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**DECLARATION OF**  
**COVENANTS AND RESTRICTIONS**  
**FOR FALCON RIDGE**  
**MECKLENBURG COUNTY, NORTH CAROLINA**

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DECLARATION  
OF  
COVENANTS AND RESTRICTIONS  
FOR FALCON RIDGE

MECKLENBURG COUNTY, NORTH CAROLINA

THIS DECLARATION OF COVENANTS AND RESTRICTIONS is made on this 11<sup>th</sup> day of January, in the year Two Thousand One by PULTE HOME CORPORATION, a Michigan corporation (hereinafter referred to as the "Declarant") and consented to by the Homeowners (as defined below).

WITNESSETH:

WHEREAS, the Declarant is the owner of that certain real property located in Mallard Creek Township, Mecklenburg County, North Carolina which real property is hereinafter identified as the "Falcon Ridge Property"; and

WHEREAS, the Declarant desires to create a Neighborhood pursuant to the Master Declaration (as defined below) which Neighborhood shall be known as "Falcon Ridge"; and

WHEREAS, this Declaration shall be subject to all terms and conditions of the Master Declaration and the Association under this Declaration shall be a Neighborhood Association as defined in the Master Declaration; and

WHEREAS, the Declarant desires to cause there to be organized an association to perform the responsibilities of the "Association" under this Declaration; and

WHEREAS, it is intended that every owner of any of the Lots in Falcon Ridge automatically, and by reason of such ownership and this Declaration, become a member of the aforesaid association and be subject to its valid rules and regulations and the assessments and charges made by such association;

NOW, THEREFORE, the Declarant does hereby submit the "Lots" to the provisions of this Declaration.

ARTICLE I.

DEFINITIONS

As used in this Declaration, the following terms shall have the meanings ascribed to them in this Article I, such definitions being cumulative of those set forth elsewhere in this Declaration.

"Act" shall mean the North Carolina Planned Community Act, General Statutes of North Carolina Sections 47F-1-101 through 47F-3-120.

"Annual Assessment" shall have the meaning specified in Section 4 of Article IV hereof, and shall constitute the assessments which, pursuant to the provisions of Article IV hereof, shall be levied by the Association against the Lots each year for the purpose of raising the funds necessary to pay the "Annual Expenses" (as that term is defined in Section 3 of Article IV hereof).

"Articles of Incorporation" shall mean the Articles of Incorporation of the Association, as the same may be amended from time to time.

"Association" shall mean The Falcon Ridge Homeowners Association, Inc., a North Carolina non-profit membership corporation.

"Backyard Area" shall mean the portion of each Lot which is located in the rear of the home constructed on such Lot.

"Bylaws" shall mean the Bylaws of the Association, as the same may be amended from time to time.

"Common Elements" shall mean all portions of the Falcon Ridge Property which is conveyed and transferred to the Association pursuant to Section 1 of Article III of this Declaration and which does not include any Lot or real property dedicated to a governmental authority or conveyed to the Master Association. Common Elements shall not include any Lot which shall be acquired by the Association through foreclosure of the lien in favor of the Association, as provided for in Article V of this Declaration.

"Declarant" shall mean Pulte Home Corporation, a Michigan corporation, and shall include any successor or assign of Pulte Home Corporation (other than a person acquiring fewer than five (5) Lots) who shall acquire the entire interest in Falcon Ridge Property which was owned by the immediate predecessor-in-title of such successor or assign.

"Declaration" shall mean this Declaration of Covenants and Restrictions, as the same may be hereinafter amended in accordance with the terms and provisions of Article VII hereof.

"Executive Board" shall mean the Board of Directors of the Association.

"The Falcon Ridge Property" shall mean the entirety of the real property described on Exhibit A, hereto attached and made a part hereof.

"First Mortgage" shall mean a Mortgage conveying a first priority lien upon or security title to any Lot.

"Homeowners" shall mean collectively those persons who have executed the attach signature pages.

"HUD" shall mean the United States Department of Housing and Urban Development and, in the event that said Department shall be abolished and its operations transferred to another division of the United States government, such other division.

"Lot" shall mean each portion of the Falcon Ridge Property which has been subjected to the terms, provisions, liens, charges, easements, covenants and restrictions of this Declaration applicable to Lots either by the recording of this Declaration or by the recording of a supplemental declaration pursuant to the provisions of Section 2 of Article II hereof.

"Master Association" shall mean the Highland Creek Community Association, Inc., a North Carolina non-profit corporation.

"Master Declaration" shall mean that certain Declaration of Covenants, Conditions and Restrictions for Highland Creek, made by America Newland Associates, as Declarant, recorded with the Register of Deeds of Mecklenburg County, North Carolina in Book 06730, Page 0017, and all amendments thereto existing and duly recorded with the Register of Deeds of Mecklenburg County, North Carolina.

"Mortgage" shall mean a mortgage, deed to secure debt, deed of trust, or other instrument conveying a lien upon or security title to the property.

"Person" shall mean a natural person, corporation, trust, partnership or any other legal entity.

"Plat" shall mean the Final Plat of Falcon Ridge Falcon Ridge Ph. 1 Map 1 (Tract "E"-Village 2) prepared by McKim & Creed, dated July 5, 1999, recorded on October 15, 1999 in Book 32, Page 41 with Register of Deeds of Mecklenburg County, North Carolina; and shall

include any and all other plats of survey which shall be recorded pursuant to the provisions of Article II, Section 2 of this Declaration for the purpose of subjecting additional portions of the Falcon Ridge Property owned by the Declarant to this Declaration.

"VA" shall mean the United States Department of Veterans Affairs and, in the event that said Department shall be abolished and its operations transferred to another division of the United States government, such other division.

All pronouns used in this Declaration are intended to be gender neutral, and the use of the masculine gender shall be deemed to include the feminine and neuter genders.

## ARTICLE II.

### LOTS

Section 1. Lots Hereby Subjected to this Declaration. The Declarant, for itself and its successors and assigns, does hereby covenant that the following described property be, and the same hereby is, subjected to this Declaration as Lots: Lot Nos. 1 through 52, inclusive in Block 53, 1 through 15, inclusive in Block 54 and 1 through 15, inclusive in Block 55, as shown and depicted on the Plat.

The Declarant, for itself, its successors and assigns, hereby further covenants that the above-described property shall hereafter be held, transferred, sold, conveyed, used, leased, occupied, mortgaged or otherwise encumbered subject to all of the terms, provisions, liens, charges, easements, covenants and restrictions set forth in this Declaration as applicable to the Lots, including, but not limited to, the lien provisions set forth in Article V hereof. All of the terms, provisions, liens, charges, easements, covenants and restrictions set forth in this Declaration as applicable to the Lots shall be a permanent charge thereon, and shall run with the Lots.

Section 2. Relationship to the Master Association. The Lots of Falcon Ridge which are subject to this Declaration constitute a Neighborhood as defined in the Master Declaration and are bound by the terms and conditions of the Master Declaration. The Association described herein is a Neighborhood Association as defined in the Master Declaration. This Declaration is intended to supplement the Master Declaration as it applies to the Lots. All owners of Lots within Falcon Ridge are also members of the Master Association.

In addition to all of the rights and obligations which are conferred or imposed upon the Association pursuant to its governing documents, the Association shall be entitled to exercise any of the rights conferred upon it and shall be subject to all of the obligations imposed upon it pursuant to the Master Declaration and all instruments creating or governing the Master Association. The Association and all committees thereof shall also be subject to all superior rights and powers which have been conferred upon the Master Association pursuant to the Articles of Incorporation and Bylaws of the Master Association and the Master

Declaration. The Master Association shall also be empowered by this Declaration to enforce the provision of this Declaration. The Association shall have no authority to take action in derogation of the rights, or contrary to the interests, of the Master Association.

All provisions of the Master Declaration are supplemented by the provisions contained in this Declaration, as more particularly set forth below. To the extent that a conflict exists between a provision of the Master Declaration and that contained herein, the provision set forth in the Master Declaration shall control, but only to the extent necessary to avoid invalidating an explicit provision of the Master Declaration. Provisions in this Declaration which are more restrictive or more specific shall be considered to supplement those in the Master Declaration, and such provisions shall not be construed to conflict with those of the Master Declaration.

**Section 3. Additional Lots Hereafter Subjected to this Declaration.** The Declarant may, at any time, and from time to time, prior to January 1, 2011, subject additional portions of the Falcon Ridge Property to the terms, provisions, liens, charges, easements, covenants and restrictions of this Declaration applicable to Lots by:

(a) executing and recording with the Register of Deeds of Mecklenburg County, North Carolina, a supplemental declaration to this Declaration describing such additional Lots and stating that this Declaration is thereby extended to, and shall thereafter apply to, such additional Lots; and

(b) recording with the Register of Deeds of Mecklenburg County, North Carolina, a plat of survey showing and depicting the additional Lots being thereby subjected to this Declaration.

From and after the subjecting of such additional Lots to the Act and to this Declaration, such additional Lots shall thereafter be held, transferred, sold, conveyed, used, leased, occupied, mortgaged or otherwise encumbered subject to all of the terms, provisions, liens, charges, easements, covenants and restrictions of this Declaration applicable to Lots, including, without limitation, all lien and assessment provisions set forth in this Declaration; from and after the subjecting of such additional Lots to this Declaration, all of the terms, provisions, liens, charges, easements, covenants and restrictions set forth in this Declaration as applicable to Lots shall be a permanent charge thereon, and shall run with, such additional Lots.

Except as otherwise provided in the Act, no approval from any member of the Association, or from anyone else whomsoever, shall be required for the Declarant to subject any portion of the Falcon Ridge Property to this Declaration as additional Lots.

**Section 4. All Lots Bear the Burdens and Enjoy the Benefits of this Declaration.** Every person who is a record owner of a fee or undivided fee interest in any Lot does, by acceptance of a deed or other conveyance thereto, and by acceptance of such ownership, and

by taking record title to such Lot, agree to all of the terms and provisions of this Declaration. Each of the Lots is subject to all the burdens, and enjoys all the benefits, made applicable hereunder.

Section 5. Easements Over the Lots. The Lots shall be subjected to, and the Declarant does hereby grant to the appropriate grantees thereof, an easement for the entry by the authorized agents and representatives of the Association to go upon such Lot under the circumstances, and for the purposes described in Article VI of this Declaration.

### ARTICLE III.

#### COMMON ELEMENTS

Section 1. Common Elements. The Declarant shall have the right to transfer and convey to the Association any portion of the Falcon Ridge Property. All portions of the Falcon Ridge Property which the Declarant shall so transfer or convey to the Association shall thereafter constitute Common Elements. Said right may be exercised by the Declarant any time, and from time to time, prior to December 31, 2007.

All portions of Falcon Ridge Property which shall be transferred to the Association by the Declarant (a) shall be conveyed to the Association by limited warranty deed free of debt encumbrance, and (b) shall be conveyed to the Association subject to the rights and easements set forth in Sections 2 and 3 of this Article III, irrespective of whether the deed of conveyance shall make a specific reference to such rights and easements.

By joining in the execution of this Declaration, the Association does hereby covenant and agree to accept all conveyances of the Common Elements which may be made to it pursuant to, and in accordance with, the terms and provisions of this Section 1.

Section 2. Members' Rights in the Common Elements. Every owner of any Lot located thereto shall have a non-exclusive right and easement of enjoyment and use in and to the Common Elements and such right and easement shall be appurtenant to, and shall pass with, the title to the Lot(s) owned by such owner. Such right and easement of enjoyment and use are and shall be subject to the easements which are described in Section 3 of this Article III and to the right of the Association to promulgate reasonable rules and regulations regarding the use of the Common Elements, and the right of the Association, as provided in the Bylaws, to suspend the enjoyment rights of the owner of any Lot during any period in which any assessment which is due to the Association from such owner remains unpaid, and such period as the Executive Board may consider appropriate for any infraction of its published rules and regulations. No such suspension, however, shall prohibit the owner of any Lot from using the Common Elements to the extent necessary for such owner to have access to and from his Lot. In addition, the Executive Board may permit other persons who are not residents of any Lots to use the Common Elements upon such terms and conditions, and for the payment of such fees, as shall be determined by the Executive Board.

Section 3. Easements Over the Common Elements. All Common Elements shall be subject to, and Declarant and the Association do hereby grant, the following easements:

(a) An easement across, in, under, over and through the Common Elements for the purposes of the construction, installation, repair, maintenance and use of all utility and drainage lines, wires, pipes and similar facilities as exist on the date of this Declaration; and

(b) An easement in favor of Declarant for the exclusive use of such portions of the Common Elements as may be reasonably desirable, convenient or incidental to the construction and installation of improvements on, and the sale of, any Lots thereon, including, but not limited to, sales and business offices, storage areas, construction yards and signs. Such easements shall be exercisable by any and all persons whom the Declarant shall authorize to exercise the same, including, without limitation, real estate sales agents and brokers and builders of residences upon the Lots, irrespective of whether such persons are affiliated with the Declarant. Such easements shall exist notwithstanding any provision of this Declaration which might be construed to the contrary, but shall terminate at such time as the construction on the Lots of all homes has been completed and all of the Lots shall have been conveyed to owners thereof who shall not have acquired the Lots for the purpose of immediate resale of the same. Such easements shall and do exist without affecting the obligation of the owner of any Lot to pay assessments or charges coming due during such period of time as portions of the Common Elements shall be used by authorized persons pursuant to the exercise of the easements herein stated.

Section 4. Damage or Destruction. All damage that shall occur to any improvements on any Common Elements on account of the occurrence of any casualty shall be repaired in all events. Such repairs shall be undertaken and completed as soon after the occurrence of any casualty as is reasonably practicable. All repairs to any improvements located on the Common Elements shall be made in accordance with plans and specifications that shall be approved for the same by the Executive Board of the Association.

As provided in Section 47F-3-113 of the Act, it shall be the duty of the Association to obtain and maintain in effect at all times a policy of casualty insurance on all improvements located on the Common Elements. The amount of such policy shall be in amount that is no less than eighty percent (80%) of the replacement cost of the improvements to be insured with deductibles in amount to be determined by the Executive Board. It shall also be the duty of the Association to obtain and maintain in effect at all times a comprehensive policy of public liability insurance. The comprehensive policy of public liability insurance shall have a reasonable amount of coverage, as shall be determined by the Executive Board, and shall provide for such deductibles, as shall be determined by the Executive Board. During the existence of the Class B membership of the Association, both insurances may be provided by a self-insurance program maintained by the Declarant.

The owner of each Lot shall obtain and maintain in effect at all times a master multi-peril policy of property insurance covering all insurable portions of such home, on a replacement cost basis in an amount of not less than one hundred percent (100%) of the insurable value, based upon replacement cost, of the same.

Section 5. Transfer or Encumbrance. In no event shall the Association abandon, encumber, sell or transfer, directly or indirectly, any portion of the Common Elements unless such abandonment, encumbrance, sale or transfer shall be first approved in writing by: (a) the owners of no fewer than eighty percent (80%) of the Lots, and (b) the holders of no fewer than eighty percent (80%) of the First Mortgages existing in regard to the Lots; and (c) HUD and VA, until such time as the Class B membership shall terminate (as provided for in Article IV, Section 3 of this Declaration.)

Section 6. Maintenance of the Common Elements. The Association shall be responsible for the maintenance and repair of all Common Elements.

#### ARTICLE IV. THE ASSOCIATION

Section 1. The Association. Prior to the date this Declaration has been filed for record with the Register of Deeds of Mecklenburg County, North Carolina, the Declarant has caused the Association to be formed, and the Association does now exist, under its Articles of Incorporation and Bylaws.

The Association has been organized for the purpose of providing for the maintenance of the Lots required to be performed by the Association pursuant to the provisions of Article VI hereof and of assessing the Lot owners and the Lots as provided for in Article V hereof.

Section 2. Membership. Every person who is, or who becomes, a record owner of a fee or undivided fee interest in any Lot is and shall be a member of the Association; provided, however, that any such person who holds such interest merely as security for the performance of an obligation shall not be a member of the Association. The transfer of ownership of a fee or undivided fee interest in any Lot shall automatically transfer membership in the Association, and in no event shall such membership be severed from the ownership of such Lot.

Section 3. Classes of Membership; Voting Rights. The Association shall have two classes of voting membership: Class A and Class B.

(a) Class A. The Class A members shall be all those persons holding an interest required for membership in the Association, as specified in Section 2 of this Article III, except for those persons who are Class B members. Until such time as the Class A members shall be entitled to full voting privileges, as hereinafter specified, the Class A

membership shall be entitled to vote only in regard to the following matters: (a) any proposal of merger, consolidation or dissolution of the Association; (b) any proposal pursuant to Article VI of this Declaration to amend this Declaration; (c) any proposal to modify or amend the Articles of Incorporation or by the Bylaws; and (d) any other matter for which it is herein specifically provided, or for which it is provided by law, that approval of each and every class of membership of the Association is required. Except in regard to the foregoing matters, the Class A membership shall be a non-voting membership until such time as the Class B membership shall terminate, at which time the Class A membership shall be the sole class of membership and shall be entitled to full voting privileges.

When entitled to vote, Class A members shall be entitled to cast one (1) vote for each Lot in which they hold an interest required for membership by Section 2 of this Article III.

(b) Class B. The Declarant shall be the sole Class B member. Class B membership shall be a full voting membership and, during its existence, the Class B member shall be entitled to vote on all matters and in all events. The Class B membership shall terminate and cease to exist, and the Class B member shall be and become a Class A member insofar as it may then hold any interest required for membership by Section 2 of this Article III, upon the earliest to occur of: (i) the date on which the Declarant shall have conveyed to individual owners thereof seventy-five percent (75%) of the Lots, or (ii) January 1, 2011 or (iii) on such earlier date as the Declarant shall designate in a written notice delivered to the Association.

From and after the date at which the Class B membership automatically terminates and ceases to exist, such membership shall not be renewed or reinstated.

Section 4. Suspension of Membership Rights. The membership rights of any member of the Association, including the right to vote, the right to use the Common Elements and the right to landscaping services provided by the Association, may be suspended by the Executive Board pursuant to the authority granted in the Bylaws. Any such suspension shall not affect such member's obligation to pay assessments coming due during the period of such suspension and shall not affect the permanent charge and lien on the member's property in favor of the Association.

Section 5. Meetings of the Membership. All matters concerning the meetings of members of the Association, including the time at which and the manner in which notice of any said meeting shall be given to members, the quorum required for the transaction of business at any meeting, and the vote required on any matter, shall be as specified in the Act, this Declaration, or in the Articles of Incorporation or the Bylaws, or by law.

Section 6. Association Acts Through Its Executive Board. Whenever approval of, or action or inaction by, the Association is referred to or called for in this Declaration, such action, inaction or approval shall be by the Executive Board of the Association, unless it is specifically stated in this Declaration, the Articles of Incorporation or the Bylaws with respect

to such action, inaction or approval that the members of the Association must vote. No member of the Executive Board of the Association or any officer of the Association (including, without limitation, any such individual who shall have been elected by a vote of the Class B member) shall be personally liable to any owner of any Lot for any mistake of judgment or for any other act or omission of any nature whatsoever, except for any acts or omissions found by a court of competent jurisdiction to constitute gross negligence or fraud.

Section 7. Professional Management. The Association may, but shall not be obligated to, obtain and pay for the services of any person or other entity to perform the duties of the Association, including the performance of the grounds maintenance services which is the responsibility of the Association under this Declaration and the management of the Association's finances and the Common Elements.

## ARTICLE V.

### ASSESSMENTS

Section 1. Assessments; Lien Therefor. Each person other than the Declarant who shall own any Lot, by acceptance of a deed or other conveyance thereto, and by acceptance of such ownership, and by taking record title thereto, shall be deemed to covenant and agree to pay to the Association all assessments and charges which are levied by the Association against the Lot(s) owned by such person in accordance with the terms and provisions of this Declaration.

As more fully provided in Section 47F-3-116 of the Act, all sums lawfully assessed by the Association against any Lot and the owner thereof, which shall remain unpaid for a period of thirty (30) days from the date of such assessment, shall constitute a lien in favor of the Association on such Lot when a claim of lien is filed of record in the office of the clerk of Superior Court of the county in which the Lot is located. Such lien shall be prior and superior to all other liens whatsoever, except:

- (a) liens for ad valorem taxes and other governmental assessments on the Lot;
- (b) any lien that was properly recorded prior to the docketing of the claim of lien in the office of the clerk of superior court;
- (c) the lien of any First Mortgage or the lien of any prior Mortgage recorded in the Deed Records of Mecklenburg County, North Carolina; or
- (d) the lien of any secondary purchase money Mortgage covering the Lot, provided that neither the grantee nor any successor grantee on the Mortgage is the seller of the Lot.

Section 2. Personal Obligation of Members. Each member of the Association other than the Declarant, by acceptance of a deed or other conveyance to the Lot(s) owned by such member, irrespective of whether it shall be so expressed in any such deed or other conveyance, and by acceptance of ownership of such Lot (s), and by taking record title to such Lot(s), shall be deemed to covenant and agree to pay to the Association:

(a) His share of the Annual Assessments which shall be levied by the Association in accordance with Section 4 hereof; and

(b) When properly authorized in accordance with Section 5 hereof, special assessments, such annual and special assessments to be fixed, established and collected from time to time as hereinafter provided.

All such assessments, together with interest thereon and costs of collection thereof, as hereinafter provided, shall be the personal obligation of the person who is the owner of the Lot against which such assessments are levied at the time such assessments become due and payable. The covenant to pay assessments herein stated is and shall be a covenant running with the land.

Section 3. Purposes of Assessments. The assessments levied by the Association pursuant to this Article V shall be used to pay the costs and expenses which the Association shall incur in connection with the performance of its duties and responsibilities pursuant this Declaration, the Articles of Incorporation and the Bylaws (such costs and expenses being herein referred to as the "Annual Expenses"). Without limiting the generality of the foregoing, the Annual Expenses shall include the costs of: the maintenance of the Lots as provided in Article VI; the payment of the fees of such management firms as the Executive Board shall employ; payment of the fees for the provision of such professional services as the Executive Board shall determine to be required by the Association, including legal and accounting services and the payment of the fees for the maintenance of the Common Elements, including but not limited to any amenities center that may be constructed in the Falcon Ridge Subdivision.

Section 4. Determination of Annual Assessment. Prior to the commencement of each fiscal year of the Association (said fiscal year being specified in the Bylaws), the Executive Board shall estimate the total amount of the Annual Expenses which are anticipated to be incurred by the Association during such fiscal year and shall determine the amount which will be deposited during such fiscal year into reserve funds maintained by the Association. The Executive Board shall thereupon adopt a budget for the Association's expenditures and reserve fundings based upon such estimate and providing for the total annual assessment to be levied against the members of the Association for such fiscal year (the total assessment which shall be so determined and levied against all of the members of the Association for any fiscal year is herein referred to as the "Annual Assessment"). The amounts so determined by the Executive Board shall be levied against all of the members of the Association other than the

Declarant and all Lots not owned by the Declarant. The amount of the Annual Assessment levied against each Lot shall be the same as the amount levied against every other Lot. Each Lot not owned by the Declarant shall be liable for that share of every Annual Assessment which is so determined by the Executive Board. The Executive Board shall send a copy of the budget so adopted by it, together with a written notice of the amount of the Annual Assessment so determined for such fiscal year and the amount of such Annual Assessment which shall be levied against each Lot, to the owner of every Lot prior to the commencement of the fiscal year during which such Annual Assessment is to be paid. The amount of such Annual Assessment which shall be levied against each Lot shall be due and payable to the Association in such installments the Executive Board shall determine, and after notice of the same shall have been given to all of the members of the Association by the Executive Board, and shall be paid to the Association when due without further notice.

Section 5. Special Assessments. If for any reason, including non-payment of any assessments to the Association by the persons liable therefor, the budget adopted by the Executive Board for any fiscal year shall prove to be inadequate to defray the Annual Expenses for such fiscal year or if the Executive Board shall determine that it is in the best interest of the Association to levy a special assessment to pay the costs of any capital improvements or capital repairs, the Executive Board shall have the authority to levy a special assessment against the Lots and the owners thereof (other than the Declarant) to raise such needed funds. Any special assessment levied by the Executive Board pursuant to the provisions of this Section 5 shall be payable at such times and such installments as the Executive Board shall determine. Each Lot not owned by the Declarant shall be liable for the payment of an equal share of every special assessment which shall be levied by the Association pursuant to the provisions of this Section 5.

Section 6. Lots Owned by Declarant. Notwithstanding any term or provision of this Declaration which may be construed to the contrary, no Lot owned by the Declarant shall be subject to any assessment provided for in this Article. Rather, all Lots owned by the Declarant shall be exempt from the payment of all assessments for so long as such Lots are owned by the Declarant. At such time as any Lot which is owned by the Declarant shall be conveyed or transferred away by the Declarant, all liens and assessments provided for in this Article V shall become immediately levied against such Lot and the owner of such Lot shall immediately become liable for the payment of all such assessments. The amount of each Annual Assessment which shall become so payable with respect to any Lot shall be prorated according to the respective portions of the fiscal year that such Lot was owned by the Declarant and by such successor owner.

Section 7. Effect of Non-Payment of Assessments; Remedies of the Association.

(a) In the event that any member of the Association shall fail to pay, within ten (10) days after the date the same is due and payable, any annual or special assessment, or any installment of any annual or special assessment which is payable by him to the Association, the entire amount of such assessment, including the portion thereof which would

otherwise be payable in installments, may be declared by the Executive Board to be immediately due and payable in full to the Association. All such amounts so declared by the Executive Board to be due and payable in full to the Association shall be secured by the lien of the Association on every Lot owned by the delinquent member, which lien shall bind such Lot or Lots in the hands of the then owner, and his heirs, devisees, successors and assigns.

(b) All amounts which the Executive Board shall declare to be due and payable pursuant to this Section 7 shall bear interest from the date of delinquency at the lower of the rate of eighteen (18%) percent per annum or the highest rate permitted by law, and the Association may bring legal action against the member of the Association personally obligated to pay the same, or foreclose its lien upon the Lot or Lots of such member, in either of which events such member shall also be liable to the Association for all costs and attorneys' fees which the Association shall incur in connection with the collection of such delinquent amounts.

## ARTICLE VI.

### MAINTENANCE OF LOTS, BACKYARD AREAS AND LANDSCAPING

Except as provided otherwise in this paragraph, the Association shall be responsible for maintaining the grass and the grounds of the portion of each Lot which is not located inside a fence. Such maintenance shall consist of normal grass mowing and any other activity necessary to keep such grounds in a condition that is both satisfactory to the Executive Board and in compliance with the requirements of the Master Declaration, including, without limitation, the requirement that such Lot be maintained in a condition that is satisfactory to the board of directors of the Master Association.

The owner of any Lot shall be obligated to maintain any trees, flowers, shrubbery or bushes on such Lot in a condition which is in compliance with the requirements of the Master Declaration, including, without limitation, the requirement that such Lot be maintained in a condition that is satisfactory to the board of directors of the Master Association. Such maintenance shall include, without limitation, removing dead trees, shrubs and other plants and pruning and otherwise maintaining all plants, shrubbery, trees, flowers, bushes, ivy and other foliage.

The owner of each Lot shall be obligated to keep and maintain any portion of the Backyard Area of such Lot which is enclosed within a fence erected in accordance with the Master Declaration in a neat, sanitary and attractive condition which is in compliance with the requirements of the Master Declaration, including, without limitation, the requirement that such Lot be maintained in a condition that is satisfactory to the board of directors of the Master Association. Such maintenance shall include, without limitation, cutting the grass, weeds and other vegetation, removing dead trees, shrubs and other plants and pruning and otherwise maintaining all plants, shrubbery, trees, flowers, bushes, grass, ivy and other foliage as may be planted in and on such Backyard Area.

No playhouse, children's play equipment, exercise equipment, above ground swimming pool or any other like structure shall be commenced, constructed, installed, erected or maintained upon any Lot or any Common Elements. No in-ground swimming pool shall be commenced, constructed, installed, erected or maintained upon any Lot until complete and final plans and specifications, setting forth any information requested by the board of directors of the Master Association or by any committee acting through such board of directors, shall have been submitted to, and approved in writing by the board of directors of the Master Association or any committee acting through such board of directors.

## ARTICLE VII.

### AMENDMENT

The terms, provisions, covenants and restrictions of this Declaration may be amended upon the approval of such amendment by (a) the Declarant under the Master Declaration (b) those members of the Association who own in the aggregate, no-fewer than sixty-seven percent (67%) of the Lots not owned by the Declarant, (c) the Declarant, if the Declarant shall then own any Lot; and (d) HUD and VA, if the Class B membership has not terminated as provided in Article III, Section 3 of this Declaration. The approval of any such amendment by the members of the Association shall be given by each such member either casting a vote in favor of such amendment at a meeting of the members of the Association duly called for such purpose, or by such member signing a written approval of such amendment after the date on which such meeting was held, notwithstanding anything set forth to the contrary in the Articles of Incorporation or Bylaws. If any such amendment is required to be approved by the Declarant and/or HUD and VA, such approval shall be given only by such Person executing a written approval of the same.

Any amendment to the terms, provisions, covenants or restrictions of this Declaration shall become effective only upon the recording with the Register of Deeds of Mecklenburg County, North Carolina, of an instrument certified by the incumbent Secretary of the Association setting forth such amendment and stating that the approval of the members of the Association which, under the provisions of this Article VI, is required for such amendment to be effective, has been given and obtained; and (c) containing the written approval of the Declarant and/or HUD and VA, if the same is required (as hereinafter provided).

The matters set forth in such instrument shall be presumed to be true and accurate and the amendment which is set forth in such instrument shall be effective, unless it shall be determined by a court of competent jurisdiction that the matters certified to in such instrument are not true and accurate.

Each person who shall own any Lot, by acceptance of a deed or other conveyance thereto, and by acceptance of such ownership, and by taking record title thereto, and each holder of a Mortgage upon any portion of any Lot, by acceptance of such Mortgage, thereby

agrees that the terms, provisions, covenants and restrictions of this Declaration may be amended as provided in this Article VI.

## ARTICLE VIII.

### MISCELLANEOUS

Section 1. Duration. This Declaration, and all of the terms, easements, provisions, liens, charges, restrictions and covenants set forth herein, shall run with and bind the land (the Lots), shall be and shall remain in effect, and shall inure to the benefit of, and be enforceable by, the Association, and by any owner of any Lot, their respective legal representatives, heirs, successors and assigns, perpetually.

Section 2. Notices. Any notice required to be sent to any member of the Association pursuant to any provision of this Declaration may be served by depositing such notice in the mails, postage prepaid, addressed to the member to whom it is intended, at the address which such member shall have furnished to the Secretary of the Association in accordance with the Bylaws, or, in the absence of any such address having been so furnished to the Secretary of the Association, at the address of any Lot owned by such member. The date of service shall be the date of mailing.

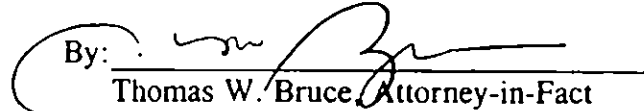
Section 3. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if any provision of this Declaration or the application thereof to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

Section 4. Successors to Declarant. In no event shall any person or other entity succeeding to the interest of the Declarant by operation of law or through purchase of the Declarant's interest in all or any portion of the Falcon Ridge Property at foreclosure, sale under power or by deed in lieu of foreclosure, be liable for any act, omission or matter occurring, or arising from any act, omission or matter occurring, prior to the date such successor succeeded to the interest of the Declarant.

[The Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, Pulte Home Corporation and Falcon Ridge Homeowners Association, Inc. have caused this Declaration to be executed by their duly authorized officers on the day and year first above written, and the Homeowner's have consented to this Declaration on the day and year first above written.

PULTE HOME CORPORATION, a  
Michigan corporation

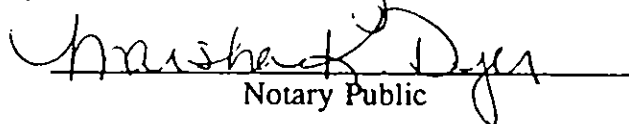
By:   
Thomas W. Bruce Attorney-in-Fact

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, Marsha K. Dyer, a Notary Public for said County and State, do hereby certify that Thomas W. Bruce, Attorney-in-Fact for Pulte Home Corporation, a Michigan corporation, personally appeared before me this day and being by me duly sworn, says that he executed the foregoing instrument for and in behalf of Pulte Home Corporation, a Michigan corporation, and that his authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged and recorded in the Office of the Register of Deeds for Mecklenburg County, North Carolina, in Book 8961, at Page 828, and that this instrument was executed under and by virtue of the authority given by said instrument granting him power of attorney; that the said Thomas W. Bruce acknowledge the due execution of the foregoing instrument for the purposes therein expressed for and in behalf of the said Pulte Home Corporation, a Michigan corporation.

WITNESS my hand and official seal this 11<sup>th</sup> day of January, 2001.

  
Notary Public

My Commission Expires: 11-08-03

(OFFICIAL SEAL/STAMP)

[SIGNATURE CONTINUED ON NEXT PAGE]

[SIGNATURE CONTINUED FROM PREVIOUS PAGE]

FALCON RIDGE HOMEOWNERS  
ASSOCIATION, INC.

By: James R. Praecht  
James R. Praecht/President

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, Mirsha K. Dyer, a Notary Public for the above state and county certify that James R. Praecht, personally came before me this day and acknowledged that he is the President of THE FALCON RIDGE HOMEOWNERS ASSOCIATION, INC., a North Carolina non-profit corporation, and that he as President being authorized to do so, executed the foregoing on behalf of the corporation.

WITNESS my hand and official seal, this the 10<sup>th</sup> day of January, 2001.

Mirsha K. Dyer  
Notary Public

My Commission Expires: 11-08-03

(OFFICIAL SEAL/STAMP)

[SIGNATURE CONTINUED ON NEXT PAGE]