committee shall have the right, in the exercise of their reasonable discretion, to waive one or more violations of the requirements of this Article. No waiver shall be effective unless in writing and nevertheless shall not operate as a waiver of any other requirement respecting the Lot in question or any other Lots subject to this Declaration. No waiver shall be effective if it shall cause the Lot or structures thereon to be in non-conformance with any applicable governmental ordinances.

#### 10. GENERAL PROVISIONS.

10.1. Enforcement. The Declarant (as long as Class B Membership exists), the Association or any Owner shall have the right to enforce, by a proceeding at law or in equity, the terms of the Protective Covenants. Failure by the Association or by any Owner to enforce any covenant or restriction herein shall in no event be deemed a waiver of the right to do so thereafter.

10.2. Severability. Invalidation of any one or more of these covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

#### 10.3. Amendment.

10.3.1. The Protective Covenants shall run with the land for a term of twenty (20) years from the date of their recording and shall insure to the benefit of the Declarant (as long as Class B Membership exists), the Association or any Owner or their respective legal representatives, heirs, successors, and assigns. These Protective Covenants shall thereafter automatically be extended for successive periods of ten (10) years. Except as specifically otherwise provided, the Protective Covenants may be amended by an instrument signed by not less than the owners of seventy-five percent (75.0%) of the Lots.

10.3.2. If an amendment is executed, each such amendment shall be delivered to the Association's Board which shall, within thirty (30) days:

(a) Reasonably assure itself that the amendment has been executed by the Owners of the required number of Lots (for this purpose, the Board may rely on its roster of Members, and shall not be required to cause the title to any Lot to be examined); and

(b) Attach the following certification:

CERTIFICATION

By authority of its Board of Directors, Breeland Park Homeowners Association, Inc. certifies that the foregoing instrument has been duly executed by the Owners of seventy-five percent (75%) of the Lots in the Property and is therefore a valid amendment to the Declaration recorded at Book 1994, Page 1948, Wake County Registry.

BREELAND PARK HOMEOWNERS ASSOCIATION, INC.

BY: E. J. [Signature]  
President

ATTEST:  
Carol A. Byrnes  
Secretary



(Corporate Seal)

Within the thirty (30) day period, the Association's Board shall cause the amendment to be recorded with the appropriate Register of Deeds. All amendments shall be effective from the date of recordation in the appropriate Register of Deeds; provided, however, that no such instrument shall be valid until it has been indexed in the name of the Association.

10.4. Disputes. In the event of any dispute arising concerning a provision of this Declaration, such dispute shall be settled by legal proceedings or the parties may, by mutual agreement, submit the dispute to a committee appointed by the Association for this purpose, and once submitted, the parties agree to be bound by the decision of that committee.

10.5. Voting. Voting by Members of the Association shall be in accordance with the applicable provisions set forth in the Association's Bylaws.

10.6. Member Addresses. Each Member agrees to keep the Association informed of his address at any time and any notice sent or delivered to that address shall be sufficient. Each new Member agrees to provide the Association with evidence of his ownership for preparation of a membership roster and the roster as so completed shall be sufficient evidence as to the ownership of each Lot.

10.7. Gender and Gender. All words and phrases in this Declaration shall be construed to include the singular or plural number, and the masculine, feminine, or neuter gender, as the context requires.

10.8. Owner Responsibility. Notwithstanding anything in this Declaration to the contrary, an Owner shall be responsible for any and all violations of these Declarations by his employees, agents, tenants, guests and invitee. When a party to this Declaration consists of more than one individual or entity, such party's liability hereunder shall be joint and several.

10.9. Construction. This Declaration shall be construed in accordance with the laws of North Carolina without giving effect to its conflict of laws principles.

10.10. Exhibits. All Exhibits and Schedules, if any, attached to this Declaration are hereby incorporated by reference and made a part of this Declaration. The term "Declaration" as used herein shall be deemed to include all such Exhibits and Schedules.

10.11. Remedies. In the event of any default in and/or breach of any of the terms, conditions and provisions of this Declaration (either actual or threatened) the party or parties who are thereby aggrieved shall have the right to specific performance and/or injunction in addition to any and all other rights and remedies at law or in equity. The right and remedies provided by this Declaration are distinct and cumulative and the use of any one right or remedy by any party shall not preclude or waive its right to use any or all other remedies. No delay or omission of a party to exercise any right or power arising from any default on the part of the other shall impair any such right or power, or shall be construed to be a waiver of any such default or an acquiescence therein. The rights and remedies provided herein are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

10.12. Approval.

10.13.1. As long as there is a Class B membership, the following actions will require prior approval of the Veterans Administration and/or the Department of Housing and Urban Affairs: Annexation of Additional Properties, dedication or withdrawal of land from dedication of Common Area, or an Amendment of this Declaration of Covenants, Conditions and Restrictions.

10.13.2. These Protective Covenants shall not be amended or terminated without the prior approval of the City of Raleigh. A failure to approve or disapprove the proposed amendment or termination within thirty (30) days after it has been submitted, in writing, to the City of Raleigh, Attn.: City Attorney's Office, shall be deemed to be an approval of the proposed amendment/termination.



IN WITNESS WHEREOF, the undersigned corporate General Partner has caused this Agreement to be signed in its corporate name by its duly authorized officers, sealed with its Corporate Seal, and delivered, all as a General Partner of the partnership, this

January 5, 1994 1995

PALISADES PARTNERS, A NORTH CAROLINA LIMITED PARTNERSHIP  
BY ITS GENERAL PARTNER:

TILLET DEVELOPMENT COMPANY, INC.,  
a North Carolina Corporation

BY: E. J. Jillett  
Title: \_\_\_\_\_



\* ATTEST:

Carol M. Byrne  
Asst. Secretary

(CORPORATE SEAL)

NORTH CAROLINA  
WAKE COUNTY

I, SUSAN MCGUIRE ORWIG, Notary Public, do hereby certify that Carol G. Byrne personally came before me this day and acknowledged that \_\_\_\_\_ is Secretary of Tillet Development Company, Inc., a North Carolina corporation, General Partner of Palisades Partners, a North Carolina limited partnership, and that by authority duly given and as the act of the corporation the foregoing instrument was signed in its name by its \_\_\_\_\_ President, sealed with its corporate seal, and attested by her as its Secretary, all as the act of the Partnership.

Witness my hand and notarial seal this January 5, 1995 1994.

Susan McGuire Orwig  
Notary Public

My commission expires: 11-30-98

q:joyce/misc/tilletdec

SUSAN MCGUIRE ORWIG  
NOTARY PUBLIC  
WAKE COUNTY, N.C.

NORTH CAROLINA — WAKE COUNTY

The foregoing certificate \_\_\_\_\_ of \_\_\_\_\_

Carol McGuire Orwig Notary Public is  
(are) 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.

KENNETH C. WILKINS, Register of Deeds

By Bethany Jones  
Asst./Deputy Register of Deeds

BK6399PG0794

**EXHIBIT "A"**

BEING all of Lots 1 through 96 (inclusive) of BreeLand Park Subdivision, Phase 1, as shown on map recorded in Book of Maps 1994, Page 1948, Wake County Registry.