

BOOK 1241 PAGE 133

DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by  
ROBUCK HOMES, INC., a North Carolina corporation, hereinafter  
referred to as "Declarant";

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property in or  
near the City of Durham, County of Durham, State of North  
Carolina, which is more particularly described as follows:

BEGINNING at a point in the northern side of a 70-foot  
right-of-way of Woodcroft Parkway designated as control corner on  
the hereinbelow described plat and also designated by the  
following grid coordinates: North 790839.8039 East 2017785.9836  
and commencing from said point the following courses and  
distances; North 39-53-49 East 369.57; North 49-50-10 East  
213.38; North 14-59-59 East 330.68 feet; South 30-11-28 East  
211.61 feet; South 8-15-52 East 204.06 feet; South 5-00 West  
396.59 feet to a stake in the northern edge of the 70-foot  
right-of-way of Woodcroft Parkway; thence along and with a curve  
in a counter clockwise direction; said curve having a radius of  
860 feet, a distance of 128.34 feet to a stake; thence South  
90-00 West 153.09 feet to a stake; thence along and with a curve  
in a clockwise direction, said curve having a radius of 1585  
feet; a distance of 307.86 feet to the point and place of

.. 4239

Mod. Agreement  
12/20/85  
12/25/85  
12/26/85  
JH00

document certification

these Townhouse documents have  
been certified for recording by the  
City of Durham subdivision review  
board

by: John J. Graham chairman

date: October 11, 1985

approval void 30 days from said  
date.

beginning and being all of the Seven Oaks Subdivision of Woodcroft, surveyed by Kimley-Horn Engineers and Planners, dated January 16, 1985, and containing 5.3409 acres.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

#### ARTICLE I

##### DEFINITIONS

Section 1. "Association" shall mean and refer to Seven Oaks Townhomes Association, Inc., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners, together with all sewer and water lines serving the

properties and located on the Common Area outside of dedicated public easements or City rights-of-way.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties, with the exception of "Blocks" and the Common Area.

Section 6. "Blocks" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties which are "Reserved For," or designated for "Lots".

Section 7. "Declarant" shall mean and refer to Robuck Homes, Inc., its successors and assigns, if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

Section 8. "Member" shall mean and refer to every person or entity who holds membership in the Association.

## ARTICLE II

### PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility leased by the Association for use by the Members.
- (b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against his lot remains unpaid; and for a period not

to exceed 60 days for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

(d) the right of the Association to limit the number of guests of members;

(e) the right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property, and the rights of such mortgagee in said properties shall be subordinate to the rights of the homeowners hereunder;

(f) the right of the individual members to the exclusive use of parking spaces as provided in this Article;

(g) easements as provided in Article XII hereof.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Title to the Common Area. The Declarant hereby



covenants for itself, its heirs and assigns, that it will convey fee simple title to the Common Area to the Association, free and clear of all encumbrances and liens, prior to the conveyance of the first lot in each phase.

Section 4. Parking Rights. Ownership of each lot shall entitle the owner or owners thereof to the use of not more than 2 automobile parking spaces which shall be as near and convenient to said Lot as reasonably possible, together with the right of ingress and egress in and upon said parking areas and over any private streets leading to and from such areas. The Association shall have the right to permanently assign one vehicular parking space for each dwelling such space to be as near the dwelling to which it is assigned as is reasonably possible. The Association may regulate the parking of boats, trailers and other such items on the Common Area. No boats or trailers, of owners, members or their guests shall be parked within the right of way of any public street in or adjacent to Seven Oaks Townhomes.

Section 5. TV Antennas and Cablevision. The Association may contract for the provision of a central television antenna for the convenience of the members, or, in the absence of the availability thereof, may supply cablevision and the cost of either of these may be included in annual or special assessments. The Association may regulate or prohibit the erection of television antennas or disc on individual lots.

## ARTICLE III

## MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessment shall be a member both of the Woodcroft Community Association and the Seven Oaks Townhomes Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot. No fractional vote shall be permitted.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership, but provided that the Class B membership shall be reinstated if thereafter and before the time stated in Sub-paragraph (b) below, such additional lands are annexed to the Properties without the assent

of Class A members on account of the development of such additional lands by the Declarant, all as provided for in Article VIII, Section 2, below, or (b) January 1, 1991.

#### ARTICLE IV

##### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, cost and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for the delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents of the Properties and in particular for the improvement and maintenance of properties, services and facilities devoted to this purpose

and related to the exterior maintenance of the residences situated upon the lots within the Properties or for the use and enjoyment of the Common Area, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes and public assessments assessed against the Common Area, the procurement and maintenance of insurance in accordance with the By-Laws and this DECLARATION, the employment of attorneys to represent the Association when necessary, and such other needs as may arise.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be forty Dollars (\$ 40.00 ) per lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased effective January 1 of each year without a vote of membership by up to ten per cent (10%) of the previous year's maximum annual assessment.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above the increase permitted in Section 3.(a) above by a vote of the members for the next succeeding five years and at the end of each such period of five years, for each succeeding period of five years, provided that any such charge shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy, at a meeting



duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting. The limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken as or incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements.

In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, and in connection with exterior maintenance, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to

cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis. Notwithstanding any provision in this Declaration, the Articles of Incorporation and By-Laws to the contrary, no lot shall be subject to the assessment until the first day of the month following the issuance of a certificate of occupancy for such lot by the City of Durham.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots as provided in Section 6 above. The first annual assessment for each lot shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the association setting forth whether the assessments on a specified Lot have been paid, which certification shall be binding on the Association.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 10 percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages and Ad Valorem Taxes. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage and ad valorem taxes. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage or tax foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. All properties dedicated to, and accepted by, a local public authority and all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 11. Lien In Favor of Governmental Authorities. In the event of default by the Homeowner's Association in the

payment of any ad valorem taxes or assessments for public improvements to the governmental authority entitled thereto, which default shall continue for a period of six (6) months, the taxing or assessing governmental authority shall be vested with a lien on each individual townhouse lot within the development in an amount determined by dividing the total taxes and assessments due by the total number of townhouse lots in the development. Such liens may be foreclosed by the governmental authority in the same manner as provided for foreclosure of liens for ad valorem taxes and assessments for public improvements.

#### ARTICLE V

#### PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the dwelling upon the Properties and placed on the dividing line between the Lots and all reconstruction or extensions of such walls shall constitute party walls, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls, lateral support in below-ground construction and of liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to



the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. The owner of any Lot may construct, reconstruct, repair, or extend a party wall in any direction (subject to and within the limitations of architectural control and other limitations of these Covenants) with the right to go upon the adjoining Lot to the extent reasonably necessary to perform such construction. Such construction shall be done expeditiously. Upon completion of such construction, such owner shall restore the adjoining Lot to as near the same condition which prevailed on it before the commencement of such construction as is reasonably practicable.

Section 5. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 6. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 7. Certification by Adjoining Property Owner That No Contribution is Due. If any Owner desires to sell his property, he may, in order to assure a prospective purchaser that no adjoining property owner has a right of contribution as provided in this Article V, request of the adjoining property owner or

property owners a certificate that no contribution exists, whereupon it shall be the duty of each adjoining property owner to make such certification immediately upon request without charge, which certification shall be binding on the owner giving same; provided, however, that where the adjoining property owner claims a right of contribution, the certification shall contain a recital of the amount claimed together with the basis for the claim.

Section 8. Arbitration. In the event of any dispute arising concerning party wall, or under the provisions of this Article, such dispute shall be settled by arbitration as provided by the laws of North Carolina, relating to arbitration as then existing.

#### ARTICLE VI

##### ARCHITECTURAL CONTROL

No building, fence, signs, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and to topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

## ARTICLE VII

## ANNEXATION TO WOODCROFT SUBDIVISION

Section 1. Upon the filing of this Declaration in the Registry of Durham County, North Carolina, the Property herein described, and any properties hereafter annexed in conformity with the provisions of this Declaration, shall be a part of the Woodcroft Subdivision, a planned unit development, as described in the Declaration of Covenants, Conditions and Restrictions for Woodcroft Subdivision, recorded in Book 1165, Page 994, and Book 1166, Page 1, Durham County Registry, as the same now is or hereafter amended, and as shown upon plans for Woodcroft Subdivision heretofore with the City of Durham, North Carolina.

Every owner of a lot within the Property shall be a member of the Woodcroft Community Association and shall be subject to the provisions of said Declarations for Woodcroft and to the By-Laws, rules, and regulations of said Woodcroft Association.

## ARTICLE VIII

## ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Annexation of additional property, except as provided in Section 2 of this Article VIII, shall require the assent of two-thirds (2/3) of the Class A membership and two-thirds (2/3) of the Class B membership, if any, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting. The presence of members or of proxies entitled to cast sixty percent (60%) of the votes of each class of membership shall constitute a quorum. If the required quorum is not

forthcoming at any meeting, another meeting may be called subject to the notice requirement set forth above and the required quorum at such subsequent meeting shall be one-half of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting. In the event that two-thirds (2/3) of the Class A membership or two-thirds (2/3) of the Class B membership are not present in person or by proxy, members not present may give their written assent to the action taken thereat.

Section 2. If within six years of the date of incorporation of this Association, the Declarant should develop additional land within reasonable proximity of the property herein described; such land may be annexed by the Declarant without the consent of members.

#### ARTICLE IX

##### EXTERIOR MAINTENANCE

Section 1. In addition to maintenance of the Common Area, the Association shall provide exterior maintenance upon each lot which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, mailboxes, fences installed by Declarant or the Association, exterior post lights (excluding electricity therefore), and other exterior improvements. Such exterior maintenance shall not include glass surfaces, screens, awnings, and if permitted, approved additions to dwellings made after completion of the initial dwelling (unless maintenance of such addition is affirmatively assumed by the Association). Further, the owner of any lot may at his



election plant trees, shrubs, flowers and grass in his rear yard and may also maintain portions or all of his rear yard provided that such maintenance by the owner does not hinder the Association in performing its maintenance of the exterior of the house and the remaining yard spaces. Any owner who fences in his rear yard shall be required to maintain such area. No such maintenance by a lot owner shall reduce the assessment payable by him to the Association. If, in the opinion of the association any such owner fails to maintain his rear yard in a neat and orderly manner, the Association may revoke the owner's maintenance rights for a period not to exceed one year. The Owner shall not plant any vegetation in the front yard except with the prior written approval of the Association. The Association hereby reserves an easement unto itself, its agents, and employees for access over the Common Area and lots for the purpose of performing the maintenance and repairs provided for in this Declaration.

(As a matter of information to future members of this Association, the developers wish to make it known that it is a part of the original plan of development to construct a variety of dwellings with a variety of exteriors for the good of the entire subdivision. Some dwellings may require far more maintenance than others because of the types of exterior exposures. Nevertheless, in order to avoid monotony and in order to achieve a harmony of design and textures, all of those connected with the conception, design, construction and financing of this subdivision as originally planned, are in accord in their belief that all members of the Association will be benefited by

the variety of exteriors and, therefore, the Association should provide exterior maintenance and make a uniform rate of charge without regard to the actual cost of maintenance of each dwelling.)

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, or guests, or invitees, or employees, or subcontractors, or tenants, the cost of such maintenance shall be added to and become a part of the assessment to which such lot is subject.

Section 2. Maintenance by Owner. In cases where maintenance or repair is required in this Declaration to be done or made by an Owner, and such maintenance or repair has not commenced within sixty (60) days, or if commenced, is not completed within a reasonable time thereafter, the Association may, upon thirty (30) days written notice to such owner, make or complete such maintenance or repairs, and the cost thereof shall be an additional assessment applicable only to such lot and Owner, and shall be payable as determined by the Board of Directors.

#### ARTICLE X

##### INSURANCE AND RECONSTRUCTION

Section 1. Insurance. The insurance which shall be carried upon the Townhomes shall be governed by the following provisions:

(i) All improvements comprising the Townhomes shall be insured by the Association in an amount equal to the full insurable replacement value thereof, exclusive of excavation and foundations. Such coverage shall afford protection against the following:

(a) loss or damage by fire and other hazards covered by standard extended coverage endorsement; and

(b) such other risks as from time to time according to custom shall be covered with respect to buildings similar to the Buildings in construction, location and use, including, but not limited to, vandalism, malicious mischief, windstorm and water damage, subject to such deductible amounts not in excess of \$1,000.00 as the Board shall determine. The policy or policies providing such coverage (hereinafter called "Casualty Insurance") shall provide that the coverage thereof shall not be terminated for non-payment of premiums without at least ten (10) days' written notice to each Unit or Lot mortgagee. All Casualty Insurance policies shall be purchased by the Association for the benefit of the Grantor, the Association, the Unit or Lot Owners and their respective mortgagees, as their interests may appear, and shall provide (a) for the issuance of certificates of insurance with mortgagee endorsements to the holders of mortgages on the Units or Lots, if any, and (b) that the insurer waives its rights of subrogation against Unit or Lot Owners, Occupants and the Association. All Casualty Insurance policies shall provide that all proceeds payable as a result of casualty losses shall be paid to the Association, as trustee.

(ii) The Association shall insure itself, the members of the Board, the Unit or Lot Owners and the Occupants against

Liability for personal injury, disease, illness or death and for injury to or destruction of property occurring upon, in or about, or arising from or relating to the Common Areas including without limitation water damage, legal liability, hired automobile, non-owner automobile and off-premises employee coverage, such insurance to be in such amounts as is determined necessary and adequate from time to time by the Board. All liability insurance shall contain cross-liability endorsements to cover liabilities of the Unit or Lot Owners as a group or to a Unit or Lot Owner. In the event the insurance effected by the Association on behalf of the Unit or Lot Owners and Occupants against liability for personal injury or property damage arising from or relating to the Common Areas shall, for any reason, not fully cover any such liability, the amount of any deficit shall be assessed at a uniform rate against all Unit or Lot owners without requirement of an affirmative vote of the members.

(iii) Premiums upon insurance policies purchased by the Association shall be paid by the Association at least thirty (30) days prior to the expiration date of such policies and shall be a part of the Annual Assessment.

(iv) Each Unit or Lot Owner may, at his own expense, obtain public liability insurance for personal injuries or damage arising out of the use and occupancy of his Unit and Casualty Insurance affording coverage upon his Unit and property inasmuch as the same will not be insured by the Association, but such Casualty Insurance shall provide that it shall be without contribution as against the Casualty Insurance purchased by the Association or shall be written by the carrier of such Casualty



Insurance and shall contain the same waiver of subrogation as that referred to in subparagraph (i) above.

Section 2. Responsibility for Reconstruction or Repair. If any portion of the Common Areas or Units or Lots shall be damaged by perils covered by the Casualty Insurance, the Association shall cause such damaged portion to be promptly reconstructed or repaired to the extent of the funds made available to the Insurance Trustee, as hereinafter provided, and any such reconstruction or repair shall be substantially in accordance with the original plans of the Unit or Lot damaged or destroyed.

Section 3. Procedure for Reconstruction or Repair.

(i) Immediately after a casualty causing damage to any portion of the Common Areas or Units or Lots, the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board deems necessary.

(ii) If the proceeds of the Casualty Insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association (including the aforesaid fees and premiums, if any) one or more special assessments shall be made (without requirement of an affirmative vote of the Members) against all Unit or Lot Owners in sufficient amounts to provide funds for the payment of such costs, and the proceeds of such special assessments shall be deposited with the Insurance Trustee.

(iii) The proceeds of the Casualty Insurance referred to in Subsection (i), Section 1 of this Article X and the sums

deposited with the Insurance Trustee from collections of special assessments against Unit or Lot Owners as account of such casualty, shall constitute a construction fund which shall be disbursed to the Insurance Trustee and be applied by the Insurance Trustee to the payment of the cost of reconstruction and repair of the Common Areas, Units or Lots from time to time as the work progresses. It shall be presumed that the first monies disbursed in payment of such costs of reconstruction and repair shall be from insurance proceeds; and if there is a balance in any construction fund after payment of all costs of the reconstruction and repair from which the fund is established, such balance shall be disbursed to the Association.

(iv) Each Unit or Lot Owner shall be deemed to have delegated to the Board his right to adjust with insurance companies all losses under the Casualty Insurance policies referred to in Subsection (i), Section 1 of this ARTICLE X.

Section 4. Annual Review of Policies. All insurance policies shall be reviewed at least annually by the Board of Directors in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the property which may have been damaged or destroyed; provided however, the Board of Directors shall have satisfied these provisions, and shall not be liable to the members for failure to maintain sufficient coverage, if the amount of coverage maintained equals or exceeds the cost of replacement of all improvements as reflected on an annual appraisal made by an M.A.I. appraiser or by the insurance carrier, as selected by the Board.

## ARTICLE XI

## USE RESTRICTIONS

Section 1. Rules and Regulations. The Board of Directors of the Association shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the front yard space of each lot and the Common Areas. Such rules and regulations may provide for imposition of fines or penalties for the violation thereof, or for the violation of any of the covenants and conditions contained in this Declaration.

Section 2. Use of Properties. No portion of the Properties (except for temporary office of the Declarant and/or model townhouses used by Declarant) shall be used except for residential purposes and for purposes incidental or accessory thereto.

Section 3. Quiet Enjoyment. No obnoxious or offensive activity shall be carried on upon the Properties, nor shall anything be done which may be or may become a nuisance or annoyance to the neighborhood.

Section 4. Animals. No animals, livestock or poultry of any kind shall be kept or maintained on any Lot or in any dwelling except that dogs, cats or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes, and no animal shall be permitted upon the Common Area unless the same is under leash.

Section 5. Dwelling Specifications. No dwelling shall be constructed or permitted to remain on any lot having an area of the main structure, exclusive of open porches and decks, of less

than 900 square feet for a one-story dwelling nor less than 1000 square feet for a dwelling of more than one-story.

Section 6. Signs. No sign shall be erected or permitted to remain on any lot or the Common Area, or on the rights-of-way of private or public streets within or adjacent to Seven Oaks Townhomes except that a "For Sale" sign meeting the size requirements of the Durham City Code may be placed directly in front of the unit being sold within eight (8) feet of the front face of the unit.

Section 7. Trash Collection. Trash collection services shall be provided by the City of Durham with collection being made by hand method.

## ARTICLE XII

### EASEMENTS

All of the Properties, including Lots and Common Areas, shall be subject to such easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power line and other public utilities as shall be established by the Declarant or by his predecessors in title, prior to the subjecting of the Properties to this Declaration; and the Association shall have the power and authority to grant and establish upon, over, under and across the Common Areas conveyed to it, subject further easements as are requisite for the convenient use and enjoyment of the Properties.

An easement is hereby established over the Common Areas and facilities for the benefit of applicable governmental agencies,



public utility companies and public service agencies as necessary for setting, removing, and reading of meters; replacing and maintaining water, sewer and drainage facilities; electrical, telephone, gas and cable antenna lines; fire fighting; garbage collection; postal delivery; emergency and rescue activities; and law enforcement activities.

All lots and common areas shall be subject to easements for the encroachment of initial improvements constructed on adjacent Lots by the Declarant to the extent that such initial improvements actually encroach including, but not limited to, such items as overhanging eaves, gutters and downspouts and walls.

If any of the property is utilized for a detached townhouse dwelling and such dwelling(s) is located closer than five (5) feet from its lot line, the owner thereof shall have a perpetual access easement over the adjoining lot to the extent reasonably necessary to perform repair, maintenance or reconstruction of his townhouse. Such repair, maintenance or reconstruction shall be done expeditiously and, upon completion of the work, the owner shall restore the adjoining lot to as near the same condition as that which prevailed prior to the commencement of the work as is reasonably practicable.

#### ARTICLE XIII

##### GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by a proceeding at Law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of

this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners.

No amendment which would change or delete any provision herein required by the City of Durham shall become effective until submitted to and approved by the City. Any amendment must be recorded in the Office of the Register of Deeds of Durham County, North Carolina.

Section 4. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior written approval of the Federal Housing Administration or the Veterans Administration, and the City of Durham: Annexation of additional properties, dedication of Common Areas, and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 5. Conflicts. In the event there shall be any irreconcilable conflicts between either this Declaration of the Association or the By-Laws of the Association and the Declarations of Covenants, Conditions and Restrictions for Woodcroft Subdivision (hereinbefore referred to) or the By-Laws

of Woodcroft Community Association, the provisions of the said Declarations and By-Laws of said Woodcroft Community Association shall control.

IN WITNESS WHEREOF, the undersigned being the Declarant herein, has hereunto set its hand and seal this 29th day of October 1985.



ROBUCK HOMES, INC.

BY: [Signature]

President

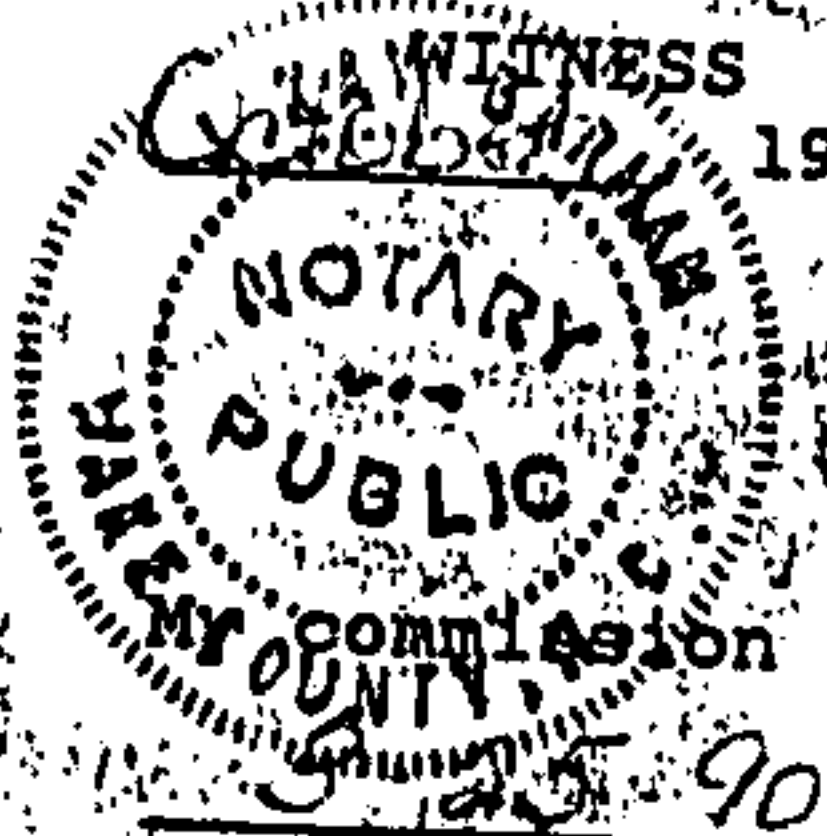
[Signature]  
Secretary

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, J. Kay Barham, a Notary Public, certify that Barbara O. O'Neil personally came before me this day and acknowledged that she is Said Secretary of ROBUCK HOMES, INC., a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Said President, sealed with its corporate seal, and attested by her self as its Said Secretary.

IN WITNESS my hand and notarial seal this 29th day of October 1985.



J. Kay Barham  
Notary Public

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RUTH C. GARRETT  
REGISTER OF DEEDS  
DURHAM COUNTY, NC

State of North Carolina - Durham County

The foregoing certification of J. Kay Barham  
Notary (Notary) Public of the Designated County (County)  
is (are) certified to be correct.

This the 1st day of Nov. A.D. 1985

Ruth C. Garrett  
Register of Deeds

[Signature]  
By: Assistant, Deputy  
Register of Deeds