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Pitt County, NC
Deborah T Barrington REG OF DEEDS

BK **3023** PG **355-365**

Handwritten:
Mail Denali Properties LLC
P.O. Box 1549
Winterville N.C.
28590

NORTH CAROLINA
PITT COUNTY

PREPARED BY: GARY B. DAVIS

DECLARATION OF CONDITIONS, RESTRICTIONS AND
COVENANTS RUNNING WITH THE LAND

THIS DECLARATION, made on the date hereinafter set forth by DENALI PROPERTIES OF WINTERVILLE, LLC, a North Carolina Limited Liability Company, hereinafter referred to as "Declarant" does hereby covenant and agree to and with all other persons, firms or corporations now owning or hereafter acquiring as owners any tract or parcel of land in the area designated.

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Winterville Township, Pitt County, North Carolina, known as "Denali Section 2" and which is more particularly described as follows:

Lying and being in the City of Winterville, Winterville Township, Pitt County, North Carolina and being all of Lots 6, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 51, 52, 53, 54, 55, 56, 57 and 58, of Denali Section 2 (Revised) as shown on map recorded in Map Book 75, Pages 19 - 20 of the Pitt County Registry.

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 same, 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

Section 1: "Association" shall mean and refer to Denali Section 2

Homeowners 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 fee simple title to any Lot which is a part of the Properties, excluding contract sellers and 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 (including the improvements thereto) owned by the Association to be reserved to the Association at the time of the conveyance of the first lot described as follows: N/A

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 any Common Area, and shall be known when platted as Lots 6, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 51, 52, 53, 54, 55, 56, 57 and 58.

Section 6: "Declarant" shall mean and refer to DENALI PROPERTIES OF WINTERVILLE, LLC, its successors and assigns.

Section 7: "Member" shall mean and refer to every person or entity who holds membership, as a Lot Owner, in the Association.

Section 8: "By-Laws" means the Bylaws of Denali Section 2 Homeowners Association, Inc.

ARTICLE II

Section 1: Owner's Easement 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 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 to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members has been recorded.

Section 2: Declaration of Use. Any Owner may delegate his right of enjoyment to the Common area and facilities to the members of his family, his tenants, or contract purchaser who reside on the property.

**ARTICLE III
MEMBERSHIP AND VOTING RIGHTS**

Section 1: Every Owner of a Lot which is subject to assessment shall be a Member of the 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 Membership 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 determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B Member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned, and notwithstanding any other provisions, herein, shall not be assessed at any rate. Class B membership shall cease and be converted to the Class A membership when the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership, and in all events no later than July 1, 2014.

**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 assessment or charges for maintenance and electricity on all Common Areas, 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, costs and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such property at the time of the assessment. Such assessment 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 acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, including but not limited to, landscaping maintenance, the cost of repairs and maintenance, electricity, replacements and additions, the cost of labor, equipment, materials, management and supervision, the

payment of taxes assessed against the Common Area, the employment of attorneys to represent the Association when necessary, and such other needs as may arise.

Section 3: Basis and Maximum of Annual Assessments. No assessments shall be made on any Lot until the platted Lot shall have been conveyed by deed. The maximum annual assessment shall be \$150.00 per originally platted 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 the Membership in conformance with the rise, if any, of the Consumer Price Index (Published by the Department of Labor, Washington, D.C.) from the preceding month of July.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment for the next succeeding two (2) years may be increased above that established by the Consumer Price Index formula by a vote of the Members, and for each succeeding period of two (2) years thereafter, provided that any such change shall have the assent of two-thirds ($\frac{2}{3}$) 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 thirty (30) days nor more than sixty (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 an 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 an 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 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, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds ($\frac{2}{3}$) of the votes of each class of members who are voting in person or by proxy at the meeting duly called for this purpose.

Section 5: Notice and Quorum for Any Action Authorized Under Sections 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 thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty (60%) per cent 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 requirements, and the required quorum at the subsequent meeting shall be one-half ($\frac{1}{2}$) of the required

quorum at the preceding meeting . No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6: Uniform Rate of Assessment. Except as provided for Class B Members, both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7: Date of Commencement of Annual Assessments and Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Lot to any Owner. However, it is not the intent of the Owners to assess any Lot during the construction phase, that is to say the initial Lot Owner/builder who receives a deed from the Declarant shall not pay assessments until a certificate of occupancy has been issued for the Lot or permanent power has been provided to the Lot, whichever occurs first. The initial Owner who intends to have the residence occupied as a residence shall pay the assessment. The first annual assessment 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 assessments 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. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8: Effect of Nonpayment of Assessment and 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 eighteen (18%) per cent 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 or deny 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. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage 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 property dedicated to and accepted by a local 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.

ARTICLE V COMMITTEES

The Association may appoint an Architectural Control Committee. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE VI USE RESTRICTIONS

1. These covenants to run with the land and shall be binding on all parties and all persons claiming under them until July 1, 2032, at which time said covenants shall be automatically extended for successive periods of ten (10) years.

2. If the parties hereto or any of them or their heirs or assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or person owning real property situated in said development or subdivision to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate any such covenant and either to prevent him or them from so doing or to recover damages or other dues for such violations.

3. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

4. This property shall be known, described and restricted to residential purposes only, and no structures shall be erected, placed or permitted to remain on said property other than that one single-family dwelling (which may include an attached garage or carport for not more than two cars) and one detached outbuilding to be constructed incidental to the residential use of the property. The exterior of any such outbuilding is to be constructed using the same type of material as on the dwelling.

5. The Declarant, its successors or assigns, may construct and maintain dwellings for use as model homes and Declarant, its successors or assigns, may construct and maintain a sales office so long as the Declarant, its successors or assigns, owns any property within the Subdivision or within any Development Area dedicated pursuant to the provisions of this Declaration. Any sales office may be of temporary construction including a mobile home or trailer provided, however, such temporary structure shall not be permitted to remain on the property after it has ceased to be used as a sales office.

6. All driveways must be constructed of concrete materials.

7. No building shall be located nearer to the front lot line or nearer to the side

street line than the building setback line shown on the recorded map. No building, except an outbuilding located one hundred (100) feet or more from the front line shall be located nearer than six (6) feet to any side lot line, or as required by zoning.

8. Plan approval: No site preparation or initial construction, erection or installation of any improvements, including, but not limited to, dwelling units, outbuildings, driveways, fences, walls, signs, mailboxes or other structures shall be undertaken upon any lot in this subdivision without the prior approval of Declarant or its successors or designees. It is the intent of the parties that all exteriors of the structures shall be harmonious with all of the other structures in Denali Subdivision Section 2. All building plans or specifications showing the exterior materials being used and exterior paint scheme of the proposed improvements or outbuildings shall be submitted and approved by the Declarant or its successors or designees. A detailed landscaping plan must be approved by the Declarant or its successors or designees. Notwithstanding an approved landscape plan, each Lot shall be sodded with centipede grass in the front yard. Such approval in all events must be in writing. If no approval or rejection has been given for such planned use or for such plans which have been deposited or delivered to the Declarant, its successors or designees within thirty (30) days after written application, the plan shall be deemed to have been approved.

9. All Lots, whether occupied or unoccupied, shall be well maintained by the Owner and no unattractive growth of vegetation or accumulation of rubbish or debris shall be permitted. All Owners of each Lot will maintain a suitable and even stand of grass upon said Lot. In any event, no grass over six (6) inches in height will be permitted to be maintained on any Lot. A dumpster or other similar containment device shall be placed on each Lot from commencement to completion of any construction for any structure placed thereon.

10. No mail or paper box or other receptacle of any kind for use in the delivery of mail, magazines, newspaper or similar materials shall be erected or located upon any Lot except such receptacle of standard design as approved by the Declarant or its successors or designees.

11. No mobile home, pre-fab, modular home, package home or other pre-built home shall be placed on any Lot. Any residence built on any Lot shall be "stick-built" except that pre-fabricated roof trusses and pre-fabricated fireplaces and chimneys may be utilized in a residence built on any Lot.

12. Any residence constructed on a Lot shall have a minimum square footage, more specifically described as heated living area, exclusive of one-story open porches, garage and basements, of not less than One Thousand Four Hundred (1400) square feet.

13. 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 wrecked or junked motor vehicle or vehicles without current

license plates and registration shall be permitted to remain upon any Lot for more than ten (10) days. No boat, trailer, mobile home, camper or recreational vehicle shall be permitted to remain upon any street or Lot unless it is located behind the front corner of the primary residence located upon a Lot. All personal conveyances shall be parked and maintained upon the driveway/concrete area of the property.

14. No barber shops, beauty parlors or shops, commercial or business activity shall be permitted or suffered to remain on any of the Lots shown on the map referred to herein, nor shall any activity be carried on which, under the Ordinances of the City of Greenville, North Carolina, are identified as "Cottage Industries".

15. No trailer, basement, tent, shack, garage, barn or other outbuildings erected, parked or placed on the tract shall at any time be used as a residence, temporarily or permanent, nor shall any structure of a temporary character be used as a residence.

16. No sign of any kind shall be displayed to the public view on this property except one sign of not more than eight (8) square feet advertising the property for sale, or signs used by a builder, developer, realtor or Owner to advertise the property during construction and then for sale. No yard or lawn ornaments of any kind will be permitted to be placed on any Lot, except in the rear portion of the yard, said rear portion of the yard being defined as that particular area of the yard located between the rear corner of the residence and the back or rear Lot line.

17. No animals, livestock, poultry, or reptiles of any kind shall be raised, bred or kept on any portion of the property, except that domesticated dogs, cats and small non-offensive and harmless household pets may be kept by the Owner of the property, provided that they are not kept or used for breeding or maintained for any commercial purpose. However, no Owner of any Lot within the property will be allowed to keep more two domesticated animals on the property. No staking of pets to a chain or similar device on any property. No pet or "dog runs" shall be permitted except within a privacy fence. Pets kept outside must not constitute a danger or nuisance including, but not by way of limitation, excessive barking or causing property damage to other Lot Owners or to the subdivision. No animals shall be permitted on or in the Common Elements at any time except as permitted by the rules and regulations of the Association or by applicable law. The Association shall have the right to expel animals from the community for the Owners continuing violation(s) of the governing documents.

18. No trucks or tractors may be regularly stored or parked upon the property. This provision shall not, however, be interpreted to prohibit the Owner of a pick-up truck, up to 1 ton in size, being used by any Owner of this property for his personal conveyance, and such truck may be parked upon the property. Also the Owner of any portion of the property may park thereon a lawn tractor to be used for the upkeep of the property.

19. No Lot shall be used or maintained as a dumping ground for rubbish.

Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such materials should be kept in a clean and sanitary condition.

20. No fences shall be built or erected on any Lot without the prior written approval of the Declarant. The Lot Owner installing a fence shall install the fence with the framing on the inside, so the slats are on the outside facing the neighbor. Fences shall not be over six (6) feet in height. Fencing is restricted to rear yards only and shall not be placed in a front yard. Front yard is defined as that area of the yard located between the street and a point fifteen (15) feet in front of the rear corners of the residence. No chain link fences except for black vinyl clad chain link fences shall be permitted on any Lot.

21. No satellite dish or comparable communication device, (except one dish no larger than one meter in diameter designed to receive direct broadcast satellite service) is to be placed anywhere other than in the rear of the lot, (unless installation in the rear of the lot imposes unreasonable expense or delay or precludes reception of an acceptable quality signal) and no transmitting tower or antenna exceeding a height of twenty feet from ground level, shall be placed, used or erected on any lot within the property, either temporarily or permanently.

22. All utilities must be placed underground.

23. Following the installation of residential street lighting by means of mercury vapor or sodium vapor lighting units within the subdivision, any party or person who may then own, or may hereafter own, any interest in any lot within the subdivision, shall be obligated to pay to Greenville Utilities Commission of the City of Greenville, North Carolina, the monthly rate per lot (plus applicable North Carolina sales tax) set forth in Electric Rate Schedule No. 4-A, entitled Rural Street Lighting Service, of the Utility Regulations of Greenville Utilities Commission. The obligation to pay such a monthly rate, as it may change from time to time, shall continue until such time as the subdivision is annexed into the corporate limits of a city, town or village, and responsibility for the cost of street lighting is assumed by, or transferred to, a governmental unit. Any and all mercury vapor or sodium lighting units installed within the subdivision shall be and remain the property of Greenville Utilities Commission.

24. No bicycle, skateboard or other entertainment ramps or other temporary or permanent recreational device or structure may be erected or placed on any Lot.

25. Clotheslines and drying yards are not permitted on any Lot.

26. No basketball goals may be placed or situated in the front yard or upon any road.

27. Any swimming pool must be only in the rear yard, and only if approved in writing by the Declarant, its successors and or assigns as to location and

design, and any such pool must be screened by a privacy fence which must be approved in writing by the Declarant, its successors and or assigns.

28. The Agreements contained herein shall not be construed as imposing any covenants and restrictions on any property of the Owners of the subdivision other than those Lots to which these protective and restrictive covenants specifically apply.

**ARTICLE VII
EASEMENTS**

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements.

Declarant shall have a reasonable construction easement across the Common Area for the purpose of constructing improvements on the Lots. Denali Section 2 Homeowners Association, Inc. shall be responsible for the maintenance and repair of all Common Area constructed storm water wetland ponds located throughout the subdivision.

**ARTICLE VIII
GENERAL PROVISIONS**

Section 1: Enforcement. The Association, or any Owner, shall have the right to enforce, by any 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 restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2: Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3: Amendment. This Declaration may be amended during the first twenty (20) year period by an instrument signed by the Owners of not less than ninety (90%) per cent of the Lots, and thereafter by an instrument signed by the Owners of not less than seventy-five (75%) per cent of the Lots. Any amendment must be recorded.

Section 4: Annexation. Additional residential property and Common Area may be annexed to the Properties within five (5) years from the recordation of this instrument in the Pitt County Registry.

Section 5: Jerome Stilley and Cherise D. Samuels Stilley join herein for the purpose of subjecting Lot 26 of Denali Section 2 (Revised) to this Declaration.

IN WITNESS WHEREOF, the undersigned, have hereunto set their hands and seals, this the ____ day of October, 2012.

DENALI PROPERTIES OF WINTERVILLE, LLC

BY: *[Signature]* (SEAL)
VICTOR T. COREY, Manager

BY: *[Signature]* (SEAL)
JOHN L. CORBETT, Manager

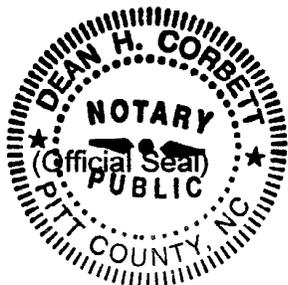
NORTH CAROLINA
PITT COUNTY

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: VICTOR T. COREY and JOHN L. CORBETT.

Date: October 11, 2012

Dean H. Corbett
(signature of notary)

Dean H. Corbett, Notary Public
(type or print notary's name)



My commission expires: 03-18-2017