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NORTH CAROLINA  
WAYNE COUNTY

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS OF  
MUIRFIELD VILLAGE AT WALNUT CREEK**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF  
MUIRFIELD VILLAGE AT WALNUT CREEK is made as of the 21<sup>st</sup> day of May, 2008, by  
BLUEFIN ASSOCIATES, LLC, a North Carolina limited liability company, (hereinafter  
referred to as "Declarant").

**WITNESSETH:**

WHEREAS, Declarant is the owner of that certain real property situated in the Village  
of Walnut Creek, New Hope Township, Wayne County, North Carolina, which is more  
particularly described as Phase 1-A (Muirfield Village) consisting of Lots 96 through 122 and  
Common Areas A through E shown on that certain plat entitled "Final Map for: The Links at  
Walnut Creek, Phase One", prepared by ADR Delta, PLLC, dated September 2007 and recorded  
in Plat Cabinet M, Slides 93-C, 93-D and 93-E, Wayne County Registry, and

WHEREAS, Declarant will convey to third parties the aforesaid real property, subject to  
certain protective covenants, conditions, restrictions, reservations, liens and charges as  
hereinafter set forth;

NOW, THEREFORE, Declarant hereby declares that all of the real property described

above shall be held, sold and conveyed subject to the following covenants, conditions, restrictions, reservations, liens and charges, 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 real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

Definitions

Section 1. "The Act" shall mean the North Carolina Planned Community Act as set forth in Chapter 47F of the North Carolina General Statutes, as the same may be amended from time to time.

Section 2. "Association" shall mean and refer to Muirfield Village at Walnut Creek Homeowners Association, Inc., a North Carolina non-profit corporation, its successors and assigns or any new Association created for any additional phases of Muirfield Village provided for in Article XI, Section 6, as applicable.

Section 3. "Board of Directors" or "Board" shall mean those persons appointed or elected as provided in the Bylaws of the Association and acting collectively as the Board of Directors of the Association.

Section 4. "Bylaws" shall mean the duly adopted bylaws of the Association.

Section 5. "Common Area" shall mean all real property or interest in real property owned by the Association for the common use and enjoyment of all Members of the Association.

Section 6. "Declarant" shall mean and refer to Bluefin Associates, LLC, its successors

and assigns. Declarant shall be considered an Owner.

Section 7. "Front" shall mean the land lying between any House and any public road as shown on the recorded map or maps of the Property; "Rear" shall mean the land lying between the back of any House and the rear line of the Lot; "Side" shall mean the land lying on either side of the House between the Front and the Rear of the Lot.

Section 8. "House" shall mean and refer to a building situated upon the Property designed and intended for use and occupancy as a residence.

Section 9. "Lot" shall mean and refer to any of the numbered plots of land described as Lots 96 through 122 as shown on the Plat.

Section 10. "Member" shall mean and refer to every person or entity who holds membership with voting rights in the Association.

Section 11. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. "Owners" shall mean more than one Owner.

Section 12. "Plat" shall mean that certain plat entitled "Final Map for: The Links at Walnut Creek, Phase One", prepared by ADR Delta, PLLC, dated September 2007 and recorded in Plat Cabinet M, Slides 93-C, 93-D and 93-E, Wayne County Registry.

Section 13. "Property" shall mean and refer to that certain real property described as that certain real property situated in the Village of Walnut Creek, New Hope Township, Wayne County, North Carolina, which is more particularly described as Phase 1-A (Muirfield Village)

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consisting of Lots 96 through 122 and Common Areas A through E shown on that certain plat entitled "Final Map for: The Links at Walnut Creek, Phase One", prepared by ADR Delta, PLLC, dated September 2007 and recorded in Plat Cabinet M, Slides 93-C, 93-D and 93-E, Wayne County Registry, and any additional phases of Muirfield Village at Walnut Creek provided for under Article XI, Section 6 hereof when a map thereof and supplementary Declaration are properly recorded in the Wayne County Registry.

ARTICLE II

Property Rights

Section 1. "Owners' Easements". Every Owner shall have a right and easement of access, ingress and egress on and over the Common Area, which rights shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The Association shall have the right to restrict or prohibit use of the Common Area while conducting maintenance, repair and restoration of same;

(b) The Association shall have the right to impose reasonable regulations for the use and enjoyment of the Common Area; and

(c) The Association shall have the right to construct and maintain improvements within the Common Area.

Section 2. "Delegation of Use". Any Owner may delegate, in accordance with the Bylaws and the restrictions and regulations imposed by the Association, his rights of access, ingress and egress, on and over the Common Area to the members of his family, his tenants, guests, invitees or contract purchasers who reside on a Lot.

Section 3. "Parking Rights". All business vehicles, trucks, boats, trailers, campers, motor homes, recreational vehicles and any similar vehicle, and all-terrain vehicles, including but not limited to three-wheelers, four-wheelers, off-road motorcycles and go-carts, shall be not parked or stored on any Lot, unless same is stored in a garage with the garage door closed. All-terrain vehicles, including but not limited to three-wheelers, four-wheelers, off-road motorcycles and go-carts, shall not be driven upon any Lot, street, public right-of-way or common area within the subdivision. No cars, trucks, vehicles, boats, trailers, campers, motor homes, recreational vehicles, business or commercial vehicles or equipment, or all-terrain vehicles, including but not limited to three-wheelers, four-wheelers, off-road motorcycles and go-carts, may be parked upon any road or street or public right-of-way or common area within the subdivision.

Section 4. "Television Antennas and Cables". Satellite dishes and similar devices are expressly prohibited from being erected on individual Lots, except with the express prior approval of the Board as to both location and size. Any satellite dish or similar device that is approved by the Board to be installed by an Owner on any Lot must be installed and maintained in compliance with all ordinances of the Village of Walnut Creek and all other applicable laws and regulations.

### ARTICLE III

#### Membership and Voting Rights

Section 1. The Association shall be organized and in legal existence prior to the sale of any Lot. Every Owner of a Lot shall be a Member of the Association and such membership shall be mandatory. 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 (2) classes of voting membership:

Class A. Class A Members shall be all Owners with the exception of the Declarant and shall be entitled to one (1) vote of each Lot owned. When more than one (1) person owns an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. Class B Member shall be the Declarant. The Class B Member shall be entitled to five (5) votes for each Lot in which it holds the interest required for membership by this Article III, provided that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in Class A membership equal or exceed the total votes outstanding in Class B membership, or

(b) On April 1, 2028.

Section 3. The right of any Member to vote may be suspended by the Board of Directors for just cause pursuant to its rules and regulations, the Articles of Incorporation and the Bylaws of the Association or the provisions of this Declaration.

#### ARTICLE IV

##### Association Responsibilities, Covenants for Assessments

Section 1. "Creation of the Lien and Personal Obligation for Assessments". The Association shall be responsible for those items of maintenance, repair and replacement set forth

in this Declaration and particularly in Section 2 of this Article, together with such other duties as are determined by the Board of Directors to be in the best interest of the Members, and to that end 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) periodic assessments or charges, and (2) special assessments for extraordinary maintenance and capital improvement purposes, such periodic and special assessments to be established and collected as hereinafter provided, and (3) to the appropriate governmental authority a pro-rata share of assessments for any improvements to the Property or other common public facilities if the Association shall fail to pay for same, all as hereinafter provided.

The periodic and special assessments (together with interest thereon and costs and reasonable attorney fees incurred by the Association as a result of nonpayment of assessments) shall be in the nature of a charge on the land and shall be a continuing lien upon the Lot of the delinquent Owner and shall be enforceable by the Association by resorting to available legal remedies. The obligation for delinquent assessments shall pass to the successors in title to any Lot, unless specifically provided to the contrary herein or by applicable law.

Section 2. "Purpose of Assessments". The assessments levied by the Association shall be used for payment of the cost of those items for which the Association is responsible as specified in this Declaration and for such expenditures as otherwise promote the health, safety, welfare and quality of life of the residents of the Property and protect the Owners' investments, which are approved as provided in Article IV. In particular, but not to the exclusion of other uses approved by the Board of Directors of the Association, such assessments shall be used for

the general maintenance of the yard spaces of Lots; for the maintenance of all improvements to be made by the Association, including, but not limited to, signage, fencing, lighting and illumination systems; for the plantings, trees, vegetation and maintenance of areas designated as Common Area, including irrigation systems; for the maintenance of all sidewalks; for maintaining and, if necessary, upgrading the stormwater drainage easement shown on the recorded map to assure its proper function at all times; for the repair, restoration or reconstruction of Houses as set forth in Article X (including, but not limited to, the cost of repairs, interest expense, replacements and additions, labor, equipment, materials, management and supervision); for the procurement and maintenance of insurance in accordance with this Declaration and the Bylaws; and for the employment of counsel, accountants and other professions for the Association, and its Board of Directors, officers, designees or agents, when necessary to accomplish the purposes of this Declaration.

Section 3. "Periodic Assessment". Until December 31 of the year of the conveyance of the first Lot to an Owner, a periodic assessment per Lot and a periodic assessment per Lot with House shall be set by the Board of Directors.

(a) The periodic assessment for the calendar year immediately following the conveyance of the first Lot to an Owner shall be established by the Board of Directors and may be increased by the Board of Directors for said year and any subsequent calendar year without approval by the membership by an amount not to exceed fifteen per cent (15%) of the periodic assessment for the previous calendar year.

(b) The periodic assessment for the calendar year immediately following the



conveyance of the first Lot to an Owner and for any subsequent calendar year may be increased more than fifteen per cent (15%) by a vote of a majority of the votes of the Members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board may set two categories of periodic assessments:

- (1) Members with completed Houses on their Lots.
- (2) Members with vacant Lots.

(d) The Board may set the period assessments for Members with vacant Lots below or at the same amount established for Members with completed Houses on their Lots; however, the Board may not set the period assessments for Members with vacant Lots in an amount more than the amount established for Members with completed Houses on their Lots.

Section 4. "Payable Periodic Assessment". The Board of Directors shall determine the timing and method of the payment of the periodic assessment. The periodic assessment shall be made on a monthly, quarterly or annual basis as determined by the Board of Directors.

Section 5. "Special assessments". In addition to the periodic assessments authorized above, the Association may levy, in any calendar year, special assessments for the purpose of defraying in whole or in part the costs of any capital construction, reconstruction, restoration, extraordinary maintenance, repair or replacement of portions of the Property or improvements thereon for which the Association is responsible or may undertake under the terms of this Declaration, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose. The Board of Directors shall determine the timing and method of the payment of the

special assessments.

Section 6. "Notice and Quorum for any Action Authorized Under this Article". Written notice of any meeting called for the purposes of taking any action authorized under Section 2, 3 (b) or 5 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 proxies entitled to cast at least sixty per cent (60%) of all votes of the combined classes of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the 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 7. "Uniform Rate of Assessment". Both Periodic and Special Assessments must be fixed at a uniform rate, unless otherwise specifically provided herein, and may be collected on a monthly, quarterly or annual basis. All Special Assessments for maintenance and improvements of the Common Area shall be shared equally by the Owners.

Section 8. "Date and Commencement of Periodic assessments; Due Dates; Certificate of Assessment Status". The applicable periodic assessment provided for herein shall commence as to each Lot on the first day of the month following conveyance of such Lot or on the first day of the month following the issuance of a Certificate of Occupancy by the applicable governmental authority for any House constructed thereon. Within sixty (60) days of the end of the Association's fiscal year, the Board of Directors shall fix the amount of the periodic assessment against each Lot and shall send written notice of such assessment and the due date(s)

established by the Board of Directors to every Owner subject thereto.

The Association shall, upon request of an Owner or his duly authorized agent, and for a reasonable charge, furnish a certificate signed by an agent or officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 9. "Effect of Nonpayment of Assessments; Remedies of the Association". Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eighteen per cent (18%) 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, and interest, costs and reasonable attorney's fees of such action or foreclosure shall be added to the amount of such assessment.

Section 10. "Subordination of the Lien to Mortgages". The liens provided for herein shall be subordinate to the lien of any first lien mortgage or deed of trust. Sale or transfer of any Lot shall not affect the assessment lien or liens provided for in the preceding sections. However, the sale or transfer of any Lot pursuant to a foreclosure of such first lien mortgage or deed of trust shall extinguish the lien of such assessments as to payments thereof which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

#### ARTICLE V

##### Architectural Control

Section 1. "Approval of Improvements". No building, fence, wall, screen, mailbox or other structure or exterior improvement of any kind shall be commenced, erected, planted or

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maintained upon any portion of the Property, nor shall any exterior addition, change or alteration (including without limitation, repairs or restoration due to fire or other casualty or change in painted surfaces) of any House be made until the plans and specifications showing the nature, kind, color, texture of all building materials, and the style, dimensions and Lot location of the same shall have been submitted to and approved in writing as to harmony of external design, material and location in relation to surrounding structures and topography by the Board of Directors of the Association. It is the intent of the Declarant to develop a homogeneous community consisting of traditional and transitional architectural styles and to avoid contemporary, rustic and experimental architectural designs. In no way does the Declarant desire to inhibit small changes to the House such as enclosing porches, adding patios, etc., which are in keeping with the original design, especially when these changes occur in the rear of the House and are not visible from any public road.

The Board of Directors may appoint an advisory architectural committee composed of three (3) or more representatives. The Board of Directors may appoint qualified persons to serve on the architectural committee who are not members of the Association. In the event said architectural committee fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, such design and location shall be deemed to have been approved unless they otherwise fail to comply with these Restrictive and Protective Covenants.

Once approved by the Board of Directors and/or said advisory architectural committee, all plans and specifications for proposed structures to be erected on the Property shall be

submitted to the applicable governmental authority for its approval within its scope of review. After receipt of a building permit, said structures must be constructed and maintained in full compliance with all applicable governmental laws, rules and regulations.

Section 2. "Irrigation System". It is the intent of the Declarant to create a "harmonious" effect in the landscaping scheme for the Property with a continuity of landscaping where individual Lot lines are not emphasized. To create and ensure this effect, the Association requires that each Owner shall, upon the construction of a House on his Lot, install an irrigation system meeting the Association's specifications upon his Lot for the purpose of maintaining the landscaping and lawn areas of his Lot. Water shall be supplied to the irrigation systems installed upon the Lots by wells and a master irrigation system installed upon the Common Areas and maintained by the Association. After the irrigation system is installed upon a Lot by Owner and Owner obtains a certificate of occupancy for the House being constructed upon his Lot, the Association shall be responsible for the operation, maintenance, repair and replacement of the system or its components as necessary for proper irrigation of the landscaping on the Lot, provided that an Owner shall be required to promptly repair and/or replace and pay all charges for repair and/or replacement of the system resulting from damage caused by the negligent or intentional acts of the Owner. Charges for the water supplied to the irrigation systems installed upon the Lots shall be paid by the Association. In order to provide for a total irrigation scheme for all of the landscaped areas thereby benefitting all of the Owners of the Lots, such irrigation systems shall be installed as directed by the Association as necessary to provide complete irrigation coverage without regard to specific Lot lines. Because of such installation, some of

the water sprayed onto a Lot by one system may reach another Lot, or flow from one Lot to an adjacent Lot. Therefore, an easement is hereby reserved over, across and onto each Lot for any overspray or flow of water from the irrigation system. An easement is also reserved over, across and upon every Lot in the Property for the installation, maintenance, inspection and operation of the irrigation system including by not limited to sprinkler heads, manifolds, pipes, conduits, pumps, cables, wiring and any other equipment necessary for the installation, maintenance, inspection and operation of the irrigation systems within the Property and upon each Lot for any agent or employee of the Declarant, the Association and any company that may be employed to operate, install, inspect and maintain such systems.

ARTICLE VI

Exterior Maintenance

Section 1. The Association shall have no obligation or responsibility for any maintenance of any House, including driveways, walks, patios, decks and garages, such being the sole responsibility of the Owner. At its sole expense, the Owner shall maintain the House, including the exterior, roof, glass, windows, and doors, as well as the driveways, walks, patios, decks and garages, in good and proper condition and in good working order and repair, as determined by the Board of Directors in its sole discretion.

Section 2. In cases where maintenance or repair is required in this Declaration to be done or made by an Owner as determined by the Board of Directors in its sole discretion, and such maintenance or repair has not commenced within sixty (60) days, or if commenced, is not completed within a reasonable time thereafter, the Association at its option may, and is hereby

granted such right and easement, upon thirty (30) days written notice to the Owner, make or complete such maintenance or repairs, and the cost thereof shall be an additional assessment applicable only to such Lot and Owner, and shall be a non-uniform assessment and lien upon such Lot, and shall be payable as determined by the Board.

Section 3.

(a) The Association shall keep all lawns mowed and free of debris and shall prune and maintain shrubbery and trees within a yard. No shrubbery or trees may be planted without the prior written consent of the Board in existence at the time of the request. An Owner may have a small defined garden area that has been approved in writing by the Association, but the Owner shall be solely responsible for the maintenance and care of the defined garden area and shall not hold the Association liable or responsible for any damage caused by any maintenance personnel supplied by the Association. An Owner may fence, enclose and/or screen by plantings the Rear portion only of his Lot, but only with the prior written approval and per the specifications of the Board of Directors of the Association as set forth in Article V above, and provided that such fencing, enclosing and/or screening does not hinder the Association in performing its maintenance duties as to the remaining portion of the Lot or any other Lot or Common Area within the subdivision. Within any such fenced, enclosed or screened portion of Owner's Lot, Owner shall maintain the trees, shrubs, flowers, beds and/or grass at Owner's sole expense per the standards of the Association. No such maintenance by Owner shall reduce the assessment payable by the Owner to the Association. If, in the sole opinion of the Board, any such Owner fails to maintain the fenced, enclosed or screened areas of his or her Lot in a neat, attractive and

orderly manner, the Board may revoke such Owner's maintenance rights for a period not to exceed one year, and the Association shall perform maintenance during the revocation period, with the costs being charged to the Owner of said Lot as an additional monthly assessment under Article IV. An Owner shall not erect any structure or make any improvements, including fencing, planting or vegetation, except with the prior written approval of the Board of Directors.

(b) Each Owner shall be allowed to construct upon his Lot children's outdoor play equipment provided the items are constructed in a professional manner with quality material. The size, construction quality and construction material shall be approved by the Board of Directors. All structures must be located in the rear portion of a Lot. The Owner shall maintain the attractive, neat and orderly appearance of the equipment at the Owner's sole expense including any additional yard maintenance expense associated with the installation of the outdoor play equipment. No such maintenance by an Owner shall reduce the assessment payable by the Owner to the Association. If, in the opinion of the Board, any such Owner fails to maintain the outdoor play equipment in a neat, attractive and orderly manner, the Board may require the Owner to remove the structures at the Owner's sole expense and if the Owner fails to remove such structure within fifteen (15) days' notice from the Board of Directors, the Association may remove such structures with any cost being charged to the Owner as a non-uniform assessment upon his Lot.

(c) Flags are permitted under the following provisions. One flag displayed per House at any given time. Flag can be the United States Flag, any U.S. State or Territory flag or any officially recognized School, College or University flag. Any other flag must be approved by



Board of Directors. Flags can only be displayed in the front of the House and flag poles must be attached to the House. The flag shall not exceed 3 ft x 5 ft. in size and the method used to attach the flag to the House must be approved by the Board of Directors. If, in the opinion of the Board, any such Owner fails to maintain the flag in a neat, attractive, proper and orderly manner, the Board may require the Owner to remove the flag at the Owner's sole expense and if the Owner fails to remove such flag within fifteen (15) days' notice from the Board of Directors, the Association may remove such flag with any cost being charged to the Owner as a non-uniform assessment upon his Lot.

(d) Exterior seasonal decorations are allowed with the following provisions. All exterior seasonal decorations must be confined to the front porch of each House for displaying purposes. Displays in the front yard are not allowed in order not to interfere with the yard maintenance established by the Association. Seasonal decorations such as wreaths, lights and candles are allowed in the windows, on doors and attached to the mailbox but not in the front yards, eaves of the House or any other exterior portion of the House. Christmas trees are allowed in the interior of the House and may be displayed in front of a window using single or various colors of lights. All other seasonal decorations must be approved by the Board of Directors. If, in the opinion of the Board, any Owner fails to display these seasonal decorations in a neat, attractive and orderly manner, the Board may require them to be removed at the Owner's sole expense and if the Owner fails to remove such seasonal decorations within fifteen (15) days' notice from the Board of Directors, the Association may remove such seasonal decorations with any cost being charged to the Owner as a non-uniform assessment upon his Lot.

Section 4.

(a) In order to provide a uniform scheme of landscaping within the Property, all yard areas of the Lots shall be maintained by the Association, except for Board approved landscaping provided by the Owner which shall be maintained by the Owner and the small defined garden area and the fenced or enclosed portion authorized in Article VI, Section 3 above.

(b) The Board of Directors shall determine the schedule for operation of the irrigation systems, and such operation of the irrigation systems as scheduled shall be mandatory upon each of the Lot Owners, and the said Board shall provide for penalties against any Owner for failure to obey such watering schedule, or for failure to promptly repair and/or replace the system resulting from damage caused by the negligent or intentional acts of the Owner.

Section 5. In the event that an Owner defaults in the responsibility provided in Sections 1 through 4 of this Article or if the need for maintenance, repair or replacement is caused through the willful or negligent act or omission of the Owner, his family, tenants, guests, invitees or contract purchasers, the Association shall perform the necessary maintenance, repair or replacement and the cost of same shall be added to and become a part of the non-uniform assessment to which his Lot is subject.

In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association and its agents, the right and easement for unobstructed access over and upon each Lot at all reasonable times to perform maintenance, repair and replacement as provided in this Article.

Section 6. Maintenance, repairs or replacement under this Article VI arise from normal

usage and weathering or willful or negligent acts or omissions, and do not include repairs, restoration or reconstruction made necessary by fire or other casualty or damage, which are controlled by Article X below.

Section 7. The areas designated as Common Areas shall always be the responsibility of the Association and must be maintained by the Association.

ARTICLE VII

Use Restrictions

Section 1. "Rules and Regulations". The Board of Directors of the Association shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the yard space on each Lot, the private drives and access easements, walkways and parking areas of the Property.

Section 2. "Use of Property". No portion of the Property (except that the Declarant or his agents may use any unsold House for office, sales or model purposes) shall be used except for single-family residential purposes and for purposes incidental or accessory thereto. If more than three people reside on any Lot and if those in excess of three are not related to any of the three by blood, marriage or adoption, such residency shall not be deemed single-family residential use. Notwithstanding the foregoing, no more than two persons unrelated to a resident, as aforesaid, may reside on any Lot unless their occupancy is necessary for the health of the residents thereof.

Section 3. "Nuisance". No noxious or offensive activity shall be conducted upon any Lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to

the residents of the Property.

Section 4. "Animals". No animals, livestock or poultry of any kind shall be kept or maintained on any Lot or in any House, except that up to a total of two (2) household pets may be kept or maintained, provided that they are not kept or maintained for commercial purposes or in such manner as to be offensive to the residents of the Property, and provided further that they are controlled in accordance with the applicable ordinances of the Village of Walnut Creek. No animal pen or confinement area shall be allowed in the yard area of any Lot, unless prior approval is given by the Board of Directors or the Architectural Committee. All owners of household pets shall be responsible for the cleanup of any animal excrement on the Property of others and for any damage to the Property, including the animal owner's Lot, caused by said household pet(s).

Section 5. "Maximum Height of Houses". No House constructed upon the Property shall exceed the height allowed by applicable governmental authority.

Section 6. "Minimum Size of Houses, Prohibition of Carports and Driveway Specifications". Minimum square footage for all Houses to be constructed upon the Property with connecting enclosed garages shall be 2,000 square feet, with 1,800 square feet of finished, heated living area, exclusive of stoops and open porches. Minimum square footage for all Houses to be constructed upon the Property without connecting enclosed garages shall be 2,000 square feet of finished, heated living area, exclusive of stoops, open porches and garages. No attached or detached outside storage building and no detached garage shall be constructed upon the property. The ground floor of any garage cannot be converted into or used for permanent

dwelling purposes; however, hobby and/or recreational uses of the garage are permitted. No carports shall be constructed upon the Property and all garages shall be enclosed. All driveways shall be paved with concrete and all driveway connections shall be constructed in accordance with standards as set forth by the North Carolina Department of Transportation.

Section 7. "Observance of Applicable Laws and Regulations". No immoral, improper, offensive or unlawful use shall be made of the Property, or any part thereof, and all valid laws, ordinances and regulations of all governmental agencies having jurisdiction thereof shall be observed. All laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof, relating to any portion of the Property, shall be complied with, by and at the sole expense of the Owner or the Association, whichever shall have the obligation to maintain, repair or replace such portion of the Property.

Section 8. "Impairment or Alteration of House". Nothing shall be done to any House or to any portion of the Property which will alter the exterior appearance of same or portion thereof, except in the manner provided in this Declaration.

Section 9. "Nonresidential Use Prohibited". No industry, business, trade, occupation or profession of any kind, whether commercial or otherwise shall be conducted, maintained or permitted on any part of the Property, except that the Declarant or his agents may use any unsold House for office, sales or model purposes. However, Owner may maintain a home office for business or professional use provided there is no exterior signage of said use and no regular or continuous customer or client traffic serviced from said home office.

Section 10. "Signs". No Owner shall display or cause or allow to be displayed to public

view any sign, placard, poster, billboard or identifying name or number upon any House or any portion of the Property, except as allowed by the Association; provided, however, that the Declarant and any Owner of a House or Lot or their respective agents may place one standard size "For Sale" sign upon that Lot.

Section 11. "Utility Contracts". The Declarant reserves the right to subject the Property to a contract with Progress Energy Service Company or its successors for the installation of underground electrical cables and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to Progress Energy Service Company or its successors by either the Association or the Owners. Declarant may increase the amount and/or change the design of area lighting from that which is normally provided by Progress Energy Service Company or its successors and the Village of Walnut Creek. Any such change must receive the prior approval of the Village of Walnut Creek and could result in an increase in the monthly dues paid by each Owner. Declarant also reserves the right to make necessary arrangements with other utility companies for the installation of underground cabling as necessary to provide for telephone service, cable TV, etc. Any such arrangements must receive the prior approval of the Village of Walnut Creek and might also result in an increase in the monthly dues paid by each Owner.

Section 12. "Set-Back Requirements". No House or other allowed structure shall be erected or allowed to remain on any Lot without conforming to all set-back requirements (including applicable zero Lot line clearance) of Phase 1-A (Muirfield Village) consisting of Lots 96 through 122 shown on that certain plat entitled "Final Map for: The Links at Walnut

Creek, Phase One”, prepared by ADR Delta, PLLC, dated September 2007 and recorded in Plat Cabinet M, Slides 93-C, 93-D and 93-E, Wayne County Registry, and additional phases of Muirfield Village at Walnut Creek provided for under Article XI, Section 6 hereof when a map thereof is properly recorded in the Wayne County Registry. For the purposes of this Section, eaves, roofs, gutters and other overhangs shall not be considered, in accordance with Article VIII, Section 3.

Section 13. “Combination and/or Subdivision of Lots”. No Lot shall be subdivided into parcel or parcels unless it is for the sole purpose of enlarging the properties of the adjoining property Owners where a vacant Lot lies between them. Contiguous Lots may be combined in single ownership and used as a site for one House. However, in every case, approval for such combination and/or subdivision must be granted by the Board of Directors and the Village of Walnut Creek. The set-back requirements of Article VII, Section 12 shall apply to the perimeters of the modified Lot, and not to the original interior line of the Lot. Action taken hereunder shall in no way affect or reduce the assessment upon a subdivided Lot. The subdivision or combination of Lots shall not change an Owner’s liability for assessments upon the subdivided Lot. Therefore, if a Lot is subdivided for the purpose of enlarging the adjoining Lots, the Owners of the subdivided Lot shall each be liable for their pro-rata portion of the assessments upon said subdivided Lot.

Section 14. “Screening” and “Tanks”. All garbage containers shall be permanently screened from view from all street rights-of-ways, except on the day of garbage pick-up. All home heating units, air conditioning units and any other type of outside electrical or gas system

must be screened in order not to be visible from the street or front of the House. The screening may be landscape bushes, brick walls or other screening as approved by the Board of Directors. This requirement applies to units located and attached to either Side of the House. Units located and attached to the Rear of the House are considered concealed from view. Any and all tanks for use in connection with any House, including tanks for the storage of fuels, shall be installed and maintained in accordance with the Ordinances of the Village of Walnut Creek, as amended from time to time, which Ordinances are incorporated herein by reference.

Section 15. "Mailboxes". For each Lot with a completed House, the Owner shall install a mailbox on his Lot at the Owner's expense, such mailbox to be approved by the Association. Mailboxes shall be maintained per the standards set by the Association. Any and all costs of maintaining or replacing a mailbox shall be the responsibility of the Owner.

#### ARTICLE VIII

##### Easements

Section 1. "Utility and General Easements". All of the Property, including specifically the Lots, shall be subject to such easements for walkways, parking areas, Lot ingress and egress, driveways, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone lines, cable television lines, electric power lines and other public utilities as shall be established by the Declarant or by its predecessors in title prior to the subjecting of the Property to this Declaration, and there is reserved to the Association and its agents the right, authority and easement over and upon the Property and each Lot and House thereon at all reasonable times to perform the maintenance, repair and replacement responsibilities established by this Declaration or by the



requisite majority of the Owners as herein provided. The easements established herein shall run with the land and inure to and be binding upon the Declarant and the applicable Owners and their successors in title and interest.

Section 2. "Easement for the Benefit of the Village of Walnut Creek". An easement is hereby established for the benefit of the Village of Walnut Creek over the Property for the setting, removing and reading of water meters, maintaining or replacing water, sewage and drainage facilities, for police protection, fire fighting, rescue service and garbage collection and the rendering of such other public services as are appropriate and necessary for the use and enjoyment of the Property. In no case shall the Village of Walnut Creek be responsible for failing to provide any emergency or regular fire, police or other public service to the Property or to any of its residents when such failure is due to the lack of access to such area attributable to inadequate design or construction, block of access routes or any other factor within the control of the Declarant, the Association, the Owners or residents. All conveyances of any portion of the Property shall be subject to these limitations of the Village of Walnut Creek's responsibilities.

ARTICLE IX

Insurance

Section 1. "Insurance to be Maintained by the Association". The following insurance coverage shall be maintained in full force and effect by the Association:

(a) Public liability and property damage insurance covering the Common Areas and any other Property owned by the Association, including any interest in fee or easement

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interest, in such amounts and in such forms as shall be required by the Association.

(b) All liability insurance shall contain cross-liability endorsements to cover liability of the Owners as a group to an individual Owner.

(c) The Association may also obtain such other insurance coverage on the Board and Officers as it may determine to be desirable and necessary, including fidelity and liability insurance.

Section 2. "Fire Insurance". Every Owner shall maintain in full force and effect at all times, at his own expense, fire and hazard extended coverage insurance in an amount equal to one hundred per cent (100%) of the current replacement cost of his House, with the Association named as an additional insured. Each Owner shall keep on file with the Board a current certificate of insurance and, if any Owner shall fail to maintain such insurance, the Board is authorized to purchase such insurance in the name of the Owner from an insurer selected by the Board, and the cost of such insurance shall be considered a special assessment against the Owner and shall constitute a lien against his Lot until paid. Unless consented to in writing by the Association, the fire and casualty insurance policy of an Owner shall not contain (and the insurance shall not be placed with companies which charter or bylaws contain) provisions whereby: (a) contributions or assessments may be made against the Association, the Owners or the mortgagee; (2) loss payments are contingent upon an action by the insurance carriers, directors, policyholders or members; and (3) there are limiting clauses (other than insurance conditions) which could prevent either the Owner, the Association or the mortgagee from collecting the proceeds.

Section 3. "Premiums". Premiums for insurance policies purchased by the Association shall be paid by the Association and charged on a pro-rata basis, unless otherwise stated herein, to the Owners and shall be part of the monthly assessment as provided for in this Declaration.

Section 4. "Insurance Benefits". The insurance policies specified in Section 1 shall be purchased by the Association for the benefit of the Association and the Owners.

ARTICLE X

Repair, Restoration or Reconstruction of Casualty Damage

Except as otherwise herein provided, damage to or destruction of Houses or Lots shall be promptly repaired, restored or reconstructed by the affected Owners, such repair and restoration or reconstruction, insofar as possible, to be in accordance with the original plans and specifications of the original building, subject to and within the provisions of Article V above. Unless otherwise agreed in writing by the affected Owners and the Association, in the event of a loss, the applicable insurance proceeds under Article IX shall be collected and used, under the joint control of the affected Owners and the Association, to fulfill to the extent possible the obligations of the affected Owners under this Article X. In the event that the Owners of damaged Houses and Lots default in the obligations to promptly repair and restore or reconstruct herein provided, the Association may (but shall be under no obligation to) repair and restore or reconstruct the damaged House or Lot provided the procedure established in Article VI, Section 5 is followed. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association and its agents the right to unobstructed access over and upon each Lot at all reasonable times to perform repair and restoration or reconstruction as provided in this

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Article. In the event of action by the Association as herein permitted, the Owners of damaged Houses and Lots shall be liable for assessment for the entire cost of such repair and restoration or reconstruction and subject to exercise of the enforcement remedies herein provided in the event of failure of timely payment of the assessment.

ARTICLE XI

General Provisions

Section 1. "Scope of this Declaration". The covenants, conditions and restrictions contained in this Declaration are intended to apply in addition to, and in conjunction with, the ordinances of the Village of Walnut Creek. No provision of this Declaration or of the Bylaws of the Homeowners Association shall be interpreted as relieving any Owner of its responsibilities to abide by the ordinances of the Village of Walnut Creek.

Section 2. "Enforcement". The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, liens and charges now or hereafter imposed by the provisions of the Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 3. "Severability". Invalidity of any one of the covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 4. "Amendment". The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded,

after which time they shall automatically be extended for successive periods of ten (10) years each. This Declaration may be amended by an instrument signed by not less than seventy-five per cent (75%) of the votes of the combined Membership of the Association, provided that the Declarant, for so long as the Declarant shall retain control of the Association, and, thereafter the Board of Directors may amend this Declaration, without the consent of the Owners, (1) to correct any obvious error or inconsistency in drafting, typing or reproduction, and (2) to amend this Declaration to conform to the requirements of any law or governmental agency having legal jurisdiction over the Property or to qualify the Property or any Lots and improvements thereon for mortgage or improvement loans made or insured by a governmental agency or to comply with the requirements of law or regulations of any corporation or agency belonging to, sponsored by or under the substantial control of, the United States Government or the State of North Carolina, regarding purchase or sale of such Lots and improvements or mortgage interests therein, as well as any other law or regulation relating to the control of Property, including, without limitation, ecological controls, construction standards, aesthetics and matters affecting the public health, safety and general welfare.

No amendment shall alter an obligation to pay ad valorem taxes or assessments for public improvements, as herein provided or affect any lien for the payment thereof established herein. All amendments must be properly recorded in the office of the Register of Deeds of Wayne County within ten (10) days after their effective date; however, failure to timely comply with this requirement shall not void any amendment.

Section 5. "Addition to Common Area". The Declarant reserves the right to convey any

portion of the Property then owned by the Declarant to the Association as Common Area in addition to the Common Area shown on the plat entitled "Muirfield Village" herein referred to and additional phases of Muirfield Village provided for under Article XI, Section 6 hereof when a map thereof is properly recorded in the Wayne County Registry.

Section 6. "Declarant's Rights".

(a) The Declarant hereby reserves the right to annex additional land without the consent of the Class A members within twenty (20) years of the date of this instrument, provided that the Village of Walnut Creek determines that the annexation is in accord with the general plan hereto approved by it. Any property annexed for such purposes will be subject to and under the jurisdiction of the applicable Association and shall be designated as consecutively numbered phases or such other similar designations for any additional phase added.

(b) The rights reserved by the Declarant also include the power to amend this Declaration of Restrictions to subject any property described above to the jurisdiction of the applicable Association and to the rights and obligations of this Declaration of Restrictions without the consent of Class A members, subject, however, to approval, if required, by any governmental unit or agency.

IN WITNESS WHEREOF, BLUEFIN ASSOCIATES, LLC has caused this Declaration to be duly executed in its name, this the day and year first above written.

BLUEFIN ASSOCIATES, LLC

By:  (SEAL)

Marcellus J. Best, Jr., Member/Manager

By: Frank S Best (SEAL)  
Frank S. Best, Member/Manager

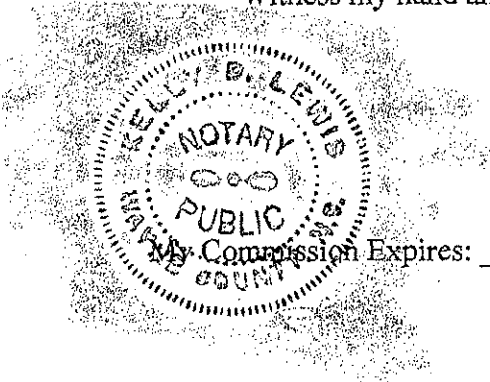
By: C Munroe Best Jr (SEAL)  
C. Munroe Best, Jr., Member/Manager

STATE OF NORTH CAROLINA

COUNTY OF WAYNE

I, Kelly D. Lewis, a Notary Public, do hereby certify that Marcellus J. Best, Jr., Frank S. Best and C. Munroe Best, Jr., each personally came before me this day and acknowledged that they are Members/ Managers of BLUEFIN ASSOCIATES, LLC, a North Carolina limited liability company, and that they as said Members/Managers, being fully authorized to do so, executed of the foregoing instrument on behalf of the said limited liability company.

Witness my hand and official seal, this the 21<sup>st</sup> day of May, 2008.



Kelly D Lewis  
NOTARY PUBLIC