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BRENDA D. BELL  
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✓ Drafted by: Wm. Ruffin Pearce, Jr. c/o Moore & Van Allen, PLLC  
Return to: 100 N. Tryon Street, Charlotte, NC 28202-4003

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
WINDEMERE ISLAND**

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Exhibit "A" - Articles of Incorporation for Windemere Island Property Owners Association, Inc.

Exhibit "B" - Bylaws for Windemere Island Property Owners Association, Inc.

Exhibit "C" - Map of Windemere Island

**NOTE: This Declaration of Covenants, Conditions and Restrictions – Windemere Island has not been executed by the owners of Lots 3, 7, 10, 11, 14, 15, 19, 20, and 21 shown on the Map (as defined herein) and until this Declaration has been executed by such Owners, such lots shall not be bound by the provisions of this Declaration.**

**THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (the "Declaration") is made and entered into as of the 13th day of November, 1999 by Water's Edge Properties, LLC, a North Carolina limited liability company (hereinafter referred to as "Declarant") and the owners (the "Owners") of those separately numbered parcels (excluding any common areas)(the "Lots") shown on that certain plat of Windemere Island Subdivision, recorded in Plat Book 28, Page(s) 170-172, in the Iredell County Registry and any other plat subsequently recorded (the "Map"), copies of which are attached hereto as Exhibit "C" and incorporated herein by reference.**

**WHEREAS, the Declarant and Owners are the holders of fee title to parcels within the tract of real property known as Windemere Island containing approximately 25.53 acres, as described in Exhibit "A" attached hereto and incorporated herein by reference (the "Development"); and**

**WHEREAS, pursuant to that certain 3<sup>rd</sup> Supplement to Declaration of Covenants, Conditions and Restrictions dated November 14, 1997 and recorded in the Iredell County, North Carolina Registry in Book 1049, Page 1806 (the "Supplement"), the Declarant and Turnpike Properties, Inc., a Delaware corporation (successor by merger to Turnpike Properties, Inc. a North Carolina corporation) declared that the Development shall be held, transferred, sold, conveyed and occupied subject to and governed by all the terms and provisions of the covenants, conditions, restrictions, rights and obligations contained in that certain Declaration of Covenants, Conditions and Restrictions – Windemere dated October 14, 1993 and recorded in the Iredell County, North Carolina Public Registry in Book 898, Page 1135, as amended and supplemented to the date hereof (the "Windemere Declaration"); and**

**WHEREAS, under the terms of the Supplement, the Owners are subject to the Windemere Declaration and are members of the Windemere homeowners association (WINDEMERE POA, INC.) (the "Windemere Association"); and**

**WHEREAS, the Owners and Declarant desire to ensure the attractiveness of the Development, to prevent any future impairment thereof, to prevent nuisances and enhance the value and amenities of all properties within the Development, and to provide for the maintenance and upkeep of all common areas within the Development and, to this end, desires to impose covenants, conditions, and restrictions, in addition to those set forth in the Windemere Declaration, on the real property located within the Development; and**

**WHEREAS, Declarant and Owners desire to provide for a system, operating within, and in addition to, the system created under the Windemere Declaration, whereby the Owners of property in the Development will pay for the maintenance and upkeep of the common areas of the Development; and**

**WHEREAS, Declarant and Owners further desire to create an organization, separate and in addition to the Windemere Association, to which will be delegated and**

assigned the powers of owning, maintaining and administering the common areas of the Development, administering and enforcing the covenants and restrictions contained herein, and collecting and disbursing the assessments and charges hereinafter created, in order to efficiently preserve, protect and enhance the values and amenities in the Development, to ensure the residents' enjoyment of the specific rights, privileges and easements in the common areas of the Development, and to provide for the maintenance and upkeep of the common areas of the Development and, to that end, the Declarant and the Owners has or will cause to be incorporated under North Carolina law, pursuant to the Articles of Incorporation attached hereto as Exhibit "A" and incorporated herein by reference, Windemere Island Property Owners Association, Inc. a non-profit corporation for the purpose of exercising and performing the aforesaid functions, said corporation to be governed by the Bylaws attached hereto as Exhibit "B" and incorporated herein by reference.

NOW, THEREFORE, Declarant and Owners, by this Declaration, do declare that all of the property described herein is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration, which shall run with the real property described herein and be binding on all parties owning any right, title or interest in said real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

## **ARTICLE I.**

### **DEFINITIONS**

Section 1. "Articles of Incorporation" shall mean and refer to the Articles of Incorporation for the Association attached as Exhibit "A" hereto and incorporated herein by reference.

Section 2. "Association" shall mean and refer to Windemere Island Property Owners Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

Section 3. "Board of Directors" shall mean and refer to the Board of Directors of the Association, which shall be elected and shall serve pursuant to the Bylaws.

Section 4. "Bylaws" shall mean and refer to the Bylaws for the Association attached as Exhibit "B" hereto and incorporated herein by reference.

Section 5. "Common Area" or "Common Areas" shall mean and refer to Common Area lots, and roads or streets, Entrance Monuments and Entrance Gate, collectively. The Common Areas shall be owned by the Association for the use, benefit, and enjoyment of the owners including the Declarant.

Section 6. “Development” shall mean and refer to Windemere Island, a single-family residential development wholly surrounded by the waters of Lake Norman.

Section 7. “Lot or Lots” shall mean and refer to the separately numbered parcels depicted on the Map, which Lots do not include the Common Areas.

Section 8. “Member” shall mean and refer to every person or entity who holds membership in the organization.

Section 9. “Mortgage” shall mean any Mortgage or Deed of Trust constituting a first lien on a Lot.

Section 10. “Mortgagee” shall mean the owner and holder of a Mortgage at the time such term is being applied.

Section 11. “Owner” shall mean and refer to the record owner whether one or more persons or entities of a fee simple title to any Lot, including the Declarant, if it owns any Lot, but excluding those having such interest merely as security for the performance of an obligation.

Section 12. “Subdivision shall mean and refer to Windemere Island Subdivision as the same is shown in Plat Book 23, Page(s) 170-172, Iredell County Register of Deeds, a copy of which is attached hereto as Exhibit “C”.

## ARTICLE II.

### PROPERTY SUBJECT TO THIS DECLARATION AND WITHIN THE JURISDICTION OF WINDEMERE ISLAND PROPERTY OWNERS ASSOCIATION, INC.

Section 1. Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration, and which is and shall be within the jurisdiction of the Association is located in Iredell County, North Carolina, and is the property as more particularly described and shown on Plat Book 23, Page(s) 170-172, Iredell County Register of Deeds, a copy of which is attached hereto as Exhibit “C”.

## ARTICLE III.

### PROPERTY RIGHTS

Section 1. Title to Common Areas. The Declarant may retain legal title to any Common Areas, until the later of the following: (i) the completion of the Declarant Improvements, or (ii) the filing date of this Declaration; provided that the Declarant must complete the Declarant Improvements within ninety (90) days after such filing date.

Notwithstanding any provision to the contrary herein, the Declarant hereby covenants for itself, its successors and assigns that it shall convey and upon such conveyance, the Association shall accept the conveyance of any such Common Areas to the Association not later than January 1, 2005, and at no cost to the Association. The streets and roads shown on the map are private streets and shall be Common Areas and, after being conveyed to the Association, the expense of maintenance and upgrading shall be borne by the Association.

## ARTICLE IV.

### THE ASSOCIATION

Section 1. Membership. Every owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Section 2. Classes of Lots and Voting Rights. The voting rights of the Membership shall be appurtenant to the ownership of Lots. There shall be two (2) classes of Lots with respect to voting rights.

- (a) Class A Lots. Class A Lots shall be all Lots except Class B Lots as defined below: Each Class A Lot shall entitle the owner of said Lot to one (1) vote. When more than one person owns an interest (other than a leasehold or security interest), in any one Lot, all such persons shall be members and the voting rights appurtenant to said Lot shall be exercised as they are among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Class A Lot.
- (b) Class B Lots. Class B Lots shall be all Lots owned by Declarant which have not been conveyed to purchasers who are not affiliated with the Declarant. The Declarant shall be entitled to four (4) votes for each Class B Lot.

Section 3. Relinquishment of Control. Upon the happening of either of the following events, whichever occurs first: (1) the expiration of ten years after the registration of this Declaration or (2) when the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership, then all of the Class B Lots shall automatically convert to Class A lots, unless Declarant in the sole discretion elects to convert the Class B Lots to Class A Lots at an earlier time.

Section 4. Availability of Documents. The Association shall maintain current copies of the Declaration, the Bylaws and other rules concerning the Development as well as its own books, records and financial statements available for inspection by all Owners, Mortgagees and Insurers.

Section 5. Management Contracts. The Association is authorized and empowered to engage the services of any person, firm or corporation to act as managing agent of the Association at a compensation to be established by the Board of Directors, and to perform all of the powers and duties of the Association. Provided, however, that the term of any such agreement shall not exceed one (1) year and shall only be renewed by agreement of the parties for successive one (1) year terms. Any such contract shall be terminable by the Association with or without cause upon ninety (90) days prior written notice to the manager without payment of a termination fee.

Section 6. Maintenance. The Entrance Monument, gate, roads and all Common Areas shall, upon conveyance to the Association, be maintained exclusively by the Association, which maintenance shall include (without limitation) landscaping, maintenance for the Entrance Monument and gate; repair and repaving of roads, road signs and lighting. The Association shall also, upon conveyance to the Association, maintain all utilities and all storm and drainage easements located within the Common Areas, together with common amenities located within the Common Areas not maintained by public utilities or utilities.

The Association shall not be responsible for the maintenance of any Lots or the improvements within the boundaries thereof. The Owners shall be responsible for same.

Section 7. Reserve Fund. The Association shall establish and maintain, in its reasonable discretion, an adequate reserve fund for the periodic maintenance, repair and replacement of all Common Areas which the Association is obligated to maintain in order to fund unanticipated expenses of the Association or to acquire furniture, equipment or services deemed necessary or desirable by the Board of Directors. Such reserve fund shall be collected and maintained out of the annual assessments as hereinafter defined.

## ARTICLE V.

### COVENANT FOR ANNUAL AND SPECIAL ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Annual and Special Assessments. 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 to the Association Annual Assessments and Special Assessments as hereinafter defined, established and collected as hereinafter provided. Any such assessments or charge together with interest, costs and attorneys' fees shall be a charge and a continuing lien upon the Lot against which each such assessment or charge is made. Each such assessment or charge together with interest, costs and reasonable attorneys' fees shall also be the personal obligation of the Owner of such Lot at the time when the assessment falls due. The obligation for delinquent assessments or charges shall not pass to an Owner's successors in title unless expressly assumed by them, but shall remain a lien upon that Lot until paid, and shall at all times be subordinate to any first mortgage on that Lot.

Section 2. Purpose of Annual Assessments. The assessments to be levied annually by the Association against each Lot shall be used as follows:

- (a) to repair and maintain the Entrance Monument and to cover any expenses for the entry gate and street lighting (if any), including the erection and maintenance of signage, planters, lighting and landscaping on the Entrance Monument and to provide and pay for lighting of the signage located thereon.
- (b) to pay the premiums on all insurance carried by the Association pursuant hereto or pursuant to the Bylaws.
- (c) to pay all legal, accounting and other professional fees incurred by the Association in carrying out its duties as set forth herein or in the Bylaws.
- (d) to provide for the maintenance of all roads and roadways within the subdivision.
- (e) to maintain a contingency fund as provided by Article IV, Section 7.

Section 3. Payment of Annual Assessments; Due Dates. Annual Assessments provided for herein shall commence as to each Lot on January 1, 1999. The Annual Assessments for the calendar year shall be \$400.00 per Lot and such amount shall be due and payable in full on May 1 of each year. The Board of Directors shall fix the amount of the Annual Assessments as to each Lot for any calendar year at least thirty (30) days prior to January 1 of such calendar year and the Association shall send written notice of the amount of the Annual Assessment to each owner on or before January 1 of such year. The Board of Directors may, in accordance with the provisions of the Bylaws, resolve to have Annual Assessments payable semi-annually on dates set forth in such resolution.

Section 4. Maximum Annual Assessments.

- (a) For calendar year 2000 and thereafter, the Board of Directors, by a vote in accordance with the Bylaws, without a vote of the Members, may increase the Annual Assessments each year by a maximum amount equal to the previous year's Annual Assessments times ten percent (10%).
- (b) From and after January 1, 2001, the Annual Assessments may be increased without limitation if such increase is approved by a vote of no less than two-thirds (2/3) of all votes entitled to be cast by Members, at a duly held meeting of the Members in accordance with the Bylaws.

Section 5. Special Assessments for Capital Improvements. In addition to the Annual Assessments authorized above, the Association may levy, in any assessment year, a special assessment ("Special Assessment") applicable to that year only for the purpose of

defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of the Entrance Monument, Entrance Gate or roadways. Provided that any such assessment must be approved by a vote of no less than two-thirds (2/3) of all votes entitled to be cast by Members, taken at a duly held meeting of the Members in accordance with the Bylaws.

Section 6. Declarant shall pay Annual Assessments or Special Assessments on any and all lots owned by Declarant.

## ARTICLE VI.

### GENERAL ASSESSMENT PROVISION

Section 1. Certificate Regarding Assessments. The Association shall upon demand, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 2. Special Assessments Regarding Damage to Common Property. In addition to the powers to levy assessments set forth herein, the Board of Directors shall have the power to levy a special assessment applicable to any particular Lot Owner responsible for damage to Common Area(s) through intentional conduct or any act or omission of himself, member of his family, his agents, guests, employees or invitees.

Section 3. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid by its due date shall bear interest from such due date at the rate of eighteen percent (18%) per annum or the highest rate permitted by law, whichever is less. In addition to such interest charge, the delinquent Owner shall also pay such late charge as may have been theretofore established by the Board of Directors to defray the costs arising because of late payment. The Association may bring an action at law against the Lot and interest, late payment charges, costs and reasonable attorneys' related to such action shall be added to the amount of such assessment, and any lien resulting therefrom shall, at all times, be subordinate to any first mortgage on the Lot. Payments not made when due shall result in forfeiture of voting rights.

## ARTICLE VII.

### ARCHITECTURAL CONTROL AND RESTRICTIONS ON USE AND RIGHTS OF THE ASSOCIATION, DECLARANT AND OWNERS

Section 1. Architectural Control.

- (a) Purposes. The Declarant and owners desire to provide for the preservation of the values in the Development with respect to any Dwelling Unit to be constructed on any Lot constituting a portion of the Development, and to



that end, desires to establish an Architectural Control Committee (the "Committee") and Architectural Guidelines (the "Guidelines") in order to provide and maintain certain standards as to harmony, as well as diversity, of external design and location in relation to surrounding structures and topography.

(b) Architectural Control. Unless expressly authorized in writing by the Committee no Dwelling Unit, fence, wall, driveway or other structure nor any exterior addition or alteration to any existing Dwelling Unit, nor any clearing or site work shall be commenced, erected or maintained within the Development until plans and specifications therefor showing the shape, dimensions, materials, basic exterior finishes and colors, location on site, driveway, parking, floor plan and elevations therefor, and landscape plan (all of which is hereinafter referred to as the "Plans") shall have been submitted in duplicate to and approved in writing, as to harmony, as well as diversity, of external design and location in relation to any surrounding structures and topography, by the Committee. Such plans must be consistent with the Guidelines. The Committee shall have the absolute and exclusive right to refuse to approve any such plans and specifications which are not suitable or desirable in the opinion of the Committee for any reason, including purely aesthetic reasons which shall in the sole and uncontrolled discretion of the Committee be deemed sufficient. Approval by the Committee of plans and specifications may not be withheld on the basis that the square footage of the home to be constructed is inconsistent with other homes, provided that the minimum square footage requirements set forth in Article VII, Section 1(d) of this Declaration have been met. In no event may the Committee approve any plans that violate the Iredell County zoning ordinance or any other applicable law, regulation, statute or ordinance.

(c) Architectural Control Committee.

(i) Membership. The Committee shall be composed of a minimum of three (3) persons who need not be Members of the Association, appointed by the Board. A majority of the Committee may designate a representative to act for it. In the event of death, resignation or removal by the Board, of any member of the Committee, the Board shall have full authority to designate a successor. Unless otherwise approved by the Association, Committee Members shall receive no compensation for their position. The Association shall make available to any owner, a list of names and addresses of the Committee and its representatives.

(ii) Procedure. At least thirty (30) days prior to the commencement of any construction, the plans shall be submitted to the Committee.

The Committee's approval, disapproval or waiver as required in these covenants shall be in writing and the decision of a majority of the Committee shall be controlling. In the event the Committee or its designated representative fails to approve or disapprove within thirty (30) days after plans have been received by it, approval by the Committee will not be required and the related covenants and conditions of this Declaration shall be deemed to have been fully complied with; furthermore, in the event any construction is commenced on any Lot without submission to the Committee of the Plans with respect thereto and no action or suit has been filed against the Owner of said Lot within ninety (90) days after the foundation of any Dwelling Unit being constructed on any such Lot is completed, then the related covenants and conditions of this Declaration shall be deemed to have been fully complied with, only as pertains to that portion of the construction so completed, and, upon notice from the Committee, approval by the committee shall be required for any construction yet to be completed.

(d) Notwithstanding anything in this Declaration, the Windemere Declaration or in any document referenced in Article VII to the contrary, each home constructed on a Lot within the Development shall be subject to the following minimum square footage requirements:

<u>Type of Structure</u>	<u>Requirements for Minimum Square Feet of Heated and Air Conditioned Living Space</u>
Ranch or One Story House	2,500 on the first floor
Multi-story Houses	2,800 total with 1,500 on first floor

The "first floor" of a house shall be considered the level of street side entrance to such home. Only heated and air conditioned living space located on or above the first floor shall be considered in meeting the minimum square footage requirements set forth in this section listed above. The "basement" of a house (i.e., any portion below the first floor) shall not be used in meeting the minimum square footage requirements set forth in this section.

(e) Notwithstanding anything herein to the contrary, the construction of all improvements within the Development shall be subject to the Windemere Island Architectural Guidelines (the "Architectural Guidelines") dated October 27, 1999. All parties executing this Declaration acknowledge that they have received and reviewed the Architectural Guidelines and agree to be bound by the same. A copy of the Architectural

Guidelines shall be maintained by the Committee and, upon written request, shall be provided to the Owners or Declarant.

Section 2.     Restriction on Use and Rights of the Association Declarant and Owners.

These restrictions shall be the same as “Restriction on Use and Rights of the Association for Declarant and Owners” as stated in the Restrictions and Bylaws for Windemere Subdivision as recorded in Deed Book 898, Page 1135, and as amended in Deed Book 936, Page 506; Deed Book 1038, Page 1078, and Deed Book 1049, Page 1806. Said restrictions are referred to as if fully set out herein.

**ARTICLE VIII.**

**INSURANCE**

Section 1.     Board of Directors. The Board of Directors shall obtain and maintain at all times insurance of the type and kind and in no less than the amounts set forth below:

- (a)     Hazard. All improvements and all fixtures and personal property included in the Common Areas shall be insured in an amount equal to one-hundred (100%) percent of replacement cost.
- (b)     Public Liability. The Board of Directors shall obtain and maintain a policy of public liability insurance covering each Member of the Board of Directors, the managing agent, if any, and each Owner with respect to his liability arising out of the ownership, maintenance or repair of Common Areas. Such insurance shall in no event be less than \$5,000,000.00 per occurrence against liability for bodily injury.
- (c)     Fidelity Coverage. The Board of Directors shall also be required to obtain appropriate fidelity coverage against dishonest acts on the part of all persons, whether officers, directors, employees, agents or trustees, responsible for handling funds belonging to or administered by the Association.
- (d)     Premium. Insurance premiums shall be collected and paid from annual homeowner’s dues.

**ARTICLE IX.**

**GENERAL PROVISIONS**

Section 1.     Enforcement. Declarant wishes to maintain a high standard in the appearance and quality of the subdivision. Though damages would be difficult to

measure, the failure of the Owners and the Association to abide by the terms, covenants and restrictions contained in this Declaration would result in irreparable damage to the Declarant and its reputation. Accordingly, Declarant, as well as the Association shall have the right to enforce all restrictions, conditions, covenants, reservations, liens and charges, now or hereafter imposed by the provisions of this Declaration by proceeding at law or in equity against any person or persons violating or attempting to violate any such restriction, condition, covenant, reservation, lien or charge, either to restrain violation thereof or to recover damages therefor. Each Owner and the Declarant shall have all appropriate remedies at law or in equity to enforce the provisions of this Declaration and the Bylaws and any duly authorized rules and regulations governing the Development against the Association. In the event a proceeding commenced by a party entitled to enforce these covenants is concluded in favor of such party, then that party shall be entitled to recover from the Defendant or Defendants in such proceeding any and all reasonable attorney's fee incurred by the prevailing party related to such proceeding.

In addition, the Association hereby covenants and agrees that it shall exercise its power of enforcement hereunder in order to maintain a first class subdivision in appearance and quality, and that it shall upon request of the Declarant, enforce any restriction, condition, covenant or reservation contained in this Declaration deemed by Declarant, in its sole discretion to have been violated using all remedies available to the Association at law or in equity. In the event that the Association does not perform, or commence performance of, its duties of maintenance and repair as set forth herein within thirty (30) days following written notice from the Declarant, the Declarant may perform such maintenance or repair in the standards reasonably required by the Declarant. Should Declarant go upon the Common Area to perform maintenance and repairs for such purpose, the Association hereby agrees to reimburse Declarant in full for the cost of such maintenance and repairs upon receipt of a statement for such cost from Declarant. Failure by Declarant, the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. 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.

Section 3. Amendment. The covenants and restrictions of this Declaration may be amended at any time and from time to time by an agreement signed by two-thirds (2/3) of the Owners whose Lots are then subject thereto.

Any such amendment shall not become effective until the instrument evidencing such change has been filed of record.

The consent of the Owners holding two-thirds (2/3) of the votes in the Association plus the written consent of Declarant shall be required to terminate the legal status of the Association, to contract the land in the Development, to convey any portion of the Common Areas to any other party, to withdraw any portion of the property from the

requirements of the Declaration, or to revoke the Declarant's right of enforcement provided for in restrictions. The consent of the Owners having at least two-thirds (2/3) of the votes in this Association and the approval of Mortgagees holding mortgages on Lots to which at least a majority of the votes are appurtenant shall be required to add or amend any material provision of this Declaration which establish, provide for, govern or regulate any of the following:

- (a) voting;
- (b) assessments, assessment liens or subordination of such liens;
- (c) reserves for maintenance, repair and replacement of the Common Areas;
- (d) insurance or fidelity bonds;
- (e) rights to use the Common Areas;
- (f) responsibility for maintenance and repair of the Common Areas;
- (g) boundaries of any lot;
- (h) the interest in the Common Areas;
- (i) convertibility of Lots into Common Areas or of Common Areas into Lots;
- (l) leasing of Lots;
- (k) imposition of any right of first refusal or similar restriction of the right of any Lot Owner to sell, transfer; or otherwise convey his or her Lot;
- (l) any provisions which are for the express benefit of Mortgagees or insurers or guarantors of Mortgages.

An addition or amendment to the Declaration shall not be considered material if it is for the purpose of correcting technical errors or for clarification only. A Mortgagee who receives a request to approve non-material additions or amendments who does not deliver or post to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

Section 4. Term. The covenants and restrictions of this Declaration are to run with the land and shall be binding upon all parties and all persons claiming under them for a period of 25 years from the date this Declaration is recorded; after which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by two-thirds (2/3) of the then Owners of the Lots have been recorded, agreeing to terminate said covenants and restrictions in whole or in part. Provided, however, that the residential use restrictions of this Declaration shall run with the land and shall be binding upon all parties and all persons claiming under them in perpetuity.

Section 5. Subordination. Notwithstanding anything to the contrary contained herein, the Development shall be subjected to the existing Windemere Declaration.

Section 6. Counterparts. This Declaration may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall comprise but one and the same instrument.

IN WITNESS WHEREOF, the Declarant and the Owners have caused their names to be signed hereto.

**DECLARANT:**

Water's Edge Properties, LLC,  
A North Carolina  
limited liability company

By: [Signature] (SEAL)  
John N. Davis, III, Manager

By: [Signature] (SEAL)  
J. Raymond Smith, II, Manager

STATE OF NORTH CAROLINA

STATE OF NORTH CAROLINA

COUNTY OF ~~IREDELL~~ Forsyth

I, Cindy B Mabe, a Notary Public for said County and State, do hereby certify that John N. Davis, III, a manager of Waters Edge Properties, LLC, North Carolina limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument as manager of the said limited liability company.

Witness my hand and notarial seal this 15<sup>th</sup> day of December, 1999.

Cindy B Mabe  
Notary Public

My Commission Expires:  
3-15-2004



STATE OF NORTH CAROLINA

COUNTY OF ~~IREDELL~~ Forsyth

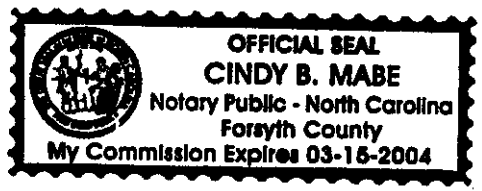
I, Cindy B. Mabe, a Notary Public for said County and State, do hereby certify that J. Raymond Smith, II, a manager of Waters Edge Properties, LLC, North Carolina limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument as manager of the said limited liability company.

Witness my hand and notarial seal this 15 day of December, 1999.

Cindy B Mabe  
Notary Public

My Commission Expires:

3-15-2004



OWNER:

Terry C. Bibleheimer

TERRY C. BIBLEHEIMER  
14633 S BRENT DRIVE  
HUNTERSVILLE, NC 28078  
Lot No. 29+30

OWNER:

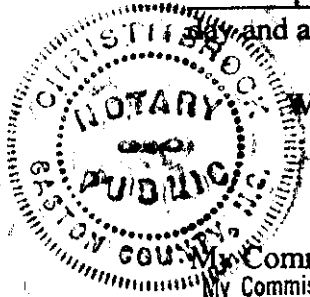
Marsha P. Bibleheimer

MARSHA P. BIBLEHEIMER  
14633 S BRENT DRIVE  
HUNTERSVILLE NC 28078  
Lot No. 29+30

STATE OF North Carolina

COUNTY OF Iredell

I, Christi Brock, a Notary Public of the aforesaid  
County and State, do hereby certify that  
Terry C. Bibleheimer personally appeared before me this  
day and acknowledged the execution of the foregoing instrument.



Witness my hand and notarial seal this 13<sup>th</sup> day of November, 1999.

Christi Brock

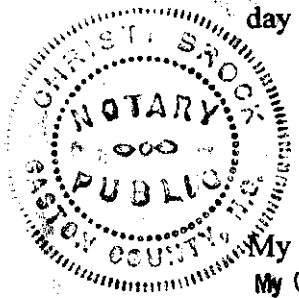
Notary Public

My Commission Expires:  
My Commission Expires December 17, 2000

NORTH CAROLINA

IREDELL COUNTY

I, Christi Brock, a Notary Public of the aforesaid  
County and State, do hereby certify that  
Marsha P. Bibleheimer personally appeared before me this  
day and acknowledged the execution of the foregoing instrument.



Witness my hand and notarial seal this 13<sup>th</sup> day of November, 1999.

Christi Brock

Notary Public

My Commission Expires:  
My Commission Expires December 17, 2000



OWNER:

Marsha P. Bibleheimer

OWNER:

\_\_\_\_\_

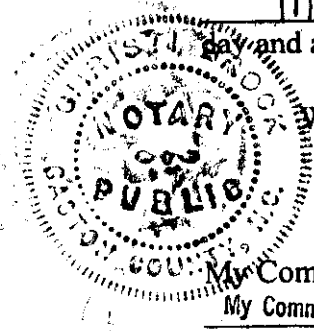
MARSHA P. BIBLEHEIMER  
14633 S SCENT DRIVE  
HUNTERSVILLE NC 28078  
Lot No. 25, 26, 27 + 28

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Lot No. \_\_\_\_\_

STATE OF North Carolina

COUNTY OF Iredell

I, Christi Brock, a Notary Public of the aforesaid  
County and State, do hereby certify that  
Marsha P. Bibleheimer personally appeared before me this  
13<sup>th</sup> day and acknowledged the execution of the foregoing instrument.



Witness my hand and notarial seal this 13<sup>th</sup> day of November, 1999.

Christi Brock  
Notary Public

My Commission Expires:  
December 17, 2000

NORTH CAROLINA

IREDELL COUNTY

I, \_\_\_\_\_, a Notary Public of the aforesaid  
County and State, do hereby certify that  
\_\_\_\_\_ personally appeared before me this  
\_\_\_\_\_ day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

OWNER:

Suzanne Van Gundy

Lot No. 34

OWNER:

Suzanne Van Gundy

Lot No. 35

STATE OF North Carolina

COUNTY OF Iredell

I, Christi Brock, a Notary Public of the aforesaid County and State, do hereby certify that Suzanne Van Gundy personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this 13<sup>th</sup> day of November, 1999.

Christi Brock  
Notary Public

My Commission Expires:  
My Commission Expires December 17, 2000

NORTH CAROLINA

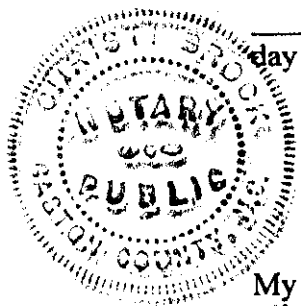
IREDELL COUNTY

I, \_\_\_\_\_, a Notary Public of the aforesaid County and State, do hereby certify that \_\_\_\_\_ personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_



OWNER: *[Signature]*  
DALE G. MILLER

OWNER: *[Signature]*  
AMI P. MOSER

PO BOX 2397  
HUNTERSVILLE NC  
Lot No. 33 28070

PO BOX 2397  
HUNTERSVILLE NC  
Lot No. 33 28070

STATE OF NC

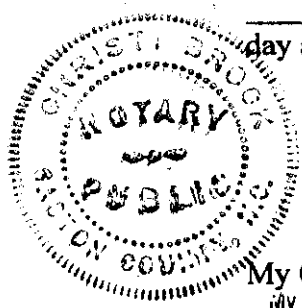
COUNTY OF IREDELL

I, Christi Brock, a Notary Public of the aforesaid  
County and State, do hereby certify that  
Dale G. Miller personally appeared before me this  
day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this 13<sup>th</sup> day of November, 1999.

*[Signature]*  
Notary Public

My Commission Expires:  
My Commission Expires December 17, 2000



NORTH CAROLINA

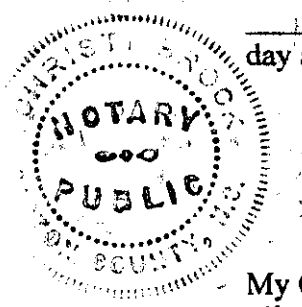
IREDELL COUNTY

I, Christi Brock, a Notary Public of the aforesaid  
County and State, do hereby certify that  
Ami P. Moser personally appeared before me this  
day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this 13<sup>th</sup> day of November, 1999.

*[Signature]*  
Notary Public

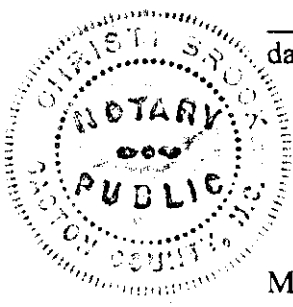
My Commission Expires:  
My Commission Expires December 17, 2000



OWNER: Paul Sampson OWNER: \_\_\_\_\_  
PAUL SAMPSON \_\_\_\_\_  
\_\_\_\_\_  
Lot No. 22 Lot No. \_\_\_\_\_

STATE OF North Carolina  
COUNTY OF Iredell

I, Christi Brock, a Notary Public of the aforesaid  
County \_\_\_\_\_ and State, do hereby certify that  
Paul Sampson personally appeared before me this  
day and acknowledged the execution of the foregoing instrument.



Witness my hand and notarial seal this 13<sup>th</sup> day of November, 1999.

Christi Brock  
Notary Public

My Commission Expires:  
My Commission Expires December 17, 2000

NORTH CAROLINA  
IREDELL COUNTY

I, \_\_\_\_\_, a Notary Public of the aforesaid  
County \_\_\_\_\_ and State, do hereby certify that  
\_\_\_\_\_ personally appeared before me this  
day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

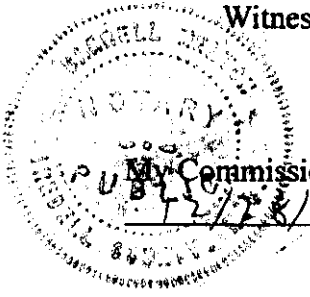
OWNER: Keith DeOris  
PMB 180  
1670 E. Broad St  
Stallville NC 28625  
Lot No. 16

OWNER: Adele Deorio  
PMB 180  
1670 E Broad St  
Stallville NC 28625  
Lot No. 16

STATE OF NC  
COUNTY OF Iredell

I, Darrell Melton, a Notary Public of the aforesaid  
County and State, do hereby certify that  
Keith DeORIO personally appeared before me this  
day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this 20 day of November, 1999.



My Commission Expires:  
12/28/99

Darrell Melton  
Notary Public

NORTH CAROLINA

IREDELL COUNTY

I, Darrell Melton, a Notary Public of the aforesaid  
County and State, do hereby certify that  
Adele DeORIO personally appeared before me this  
day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this 20 day of November, 1999.



My Commission Expires:  
12/28/99

Darrell Melton  
Notary Public

OWNER:

*[Handwritten Signature]*

OWNER:

Lot No. 13

Lot No. \_\_\_\_\_

STATE OF NORTH CAROLINA

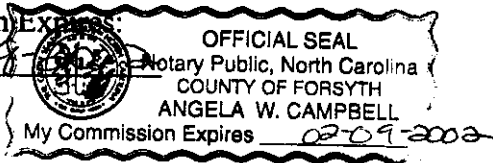
COUNTY OF IREDELL

I, Angela W. Campbell, a Notary Public of the aforesaid County and State, do hereby certify that Phillip C. Pappas personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this 15 day of November, 1999.

Angela W. Campbell  
Notary Public

My Commission Expires: 02-09-2002



NORTH CAROLINA

IREDELL COUNTY

I, \_\_\_\_\_, a Notary Public of the aforesaid County and State, do hereby certify that \_\_\_\_\_ personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this \_\_\_\_ day of \_\_\_\_\_, 1999.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

OWNER: OTIS A. Crowder  
OTIS A. CROWDER

OWNER: \_\_\_\_\_

OTIS A. Crowder  
301 Greengate Lane  
Charlotte, NC, 28211  
Lot No. 24

Lot No. \_\_\_\_\_

STATE OF North Carolina

COUNTY OF Mecklenburg

I, Carla Daedtman, a Notary Public of the aforesaid  
County and State, do hereby certify that  
OTIS A. Crowder personally appeared before me this  
day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this 6th day of December, 1999.

Carla Daedtman  
Notary Public



My Commission Expires:  
December 27, 1999

NORTH CAROLINA

IREDELL COUNTY

I, \_\_\_\_\_, a Notary Public of the aforesaid  
County and State, do hereby certify that  
\_\_\_\_\_ personally appeared before me this  
day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

OWNER: Isaac D. Ham III  
530 Innsbrook Dr  
Statesville, N.C.  
28625  
Lot No. 31

OWNER: Barbee T. Ham  
530 Innsbrook Dr  
Statesville NC 28625  
Lot No. 31

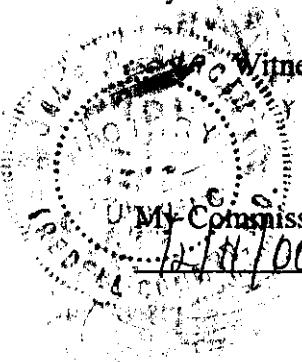
STATE OF North Carolina

COUNTY OF Iredell

I, Jane B. Burgin, a Notary Public of the aforesaid  
County and State, do hereby certify that  
Isaac D. Ham III personally appeared before me this  
day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this 12th day of November, 1999.

Jane B. Burgin  
Notary Public



My Commission Expires: 12/18/00

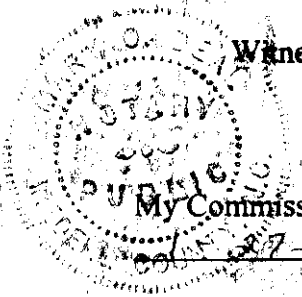
NORTH CAROLINA

IREDELL COUNTY

I, Mary O. Deal, a Notary Public of the aforesaid  
County and State, do hereby certify that  
Barbee T. Ham personally appeared before me this  
day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this 3 day of December, 1999.

Mary O. Deal  
Notary Public



My Commission Expires: 12-2003



OWNER:

David L. Seitz, Jr.

DAVID L. SEITZ, JR  
1412 CHADMORE LN  
CONCORD, NC 28027  
Lot No. 18

OWNER:

Tracy L. Seitz

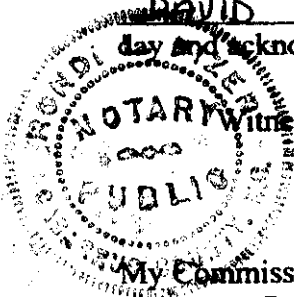
TRACY L. SEITZ  
1412 CHADMORE LN  
CONCORD, NC 28027  
Lot No. 18

STATE OF NORTH CAROLINA

COUNTY OF CABARRUS

I, Rondi L. Fizer, a Notary Public of the aforesaid  
County and State, do hereby certify that  
DAVID L. SEITZ, JR. personally appeared before me this  
day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this 3<sup>rd</sup> day of DECEMBER, 1999.



Rondi L. Fizer  
Notary Public

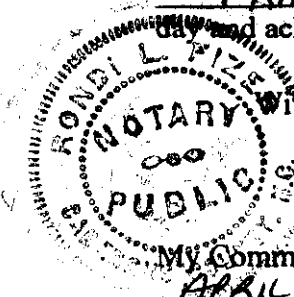
My Commission Expires:  
APRIL 30, 2003

NORTH CAROLINA

IREDELL COUNTY

I, Rondi L. Fizer, a Notary Public of the aforesaid  
County and State, do hereby certify that  
TRACY L. SEITZ personally appeared before me this  
day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this 3<sup>rd</sup> day of DECEMBER, 1999.

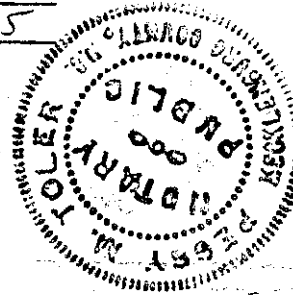


Rondi L. Fizer  
Notary Public

My Commission Expires:  
APRIL 30, 2003

OWNER:  
*Claude T. Howard*  
Claude T. Howard  
148 White House Ln  
Statesville NC 28625  
Lot No. #3,14,15

OWNER:  
*Penny H. Howard*  
Penny H. Howard  
148 White House Ln  
Statesville NC 28625  
Lot No. #3,14,15



STATE OF North Carolina  
COUNTY OF Mecklenburg

I, Peggy M. Toler, a Notary Public of the aforesaid  
County and State, do hereby certify that  
Claude T. Howard personally appeared before me this  
day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this 24 day of November, 1999.

*Peggy M. Toler*  
Notary Public

My Commission Expires:  
June 20, 2003

NORTH CAROLINA

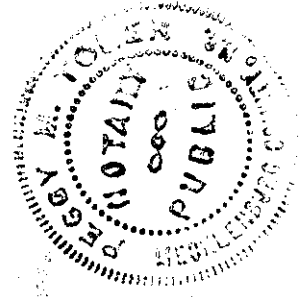
IREDELL COUNTY

I, Peggy M. Toler, a Notary Public of the aforesaid  
County and State, do hereby certify that  
Penny H. Howard personally appeared before me this  
day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this 24 day of November, 1999.

*Peggy M. Toler*  
Notary Public

My Commission Expires:  
June 20, 2003



OWNER:

Thomas H. Barringer  
Thomas H. Barringer

3610 Newchurch Circle  
Charlotte, NC 28269

Lot No. 23

OWNER:

Susan J. Barringer  
Susan J. Barringer

3610 Newchurch Circle  
Charlotte, NC 28269

Lot No. 23

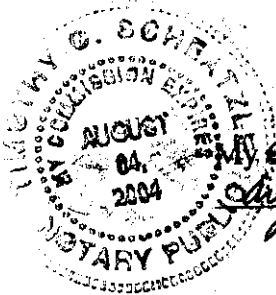
STATE OF North Carolina

COUNTY OF Mecklenburg

I, Timothy Scheekle, a Notary Public of the aforesaid  
County and State, do hereby certify that  
Thomas and Susan J. Barringer personally appeared before me this  
day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this 16 day of January, ~~1999~~ 2000

Timothy C. Scheekle  
Notary Public



My Commission Expires:

August 4, 2004

NORTH CAROLINA

IREDELL COUNTY

I, \_\_\_\_\_, a Notary Public of the aforesaid  
County and State, do hereby certify that  
\_\_\_\_\_ personally appeared before me this  
day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

OWNER:  
Thomas S. Browder  
Thomas S. Browder  
204 James Way  
Advance, NC 27006  
Lot No. 17

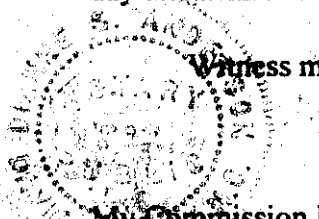
OWNER:  
Deana H. Browder  
Deana H. Browder  
Same  
Lot No. 17

STATE OF NORTH CAROLINA

COUNTY OF Davis

I, Dianne S. Anderson, a Notary Public of the aforesaid  
County and State, do hereby certify that  
Thomas S. Browder + wife, Deana H. Browder personally appeared before me this  
day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this 13<sup>th</sup> day of January, 1999 2000



Dianne S. Anderson  
Notary Public

My Commission Expires:

1-21-2001

NORTH CAROLINA

IREDELL COUNTY

I, \_\_\_\_\_, a Notary Public of the aforesaid  
County and State, do hereby certify that  
\_\_\_\_\_ personally appeared before me this  
day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

OWNER: [Signature]  
LeRoy Plyler  
P.O. Box 743  
Trouman N.C 28166  
Lot No. 32

OWNER:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Lot No. \_\_\_\_\_

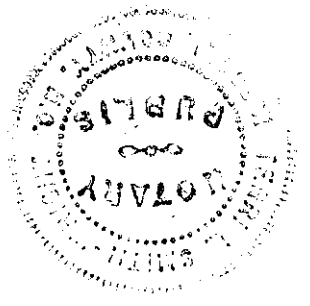
STATE OF North Carolina  
COUNTY OF Iredell

I, Terri L. Smith-Wright, a Notary Public of the aforesaid  
County and State, do hereby certify that  
LeRoy Plyler personally appeared before me this  
day and acknowledged the execution of the foregoing instrument.

Witness my hand and notarial seal this 20<sup>th</sup> day of December, 1999.

Terri L. Smith-Wright  
Notary Public

My Commission Expires:  
My Commission Expires April 14, 2001



NORTH CAROLINA  
IREDELL COUNTY

The foregoing Certificate(s) of Cindy B. Maltr, Christi Brock, Darrell Melton, Angela W. Campbell,  
Carla Doedtman, Gary B. Burgin, <sup>Mary O. Dye</sup>, Rondi L. Fizer, Peggy M. Toler,  
Timothy C. Scheatze, Diana Anderson, Terri L. Smith - Wright  
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.

Brenda D. Bell REGISTER OF DEEDS FOR Iredell COUNTY  
By Susan B. Rodgers Deputy / Assistant-Register of Deeds.

My Commission Expires:  
\_\_\_\_\_

# STATE OF NORTH CAROLINA



Department of The  
Secretary of State

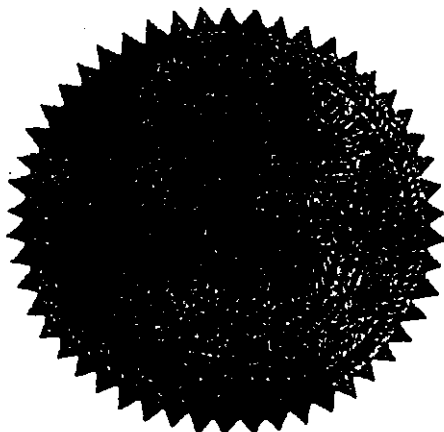
To all whom these presents shall come, Greetings:

I, **ELAINE F. MARSHALL**, *Secretary of State of the State of North Carolina*, do hereby certify the following and hereto attached to be a true copy of

ARTICLES OF INCORPORATION  
OF  
WINDEMERE ISLAND PROPERTY OWNERS ASSOCIATION, INC.

*the original of which was filed in this office on the 25th day of March, 1999.*

*IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Raleigh, this 25th day of March, 1999.*



*Elaine F. Marshall*

Secretary of State

C-0489276

FILED

10:35 Am

MAR 25 1999

EFFECTIVE  
ELAINE F. MARSHALL  
SECRETARY OF STATE  
NORTH CAROLINA

990849010

State of North Carolina  
Department of the Secretary of State

ARTICLES OF INCORPORATION  
NONPROFIT CORPORATION

Pursuant to Section 55A-2-02 of the General Statutes of North Carolina, the undersigned corporation does hereby submit these Articles of Incorporation for the purpose of forming a nonprofit corporation.

1. The name of the corporation is: WINDEMERE ISLAND PROPERTY OWNERS ASSOCIATION, INC.

2. \_\_\_\_\_ (Check only if applicable.) The corporation is a charitable or religious corporation as defined in N.C.G.S. Section 55A-1-40(4).

3. The street address and county of the initial registered office of the corporation is:

Number and Street 3539 N. GLENN AVENUE

City, State, Zip Code WINSTON-SALEM, NC 27105 County FORSYTH

4. The mailing address *if different from the street address* of the initial registered office is:

5. The name of the initial registered agent is:

JOHN N. DAVIS, III

6. The name and address of each incorporator is as follows:

DARREN S. CRANFILL  
ATTORNEY AT LAW  
3600 COUNTRY CLUB ROAD, SUITE 102  
WINSTON-SALEM, NC 27104

7. (Check either a or b below.)

- a.  The corporation will have members.
- b.  The corporation will not have members.

8. Attached are provisions regarding the distribution of the corporation's assets upon its dissolution.

9. Any other provisions which the corporation elects to include are attached.

10. The street address and county of the principal office of the corporation is:

Number and Street 3539 N. GLENN AVENUE

City, State, Zip Code WINSTON-SALEM, NC 27105 County FORSYTH

11. The mailing address *if different from the street address* of the principal office is:

\_\_\_\_\_

12. These articles will be effective upon filing, unless a later time and/or date is specified: \_\_\_\_\_

This is the 23RD day of MARCH, 1999.

\_\_\_\_\_  
*Signature of Incorporator*

DARREN S. CRANEILL, ATTORNEY AT LAW  
*Type or print Incorporator's name and title, if an*

**NOTES:**

1. Filing fee is \$60. This document and one exact or conformed copy of these articles must be filed with the Secretary of State. (Revised October 1997)



## 528(c)(1) SUPPLEMENTAL STATEMENT

Said corporation hereby elects to be treated as a tax-exempt homeowners association as defined under section 528(c)(1) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law) and is organized and operated to provide for the acquisition, construction, management, maintenance, and care of association property.

No part of the net earnings of this corporation inures (other than by acquiring, constructing, or providing management, maintenance, and care of association property, and other than by a rebate of excess membership dues, fees, or assessments) to the benefit of any private shareholder or individual.

The corporation may be dissolved with the assent given in writing and signed by not less than two-thirds of the members. Upon dissolution of the corporation, other than incident to a merger or consolidation, the assets of the corporation shall, after paying or making provision for the payment of all of the liabilities of the corporation, be dedicated to an appropriate public agency to be used for purposes similar to those for which this corporation was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

EXHIBIT "B"  
Page 1 of 12

INDEX

TO BYLAWS OF  
WINDEMERE ISLAND PROPERTY OWNERS ASSOCIATION, INC.

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BYLAWS  
OF  
WINDEMERE ISLAND PROPERTY OWNERS ASSOCIATION, INC.  
a Non-Profit Corporation  
under the Laws of the  
State of North Carolina

ARTICLE I

NAME AND LOCATION

Section 1. Name. The name of the corporation is WINDEMERE ISLAND PROPERTY OWNERS ASSOCIATION, INC., (hereinafter referred to as the "Association"), the Articles of Incorporation (the "Articles") of which have been filed in the office of the North Carolina Secretary of State.

Section 2. Location. The principal office of the Association shall be located in either Iredell County or Forsyth County, North Carolina. The registered office of the Association may be, but need not be, identical with the principal office.

ARTICLE II

DEFINITIONS

Section 1. "Articles of Incorporation" shall mean and refer to the Articles of Incorporation for the Association attached as Exhibit "A" to the Declaration and incorporated herein by reference.

Section 2. "Association" shall mean and refer to WINDEMERE ISLAND PROPERTY OWNERS ASSOCIATION, INC., a North Carolina non-profit corporation, its successors and assigns.

Section 3. "Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Association, which shall be elected and shall serve pursuant to the Bylaws.

Section 4. "Bylaws" shall mean and refer to these Bylaws.

Section 5. "Common Area" or "Common Areas" shall mean and refer to the Common Area Lots, Roadways and Entrance Monuments, collectively. The common Areas shall be owned by the Association for the common use, benefit and enjoyment of the Owners.

Section 6. "Declarant" shall mean and refer to Waters Edge, LLC its successors and assigns.

Section 7. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions for Windemere Island applicable to the property executed by Declarant and recorded in the office of the Register of Deeds for Iredell County, North Carolina.

Section 8. "Development" shall mean and refer to Windemere Island a single-family residential development being developed on the property by Declarant.

Section 9. "Entrance Monuments" shall mean and refer collectively to any stone monuments, entrance signs located on such monuments, lighting, landscaping and other improvements to be constructed, to be used for entryways for the Subdivision.

Section 10. "Lot" or "Lots" shall mean and refer to the separately numbered parcels depicted on the Map, which Lots do not include the Common Area.

Section 11. "Map" shall mean and refer to the Map of Windemere Island Subdivision, recorded in Map Book 28, Page 170, 171 and 172 as recorded in the Iredell County, North Carolina, Public Registry.

Section 12. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 13. "Mortgage" shall mean any mortgage or deed of trust constituting a first lien on a Lot.

Section 14. "Mortgagee" shall mean the owner and holder of a Mortgage at the time such term is being applied.

Section 15. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, including the Declarant if it owns any Lot, but excluding those having such interest merely as security for the performance of an obligation.

Section 16. "Property" or "The Properties" shall mean and refer to the property shown on the Map.

Section 17. "Subdivision" shall mean and refer to Windemere Island Subdivision, as the same is shown on the Map.

### ARTICLE III

#### MEETINGS OF MEMBERS

Section 1 Annual Meetings. The first annual meeting of the members shall be held on May 22, 1999 and each subsequent regular annual meeting of the Members shall be held on the first (1<sup>st</sup>) Saturday in May each year thereafter, at the hour of 10:00 o'clock, A.M. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the following Saturday which is not a legal holiday.

Section 2. Special Meetings. Special Meetings of the Members may be called at any time by the President or by the Board of Directors, or upon written request of the Members who are entitled to vote one-fourth (1/4) of all of the votes appurtenant to the Lots.

**Section 3. Place of Meetings.** All meetings of the Members shall be held at such place, within Iredell County, North Carolina, as shall be determined by the Board of Directors of the Association.

**Section 4. Notice of Meetings.** Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, not less than fifteen (15) days nor more than fifty (50) days before the date of such meeting to each Member entitled to vote there at, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

**Section 5. Classes of Lots and Voting Rights.** The voting rights of the Membership shall be appurtenant to the ownership of Lots. There shall be two classes of Lots with respect to voting rights.

(a) **Class A Lots.** Class A Lots shall be all Lots except Class B Lots as defined below. Each Class A Lot shall entitle the Owner(s) of said Lot to one (1) vote. When more than one person owns an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members and the voting rights appurtenant to said Lots shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Class A Lot.

(b) **Class B Lots.** Class B Lots shall be all Lots owned by Declarant which have not been conveyed to purchasers who are not affiliated with the Declarant. The Declarant shall be entitled to four (4) votes for each Class B Lot owned by it.

**Section 6. Relinquishment of Control.** Upon the expiration of ten (10) full years after the registration of the Declaration, all of the Class B Lots shall automatically convert to Class A Lots, unless Declarant, in its sole discretion, elects to convert the Class B Lots to Class A Lots at an earlier date.

**Section 7. Quorum.** The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, a majority of the votes appurtenant to the lots shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, subsequent meetings may be called, subject to the same notice requirement, until the required quorum is present. No such subsequent meeting shall be held more than fifty (50) days following the preceding meeting.

**Section 8. Proxies.** At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

**Section 9. Action by Members.** Except as provided otherwise in the Articles of Incorporation, the Declaration or these Bylaws, any act or decision approved by a vote of no less

than two-thirds (K) of all votes present at a duly held meeting of the Members at which a quorum is present shall be regarded as the act of the Members.

Section 10. Waiver of Notice. Any Member may, at any time, waive notice of any meeting of the Members in writing and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Member at any meeting of the Members shall constitute a waiver of notice by him of the time and place thereof except where a Member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all the Members are present at any meeting of the Members, no notice shall be required and any business may be transacted at such meeting.

Section 11. Informal Action by Members. Any action which may be taken at a meeting of the Members may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the persons who would be entitled to vote upon such action at a meeting and filed with the Secretary of the Association to be kept in the Association's minute book.

#### ARTICLE IV

#### BOARD OF DIRECTORS

Section 1. Number. The business and affairs of the Association shall be managed by a Board of five (5) directors, who must be Members of the Association.

Section 2. Initial Directors. The initial directors shall be selected by the Declarant. Such initial directors shall serve at the election of the Declarant from the date upon which the Declaration is recorded in the Iredell County Public Registry for the initial terms set forth below.

The names, addresses, and initial terms of the persons who shall serve on the initial Board of Directors from the date upon which the Declaration is recorded in the Iredell County Public Registry are as follows:

<u>Name</u>	<u>Address</u>	<u>Initial Terms (Years)</u>
John N. Davis, III	3401 Healy Drive Winston-Salem, North Carolina 27103	2
J. Raymond Smith, II	3401 Healy Drive Winston-Salem, North Carolina 27103	1
Terry C. Bibleheimer	14633 South Brent Drive Huntersville, North Carolina 28078	3
Suzanne Van Gundy	179 River Hill Drive Advance, North Carolina 27006	3

David Seitz

1412 Chadmore Lane, NW  
Concord, North Carolina 28027

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Section 3. Nomination. Nomination for election to the Board of Directors shall be made from the floor at the second annual meeting of the Members. After the first election of directors, nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

Section 4. Election. Except as provided in Section 6 of this Article, Directors shall be elected at the annual meeting of the Members by written ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Section 5. Term of Office. Each director shall hold office for the term for which he was elected, or until his death, resignation, retirement, removal, disqualification or until his successor is elected and qualified. At all annual elections, a director shall be elected for a term of three (3) years by the Members to succeed that director whose term then expires. Nothing herein contained shall be construed to prevent the election of a director to succeed himself.

Section 6. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor. The Members may elect a director at any time to fill any vacancy not filled by the directors.

Section 7. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

## ARTICLE V

### MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Meetings of the Board of Directors shall be held on a regular basis as often as the Board sees fit, on such days and at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special Meetings of the Board of Directors shall be held when called by the President of the Association, or by any three (3) directors, after not less than three (3) days notice to each director.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 4. Informal Action by Directors. Action taken by a majority of the Directors without a meeting is nevertheless Board action if written consent to the action in question is signed by all of the directors and filed with the minutes of the proceedings of the Board, whether done before or after the action so taken.

Section 5. Chairman. A Chairman of the Board of Directors shall be elected by the directors and shall preside over all Board meetings until the President of the Association is elected. Thereafter, the President shall serve as Chairman. In the event there is a vacancy in the office of the Presidency, a Chairman shall be elected by the Board of Directors and serve until a new President is elected.

Section 6. Liability of the Board. The members of the Board of Directors shall not be liable to the Owners for any mistake of judgment, negligence, or otherwise except for their own individual willful misconduct or bad faith. The Owners shall indemnify and hold harmless each of the members of the Board against all contractual liability to others arising out of contracts made by the Board on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the Provisions of the Declaration or these Bylaws. It is intended that the members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Association, except to the extent that they are Owner(s).

## ARTICLE VI

### POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

(a) Adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;

(b) Suspend the voting rights and right to use the recreational facilities of a Member, including the rights to use, during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations;



(c) Exercise for the Association all powers, duties and authorities vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation or the Declaration;

(d) Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;

(e) Employ a manager, an independent contractor, or such other employees as they deem necessary, and prescribe their duties;

(f) Employ attorneys to represent the Association when deemed necessary;

(g) Grant easements for the installation and maintenance of sewer or water lines and other utilities or drainage facilities upon, over, under and across the Common Area without the assent of the membership when such easements are requisite for the convenient use and enjoyment of the Property; and

(h) Appoint and remove at pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation and require of them such security or fidelity bond as it may deem expedient.

Section 2. Duties. It shall be the duty of the Board of Directors to:

(a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by Members entitled to at least one-third (9) of the votes appurtenant to the Lots;

(b) Supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;

(c) As more fully provided in the Declaration:

(1) Fix the amount of the Annual Assessments as defined in the Declaration, against each Lot at least thirty (30) days before January 1 of each year;

(2) Send written notice of each assessment to every Owner subject thereto before its due date;

(3) Foreclose, to the extent permitted by law and as it may deem appropriate, the lien against any property for which assessments are not paid within thirty (30) days after due date or to begin an action at law against the owner personally obligated to pay the same;

(d) Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. (A reasonable charge may

be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment);

(e) Procure and maintain adequate liability insurance covering the Association and the directors and officers thereof and adequate hazard insurance on the property owned by the Association;

(f) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) Cause the Common Areas to be maintained.

## ARTICLE VII

### OFFICERS AND THEIR DUTIES

Section 1. Officers. The officers of the Association shall be a President and Vice-President, who shall at all times be members of the Board of Directors, a Secretary, and a Treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 3. Term. Each officer of the Association shall be elected annually by the Board and each shall hold office for one (1) year or until his death, resignation, retirement, removal, disqualification, or his successor is elected and qualifies.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Compensation. No officer shall receive any compensation from the Association for acting as such.

Section 9.     Duties. The duties of the officers are as follows:

President

(a) The President shall be the principal executive officer of the Association, and subject to the control of the Board, shall supervise and control the management of the Association. The President shall preside at all meetings of the Board Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

Vice-President

(b) The Vice-President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

(c) The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the board and of the Members, shall keep the corporate seal of the Association and affix it on all papers requiring said seal, shall serve notice of meetings of the Board and of the Members, shall keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

Treasurer

(d) The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors, shall sign all checks and promissory notes of the Association, shall keep proper books of account, shall cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year, and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the Members.

ARTICLE VIII

COMMITTEES

The Association shall point a Nominating Committee, as provided in these Bylaws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose, including (without limitation) an Architectural Control Committee.

ARTICLE IX

BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of

Incorporation and the Bylaws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

## ARTICLE X

### ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay to the Association Annual and Special Assessments, as defined in the Declaration, which are secured by a continuing lien upon the property against which such assessments are made. Any assessments which are not paid when due shall be delinquent. If an Annual Assessment installment is not paid by its due date, as set forth in the Declaration, or if any other assessment is not paid by its due date, the assessment shall bear interest from such due date at the rate of eighteen percent (18%) per annum or the highest rate then permitted by law, whichever is less, plus such late charge as may be established by the Board of Directors, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot if applicable, and interest, late payment charges, costs and reasonable attorneys' fees related to any such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Areas.

## ARTICLE XI

### CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words WINDEMERE ISLAND PROPERTY OWNERS ASSOCIATION, INC.

## ARTICLE XII

### AMENDMENTS

Section 1. These Bylaws may be amended, at a regular or special meeting of the Members, by a vote of at least two-thirds (2/3) of all votes present at a duly held meeting of the Members at which a quorum is present in person or by proxy.

Section 2. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

## ARTICLE XIII

### MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

ARTICLE XIV

INDEMNIFICATION OF DIRECTORS  
AND OFFICERS

The Directors shall not be liable to the Association or to the Members for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The Association shall defend, indemnify and hold harmless, to the extent permitted by law, each of the directors against all liability and reasonable expenses (including, without limitation, attorneys' fees) arising out of their conduct on behalf of the Association, unless such conduct shall have been willful misconduct or in bad faith, or in connection with any pending, threatened or completed action, suite or proceeding. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of the Association (except as Members).





