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DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
OF  
ANNISTON GROVE SUBDIVISION

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF ANNISTON GROVE SUBDIVISION AND ANNISTON GROVE HOMEOWNERS ASSOCIATION, INC., hereinafter referred to as "Declaration" is made this 17<sup>th</sup> day of February, 2006 by PERFORMANCE DEVELOPMENT CO., LLC hereinafter referred to as "Declarant", and any and all persons, firms, or corporations hereinafter acquiring any of the within described property or any of the property hereinafter made subject to this Declaration.

WITNESSETH:

WHEREAS, Declarant is the owner of certain Property in Union County, North Carolina known as ANNISTON GROVE SUBDIVISION, which is more particularly described by plat(s) showing Lots 1 - 86 inclusive; and recorded in the following Plat Cabinet J and File: 177-180 in the Office of the Register of Deeds for Union County to which reference is hereby made for more complete descriptions; and

WHEREAS, Declarant has agreed to establish a general plan of development as herein set out to restrict the use and occupancy of the Property made subject to this Declaration for the benefit of the present and the future owners thereof; and

WHEREAS, Declarant may subject to this Declaration additional portions of ANNISTON SUBDIVISION for the purpose of extending the general scheme of development to such additional Property and accordingly declares that ANNISTON GROVE SUBDIVISION may be expanded to include additional property; and

WHEREAS, Declarant desires to provide for the preservation of the values of ANNISTON GROVE SUBDIVISION as expanded hereby and hereinafter made subject to this Declaration and for the preservation and maintenance of all Common Area, established by the Declaration and by the supplements hereto.

NOW, THEREFORE, in accordance with the recitals which by this reference are made a substantive part hereof, Declarant declares that all of the property described on said recorded plats and all of the property hereinafter made subject to this Declaration by recorded supplements hereto referencing subsequently recorded plats, including, but not limited to, the "property", shall be held, sold, transferred, conveyed, occupied and used subject to the North Carolina Planned Community Act codified in Chapter 47F of the North Carolina General Statutes and to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of ANNISTON GROVE SUBDIVISION as it now exists and is hereafter expanded and that such easements, restrictions, covenants, and conditions shall burden and run with said real Property and the heirs, successors and assigns having any right, title, or interest in the Properties now or hereafter subjected to this Declaration or any part thereof, and shall inure to the benefit of each owner thereof and burden each owner's real Property that is subjected to this Declaration.

## ARTICLE I

### DEFINITIONS

"Association" shall mean and refer to ANNISTON GROVE HOMEOWNERS ASSOCIATION, INC., a not-for-profit North Carolina corporation, organized pursuant to N.C. G.S. §47F-3-101 and 55A-2-02 and its successors and assigns.

"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 any of the Property made subject to this Declaration, but excluding those having such interest merely as security for the performance of an obligation, provided however, the Declarant shall not be deemed an Owner.

"Property" shall mean and refer to that certain property shown on plat(s) recorded in Plat Cabinet(s)   J   and File:   177-180   in the Office of the Register of Deeds for Union County, North Carolina and any additional property which Declarant may make a part of this Subdivision, as provided for in the Declaration of Restrictive Covenants of ANNISTON GROVE SUBDIVISION, recorded separately. The terms "Property," "Subdivision," and "ANNISTON GROVE" are interchangeable.

"Lot" shall mean and refer to any improved or unimproved building lot shown upon any recorded subdivision plat of this Subdivision.

"Dwelling Unit" shall mean and refer to the completed single family home located upon a Lot.

"Declarant" shall mean PERFORMANCE DEVELOPMENT CO., LLC a North Carolina limited liability corporation, and its successors and assigns if such successors and assigns acquire two or more undeveloped lots from the Declarant for the purpose of development and if the rights and obligations of the Declarant hereunder are expressly assigned to and assumed by such successors and assigns.

"Common Area" shall mean all property owned by the Association and the easements granted to the Association for the common use and enjoyment of all or a designated class of members. Common Area includes without limitation all walls, entrance monuments, walking trails, the storm water management ponds and any other property as may be purchased or provided for the common use and benefit of the Declarant, the Owners, and any member in the Association, including without limitation such Common Area as may be shown on the recorded plat(s) of the Property. Except by the Declarant, the Common Area shall not be used for public commercial purposes.

"Committee" shall mean the Architectural Review Committee established by the Declarant for the purpose of administering control over architectural, landscaping, and related matters, as provided in Article V of this Declaration.

"Turnover Date" shall mean (a) the date on which the Declarant no longer owns any part of the property; (b) the date the Declarant shall elect, in its sole discretion, that Class B Memberships cease and be converted to Class A Membership, which election must be made, if at all, by the execution and delivery of written notice by the Declarant to the Board; or (c) December 31, 2030. The earliest to occur of (a), (b), or (c) shall be referred to as the "Turnover Date".

## ARTICLE II

### RIGHTS AND DUTIES OF THE ASSOCIATION AND PROPERTY OWNER ASSESSMENTS

Section 1. Owner's Easements of Enjoyment. The Declarant and, to the extent provided by this Declaration, every Owner shall have a non-exclusive right and easement of ingress, egress, and regress over the Common Area; for himself, his family, agents, licensees and invitees, and for his and their non-exclusive use and enjoyment of the Common Area, subject however to the limitations on such use and enjoyment of the Common Area as provided for in this Declaration. Every Owner, and

the members of such Owner's family who reside with such Owner or are overnight guests of such Owner, shall have the right to use the areas within the Common Area, subject however to such Owner paying when due the dues and assessments of the Association and abiding by all rules and regulations of the Association, including without limitation those governing the use of the Common Area. Non-Owners shall only be entitled to use the common areas on such terms and conditions as the Association may select. The Association may as provided by the North Carolina Planned Community Act may impose fines and suspend voting rights and privileges of any member for any period during which any assessment remains unpaid, or as a result of any infraction or violation of the Declaration or any Association Rules and regulations.

Section 2. Annual Assessments.

(a) The Association shall have the duty to repair, replace, and maintain all common area, walls, entrance monuments, walking trails, the storm water management ponds and any other improvements thereon. The Association shall have the right, from time to time, to establish a reasonable assessment, which assessment shall be paid by each Owner in such periodic installments as the Association may determine, to be used to pay: (1) the operating and administrative expenses of the Association; (2) the costs of maintenance, upkeep, replacement and repair of all common areas, and improvements located thereon, (3) other expenses necessary or useful to maintain and operate the Association and the recreational facilities (including, without limitation, procuring, maintaining and paying the costs of insurance related to the Common Area and of surety and other bonds related to the management of the Common Area and the Association). It is understood (by way of example and without limitation) that the assessment funds shall be used for such matters concerning Common Area as the following: maintenance, repair and replacement of improvements within the common areas, the seeding and re-seeding of Common Areas, and the planting and maintenance of shrubs, trees and seasonal flowers.

(b) The annual assessments may also be used by the Association for the purpose of adding to the recreational facilities.

(c) The annual assessment payable by each Owner shall be \$595.00 per lot per calendar year. The annual assessment shall be due and payable on January 31 of each year. Homeowner dues will be prorated at closing. Annual assessments are applicable on each individual lot regardless of whether two or more lots are combined to form one.

(d) The annual assessment may be increased or decreased by the board of directors of the Association without a vote of the membership to an amount not more than twenty percent (20%) in excess of the annual assessment for the previous year. A majority vote of each class of voting members of the Association must approve an

increase or decrease in the yearly assessment if the increase or decrease exceeds the assessment for the previous year by more than twenty percent (20%).

(e) Annually the board of directors of the Association shall have determined and shall have given written notice to each Owner of the annual assessment affixed against each owner for the immediately succeeding calendar year.

Section 3. Special Assessments.

In addition to the assessments specified herein-above, the Association may levy special assessments for the purpose of supplementing the annual assessments if the same are inadequate to pay the reasonable maintenance and capital expenses and operating costs of the Association as described in Section 2 hereof, provided that any such special assessments shall have the assent of a majority of each class of the voting members of the Association at a duly called meeting.

Section 4. Removal of Obstructions, Signs and Unsightly Growth, Debris and Materials.

(a) The Association may remove any obstructions of any nature located within the Common Area (including but not limited to trees, shrubs and mailboxes).

(b) The Association shall have the right, in its sole discretion, to charge back the actual cost to it of removing obstructions against the Owner who directly, or through his agents, contractors or invitees caused or permitted the obstruction to be placed in the Common Area, and such Owner shall indemnify and save the Association harmless from all liability, claims, damages and expense imposed upon the Association, at law or in equity, caused by or resulting from the placement of the obstruction in the Common Area. In the event the Owner responsible for such charge or liability as aforesaid fails and refuses after demand by the Association to pay said charge or liability, then the Association shall have a lien against his lot thereon and may enforce collection of the charge or liability, together with reasonable attorneys' fees, by any and all remedies afforded by law or in equity, including without limitation, the filing of a notice of lien and perfecting the same as by law provided, to the end that such charge or liability shall become a charge against the said lot or dwelling unit.

(c) If the Association, in its sole discretion, determines that any lot has become unsightly due to grass or weeds that have not been mowed, or due to debris of any nature having accumulated on the lot, or that there is an unapproved installation of any sign, then the Association, its agents or assigns shall have the right from time to time to enter the said lot without any liability for damage, for wrongful entry, trespass or otherwise to any person for the purpose of mowing the grass, removing the unapproved sign or removing the debris. At least ten (10) days prior to entering a lot for said purpose, the Association shall advise the Owner by letter, sent to his last

known address, of the action to be taken if the Owner does not remedy the problem within the said ten (10) day period. The Association shall take reasonable steps to avoid damage to any trees planted on such lot, to the extent that the Association has been put on written notice in advance by the Owner of the approximate location on a chart or map of such lot showing the location of planted trees to be avoided.

(d) The Association shall have the right, in its sole discretion, to charge back the actual cost of mowing the grass or removing the debris against the Owner. In the event the Owner responsible for such charge or liability as aforesaid fails and refuses after demand by the Association to pay said charge or liability, then the Association shall have a lien against his lot and may enforce collection of the charge or liability thereon, together with reasonable attorneys' fees, by any and all remedies afforded by law or in equity, including without limitation, the filing of a notice of lien and perfecting the same as by law provided to the end that such charge or liability shall become a charge against the said lot or dwelling unit.

Section 5. Duty to Make Repairs.

(a) Until accepted for maintenance by governmental authority, the obligation for the repairs, maintenance and improvements of the roads as shown on the aforesaid plat(s) or any other Common Area shall be the responsibility of the Association with the Owner of each lot except as provided herein, being responsible for payment of the assessments levied by the Association, which assessments shall be the personal obligation of the Owner of each lot.

(b) The decision to expend Association funds to repair and maintain the Common Area and any improvements thereon shall be made by a majority of the board of directors of the Association. By such vote, the board may delegate such authority to any committee of the board. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use or abandonment of his lot.

(c) Notwithstanding the foregoing, each Owner of a lot shall be solely responsible for any repairs to a road or road right-of-way or other Common Area caused by the negligent act or acts of said Owner, his or her invitees, agents, licensees, or guests. For these purposes, it shall be a negligent act for any building material to be unloaded on any road or road right-of-way.

Section 6. Easement for Utilities and Maintenance. The Declarant reserves unto itself, its successors and assigns, a perpetual, alienable and reasonable easement and right of ingress and egress, over, upon, across and under the Setback areas, buffers and easement areas on each Lot as shown on the recorded map of the Subdivision and/or as set forth herein and over, upon, across and under the Common Areas for maintenance and/or the erection, maintenance, installation and use of electrical and telephone wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water or

other public convenience or utilities, including an easement for privately owned television and other communications cable and equipment, and for maintenance of lakes and detention ponds and the installation and maintenance of pumps, fountains or other equipment related to said maintenance. Declarant may further cut drainways for surface water when such action may appear to the Declarant to be necessary in order to maintain reasonable standards of health, safety and appearance. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any grading of soil, or to take any other similar action reasonable necessary to provide economical and safe utility or other installations and to maintain reasonable standards of health, safety and appearance. Declarant further reserves the right to locate wells, pumping stations and tanks on Common Area, or to locate same upon any Lot with permission of the Owners of the Lots immediately adjacent to such Lot. It shall not be necessary to obtain the consent of Owners of Lots adjoining any existing utilities or pump stations. Such rights may be exercised by the licensee of the Declarant, but this reservation shall not be considered an obligation of the Declarant to provide or maintain any such utility service. No structures or other items, including walls, fences, paving or planting shall be erected upon any part of the Subdivision which will interfere with the rights of ingress and egress provided for in this paragraph. Specifically, no Owner shall erect any structure, including without limitation walls, fences or paving or within any areas designated on the Plat of the Subdivision as a "Walking Trail" Sewer Easement", or "Utility Easement," nor shall any Owner change the grade of any such easement area, provided however, that driveways may cross utility easements at the front of the Lots subject to prior approval of Declarant and that any planting in easement areas shall not interfere with the applicable easement and shall be limited to grassing and small shrubbery. Each Owner shall keep drainage ditches and swales located on such Owner's Lot free and unobstructed and in good repair and shall provide for the installation of such culverts upon such Lot as may be reasonably required for proper drainage. Declarant may, at its sole option, convey any such drainage easements to an appropriate governmental entity. The easements referred to in this paragraph are, without limitation, those shown upon the recorded plat(s) of the Subdivision; as set out in easements of record; upon the plans of the Subdivision; or which are located on, over or under the ground.

In addition to the foregoing rights reserved to Declarant, and not in limitation thereof, Declarant further reserves unto itself, its successors and assigns, a perpetual, alienable commercial easement and right of ingress and egress over, upon, across and under all Common Area and all streets and roads within the Subdivision for the purpose of providing drainage and utility installation, construction, reconstruction, and maintenance to adjacent property now or hereafter owned by Declarant and for the installation and maintenance of any pipes, drainways or other installations necessary for the foregoing and further for the installation, maintenance, repair, replacement and operation of water lines, sewer lines and other utilities which serve or shall serve property presently owned by Declarant. Declarant, its agents, contractors, servants, employees and assignees may enter upon the easement areas for the purpose of installing additional utilities and drainage facilities. Declarant, its agents, contractors,

servants, employees and assignees may enter upon any of the easement areas so designated on the recorded plat of the Subdivision for the purpose of maintaining, repairing, cutting grass, removing debris, replacing and operating any of the drainage facilities, pipes, ditches and drainage areas located thereon. The Owners of Lots on which such easements are located shall not interfere in any manner with such easements or any of the facilities located therein or the access thereto. No Owner shall erect any structure or fence within such easement areas without prior written consent of Declarant. Declarant, its agents, employees and assignees shall have no liability for damage which may occur to any structures, plants, trees or other items which may be located in such utility and drainage easements, and Declarant shall have no obligation to replace any such structures or plantings which may be removed or damaged due to maintenance, repair or other work performed in such easement areas. Declarant further specifically reserves itself, its successors and assigns, perpetual, alienable, commercial easements over and under all Lots along an area 10 feet in width inside each side boundary line of each Lot and 15 feet in width along the front and rear of each Lot for the purpose of installation, construction, maintenance, repair, replacement use and operation of utilities and utility systems of all kinds (including but not limited to water, sewer, electric and natural gas), drainage (including but not limited to storm water and surface drainage) and access. These easements shall be in addition to, and not in limitation of, any and all other easements reserved unto the Declarant herein. Declarant further reserves an easement of ingress and egress over and across all streets and roads of the Subdivision which such easements are and shall be for the purpose of ingress and egress to any property now owned or hereafter acquired by Declarant, its successors and assigns, whether or not such property is made a part of the Subdivision and whether or not such property adjoins the Subdivision.

Section 7. Maintenance Easement. Subject to the other terms of this Declaration, there is hereby reserved for the benefit of the Declarant, the Association and their respective agents, employees, successors and assigns an alienable, transferable and perpetual right and easement to enter upon any unimproved portions of any Lot for the purpose of landscaping, mowing, removing, clearing, cutting or pruning underbrush, weeds, stumps or other unsightly growth and removing rubbish and trash, so as to maintain reasonable standards of health, fire safety and appearance within the Subdivision; provided that such easements shall not impose any duty or obligation upon the Declarant or the Association to perform any such actions. Furthermore, there is hereby reserved for the benefit of the Declarant, the Association and their respective agents, employees, successors and assigns, an alienable, transferable and perpetual right and easement, but not the obligation, to maintain and/or repair the outer portions of any building, if the Owner shall fail to maintain such building in keeping with the standards of the Subdivision. The cost of such maintenance and/or repair shall constitute a special Assessment against the Lot on which the building is located and the Owner of said Lot as provided in Article VII, Section 3 herein.



Section 8. Road Construction Easement. Declarant reserves a temporary construction easement of 25 feet in width along both sides and running parallel to the right of way of streets and roads, which easements shall expire eighteen (18) months after the particular road construction commences.

Section 9. Late Charges and Interest on Unpaid Assessments.

Any assessment not paid within thirty (30) days after the due date shall be subject to such late charges and shall bear interest at a rate per annum as shall be determined by the board of directors of the Association, which interest rate shall not exceed the highest rate of interest allowed by law. The initial late charge imposed for late payment of any assessment is \$20.00 and shall be charged as to any assessment that is not paid within thirty (30) days of its due date. The initial interest rate for late payment is 18% per year (1.5% per month) which shall commence to accrue on any assessment or other account balance that is not paid within thirty (30) days of the date due. The initial date upon which liens may be filed for failure to make payment of assessments and other charges is thirty (30) days after the due date. The board of directors may change the initial late charge, interest rate, due dates and lien assessment date by majority vote of the directors.

Section 10. Lien for Unpaid Assessments.

(a) In the event the Owner of any lot fails and refuses, after demand by the Association, to pay any annual or special assessment, then the Association shall have a lien against said lot and may enforce collection of said assessment in law or in equity. The Association may enforce assessment obligations as permitted by law, including, without limitation, by filing and foreclosing a claim of lien in accordance with the procedures set forth in N.C.G.S. ' 47F-3-116, and/or by bringing an action at law against the Owner personally obligated to pay the assessment and/or foreclosure the lien against his Lot to collect said assessment. Interest, late charges and reasonable attorney fees and costs of such action or foreclosure shall be added to the amount of such assessment. Each Owner, by his acceptance of a deed to a Lot, expressly grants to and vests in the Association or its agents the right and power to bring such action or foreclosure. Foreclosure may be accomplished in an action brought in the name of the Association in the manner that a foreclosure of a mortgage or deed of trust would be brought under Chapter 45 of the North Carolina General Statutes, or as otherwise expressly provided by law, and each Owner grants to the Association a power of sale in connection with any such charge or lien. The Association, acting on behalf of the Owners, shall have the power to bid on any Lot and to acquire and hold, lease, mortgage and convey the same. **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.**

(b) To secure the payment of the annual and special assessments as are levied by the Association, together with the cost of collection including attorney fees,

all such charges shall be a continuing lien upon the lot against which the assessments are made. Such charges shall also be the personal obligation of the person(s) who were the Owner or Owners of such lot at the time the assessment came due. Their personal obligation shall remain a lien upon the lot upon transfer of title but shall not become the personal obligation of the purchasers thereof unless expressly assumed by them.

Section 11. Administrative Proceedings.

- (1) Association Administrative Proceedings Including Hearings Regarding Fines and Suspension of Services under N.C.G.S. ' 47F-3-102(11) or (12) and N.C.G.S. ' 47F-3-107.1. The Association may conduct any administrative proceedings permitted or provided for under the Declaration, the Act or as otherwise provided by law, including without limitation, the right of the Association, after notice and an opportunity to be heard, to (1) impose reasonable fines for violations of the Declarations, Bylaws, rules and regulations of the Association, or (2) to suspend privileges or services provided by the Association (except rights of access to lots) for reasonable periods for violations of the Declaration, Bylaws, and rules and regulations of the Association or during any period that assessments or other amounts due and owing to the Association remain unpaid for a period of thirty (30) days or longer. Prior to pursuing the imposition of a fine or the suspension of privileges or services as allowed by the Act and as provided herein, the offending Owner will be notified and given ten (10) days in which to cure his violation or nonpayment. In the event the violation or nonpayment is not cured within this ten (10) day period, a hearing shall be held before an adjudicatory panel appointed by the Board to determine if the offending Owner should be fined or if privileges or services should be suspended. If the Board fails to appoint an adjudicatory panel to hear such matters, hearings shall be held before the Board. The offending Owner charged shall be given notice of the charge, an opportunity to be heard and to present evidence and notice of the decision. If it is decided that a fine should be imposed, a fine not to exceed one hundred dollars (\$100.00) may be imposed for the violation. Homeowner has a 5 day grace period after the hearing to rectify the violation before the fine can be assessed and accrued. After the 5 day grace period, fines imposed shall be subject to the following minimums:

- (i) The fine for the first violation or the first day of any continuing or repetitive violation shall not be less than \$25.00.
- (ii) The fine for the second violation or the second day of any continuing or repetitive violation shall not be less than \$50.00.

- (iii) The fine for the third violation or the third day and subsequent days of any continuing or repetitive violation shall not be less than \$100.00.

Fines imposed shall be assessments secured by liens under N.C.G.S. ' 47-3-116. If it is decided that a suspension of privileges or services should be imposed, the suspension may be continued without further hearing until the delinquency is paid if imposed pursuant to ' 47F-3-102(11) or until one violation is cured or sixty (60) days, whichever is longer, if imposed pursuant to ' 47F-3-102(12).

(2) Association Collections. The association may institute actions or proceedings permitted by law or the Act to collect any sums due and owing to it.

(3) Abatement Violations. In the event of any violation of the Declaration, Bylaws or rules and regulations of the Association, the Association, or its designated agents, may upon reasonable notice to the Owner (or without notice if the violation creates an immediate threat to the health, safety, or welfare of any resident of the Property) enter upon the Lot where such violation exists, and abate or remove the same at the expense of the Owner; provided, however, that the Association shall then, at the expense of the Owner, make the necessary repairs or construction to ensure that the property and improvements where such violation occurred are restored to the same condition in which they existed prior to such violation, and any such entry, abatement, removal or restoration and construction work shall not be deemed a trespass. Any amounts expended by the Association in so removing or abating any such violation and in restoring or repairing said property shall immediately be deemed a Special Individual Assessment levied by the Association against such violating Owner and such Owners Lot, shall become a personal obligation of such Owner and shall become a lien upon such Lot. Notwithstanding the foregoing, the Association shall not have the right to exercise the foregoing powers without an order from an arbitrator or a court of competent jurisdiction if the abatement sought by the Association involves the alteration or demolition of any improvements within the property.

### ARTICLE III

#### MEMBERSHIP, VOTING RIGHTS, OFFICERS AND MEETINGS

Section 1. Membership. Every Owner of a lot which is subject to this Declaration shall be a member of the Association. Membership is appurtenant to each lot and may not be assigned. If and when Declarant develops additional Sections in the Subdivision, the Owners of those lots shall be members of the Association. The Declarant shall also be a member so long as it owns property within this expandable Subdivision.

Section 2. Class Membership Voting The Association shall have two (2) classes of membership:

Class A

Class A members shall be all lot Owners with the exception of Declarant, and shall be entitled to one vote for each lot owned. When more than one (1) person owns an interest in a lot, all such persons shall be members; but the vote for such lot shall be exercised as they, among themselves, shall determine in writing, which writing shall be filed with the Secretary of the meeting prior to voting, but in no event shall more than one vote be cast with respect to any lot.

Class B.

(a) Class B members shall be entitled to vote ten (10) votes for each lot owned. Class B membership shall consist of the Declarant, or its successors or assigns, until the happening of one of the following events, whichever occurs earlier:

1. The earlier of four months after ninety percent (90%) of all the lots in the Subdivision are sold, as well as all adjacent undeveloped acreage sold and conveyed by the Declarant to unrelated third parties; or

2. Ten (10) years from date of recordation of this Declaration; or

3. At such time as Declarant voluntarily relinquishes majority control of the Association by a duly recorded instrument.

(b) Upon the happening of the earlier of one of the three above-described events, Class B membership shall cease and terminate and shall be converted to Class A membership.

Section 3. Board of Directors. There shall be three (3) members of the board of directors of the Association appointed by the Declarant who shall serve until such time as their successors are duly elected and agree to serve. As required by N.C.G.S. §47-F-3-103(e), the members shall elect five (5) Board Members following the Turnover Date, and each of whom must be a member. Thereafter the Board shall consist of five (5) individuals, each to serve until the next Annual Meeting (or until a successor is elected and qualified). The directors shall have annual meetings and other such meetings as may be called at the request of the president of the Association or by any two (2) directors. So long as the Declarant, or its successors and assigns, is the Class B member, it shall select the board.

Section 4. Suspension of Voting Rights. The Association shall have the right to:

(a) Suspend the voting rights (if any) of an Owner for any period during which assessment on his lot remains unpaid and enforce collection of the same; and

(b) Suspend the voting rights (if any) of each Owner who is a contract buyer for any period of time during which payments to the Declarant pursuant to terms of said contract are delinquent, during which period of time the Declarant shall succeed to the voting rights of said contract buyer.

Section 5. Additional Sections. The Declarant reserves the right (but is not obligated) to develop or to allow to be developed one or more additional Sections of ANNISTON GROVE SUBDIVISION and incorporate the same within the provisions of this Declaration.

#### ARTICLE IV

#### CONVEYANCE OF COMMON PROPERTY

Within ten (10) years from the date of recording of this Declaration, Declarant will convey by deed its right, title, and interest in and over any Common Area within the Subdivision to the Association.

#### ARTICLE V

#### ARCHITECTURAL CONTROL

(a) In order to control design and location of the houses and other improvements to be constructed, erected, placed, or installed (hereinafter "improvements") upon the lots in the Subdivision, the Declarant hereby creates an Architectural Review Committee (hereinafter "Committee") for the purpose of reviewing, approving, suggesting changes to, and rejecting plans and specifications for such improvements (regardless of when such improvements are made), and the landscaping of each lot. This Committee is also created for the purpose of reviewing, approving, suggesting changes to, and rejecting swimming pools, outdoor play equipment, swing sets, trampolines, basketball goals and similar outdoor play structures, out-buildings, driveways, enclosures for satellite dishes, and if Declarant so desires, mailbox design. This Committee will be responsible for the control of size, color, materials, and content of rental and sales signs in this Subdivision, and for the approval or disapproval of boats, boat trailers, travel or other types of trailers, motor homes, tractor trailer trucks, or any other such vehicle, that are kept or maintained or located upon any lot unless located within enclosed garages. The Committee will also be responsible for the control of temporary construction shelters or vehicles in this Subdivision.

(b) The Committee shall consist of three persons designated or appointed from time to time by the Declarant, its successors or assigns. After 90% of the lots in the Subdivision are sold and 90% of undeveloped acreage is sold by the Declarant, its successors or assigns, said Committee shall be elected by a majority vote of the Board of Directors; provided, however, Declarant, its successors or assigns, shall be entitled to at least one Committee member until all of its lots in this Subdivision have been sold.

(c) Except within the building site (unless within 20' of the main dwelling), no trees of any kind in excess of 6 inches in diameter at ground level may be removed from any lot without prior approval of the Committee. No building, fence, wall, outbuilding, or any other accessory feature to the dwelling or any other structure upon any lot shall be commenced, erected, placed, maintained, or altered on any lot or combination of contiguous lots until the complete construction plans (hereinafter "Plans") are approved in writing by the Committee or its designated agents.

(d) The Plans include the complete construction plans, the plot plan (showing proposed location and elevation of such building, fences, walks, drives, parking area, etc.) proposed building plans and specifications, exterior color, finish, and materials. The areas over which the approval shall be required shall include but shall not be limited to the size and plan of the principal residential structure and all accessory buildings, structures and improvements on the lot, the location of any well, the size and plan of the garage or carport, location and manner of construction of each driveway, swimming pool, utility building, patio, tennis court, and other improvements for athletic, recreational, or gymnastic purposes, and all other exterior improvements, the composition and color of raw and finished materials used on the exterior of all structures, and the location and type of any landscaping, shrubbery, and other plantings. A \$500.00 plan review fee must accompany two sets of plans when they are submitted for review. Before any clearing or grading whatsoever begins, a \$1500 refundable road bond is required or when house plans are submitted. These fees may be adjusted from time to time by the Committee, as the Committee in its sole discretion shall determine. This bond is intended to insure the Homeowners Association from unnecessary road repairs caused by careless contractors.

(e) The Committee or its designated agents shall have thirty (30) days after physical receipt of the Plans to accept or reject the same in whole or in part. If no response by the Committee has been made in writing within said thirty (30) days, the Plans shall be deemed to be approved as submitted. After the Plans are approved and after the Committee gives written permission for construction to begin, the actual construction shall be commenced and completed in accordance with the approved Plans, together with the requirements of the Declaration and, in this regard, each Owner shall provide the Committee with the foundation survey as soon as it is made. The Committee shall have the right to waive setback violations when the remedial costs

of correcting such violation, in the Committee's opinion, would impose undue hardship upon the violator. The Committee will publish construction guidelines and requirements which may be amended from time to time.

(f) The actual construction shall be the responsibility of the Owner of the lot and his builder. Any permission granted for construction under this covenant and any designation of approved licensed contractors shall not constitute or be construed as an approval, warranty or guaranty, expressed or implied, by the Declarant or the Committee or its designated agent of the structural stability, design or quality of any building or other improvement or of the contractor who constructs such buildings or other improvements.

#### ARTICLE VI

##### GENERAL USE RESTRICTIONS

Declarant does hereby covenant and agree with all persons, firms or corporations hereafter acquiring title to any portion of the Property, that the Property shown on the recorded plat(s) herein referred to, and all Property presently owned as part of ANNISTON GROVE SUBDIVISION, which plat(s) are to be recorded, and all Property which may be acquired in the future to be made a part of ANNISTON GROVE SUBDIVISION, is made subject to the Declaration of Restrictive Covenants of ANNISTON GROVE SUBDIVISION as may be amended or modified (hereinafter referred to as "Restrictions") which Restrictions shall be recorded separately and shall refer to this Declaration and incorporate it by reference.

Users of recorded plats of ANNISTON GROVE SUBDIVISION are required to use sheets 1, 2, 3, and 4 for data and certifications required for the recording of the plats.

#### ARTICLE VII

##### CAPTIONS, ENFORCEMENT AND INVALIDATION

Section 1. Whenever the context and construction so require, all words used in the singular number herein shall be deemed to have been used in the plural, and vice versa, and the masculine gender shall include the feminine and neuter and the neuter shall include the masculine and feminine.

Section 2. The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration nor the intent of any provisions hereof.

Section 3. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages. In the event it is necessary to enforce this Declaration by appropriate legal or equitable proceedings, the party or parties violating or attempting to violate the same shall be liable for the cost of such proceedings including reasonable attorneys' fees.

Section 4. Invalidation of any one or more of these covenants by judgment or court shall not adversely affect the balance of this Declaration, which shall remain in full force and effect.

Section 5. The Declarant reserves the right to amend this Declaration from time to time without joinder of any of the Owners for the following purposes:

- (a) To clarify the meaning of or to correct clerical errors in the Declarations.
- (b) To correct grammar, spelling, capitalization and other matters of syntax.

All other amendments to this Declaration shall require an affirmative vote of at least sixty-seven percent (67%) of the lot Owners and the vote of the Declarant, its successors, and assigns.



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ARTICLE VIII

THESE RESTRICTIONS RUN WITH THE LAND

This Declaration of Covenants, Conditions and Restrictions of ANNISTON GROVE SUBDIVISION and ANNISTON GROVE HOMEOWNERS ASSOCIATION, INC. are to run with the land and shall benefit and be binding on all parties and persons (and their respective heirs, representatives, successors and assigns) claiming title to any of the Property herein described for a period of thirty (30) years from the date this Declaration is recorded, after which time said Covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by sixty-seven percent (67%) of the then Owners of the lots and the Declarant has been recorded agreeing to change said Declaration in whole or in part.

IN WITNESS WHEREOF, the Declarant has caused this Declaration of Covenants, Conditions and Restrictions of ANNISTON GROVE SUBDIVISION and ANNISTON GROVE HOMEOWNERS ASSOCIATION, INC. to be duly executed this 17<sup>th</sup> day of February, 2006.

PERFORMANCE DEVELOPMENT CO., LLC

By: Amon McCormack Jr  
Manager

STATE OF NORTH CAROLINA  
COUNTY OF Union

This 17<sup>th</sup> day of February, 2006, personally came before me Amon McCormack Jr who, being by me duly sworn, says that he is a manager of Performance Development Co., LLC, a North Carolina limited liability company, and that said writing was signed and sealed by him, in his capacity as manager of the limited liability company, by its authority duly given.

BARBARA R. SCHOTT  
NOTARY PUBLIC, STATE OF NC  
NO. 20010990172  
UNION COUNTY  
EXPIRES: APRIL 15, 2006

Notary Public: Barbara R Schott  
Commission expires: 04-15-2006

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FILED  
UNION COUNTY  
CRYSTAL CRUMP  
REGISTER OF DEEDS

FILED Feb 22, 2006  
AT 01:03 pm  
BOOK 04074  
START PAGE 0300  
END PAGE 0309  
INSTRUMENT # 07372  
EXCISE TAX (None)  
cdc

DECLARATION OF  
RESTRICTIVE COVENANTS  
OF  
ANNISTON GROVE SUBDIVISION

**THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF  
POLITICAL SIGNS, THE FLAG OF THE UNITED STATES OF AMERICA OR  
THE STATE OF NORTH CAROLINA.**

THIS DECLARATION OF RESTRICTIVE COVENANTS OF ANNISTON GROVE SUBDIVISION is made this 17<sup>th</sup> day of February, 2006 by Performance Development Co., LLC, hereinafter referred to as "Declarant", and any and all persons, firms, or corporations hereinafter acquiring any of the within described property or any of the property hereinafter made subject to this DECLARATION OF RESTRICTIVE COVENANTS OF ANNISTON GROVE SUBDIVISION, hereinafter "Restrictions."

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Union County, North Carolina known as ANNISTON GROVE SUBDIVISION; and

WHEREAS, ANNISTON GROVE SUBDIVISION is more particularly described by plat(s) thereof recorded in the following Plat Cabinet J and File(s) 177-180 in Register of Deeds for Union County to which reference is hereby made for a more complete description; and plat(s) for additional phases made a part of this subdivision will be recorded at a later date; and

WHEREAS, said lots are so situated as to comprise a neighborhood unit and it is the intent and purpose of the Declarant to convey the aforesaid lots to persons who will erect thereon residences to be used for single family purposes, subject to the provisions hereinafter set forth; and

WHEREAS, Declarant has agreed to establish a general plan of development as herein set out to restrict the use and occupancy of the property made subject to these Restrictions, and the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF ANNISTON GROVE SUBDIVISION and ANNISTON GROVE HOMEOWNERS ASSOCIATION, INC., hereinafter "Declaration", recorded separately in the Office of the Register of Deeds for Union County for the benefit and protection of the property and for the mutual protection, welfare and benefit of the present and the future owners thereof; and

WHEREAS, Declarant desires to provide for the preservation of the values of ANNISTON GROVE SUBDIVISION made subject to these Restrictions and the Declaration and for the preservation and maintenance of the Common Area established by the Declaration and by the supplements thereto.

NOW, THEREFORE, in accordance with the recitals which by this reference are made a substantive part hereof, Declarant declares that all of the property described herein on above said recorded plat(s) is made subject to these Restrictions, the Declaration, and the North Carolina Planned Community Act, codified in chapter 47F of the North Carolina General Statutes and shall be held, transferred, sold, conveyed and occupied subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of ANNISTON GROVE SUBDIVISION as it now exists and is hereafter expanded and that such easements, restrictions, covenants and conditions shall burden and run with said property and be binding on all parties now or hereafter owning said real property and their respective heirs, successors and assigns, having any right, title or interest in the properties now or hereafter subjected to these Restrictions and the Declaration, or any part thereof, and shall inure to the benefit of each owner thereof and their respective heirs, successors and assigns.

PROPERTY SUBJECT TO THESE RESTRICTIONS AND THE DECLARATION  
AND ADDITIONS THERETO

1. Existing Property. The real property which is, and shall be held, transferred, sold, conveyed, occupied and used subject to these Restrictions and the Declaration, irrespective of whether there may be additions thereto as hereinafter provided, is located in Union County, North Carolina, and is shown on maps recorded in Plat Cabinet J and File(s) 177-180 in the Office of the Register of Deeds for Union County.

2. Additions to Existing Property. Additional property may be brought within the scheme of these Restrictions and the Declaration and the jurisdiction of the Association:

(a) Declarant reserves the right to subject to this Declaration other certain contiguous property, which may be developed into tracts and roadways and may later be made a part of ANNISTON GROVE SUBDIVISION. Declarant shall have and hereby reserves the right and option, from time to time, to subdivide all or any portion of the same into additional tracts by the filing of a plat designating such tracts on the records of Union County, North Carolina, and upon any such filing the number of tracts located on the property shall be increased to include such additional tracts.

(b) The additions authorized under subsections (a) and (b) shall be made by filing of record SUPPLEMENTARY DECLARATIONS OF THE DECLARATION OF RESTRICTIVE COVENANTS OF ANNISTON GROVE SUBDIVISION and by filing of record SUPPLEMENTARY DECLARATIONS OF THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF ANNISTON GROVE SUBDIVISION and ANNISTON GROVE HOMEOWNERS ASSOCIATION, INC., with respect to the additional properties which shall extend the scheme of these Restrictions and the Declaration and the jurisdiction of the Association to such properties and thereby subject such additions to assessments for their just share of the Association's expenses. Said Supplementary Declarations may contain such complementary additions and modification of these Restrictions and the Declaration as may be necessary.

#### GENERAL USE RESTRICTIONS

Declarant does hereby covenant and agree with all persons, firms or corporations hereafter acquiring title to any portion of the existing Property that the Property is hereby subject to these Restrictions as to the use thereof and do agree, publish and declare that the deeds hereinafter made by it to purchasers of the Property shall be made subject to the Declaration and to the following Restrictions:

1. Except as otherwise provided in these Restrictions, the lots shall be used for residential purposes only, and no structure shall be erected, placed, altered or permitted to remain on any lot other than one detached, single-family dwelling and related structures incidental to the residential use of the lot, which otherwise comply with these Restrictions, except that Declarant reserves the exclusive right to construct a roadway over any lot owned by it in order to grant access to other property acquired by Declarant and in such cases the remainder of any such lot not used for the roadway shall still be subject to these Restrictions.

2. Each single-family dwelling shall have not less than Two Thousand Six Hundred (2,600) square feet of heated space with Three Thousand (3,000) square feet under roof for a single story dwelling and not less than Three Thousand (3,000) square feet of heated space with Three Thousand Six Hundred (3,600) square feet under roof for a two story dwelling. A two story dwelling

must have at least Eighteen Hundred (1,800) square feet of heated space on the main level. Square footage requirements are exclusive of basements. The design, location, and construction of all improvements on each lot (regardless of when such improvements are made) and the landscaping of each lot must be approved, in advance, in writing by the Architectural Review Committee, hereinafter referred to as the "Committee", which Committee is established pursuant to the Declaration. No log or modular homes are permitted.

3. All improvements to the lot must comply with local municipal setback requirements and those set out in the recorded plats of Anniston Grove Subdivision.

4. More than one lot (as shown on said plat(s)) or portions thereof, may be combined to form one or more lots by (or with the written consent of) Declarant, its successors and assigns. Upon combination of lots, the building line requirements prescribed herein shall apply and the easements reserved herein shall be applicable to the rear, side and front lot lines of such lot as combined. The resulting building site and structures erected thereon must otherwise comply with these Restrictions and the new property line of the resulting building site shall be used to compute the set-back lines as set forth herein.

5. All connections of private driveways to ANNISTON GROVE road system, and all connections of private easements and right-of-ways to that road system shall be constructed and maintained in accordance with the rules, regulations and specifications as approved by The Architectural Review Committee of ANNISTON GROVE HOMEOWNERS ASSOCIATION, INC. and/or The North Carolina Department of Transportation.

6. There shall be no signs or fencing, permitted within the road right-of-way.

7. No grading, landscaping, building, fence, wall, pool, outbuilding, driveway, recreational and playground equipment, flag poles or any other accessory feature to the dwelling or any other structure upon any lot shall be commenced, erected, placed, maintained, or altered on any lot or combination of contiguous lots until the Complete Construction Plans (hereinafter "Plans") are approved in writing by the Architectural Review Committee or its designated agents. The Committee's refusal or approval of plans may be based upon purely aesthetic considerations, which in its sole discretion the Committee shall deem sufficient, but approval shall not unreasonably be withheld. Two (2) copies of all plans and related data shall be furnished to the Committee for its records.

8. Construction of new residential buildings only shall be permitted, it being the intent of this covenant to prohibit the moving of any existing building or portion thereof on a lot and remodeling or converting the same into a

dwelling unit in this subdivision, excepting however, Declarant's mobile offices provided for herein below.

9. With the exception of construction which is interrupted or delayed due to physical damage to the work in progress (such as damage due to fire, lightning, windstorm, hail, riot or civil commotion, explosion, or theft), any dwelling constructed upon a lot must be completed within twelve (12) months subsequent to commencement of construction, except with the written consent of Declarant, its successors or assigns, or, if the Declarant so designates, by the Committee. In the event that completion of the dwelling, outbuildings, or other improvements on any lot is not completed within twelve (12) months, and it is determined that construction progress has diminished to such an extent that completion of the dwelling, outbuildings, or other improvements is unlikely within the next one hundred twenty (120) days, ANNISTON GROVE HOMEOWNERS ASSOCIATION, INC., hereinafter referred to as the "Association", will be advised of this determination. The Association shall then have the right to give notice to the owner that the owner has the obligation, within 30 days, to complete the removal of all the construction work in progress, including without limitation, the foundation and all building improvements and all stored building materials, and fill and grade the lot so that it is restored to its natural grade level, and the Association shall have the right to undertake this work upon owner's failure to do so and charge the cost to the owner and place a lien upon the lot upon owner's failure to pay these charges.

10. No trailer, truck, van, mobile home, tent, camper, barn, garage, or other outbuilding or temporary structure parked or erected on lots in this Subdivision shall at any time be used as a residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence; provided, however, that this prohibition shall not apply to shelters used by the contractors during the construction of the main dwelling house, it being clearly understood that these temporary shelters will not be permitted to remain on any lot after completion of construction. The Committee shall have the right to approve or disapprove these temporary construction shelters or vehicles. The Committee, upon approval of a temporary construction shelter or vehicle, will issue a letter stating the length of time such shelter will be allowed to remain upon such lot and where such shelter is to be located upon such lot.

11. All homes constructed in ANNISTON GROVE SUBDIVISION must be supplied with water from a public utility company and connected to the sanitary sewer system.

12. Exposed exterior walls composed of the following materials shall be prohibited from ANNISTON GROVE SUBDIVISION: concrete block, imitation asphalt brick siding, imitation asphalt stone siding, aluminum and vinyl siding. No vinyl eaves, fascia or soffits are allowed. Vinyl clad windows are permitted.

13. Declarant shall be permitted to erect one mobile office on any lot that it owns for the purpose of maintaining a sales information center and construction office.

14. No noxious or offensive trade or activity shall be carried on upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. No animals, livestock or poultry of any kind may be kept or maintained on any of said lots, except a reasonable number of dogs, cats and other indoor household pets provided that they do not create a nuisance by noise, odor, damage, or destruction of property within the community. Each owner must see to it that all of the owner's dogs are kept on the owner's property unless leashed. No dogs shall be permitted to roam the Property and the Association may have strays and dogs that are not leashed and are found off their owner's lot picked up by governmental authorities. The throwing or dumping of trash, garbage, and waste materials shall not be permitted. The interference of any stream or future waterways so as to cause pollution or stagnation in these waterways is prohibited. There shall be no excavation which does not pertain to the building or construction of a home. Bottled gas containers, trash containers and oil tanks shall be screened from public view. There shall be no above-ground swimming pools, unless approved by the Committee.

15. No portion or part of any lot shall be used or maintained as a dumping ground for rubbish or other refuse. Trash, garbage, or other waste shall not be kept, except in sanitary containers screened from view from all roads, all other lots, and from the Common Property provided that the Declarant, prior to the sale of such lot, may use portions of such lot as a debris burial pit in accordance with governmental regulations.

16. In addition to the easements that are shown on the recorded plats of ANNISTON GROVE SUBDIVISION, easements ten (10) feet in width along the lot lines of all lots are reserved by Declarant for installation, repair, replacement and maintenance of utilities, including the right to keep said easements free and clear of all obstructions. An easement of fifteen (15) feet is reserved for such purposes along the rear lines of all lots that do not adjoin other lots or properties within ANNISTON GROVE SUBDIVISION. As between the easements reserved by these Restrictions and the easements that are located in the same areas as shown on the record maps, or required by governmental agencies, the easements that are greater in width shall be the easements that are in effect.

17. Declarant reserves a temporary construction easement of twenty-five (25) feet in width along both sides and running parallel to streets or road right of ways, which easements shall expire eighteen months after the particular road construction commences.

18. No outside clotheslines shall be permitted. Satellite dishes may be permitted in accordance with Section 207 of the Telecommunication Act of 1996 and regulations promulgated thereunder. No satellite dishes shall be permitted in excess of 20" in diameter. Any satellite dish must be concealed from view from all lots, roads and open spaces. The design of such enclosures must be approved prior to erection by the Committee. Mailboxes shall be of a design, color and choice of materials as designated by the Declarant or, if the Declarant so designates, by the Committee, and may not violate North Carolina Department of Transportation standards.

19. There shall be no junk automobiles, junk of any sort, unserviceable vehicles, or salvage stored or placed or allowed to remain on or in any portion of a lot. Unless located within enclosed garages, no boat and/or boat trailer, travel trailer, motor home, tractor trailer truck, or any other such vehicle shall be kept or maintained or located upon any lot unless and except with prior approval of the Committee. No vehicles that are disabled or under repair shall be kept upon any lot unless located within enclosed garages. Unlicensed automobiles, including antique cars, if present must be stored out of sight in a garage. Large trucks shall not be parked on a regular basis within this Subdivision. Large truck shall be defined as any non-passenger vehicle larger than a pick-up truck. No lot shall be used for storage of building materials prior to the issuance of the building permit for the Primary Residence

20. No billboards or signs of any description, other than permits required by local authorities, shall be displayed upon any lot with the exception of those approved in writing by the Declarant or if the Declarant designates, by the Committee. The Declarant reserves the right to place and maintain appropriate development signs at the entrance to this Subdivision. Declarant also reserves the right, at his sole discretion, to erect and maintain signs designating owners names, street names, common areas, and any other sign that will aid in the development of ANNISTON GROVE SUBDIVISION.

21. Before any clearing and grading is to begin on any lot, the owner must request a tree survey of all trees in excess of six (6) inches in diameter at ground level

22. As provided for herein (see Section 2 of "Property Subject To These Restrictions and Declaration and Additions Thereto"), it is understood that Declarant, its successors and assigns, may develop, subdivide or sell additional tracts or parcels of land. Declarant reserves the right for its successors or assigns to connect such additional property to this Subdivision and to grant easements to use the roads and common areas.



23. DEFINITIONS: Reference to "Subdivision" in this document is intended to refer to ANNISTON GROVE consisting of 4 sheets in the Union County Registry. Reference to "Association" in this document is intended to refer only to "ANNISTON GROVE HOMEOWNERS ASSOCIATION, INC."
24. Nothing herein contained shall be construed as imposing any covenants and restrictions on any property of the owner of this Subdivision other than the Property that is subjected to these Restrictions. The Property herein described is also made subject to the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF ANNISTON GROVE SUBDIVISION and ANNISTON GROVE HOMEOWNERS ASSOCIATION, INC. recorded separately, which Declaration is incorporated herein by reference.
25. Enforcement of these Restrictions may be at law or in equity against any person or persons violating or attempting to violate any covenant, condition or restriction herein contained. In the event of enforcement of these Restrictions at law or in equity and a violation hereof is judicially determined, then the violator shall be assessed with the costs of such action, including without limitation reasonable attorneys fees.
26. Declarant reserves the right to assign its rights to a successor who also assumes the Declarants responsibilities.
27. Judicial invalidation of one or more of the provisions hereof shall not adversely affect the remainder hereof which shall remain in full force and effect.
28. No hunting nor trapping of any wild life, including, but not limited to, birds, ducks, geese, turkeys, or deer shall be permitted on any common area. The discharging of firearms is strictly prohibited from any of the property shown on the plats hereinabove referenced.
29. No fishing, swimming, sail boards, canoes or boats of any nature shall be permitted in the storm water management ponds.
30. The Declarant makes no warranties whatsoever as to the water level in the storm water management ponds which are to be maintained by the Anniston Homeowners Association, Inc.
31. No property owner in ANNISTON GROVE SUBDIVISION, whether adjoining the storm water management ponds or not shall have any right to draw water from the ponds for any purpose, including, but not limited to, irrigation.

32. It will be the responsibility of the ANNISTON GROVE HOMEOWNERS ASSOCIATION, INC. to monitor and control the quality of the water contained in the storm water management ponds. The maintenance of the storm water management ponds, upkeep, replacement and repair of improvements, equipment and facilities such as; outlet control structures, drain pipes, spillways, fountains if installed and dams including seeding and re-seeding, fertilizing, erosion control, and maintenance of earthen works, grass berms, etc., and the dredging of the pond bed, if necessary, shall be the responsibility of the ANNISTON GROVE HOMEOWNERS ASSOCIATION, INC.
33. Feeding of geese is strictly prohibited.
34. ANNISTON GROVE HOMEOWNERS ASSOCIATION, INC. shall be responsible for such pest control measures on the storm water management ponds as the board of directors may decide and which are in keeping with any governmental regulations.
35. There shall be no dumping or discharging of any foreign substance or material into the pond which shall be in any way harmful or detrimental to the quality of the waters in said ponds.
36. There shall be no storage of any hazardous materials within one hundred (100') of the shoreline of the ponds.
37. No animal life or fish shall be introduced into the waters of the ponds.
38. There will be a temporary construction easement twenty five (25) feet in width outside of the common area along the property line of Lot # 86, Lot #72 and Lot #73 along with the right to clear and grade the land and enter thereon, without the risk of trespass, for the purpose of constructing, clearing or grading the storm water management ponds. The temporary easement will expire December 31, 2006.
39. United States of America or North Carolina flags may be displayed up to a size of 4 feet x 6 feet. Political signs may be displayed up to a size of 24 inches x 24 inches. Political signs may not be erected any earlier than 45 days before an election nor allowed to remain any longer than 7 days after the election.

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THESE RESTRICTIONS RUN WITH THE LAND

This Declaration of Restrictive Covenants of ANNISTON GROVE SUBDIVISION and the Declaration of Covenants, Conditions and Restrictions of ANNISTON GROVE SUBDIVISION and ANNISTON GROVE HOMEOWNERS ASSOCIATION, INC. compose the general plan of development for the Property herein described and run with the land and shall benefit and be binding on all parties and persons (and their respective heirs, representatives, successors and assigns) claiming title to any of the Property herein described for a period of thirty (30) years from the date these Restrictions are recorded, after which time said Restrictions shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by sixty ~~SIXTY~~ SEVEN percent (67%) of the then owners of the lots and the Declarant has been recorded agreeing to change said Restrictions in whole or in part. These Restrictions may be amended by the affirmative vote of the owners representing sixty-SEVEN percent (67%) of the lots and the Declarant at the time of the vote.

IN WITNESS WHEREOF, the Declarant has caused this Declaration of Restrictive Covenants of ANNISTON GROVE SUBDIVISION to be duly executed this 17<sup>th</sup> day of February, 2006.

PERFORMANCE DEVELOPMENT CO., LLC

BY Amon McCormack Jr  
Manager

STATE OF NORTH CAROLINA  
COUNTY OF Union

This 17<sup>th</sup> day of February, 2006, personally came before

me Amon McCormack, Jr. who, being by me duly sworn, says that he is a manager of Performance Development Co., LLC, a North Carolina limited liability company, and that said writing was signed and sealed by him, in his capacity as manager of the limited liability company, by its authority duly given.

BARBARA R. SCHOTT  
NOTARY PUBLIC, STATE OF NC  
NO. 20010990172  
UNION COUNTY  
EXPIRES: APRIL 15, 2006

Notary Public: Barbara R. Schott  
My Commission Expires: 04-15-2006