

WAKE COUNTY, NC 74
LAURA M RIDDICK
REGISTER OF DEEDS
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Drawn by and HOLD FOR:
Moore & Alphin, PLLC (Box 155) (CH)

DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS,
EASEMENTS, CHARGES AND LIENS
FOR BLALOCK FOREST

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**DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS,
EASEMENTS, CHARGES AND LIENS
FOR
BLALOCK FOREST**

This Declaration of Covenants, Conditions, Restrictions, Easements, Charges and Liens for Blalock Forest is made as of the date on which it is recorded in the Registry (hereinafter defined) by **PARKER & ORLEANS HOMEBUILDERS, INC.**, a Delaware corporation, (“Declarant”) and consented to by **PERRY BROTHERS DEVELOPMENT CO., INC.** a North Carolina corporation (“Perry”).

RECITALS:

A. Declarant is the owner of approximately 123 acres of land located at the intersection of Norman Blalock Road and Old Stage Road in Panther Branch Township, Wake County, North Carolina, as shown in **Exhibit A** attached hereto and incorporation herein, all or portions of which Declarant intends to develop into a planned community, to be known as BLALOCK FOREST (the “Community”), for the construction and sale of single-family residences.

B. Perry is the owner of fourteen (14) Lots in the Community located at or near the intersection of Norman Blalock Road and Old Stage Road in Panther Branch Township, Wake County, North Carolina, as shown in **Exhibit A** attached hereto and incorporated herein.

C. Declarant and Perry desire to provide for the maintenance and upkeep of certain Common Property (hereinafter defined) within the Community, to provide for maintenance of certain storm water drainage systems and facilities within the Community, and to provide for the enforcement of covenants and restrictions applicable to the Community, and, to that end, desires to subject the Properties (hereinafter defined) to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Properties and each Owner of any portion thereof; and

WHEREAS, Declarant has incorporated under North Carolina law, as a nonprofit corporation, the Blalock Forest Homeowner’s Association, Inc., to carry out the foregoing functions.

NOW, THEREFORE, Declarant and Perry hereby declare that the real property described in **EXHIBIT A** to this Declaration (hereinafter defined), and such additions thereto as may be hereafter made pursuant to the provisions of Article II hereof, is and shall be owned, held, transferred, sold, conveyed, mortgaged, used and occupied subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration, each and all of which shall run with the real property and be binding on all Persons owning any right, title or interest therein or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the benefit and be binding upon each Owner thereof.

**ARTICLE I
DEFINITIONS**

The following terms, when used in this Declaration, shall have the meaning set forth below. Capitalized terms not specifically defined in this Article I shall have the meaning of such term as set forth in the Act, the North Carolina Nonprofit Corporation Act (Chapter 55A of the North Carolina General Statutes), or in any other Section or provision of this Declaration.

Section 1. “Act” shall mean and refer to the North Carolina Planned Community Act, as contained in Chapter 47F of the North Carolina General Statutes (or as contained in any successor portion of the North Carolina General Statutes), as the same exists from time to time.

Section 2. “Additional Property” shall mean and refer to all real property subjected to this Declaration, by any of the methods set forth in Article II hereof, after the initial recording of this Declaration.

Section 3. “Annexation Declaration” shall mean and refer to a document, by whatever name, that is recorded in the Registry for the purpose of subjecting Additional Property to this Declaration and causing such Additional Property to be subject to the scheme of covenants, charges, conditions and restrictions contained in this Declaration, and including any additional covenants, charges, conditions and restrictions contained in such Annexation Declaration.

Section 4. “Association” shall mean and refer to the **Blalock Forest Homeowner’s Association, Inc.**, a North Carolina nonprofit corporation, its successors and assigns.

Section 5. “Board of Directors” and “Board” shall mean and refer to the Board of Directors of the Association elected or appointed to manage the affairs of the Association as provided in Article V of the Bylaws, and is the “Executive Board” as defined in the Act.

Section 6. “Builder” shall mean and refer to a Person, (including Declarant, if applicable), who regularly is in the business of constructing Dwellings for resale to other Persons and who purchases or becomes the Owner of one or more Lots within the Community for the purpose of constructing a Dwelling for resale on each of such Lots.

Section 7. “Bylaws” shall mean and refer to the Bylaws of the Association, as they may now or hereafter exist, including all duly adopted amendments thereto.

Section 8. “Code” shall mean and refer to the Code of Ordinances of the County of Wake, North Carolina, as it exists from time to time, and includes all duly adopted regulations, rules, directives, and policies of the County pursuant to or in furtherance of the Code.

Section 9. “Common Area” shall mean and refer to the real property, together with any improvements situated thereon, intended for the common use and benefit of the Owners and occupants of the Properties, however such real property is described on a map or other document

recorded in the Registry. Common Area may be owned by the Association or it may be owned by another Person with the Association having a right or easement therein (for example, part or all of a private stormwater drainage easement located on either a Lot or real property that is not part of the Properties and that serves more than one (1) Lot in the Properties or a right of the Association to use of a portion of a public street right-of-way pursuant to an encroachment agreement with the County). Common Area includes, without limitation, all of the following:

- (a) all real property owned in fee by the Association, including, without limitation, all recreational amenities constructed thereon owned by the Association;
- (b) any private street and private walkways in the Properties (but excluding private walkways on and solely for the benefit of an individual Lot);
- (c) Stormwater Control Measures;
- (d) any water or sewer utility line that serves more than one Lot and which is either located outside public street rights-of-way or outside any County utility easement;
- (e) any site or facility owned by the Association and designated a common area, open space, park easements, amenity area, or other similar designation on any recorded plat or map of the Properties;
- (f) any public road right-of-way dedicated to the public on maps and plats of the Properties recorded in the Registry but not yet accepted for public maintenance by the appropriate Governmental Entity, provided, however, that the fact that a street or road has not been accepted by the applicable Governmental Entity shall not relieve the Declarant of the obligation to maintain such streets and roads prior to acceptance for public maintenance and to take such action as is necessary to cause them to be accepted for public maintenance. The Association has the right to enforce this Declarant obligation, and the Declarant shall be liable to the Association for all costs and expenses, including court costs and reasonable attorneys' fees, incurred by the Association in connection with such unaccepted street improvements and enforcement of its rights against Declarant hereunder; and
- (g) any object or improvement located on, under, in or over public property or public right-of-way which object or improvement is subject to an encroachment agreement with a Governmental Entity that is recorded in the Registry, and may include: signs, landscaping, irrigation facilities, drain pipes, decorative surfaces and brick pavers.

Common Area as to which the Association has only an easement right is referred to herein as a "Common Area Easement".

Common Area, if any, established by the Declarant or the Association for the benefit of some but fewer than all of the Owners and occupants of the Properties is "Limited Common Area", and such Limited Common Area and the Owners and occupants of the applicable portion of the Properties for whose benefit the Limited Common Area exists are subject to the same provisions as those applicable to Common Area. All references herein or in any recorded map or plat of the Properties to Common Area that is, in fact, Limited Common Area, are deemed corrected accordingly.

Common Area that is owned by or subject to being maintained by a Sub-Association is "Sub-Association Common Area", even if it is referred to in this Declaration or in any recorded map of the Properties as Common Area instead of Sub-Association Common Area. Sub-Association Common Area, if any, owned by or subject to being maintained by a Sub-Association for the benefit of fewer than all of the Owners and occupants of the applicable portion of the Properties is "Sub-Association Limited Common Area", and such Sub-Association Limited Common Area and the Owners and occupants of the applicable portion of the Properties for whose benefit the Sub-Association Limited Common Area exists are subject to the same provisions as those applicable to Sub-Association Common Area. All references herein or in any recorded map or plat of the Properties to Limited Common Area or Sub-Association Limited Common Area that is, in fact, Common Area or Sub-Association Common Area, are deemed corrected accordingly.

Common Area also includes all other property and improvements, if any, required to be included as such by the Code or other Legal Requirement, and all other property and improvements, if any, declared to be Common Area by this Declaration or by the Declarant or the Association. (Note: The definition of Common Area in this Declaration is broader than the definition of "common elements" in the Act.) Common Area shall be maintained by the Association unless it is maintained by the Person owning the real property as to which the Association has only an easement or other right of use, or conveyed to or owned by another nonprofit entity formed for similar purposes, or dedicated to public use and accepted by a public agency, authority, or utility.

Section 10. "Common Expense" shall mean and refer to all of the expenses incurred by the Association in furtherance of its rights and responsibilities under the Act, the Code, this Declaration and other Governing Documents and including specifically, but without limitation, all of the following: (i) all expenses of ownership and maintenance of Common Property, including repair, restoration and replacement thereof, and expenses for acquisition, maintenance, repair, restoration, replacement, use and operation of personal property owned or leased by the Association for the benefit of the Members, and including monies allocated to reserve funds for any of the same; (ii) any fees or charges for utilities used in connection with the Common Area; (iii) *ad valorem* taxes and public assessments, if any, levied against the Common Property owned in fee by the Association (but specifically excluding *ad valorem* taxes on real property on, under or over which the Association has only an easement or other similar right of use, except to the extent, if any, that any improvements in any such easement that are owned or maintained by the Association result in additional taxes on such real property that would not be assessed in the absence of such improvements, in which event such additional taxes shall be paid by the Association as a Common Expense); (iv) any unpaid assessments following the foreclosure of a first mortgage or first deed of trust or an assessment lien; (v) financial obligations of the Association or financial obligations of Members with respect to which the Association has responsibility for collection and payment; (vi) costs and expenses for which the Association is obligated under any encroachment agreement or other agreement with the County or other Governmental Entity; (vii) premiums for hazard, liability and other insurance insuring the Common Property or the Association, its officers, directors and employees; (vi) fees and expenses of attorneys, accountants, and other Persons employed by the Association for Association business; (viii) expenses declared to be or described as Common Expenses by the Act, the Code, or this Declaration; (ix) expenses determined by the Board of Directors or by the

Members to be Common Expenses; and (x) all other expenses incurred by the Association in performing its functions, including operating, management and administrative expenses. (Common expenses for the maintenance of Limited Common Area are Limited Common Expenses, which is a subcategory of Common Expense.)

Section 11. “Common Property” shall mean and refer to Common Area *and* all personal property owned, leased or used by the Association, or with respect to which the Association has a financial obligation, for the common use, enjoyment or benefit of the Members or the Properties, and any substitutions or replacements thereof.

Section 12. “County” shall mean and refer to the County of Wake, North Carolina.

Section 13. “Declarant” shall mean and refer to **PARKER & ORLEANS HOMEBUILDERS, INC.**, a Delaware corporation. It shall also mean and refer to any Person to whom or which Declarant might assign or delegate all or any of the rights and obligations of Declarant by an assignment of Declarant’s rights recorded in the Registry.

Section 14. “Declarant Control Period” shall mean and refer to the period of time during which the Declarant may appoint or remove the members of the Board of Directors and officers of the Association. The Declarant Control Period shall terminate upon the earlier of the following to occur:

- (a) December 31, 2032;
- (b) the date on which Declarant no longer owns any property within the Community; or
- (c) Relinquishment or transfer by Declarant of all Special Declarant Rights as provided in §47F-3-104 of the Act.

Notwithstanding any other provision of this Declaration, Declarant, in its sole discretion, and any time and from time to time and by written instrument signed by Declarant, may relinquish part, or all, of its rights and/or obligations as Declarant under this Declaration, but such partial relinquishment shall result in relinquishment of only the rights and obligations set forth in such instrument and shall not be construed as a release of any rights or obligations not specifically set forth therein.

Section 15. “Declaration” shall mean and refer to this “Declaration of Covenants, Conditions, Restrictions, Easements, Charges And Liens For Blalock Forest”, and all amendments thereto and supplements thereof.

Section 16. “Dwelling” and “Dwelling Unit” shall mean and refer to any building or portion thereof within the Properties which is used or occupied, or intended for use or occupancy, as a residence by an individual or by one family unit, whether by the Owner thereof or by tenants or lessees of the Owner, and specifically including detached dwellings located on separate Lots, attached dwellings located on separate Lots (for example, Townhomes, in which more than one Dwelling may be located in a single building, but each Dwelling is on a separate Lot). A detached or attached Dwelling shall be deemed to constitute a Dwelling upon issuance of a certificate of occupancy therefore.

Section 17. “Exempt Property” shall mean and refer to all portions of the Properties included within any of the following categories: (i) Common Area; (ii) Sub-Association Common Area; (iii) property owned by, or dedicated to and accepted by the County or a public utility, including property within the right-of-way of publicly-dedicated streets and roads; (iv) property owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of North Carolina, provided, however, that any property containing a Dwelling used as a residence shall not be Exempt Property.

Exempt Property shall not be subject to the assessments provided for herein, and the Owner of such Exempt Property shall have no voting rights in the Association based on ownership of such Exempt Property. Furthermore, unless and until such time, if any, as it loses its Exempt status, all Exempt Property owned by the County or a utility provider, and all Exempt Property within publicly-dedicated street rights-of-way, shall be exempt from all of the provisions of this Declaration, except for any easements over such Exempt Property reserved in this Declaration by or for the Declarant, the Association, the County or any other Person.

Exempt Property that loses its status as Exempt shall be reclassified as a Lot or Development Parcel, as appropriate, and shall be subject to all of the terms and provisions of this Declaration in the same manner and to the same extent as other Lots and Development Parcels.

Section 18. “Governing Documents” shall mean and refer to all of the following: this Declaration; the Articles of Incorporation and Bylaws of the Association; any architectural guidelines and any bulletins and rules and regulations of the Association; Annexation Declarations; and other declarations of restrictive or protective covenants applicable to the Properties; and all Sub-Association documents, (with respect to those portions of the Properties subject to such Sub-Association documents), as the same may be amended, restated or supplemented from time to time. Nothing in this Section shall be construed to require that certain documents be implemented or adopted either now or in the future.

Section 19. “Governmental Entity” shall mean and refer to the County of Wake, North Carolina, the State of North Carolina, the United States of America and all other governmental entities and quasi-governmental entities that have jurisdiction over the Properties or any part thereof, and all applicable departments and agencies of any of them, whichever Governmental Entity or entities is/are applicable.

Section 20. “Legal Requirements” shall mean and refer to any duly adopted and applicable law, ordinance, regulation or requirement of the United States of America, the State of North Carolina, the County of Wake, North Carolina, or any other governmental entity or quasi-governmental entity or agency having jurisdiction over the Properties, including any branch, department or division of any of the foregoing governmental and quasi-governmental entities.

Section 21. “Limited Common Property” shall mean and refer to all Common Property owned, leased, used or maintained by the Association for the benefit of some but fewer than all of the Members or less than all of the Properties, and which has been designated as such by the Declarant or the Association. Limited Common Area may include, for example, private streets, alleys, and Stormwater Control Measures serving less than all of the Properties. Any Limited Common Area benefiting only Townhouses is herein sometimes referred to as “Townhouse Common Area” or “Sub-Association Common Area”.

Section 22. “Limited Common Expense” shall mean and refer to all expenses of the type included within the term “Common Expense” but which are related solely and specifically to Limited Common Property. Limited Common Expenses shall be paid out of assessments levied only against the portions of the Properties benefited by Limited Common Property.

Section 23. “Lot” shall mean and refer to any portion of the Properties with delineated boundary lines, as shown on a map or plat recorded in the Registry or as identified by metes and bounds description, that is intended for construction of a Dwelling thereon, or on which a Dwelling has been constructed. A Lot intended to be used for construction thereon of a detached or attached Dwelling shall become a Lot upon recording in the Registry of a map or plat creating such Lot.

In the event that any Lot is increased or decreased in size by recombination or re-subdivision through the recording of a new map or plat, the newly platted lot thereafter shall constitute a Lot.

Section 24. “Member” shall mean and refer to every Person who or which holds membership in the Association.

Section 25. “Mortgagee” shall mean and refer to the beneficiary or payee under any mortgage or deed of trust, and the terms mortgage and deed of trust are deemed to refer to both mortgages and deeds of trust.

Section 26. “Operating Deficit” shall mean and refer to the negative difference, if any, between the total amount of the annual assessments for a Fiscal Year levied on all Lots and the amount of actual expenditures by the Association during the Fiscal Year for Common Expenses, including funding of reserves, but excluding (i) amounts levied against a Lot, but which are not paid, and (ii) special assessments for capital improvements.

Section 27. “Owner” shall mean and refer to the record owner, whether one or more Persons, of fee simple title to any Lot, and shall include Declarant as to any Lot owned by Declarant. The term “Owner” shall not include any Person who holds an interest in a Lot merely as security for the performance of an obligation or as a tenant.

Section 28. “Person” shall mean and refer to any natural person, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, Governmental Entity (including the County), or other entity.

Section 29. “Properties” shall mean and refer to the “Existing Property” described in Article II of this Declaration and any additional property annexed pursuant to said Article II.

Section 30. “Registry” shall mean and refer to the office of the Register of Deeds for Wake County, North Carolina (or any successor office under applicable law in which deeds, maps, plats, easements, mortgages and deeds of trust for the Properties are recorded). All references herein to recording or to any requirement to record a document, map or plat refer to recording in the Registry.

Section 31. “Special Declarant Rights” shall mean and refer to all rights granted to, or reserved by, or established for the benefit of, Declarant in the Act, this Declaration, the Articles of Incorporation and Bylaws of the Association (whether or not such rights are referred to as Special Declarant Rights in such documents). Declarant may assign Special Declarant Rights, in whole or in part, temporarily or permanently, at any time and from time to time, subject to such terms and conditions as Declarant specifies in the assignment document. Except as specifically provided herein, any assignment of Special Declarant Rights must be in writing and recorded in the Registry, and the assignment becomes effective upon the recording of the document in the Registry or on any later date specified therein.

Section 32. “Stormwater Agreement” shall mean and refer to any agreement recorded in the Registry among the Declarant, the Association, and the County, or between the Declarant and the County, or between the Association and the County, relating to Stormwater Control Measures for the Properties or any part thereof, and includes all amendments and supplements to such agreements.

Section 33. “Stormwater Control Measures” or “Stormwater Control Facilities” (such terms being used interchangeably herein) shall mean and refer to one or more of the following devices and measures, together with associated private stormwater drainage easements and maintenance easements (however identified on a map or plat or in a document) that serves the Properties: conduits, inlets, channels, pipes, level spreaders, ditches, grassed swales, sand filters, wet ponds, dry detention basins, wetlands, permanently protected undisturbed open space areas, bio-retention areas, retention or detention ponds, and other devices and measures, necessary to collect, convey, store, and control stormwater runoff and pollutants for more than one (1) Lot in the Properties, and which are located outside public street rights-of-way and drainage easements. Private stormwater drainage easements that serve more than one (1) Lot in the Properties, however identified on a recorded map or plat or in a recorded document, are deemed to be dedicated to the Association for the benefit of the Properties or applicable portion thereof. All Stormwater Control Measures are Common Area or Limited Common Area, or Sub-Association Common Area or Sub-Association Limited Common Area, as applicable.

Section 34 “Sub-Association” shall mean and refer to a North Carolina nonprofit corporation or other entity organized for the purpose of owning, managing and/or maintaining that Sub-Association’s Common Property and including, without limitation, a property owners’ association in a portion of the Properties containing Townhomes. Assessments imposed upon the Members of the Association by the documents establishing or governing a Sub-Association or subjecting an applicable portion of the Properties thereto shall be in addition to, and not in lieu of, assessments imposed upon such Members by this Declaration.

Section 35. “Sub-Association Common Area” and “Sub-Association Common Property” (the terms being used interchangeably) shall mean and refer to portions of the Properties owned or Maintained by a Sub-Association for the use, enjoyment and/or benefits of its members. All private streets and open space owned by, or under the jurisdiction of, a Sub-Association are Sub-Association Common Property. “Sub-Association Limited Common Property” and “Sub-Association Limited Common Area” are defined as Sub-Association

Common Property that is established for the benefit of fewer than all of the Members of the Sub-Association or less than all of the property subject to the jurisdiction of the Sub-Association.

Section 36. “Sub-Association Declaration” shall mean and refer to a declaration, and all amendments and supplements thereto, recorded in the Registry and applicable solely to Owners, Lots and Sub-Association Common Property within the jurisdiction of a Sub-Association. During the Declarant Control Period, no Sub-Association Declaration shall be recorded without the prior written consent of Declarant, as evidenced by Declarant’s execution of same. *See also* Section 5 of Article II hereof.

Section 37. “Townhome” or “Townhouse” (the terms being used interchangeably) shall mean a Dwelling which is attached by a common wall or other portion of the Dwelling to one or more other Dwellings in a single building, but each Dwelling is on a separate Lot, which Lot, including the Dwelling, is conveyed to the Owner in fee simple.

ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION;
ADDITION OF PROPERTY; WITHDRAWAL OF PROPERTY;

Section 1. Existing Property. The real property which, at the time of recording of this Declaration, is and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration, and which is within the jurisdiction of the Association, is described on **Exhibit A** attached hereto.

Section 2. Additions to Existing Property.

(a) By Declarant. At any time during the Declarant Control Period, Declarant may subject Additional Property to this Declaration, without approval of any Person other than the County (if required by Legal Requirements), by recording an Annexation Declaration extending the operation and effect of this Declaration to such Additional Property. Except to the extent required by the Legal Requirements, nothing in this Declaration shall be deemed to require the Declarant to subject any property to this Declaration.

(b) By the Members. If a Person other than the Declarant desires at any time to subject Additional Property to this Declaration, such Additional Property may be annexed only by the affirmative vote of at least sixty-seven percent (67%) of the votes cast by the Members present at a duly-called meeting of the Association for which the notice of meeting includes notice of the proposal to annex such Additional Property and the recording in the Registry of an Annexation Declaration signed by the owner of such Annexed Property and by the appropriate officer(s) of the Association certifying the required meeting and vote. In addition to the foregoing, during the Declarant Control Period, such annexation may be valid only with the consent of Declarant, as evidenced by Declarant’s execution of the Annexation Declaration.

(c) Approval by Governmental Entities. If required by the Code, subjection of Annexed Property to this Declaration must be approved by the County.

(d) Annexation Declaration. Each Annexation Declaration shall be effective to subject Additional Property to this Declaration only upon obtaining all required approvals and upon its recording in the Registry, and the effective date of such annexation shall be the date of

recording. Each Annexation Declaration shall describe the Additional Property and indicate that the Additional Property is being subjected or annexed to this Declaration. An Annexation Declaration need not be in any specific form and need not be titled Annexation Declaration (for example, the required subjecting language may be contained in a deed from the Declarant conveying the Additional Property), but it shall indicate clearly the intention to subject or annex such Additional Property. Any Annexation Declaration may contain such use restrictions and such other terms, covenants, restrictions, easements, affirmative obligations, assessments, charges and liens applicable to such Additional Property, not in conflict with this Declaration, as the Person subjecting such Additional Property to this Declaration may determine, but this Declaration shall control over any provision of any Annexation Declaration that conflicts or is inconsistent with this Declaration. Each Annexation Declaration shall have been approved in writing by the Declarant prior to recordation.

(e) Votes Allocated to Additional Property. The votes of the Members in the Additional Property shall be allocated in the same manner that votes are allocated in portions of the Properties already subject to this Declaration. The addition of such property pursuant to this Section may increase the cumulative number of Lots within the Properties and, therefore, may alter the relative maximum voting strength of the various types of Members.

Section 3. Conveyance of Common Area in Annexed Property. Common Area, if any, located within any Additional Property, or the applicable phase or portion thereof, shall be conveyed to the Association pursuant to the requirements of Section 3 of Article IV of this Declaration.

Section 4. Sub-Association Declaration. One or more Lots within the Community may be subject to the jurisdiction of a Sub-Association and encumbered by a Sub-Association Declaration. During the Declarant Control Period, no Person other than the Declarant may subject any phase, section or subdivision of the Properties to a Sub-Association Declaration unless Declarant consents in writing thereto by executing such Sub-Association Declaration. A Sub-Association Declaration may include additional and different covenants, restrictions and requirements, applicable only to those Lots, including, for example, providing for maintenance by the Sub-Association of the exterior of Dwellings and/or the landscaping on Lots within the Sub-Association, maintenance of Sub-Association Common Property, parking regulations applicable only to that Neighborhood, and assessment and collection of additional assessments applicable only to Lots in that Sub-Association.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Declarant and every Owner of a Lot which is subject to assessment by the Association shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation.

Section 2. Voting Rights. The voting rights of the membership shall be appurtenant to the ownership of the Lots. There shall be three (3) classes of membership with respect to voting rights:

(a) Class A Members. Class A Members shall be the Owners of all Lots except those owned by the Declarant or a Builder. Class A Members shall be entitled to one (1) vote for each Lot owned. When more than one Person owns an interest (other than a security interest) in any Lot, all such Persons shall be Members and the voting rights appurtenant to their Lot shall be exercised as they, among themselves, determine; but fractional voting shall not be allowed, and in no event shall more than one vote be cast with respect to any Lot. Lots owned by Class A Members are "Class A Lots".

(b) Class B Member. The Class B Member shall be the Declarant. A Lot owned by the Declarant shall be a "Class B" Lot. Subject to the provisions of this subsection, Declarant shall be entitled to ninety-nine (99) votes for each Lot. Upon expiration of the Declarant Control Period, Declarant shall have one vote for each Lot; however, such Declarant-owned Lots shall continue to be treated as Class B Lots for assessment purposes.

(c) Class C Members. Class C Members shall be the Builders who own Lots within the Properties, and each Lot owned by a Builder shall be a "Class C" Lot. Class C Members shall have one (1) vote for each Lot owned.

Section 3. Declarant's Right to Appoint Directors and Officers of the Association. Notwithstanding any other provision of this Declaration or the Bylaws, Declarant will exercise its right to appoint and remove all of the Directors and officers of the Association, until the earlier of the expiration of the Declarant Control Period or Declarant surrenders such right by written instrument filed with the Secretary of the Association. See §47F-3-103(d) of the Act.

Section 4. Vacant/Leased Dwellings. As stated in Section 14 of Article X hereof, it is the intent of the Declarant that all Dwellings within the Community be occupied by the Owner thereof. Notwithstanding the foregoing, in no event shall the votes of Owners of Dwellings which are vacant or are otherwise not occupied by the Owner of the Lot be entitled to any weight greater than forty-nine percent (49%) on any matter pending before the Association and the votes of such Lots of such Owners shall automatically be fractionally reduced for such purpose. This Section applies only to Lots and Dwellings owned by a Class A Member and specifically excludes Lots and Dwellings owned by the Declarant or a Builder.

ARTICLE IV PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment and Access. Except as limited by Section 2 of this Article IV, other provisions of this Declaration, any Annexation Declaration, any Subdivision Declaration, or the Legal Requirements, and by rules and regulations adopted by the Members and/or the Board of Directors, every Owner shall have a right and easement of enjoyment in, use of and access to, from, and over the Common Area, which right and easement shall be appurtenant to and shall pass with title to every Lot, subject to:

(a) the right of the Association to charge reasonable admission and other fees for the use of any facilities situated or constructed on the Common Area and to limit the use of such facilities to Owners who occupy a residence on the Properties and to their families, tenants and guests, as provided in Section 2 of this Article IV.

(b) the right of the Association, after notice and an opportunity to be heard, to suspend the voting rights of an Owner and the right of an Owner to use the Common Area and facilities thereon for any period after which; (i) any assessment against his Lot remains unpaid for a period of thirty (30) days or longer, or (ii) any infraction of the published rules and regulations of the Association remains unresolved for a period of sixty (60) days or longer, provided, that upon payment in full of the unpaid assessment, including any interest and fees accrued thereon or upon resolution of the infraction, the Owner's voting rights and right to use the Common Area and facilities thereon shall be reinstated. However, that the right of access and support, the right to drain stormwater and the right to use Stormwater Control Measures, private streets, private utility services provided to the Lot through easements in Common Area, and any assigned parking areas shall not be suspended for violation of the Association's rules and regulations.

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed upon by the Members. No such dedication or transfer shall be effective unless Members entitled to at least eighty percent (80%) of the votes of the Association agree to such dedication, sale or transfer, *provided that* this subsection shall not preclude the Board of Directors of the Association from granting easements for the installation and maintenance of sewage, utility and drainage facilities upon, over, under and across the Common Area without the assent of the Members when such easements, in the opinion of the Board, are necessary for the convenient use and enjoyment of the Properties. Notwithstanding anything herein to the contrary, the Common Area shall be preserved to the perpetual benefit of the Owners or of the public in general and shall not be conveyed except to the County or other governmental entity or to a nonprofit entity organized for purposes similar to those of the Association.

(d) the right of the Association, with the assent of Members entitled to at least eighty percent (80%) of the votes of the Association, to mortgage, pledge, deed in trust, or otherwise encumber any or all of its real or personal property as security for money borrowed or debts incurred, provided that the rights of any such lender or mortgagee shall be subordinate to the property rights of the Owners as set forth herein.

(e) the right of the Association to exchange all or part of the Common Area for other property and consideration provided that:

- (i) written notice of the exchange is given to each Member of the Association;
- (ii) after the notice is given, the Association approves the exchange in accordance with the minimum percentage of votes required by N.C.G.S. § 47F-3-112(a);
- (iii) the exchanged properties and other considerations are of like value and utility;

- (iv) the acreage and configuration of the remaining Common Area (including real property to be received by the Association in such exchange) equals or exceeds the requirements of the Code; and
 - (v) the exchange is approved by the County, if required by the Code.
- (f) The right of the Association to sell, lease, convey or dispose of any personal property owned by the Association.

Section 2. Delegation of Use.

- (a) Family. The right and easement of use and enjoyment granted to every Owner by Section 1 of this Article may be exercised by members of the Owner's family who occupy the residence of the Owner within the Properties as their principal residence in Wake County, North Carolina.
- (b) Tenants. The right and easement of use and enjoyment granted to every Owner by Section 1 of this Article may be delegated by such Owner to his tenants or contract purchasers who occupy such Owner's Unit, or a portion thereof, as their principal residence in Wake County, North Carolina.
- (c) Guests. The right and easement of use and enjoyment granted to every Owner by Section 1 of this Article may be delegated to guests of such Owners, tenants or contract purchasers, subject to such rules and regulations as may be established by the Board of Directors.

Section 3. Conveyance of Common Area To The Association. Declarant covenants, for itself, its successors and assigns, that it will convey to the Association title to those portions of the Common Area to be owned in fee by the Association, and the Association agrees to accept each such conveyance. Declarant hereby reserves and grants (regardless of whether or not such reservation and grant is specifically set forth in such deed), for itself and its successors and assigns, an easement over, under, across and through the Common Area so long as it owns any Lot within the Properties, for the purpose of constructing any improvements on the Common Area and/or the Lots as it deems necessary or advisable. Except as otherwise stated herein, all conveyances by the Declarant to the Association shall be free and clear of all encumbrances and liens (including statutory liens of laborers and materialmen pursuant to Article 2 of Chapter 44A of the North Carolina General Statutes) except this Declaration, restrictive covenants applicable to the Community, utility, drainage, greenway, conservation, and other easements of record or shown on the recorded maps or plats of the Community, and the lien of *ad valorem* taxes not yet due and payable. Any improvements placed on the Common Area by Declarant shall become the property of the Association upon completion of such improvements, except utilities owned and maintained by the County or other governmental entity, or a public or private utility company. Title to the Common Area in each phase or section of the Properties shall be conveyed to the Association not later than the time required by applicable Legal Requirements.

Section 4. Regulation and Maintenance of Common Area and Common Area Easements. It is the intent of Declarant that the Common Area (whether owned by the Association in fee or by easement) be preserved to the perpetual benefit of the Owners within the Community. To that end, the Declarant, by recording any plat or map of any phase or section of the Properties, grants to the Association an easement over and across any portion of any Lot

within such phase or section on which a Common Area Easement lies for the purpose of enabling the Association to take any action permitted by subsections (b) and (c) of this Section 4.

(a) Rights and Responsibilities of the Lot Owners. Notwithstanding any other provision of this Declaration, no Owner or other Person shall, without the prior written consent of the Association: (i) commit any waste, destroy any facilities or damage any facilities on any Common Area or Common Area Easement; (ii) remove any trees or vegetation from any Common Area or Common Area Easement; (iii) erect gates, fences, buildings or other structures on any Common Area or Common Area Easement; (iv) place any garbage receptacles on any Common Area or Common Area Easement; (v) fill or excavate any Common Area, any Common Area Easement or portion thereof; or (vi) plant vegetation on or otherwise restrict or interfere with the use, maintenance and preservation of the Common Area or Common Area Easement. If an Owner of a Lot on which a Common Area Easement lies acts as provided herein, the Association shall have the right to enter upon such Owner's Lot for the purpose of repairing, removing or replacing the same and shall have the right to charge such Owner for the costs of such removal, repair or replacement, which costs, if not paid within thirty (30) days after demand for payment is made by the Association, shall be deemed an individual special assessment against such Owner's Lot and shall be collected in and shall incur the late charges, interest and costs of collection as set forth in Section 9 of Article V of this Declaration. Each Owner of a Lot upon which a Common Area Easement lies shall pay all property taxes and other assessments levied against his Lot, including that portion of such tax or assessment as is attributable to such Common Area Easement.

(b) Rights and Responsibilities of the Association. The Association shall have the right and obligation to ensure that the Common Area and Common Area Easements are preserved to the perpetual benefit of the Owners and, to that end, shall: (i) maintain the Common Area and Common Area Easements in its natural or improved state, as appropriate, and keep it free of impediments to its free use by the Owners, subject, however, to easements of record and any limitations on such use provided in the Code and other Legal Requirements and this Declaration and the rules and regulations adopted by the Association as provided herein and in the Bylaws; (ii) procure and maintain adequate liability insurance covering the Association and its Members against any loss or damages suffered by any Person, including the Owner of the Lot upon which a Common Area Easement lies, resulting from use of the Common Area or Common Area Easement; and (iii) pay all property taxes and other assessments levied against the Common Area owned in fee by the Association.

(c) Association's Right of Entry. The Association and its employees, agents, contractors and subcontractors shall have a nonexclusive right and easement at all times to enter upon any portion of a Lot reserved or designated as Common Area or a Common Area Easement, and any other portion of a Lot to the extent reasonably necessary to gain access to and maintain the Common Area or Common Area Easement and any improvements therein, including to repair, remove or correct any damages or changes to the Common Area or Common Area Easement done by the Owner in violation of subsection (a) above, and no such entry shall be deemed a trespass. To the extent practicable, the Association shall give reasonable oral notice to the Owner or occupant of such Lot.

ARTICLE V
COVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Assessments. Each Owner of a 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 the annual assessments, special assessments, and individual special assessments to be established and collected by the Association as provided herein. All assessments which are unpaid when due, together with interest and late charges set forth in Section 7 of this Article V and all costs of collection, including, without limitation, reasonable attorneys' fees, shall be a charge on the Lot of such Owner, and, as provided in §47F-3-116 of the Act, shall be a continuing lien against the Lot against which such assessment is made. As provided in §47F-3-116 of the Act, such lien shall attach to the Lot only if an assessment against the Lot remains unpaid for at least thirty (30) days and a claim of lien is filed by the Association as provided in the Act. Each such assessment or charge, together with interest and costs of collection, shall also be the personal or corporate obligation of the Person owning such Lot at the time when the assessment fell due, but such personal or corporate obligation shall not be imposed upon such Owner's successors in title unless expressly assumed by them; however, such assessments and charges shall continue to be a lien upon the Lot against which the assessment or charge was made.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health and welfare of the residents and occupants of the Community and, in particular, for (i) acquisition, improvement and maintenance of properties, services and facilities related to the use and enjoyment of the Common Area; (ii) maintenance, repair and reconstruction of the Common Area and improvements thereon including, without limitation, Stormwater Control Facilities thereon, and including, without limitation, the cost of repair, replacement and additions thereto and the cost of labor, equipment, materials, management and supervision thereof; (iii) payment of taxes and public assessments levied against Common Property owned in fee by the Association; (iv) procurement of insurance; (v) employment of attorneys, accountants, engineers, management agents and other Persons for Association business; (vi) payment of principal and interest on funds borrowed by the Association; (vii) reserve funds; and (viii) such other needs as may arise.

Section 3. Annual Assessments. Until December 31, 2013, the annual assessment for each Class A Lot shall be Three Hundred Sixty Dollars (\$360.00). The annual assessment for Class B and Class C Lots shall always be twenty five percent (25%) of the then-existing annual assessment for Class A Lots, provided, however, that any Class B Lot or Class C Lot which contains a dwelling occupied as a residence shall be assessed at the Class A rate.

Beginning on January 1, 2014, and thereafter, the annual assessments shall be based on a budget approved under the provisions set forth in Section 4 below.

The provisions of this subsection shall not apply to, nor be a limitation upon, any change in the annual assessments incident to a merger or consolidation as provided in §47F-2-121 of the Act.

Section 4. Date of Commencement of Annual Assessments; Ratification of Budgets; Certificate of Payment. Unless a different commencement date is set by the Board of Directors, the annual assessments provided for herein shall commence as to a Lot on the first day of the month after the Lot is subjected to this Declaration.

The Board of Directors shall adopt a proposed budget for the Association at least annually. Within thirty (30) days after adoption of the proposed budget, the Board shall send a copy of the proposed budget to the Members and shall give the Members written notice of a meeting of the Members to consider ratification of the budget, such meeting to be held not sooner than ten (10) days nor more than thirty (30) days after the mailing of such notice. Such meeting may, but need not be, combined with the annual meeting of the Members. There shall be no requirement that a quorum be present in order to vote on ratification of the budget (although a quorum must be present to vote on other matters). The budget shall be deemed ratified unless, at that meeting, Members having a majority of the votes of the entire membership vote to reject the budget. Notwithstanding the foregoing, if the proposed budget provides for annual assessments not more than ten percent (10%) greater than the annual assessment for the immediately preceding calendar year, such budget shall be deemed ratified unless Members having at least eighty percent (80%) of the votes of the entire membership vote to reject the budget. If the proposed budget is rejected, the budget last ratified by the Members shall be continued until such time as the Members ratify a subsequent budget proposed by the Board.

Except as otherwise provided in this Declaration, an Annexation Declaration, a Sub-Association Declaration, or any Legal Requirements (e.g., additional or different stormwater assessments or different assessments pertaining to Limited Common Area), annual assessments shall be fixed at a uniform rate for all Lots in each Class and may be collected on a yearly, semiannual, quarterly or monthly basis, as determined by the Board.

The Association shall, upon demand and for such reasonable charge as the Board may determine, furnish a certificate signed by an officer of the Association, or the management company employed by the Association, setting forth whether the assessments for a specific Lot have been paid. If such certificate states that an assessment has been paid, such certificate shall be conclusive evidence of payment.

Section 5. Additional Assessments for Limited Common Property and Private Alleys. Declarant reserves the right, by Annexation Declaration, Sub-Association Declaration, or any other declaration applicable only to certain phases or Sub-Associations within the Properties, to subject portions of the Properties to provisions requiring the Owners thereof to pay additional annual assessments and special assessments to the Association for the maintenance of Limited Common Property, including, without limitation, related Stormwater Control Facilities and private streets, private rights-of-way, private alleys, and private alley easements.

Without limiting the generality of the foregoing, private alleys which are not located within the boundaries of a Sub-Association Declaration shall be maintained by the Association for the benefit of ANY Lots served by such alleys.

All of the provisions of this Declaration relating to annual and special assessments shall apply to the additional annual and special assessments for Limited Common Property, with the following exceptions: (i) the additional assessments with respect to any particular Limited Common Property are assessed only against the Owners of the portion of the Properties associated with such Limited Common Property; (ii) the initial additional maximum annual assessment and additional annual assessment for each Limited Common Property shall be established in the Annexation Declaration or other declaration that creates or establishes that Limited Common Property or the obligations associated therewith; (iii) the actual additional annual and special assessments may vary from phase to phase, section to section or subdivision

to subdivision; and (iv) the additional annual and special assessments for portions of the Properties in any particular phase, section or subdivision within the Properties shall be used exclusively in connection with the Limited Common Property associated with that phase, section or subdivision.

Section 6. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, special assessments for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, for repayment of indebtedness and interest thereon, or for any other non-recurring cost, *provided that* any such assessment shall have be approved by the Declarant and a majority of the votes attributable to Lots owned by Persons other than the Declarant, and further provided that the special assessments for Class B and Class C Lots shall always be twenty five percent (25%) of the special assessment for a Class A Lots. Except as otherwise provided in this Declaration, an Annexation Declaration, a Sub-Association Declaration or the Legal Requirements, special assessments shall be fixed at a uniform rate for all Lots within each Class and may be collected on a yearly, semiannually, quarterly or monthly basis, as determined by the Board of Directors. Special assessments shall constitute a lien to the same extent as other assessments against the Lot.

Section 7. Individual Special Assessments The Board of Directors may, without vote of the Members, levy an individual special assessment against any Lot, applicable only to that Lot, for expenses incurred by the Association with regard to such Lot including, without limitation, expenses incurred under Article VI hereof. Any fine imposed against an Owner pursuant to Section 15 of this Article V and Section 3 of Article VII of the Bylaws shall also constitute an individual special assessment against such Owner's Lot. Individual special assessments shall constitute a lien to the same extent as other assessments against the Lot.

Section 8. Notice of Quorum for any Action Authorized Under Section 6. Written notice of any meeting called for the purpose of taking any action authorized under Section 6 shall be sent to all Members not less than ten (10) days nor more than sixty (60) days prior to the meeting. At such meeting, the presence of Members or of proxies entitled to cast sixty percent (60%) of the votes of each Class of Lots shall constitute a quorum. If the required quorum is not present at any meeting, another meeting maybe called subject to the same notice requirement, and if the meeting is called for a date not later than sixty (60) days after the date of the first meeting, the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

Section 9. Effect of Nonpayment of Assessments; Remedies. An assessment not paid within ten (10) days after the due date shall incur such late charge as the Board of Directors may from time to time establish, subject to the limitations of Section 47F-3-102(11) of the Act, and, if not paid within thirty (30) days after the due date, shall also bear interest from the due date at a rate established by the Board of Directors from time to time, but in no event shall such rate be greater than eighteen percent (18%) per annum or the maximum rate allowable by law, whichever is less, and the Association may bring an action at law or in equity against the Owner personally obligated to pay the same and/or foreclose the lien against the Lot for which such

assessment is due, and shall have the right and power to take such action as is necessary to conduct such foreclosure and convey the Lot to the purchaser at the foreclosure sale, including, without limitation, the right to appoint a trustee or to request appointment of a commissioner to conduct the foreclosure. Interest, late payment charges, costs and reasonable attorneys' fees of such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or by abandonment of his Lot.

Section 10. Subordination of the Lien to Mortgages. The liens provided herein shall be subordinate to the lien of any first mortgage or first deed of trust on a Lot. Sale or transfer of any Lot shall not affect any assessment lien; however, the sale or transfer of a Lot pursuant to foreclosure of a first mortgage or first deed of trust shall extinguish the lien of any assessments which become due prior to the date of conveyance pursuant to such foreclosure. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first mortgage or first deed of trust.

Section 11. Working Capital Fund. At the time of closing of the initial sale of each Dwelling constructed on a Lot, a sum equal to one-sixth (1/6) of the annual assessment for Class A Lots in effect at the time of such sale shall be collected from the purchaser of such Lot and transferred to the Association as part of its working capital. The purpose of the working capital fund is to ensure that the Association will have adequate cash available to meet its operating expenses or to acquire additional equipment or serviced deemed by the Board to Directors to be necessary or desirable. Amounts paid to the Association pursuant to this Section shall not be considered as an advance payment of any regular assessment.

Section 12. Declarant's Obligation to Fund Operating Deficits; Assessment Credit. During the Declarant Control Period, Declarant may, at its sole discretion, choose to fund any Operating Deficit. Declarant, at its option, may fund the Operating Deficit by any one or more of the following means: (i) payment to the Association; (ii) payment directly to a person or entity providing the services or materials to the Association, or (iii) providing, directly or indirectly, to or for the Association, services or materials related to Common Expenses (the value of which shall be determined by the Board in its reasonable discretion, giving due consideration to what the fair market value of such services or materials would be if they had been furnished by a Person other than Declarant).

In the event that Declarant chooses to fund any year's Operating Deficit the Declarant, at its sole option, may receive an assessment credit toward payment of annual assessments due and payable by Declarant thereafter for Lots owned by Declarant, in an amount equal to the aggregate of the Operating Deficits paid by Declarant as provided herein. Declarant may not charge or collect interest or any other charge or fee on any monies paid by the Declarant, for Operating Deficits. As determined by Declarant, the assessment credit may be applied to payment of all annual assessments due from Declarant after the end of the Declarant Control Period until it has been credited in full.

Section 13. Reserve Accounts. The Association shall establish one or more separate reserve accounts to fund major repairs to and replacements of Common Property including, without limitation, major repair or replacement of Stormwater Control Measures. Each annual budget shall show the amount to be placed in reserve for each category for which reserves are to be held.

Section 14. Fines. Subject to the provisions of this Declaration, the Bylaws of the Association, and Section 47F-3-107.1 of the Act, the Board of Directors shall have the right and authority to levy fines or suspend privileges or services provided by the Association for reasonable periods for the violation of any provision of this Declaration and other rules and regulations promulgated by the Board of Directors pursuant thereto, provided, however that the right of access and support, the right to drain stormwater and the right to use Stormwater Control Measures, private streets, private utility services provided to the Lot through easements in Common Area, and any assigned parking areas shall not be suspended for violation of the Association's rules and regulations. Any monetary fine shall be deemed an individual special assessment against the Lot of the Owner against whom such fine is assessed.

**ARTICLE VI
MAINTENANCE OF LOTS AND COMMON AREA**

Section 1. Owner's Responsibility; Remedy for Owner's Failure to Maintain. Each Owner shall keep his Lot in an orderly condition and shall keep the improvements thereon in a suitable state of repair, except for those improvements which the Association is responsible for Maintaining as provided in this Declaration. If an Owner does not make any repair or perform any maintenance required of such Owner, the Association shall have the right (but not the obligation), through its agents and employees, by the affirmative vote of a majority of the Board of Directors, to enter upon such Lot and to repair, Maintain and restore the Lot or exterior of the Unit erected thereon, and the cost of such maintenance, plus a surcharge of 15% for administration, shall be assessed in accordance with Section 3 of this Article. Prior to such entry, the Association shall give written notice to the Owner stating: (i) the specific item(s) needing maintenance; (ii) the corrective action to be taken; (iii) a time, not less than 15 calendar days from the date of the notice, in which the Owner is to perform the necessary maintenance; and (iv) a statement that, if the Owner fails to perform the maintenance within such period, the Association will exercise its right to perform the maintenance and that the Owner will be assessed with the costs thereof as provided in this Article VI.

Section 2. Maintenance by the Association. The Association shall have the right and obligation to ensure that the Common Area is preserved to the perpetual benefit of the Owners and, to that end, shall: (i) to the extent the same is not Maintained by a Sub-Association, maintain the Common Area and Common Area Easement in its natural or improved state, as appropriate, and keep it free of impediments to its use by the Owners; (ii) procure and maintain adequate liability insurance covering the Association and its Members against any loss or damage suffered by any Person, including the Owner of the Lot upon which a Common Area Easement lies, resulting from use of the Common Area Easement; and (iii) pay all property taxes and other assessments levied against all Common Area owned in fee by the Association.

Section 3. Assessment of Cost. In the event that the Association performs maintenance on any Lot as provided in Section 1 of this Article VI, the cost of any such maintenance, replace or repairs (including the administration fee) shall be assessed against the Lot upon which such maintenance is done and shall be added to and become an individual special assessment against such Lot.

**ARTICLE VII
RIGHTS OF LENDERS**

Section 1. Books and Records. Any holder of a first deed of trust on any Lot, or its agent(s), shall have the right, during normal business hours, to examine copies of this Declaration, the Articles of Incorporation, the Bylaws, and the books and records of the Association and, upon written request to the Association, to receive a copy of the financial statement for the immediately preceding fiscal year.

Section 2. Notice to Lenders. Upon written request to the Association, the holder of a first deed of trust on any Lot shall be entitled to timely written notice of:

- (a) Any 60-day delinquency in the payment of assessments or charges owed by the Owner of the Lot securing its loan.
- (b) A lapse, cancellation, or material modification of any insurance policy of fidelity bond maintained by the Association.
- (c) Any proposed action that requires the consent of a specified percentage of owners or holders of first mortgages on the Lots.
- (d) Any condemnation or casualty loss that affects either a material portion of the project or the Lot securing its mortgage.

Section 3. Approval of Holders of First Deeds of Trust. Unless at least seventy-five percent (75%) of the holders of first deeds of trust who have requested notice as provided in Section 2 above have given their prior written approval, the Association shall not:

- (a) By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer any real estate or improvements thereon which are owned, directly or indirectly, by the Association. Neither the granting of easements for utilities or other purposes as provided in Section 1(c) of Article IV hereof, nor the exchange of real property as provided in Section 1(d) of said Article IV hereof, shall be deemed a transfer within the meaning of this subsection (a). Notwithstanding anything herein to the contrary, the property owned by the Association, whether in fee, by easement, or otherwise, shall be preserved to the perpetual benefit of the Owners or of the public in general and shall not be conveyed except to the County or other governmental entity or to a nonprofit entity organized for purposes similar to those of the Association;
- (b) Change the method of determining the obligations, assessments, dues or other charges which may be levied against a Lot;
- (c) Fail to maintain hazard insurance on insurable improvements on the Common Property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value; or
- (d) Use the proceeds of any hazard insurance policy covering losses to any part of the Common Property for other than the repair, replacement, or reconstruction of the damaged improvements or, as provided in §47F-3-113 of the Act, for distribution to the Owners,

provided, however that, except as provided in §47F-2-118 of the Act, any distribution to Owners shall be in the form of a credit toward current or future assessments due from the Owners of the Association.

Section 4. Payment of Taxes and Insurance Premiums. The holders of first deeds of trust on Lots, jointly or singly, may pay taxes or other charges which are in default and which have or may become a charge or lien against any of the Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage upon the lapse of a policy covering property owned by the Association. The Person(s) making such payments shall be owed immediate reimbursement therefore by the Association.

Section 5. Collection of Assessments. No mortgagee shall have any obligation to collect any assessment under this Declaration.

**ARTICLE VIII
EASEMENTS**

In addition to all other easements granted or reserved elsewhere in this Declaration, Declarant hereby grants and/or reserves the following easements.

Section 1. Access and Utility Easements. Easements for the installation and maintenance of roads, driveway, walkway, water lines, sewer lines, natural gas lines, telephone, cable television, electric power transmission lines, storm water drainage facilities, and other public or quasi-public utility installations are reserved as shown on the recorded maps or in recorded documents of the Properties. The Association may reserve and grant easements over the Common Area as provided in Article IV, Section 1(c), of this Declaration. Within any such easement herein provided, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation or maintenance of the utilities installed thereon, or which may change the direction of flow or drainage of water through drainage pipes or channels constructed in such easements. Declarant reserves the right to create and impose additional easements or rights-of-way over any unsold Lot by the recording of appropriate instruments in the Wake County Registry, and such instruments shall not be construed to invalidate any of these covenants.

Declarant reserves an easement in and right at any time in the future to grant a ten-foot (10') right-of-way over, under and along the front and rear line of each Lot for the installation and maintenance of poles, lines, conduits, meters, sewer clean-outs, pipes, and other equipment necessary to or useful for furnishing electric power, gas, telephone service, cablevision or other utilities, including water, sanitary sewage service and storm drainage facilities. Declarant also reserves an easement in and right at any time in the future to grant a five-foot (5') right-of-way over, under and along the side lines of each Lot for the aforementioned purposes.

An easement is also reserved for the benefit of the Declarant and the Association, and their respective successors and assigns, over, across and under those portions of Properties shown and designated as "sign easement", "landscape easement", or "drainage easement", or any similar designation, and any combination of the foregoing on any recorded map or plat of the any portion of the Properties for the purpose of installing, operating, repairing and Maintaining, as

appropriate, landscaping, irrigation system, entrance signage, fencing and Stormwater Control Measures in the easement area. No building, structure, fill, embankment, fence, driveway, planting, swing, or other obstruction shall be permitted in such area, other than those installed by the Declarant or the Association unless approved as provided in Article IX of this Declaration and, if required, by the County.

Declarant grants to and reserves for the Declarant, the Association, the County and their respective successors and assigns, an easement and right of ingress, egress and regress on, over and under the Properties to maintain and correct drainage or surface water runoff in order to maintain reasonable standards of health, safety and appearance. Except in recorded Tree Conservation Areas and in recorded Permanently Undisturbed Opens Space Areas, such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or take any other similar action that it deems reasonably necessary or appropriate. After such action has been completed, the Person taking such action shall grade and seed the affected property and restore the affected property to its original condition to the extent practicable, but shall not be required to replace any trees, bushes or shrubbery necessarily removed. The Person taking such action shall give reasonable notice of its intent to take such action to all affected Owners.

Section 2. Easement for Support. Every Lot which contributes to the lateral and/or vertical support of any adjoining Lot shall be burdened with an easement of support for the benefit of such adjoining Lot.

Section 3. Easement Over Common Area. A perpetual, nonexclusive easement over, under and through the Common Area is hereby granted to each Lot and its Owners, family members and tenants of such Owners, the occupants of such Lot, and guests and invitees of such Owners, tenants or occupants, for the purpose of providing access, ingress and egress to, from and over the Common Area and for utilities serving such Lot. Any conveyance or encumbrance of such Common Area is subject to the easements granted herein.

Section 4. Association's Easement Upon Lots. The Association shall have a right, license and easement to go upon any Lot for the purpose of fulfilling its obligations under this Declaration, the restrictive covenants applicable to the Community, and any other laws, ordinances, rules and regulations, public or private, which the Association is obligated or permitted to enforce. Such easement shall include, without limitation, the right to go on any Lot to correct, repair or alleviate any condition which, in the opinion of the Board of Directors or of the manager employed by the Association, creates or may create an imminent danger to the Common Area or improvements thereon.

Section 5. Easements for Development. For so long as Declarant owns any real property within the Properties, Declarant reserves an easement over the Properties for the purpose of allowing Declarant, its successors and assigns, to develop the Properties and construct improvements thereon.

**ARTICLE IX
ARCHITECTURAL CONTROL**

At all times prior to issuance of a Certificate of Occupancy for the Dwelling constructed thereon, Declarant shall have the sole and absolute right to determine the style and appearance of the initial construction of the Dwelling, storage sheds, accessory buildings, garages, fences, walls, mailboxes, lawn decorations, structures of any type, grading, landscaping and any other improvements to be built or constructed on any Lot (hereinafter individually and collectively referred to as "Lot Improvements").

After occupancy of a Dwelling as a residence pursuant to a Certificate of Occupancy, no Lot Improvements (including, without limitation, replacement of any previously existing Lot Improvements) shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration thereof be made (including, without limitation, changing materials or color of any exterior portion of any such Lot Improvements), nor shall a building permit for such Improvements or change be applied for or obtained, nor shall any landscaping (other than installation of grass, plants or trees) or re-landscaping of any Lot be commenced or made until plans and specifications showing the nature, kind, shape, heights, materials, color and location of same shall have been submitted to and approved in writing by an Architectural Control Committee ("ACC") composed of three or more persons (who may, but need not be, Members of the Association) appointed by the Board. If the ACC disapproves such proposed Lot Improvements within thirty (30) days after complete plans and specifications have been received by it, the Owner may appeal said decision to the Board. If the ACC, or the Board on appeal, fails to approve or disapprove such proposed Lot Improvements within thirty (30) days after complete plans and specifications have been received by it, approval will not be required, and this Article shall be deemed to have been complied with. The ACC shall have the right to charge a reasonable fee for receiving and processing each application.

Declarant and, after the Declarant no longer owns any Lot within the Properties, the Association, shall have the right to promulgate and from time to time amend written architectural standards and construction specifications (hereinafter the "Architectural Guidelines") which may establish, define and expressly limit the standards and specifications which will be approved, including, but not limited to, architectural style, exterior color or finish, roofing material, siding material, driveway material, landscape design, fencing height and materials, and construction technique. Neither the Association nor the ACC shall approve any Lot Improvements which it determines, in its discretion, not to be in harmony of external design, construction and/or location in relation to the surrounding structures, topography or the general plan of development of the Community or to be in violation of applicable Architectural Guidelines.

Neither the Declarant, the Association, the Board of Directors, the ACC, nor any member or employee of any of them, shall have any liability to any Person by reason of any acts taken or omitted by them, or any of them, in good faith pursuant to this Article.

**ARTICLE X
USE RESTRICTIONS**

Section 1. Land Use and Building Type. Except as specifically provided herein, Lots shall be used for residential purposes only. An Owner may maintain an office or home business

in such Owner's Dwelling if: (i) such office or home business is operated by the Owner or a member of the Owner's household residing in the Dwelling; (ii) there are no displays or signs indicating that the Dwelling is being used other than as a residence; (iii) such office or business does not generate significant traffic or parking usage (as determined by the Board or ACC) by clients, customers or other Persons; (iv) no equipment, vehicles or other items related to the office or business is stored, parked or otherwise kept outside of an approved enclosure; (v) such Owner has obtained from the appropriate government entity and maintains in effect, all required approvals for such use; (vi) the activity is consistent with and complies with all Legal Requirements; (vii) the Owner has obtained prior written approval from the Board or ACC and thereafter registers annually with the Board or ACC as long as the operation of the home business continues. As a condition to such use, the Board or ACC may require the Owner to pay any increase in the rate of insurance, utilities or other costs for the Association or other Owners which may result from such use.

Notwithstanding the foregoing, the Declarant shall have the right to and may, in writing, permit another Person to: (i) use Lots and improvements erected thereon for sales offices, field construction offices, storage facilities, and other uses consistent with the development of the Community and the sale and construction of homes therein; (ii) maintain spot-lighted model homes which may be open to the public for inspection seven days per week for such hours as the Declarant deems appropriate or necessary; and (iii) conduct any other activities on Lots to benefit development, sales and construction efforts. Additionally the Declarant, Owners, real estate brokers and their agents may show Lots and homes for sale or lease.

Section 2. Building Setbacks; House Location. No Dwelling shall be erected or maintained on any Lot outside of the building envelope required by the zoning ordinance of the County (the "Zoning Ordinance"). For purposes of these building setback requirements, decks, porches, patios, stoops, eaves, overhangs, bay windows, chimneys, carports and other similar projections shall be deemed to be part of the Dwelling only to the extent that the same are deemed to be part of the Dwelling under the Zoning Ordinance as it exists as of the date of issuance of a certificate of occupancy for such Dwelling. Any Dwelling erected on a Lot other than a corner lot shall face the street on which the Lot abuts. On corner lots, a Dwelling may be erected so as to face either street or the intersection of the two streets on which the Lot abuts.

Section 3. Fences. Any fence or wall installed within the Community must meet all requirements of the Zoning Ordinance and must be approved as provided in Article IX of this Declaration. Chain-link fences will not be permitted. Nothing in this paragraph shall be deemed to apply to or regulate retaining walls made necessary by the slope or grade of any Lot or Lots or to any fence installed by the Declarant at any entrance to or along any street within the Community.

Section 4. Temporary Structures. No residence of a temporary nature shall be erected or allowed to remain on any Lot, and no trailer, shack, tent, garage, barn, or any other building of a similar nature shall be used as a residence on any Lot, either temporarily or permanently.

Section 5. Parking; Driveways and Parking Pads; Abandoned Vehicles. Vehicles may be parked or stored only on portions of a Lot improved for that purpose, i.e., garage, driveway or parking pad. No unenclosed parking shall be constructed or maintained on any Lot except a paved driveway and an attached paved parking pad, which pad shall be designed for the parking of not more than two (2) vehicles. Any driveway or parking pad constructed upon any Lot shall be approved as provided in Article IX hereof.

No mobile house trailer (whether on or off wheels), recreational vehicle, trailer or enclosed body of the type which may be placed on or attached to a vehicle (known generally as "campers"), tractor trailer trucks or cabs, or commercial vehicle of any kind shall be parked on any street or any Lot within the Community. No boat, boat trailer, or any other trailer shall be parked on any street within the Community. A boat, boat trailer, or other trailer may be parked or kept on a Lot if it is parked or kept in the garage or approved out-building (and the door of the garage or out-building can close completely) or otherwise in such a manner that the boat and trailer are screened from the street, the Common Property, and other Lots. Screening may include an approved fence and plantings, but, in any case, the screening must comply with the Zoning Ordinance and be approved pursuant to Article IX of this Declaration.

No vehicle of any type which is abandoned or inoperative shall be stored or kept on any Lot in such manner as to be seen from any other Lot, any street within the Community or the Common Property, and no automobiles or mechanical equipment may be dismantled or allowed to accumulate on any Lot. Vehicles without current registration and inspection stickers are considered abandoned or inoperative.

Section 6. Animals. No animals, livestock or poultry of any kind shall be kept on any Lot, except that up to three cats, two dogs, and other ordinary household pets may be kept provided they are not kept, bred, or maintained for any commercial purpose and that they do not become a nuisance to the neighborhood. The Board has the right, in its sole and absolute discretion, to determine whether or not a particular animal is a nuisance and to require removal. No Person owning or having custody of a permitted animal shall allow the animal to stray or go upon another Owner's Lot without the consent of such other Owner. No animals shall be permitted on the Common Property at any time except as permitted by the rules and regulations of the Association or by applicable law. All animals shall be on a leash when outside the Owner's Lot. The owner of a permitted animal shall be responsible for removing and cleaning up any excrement deposited by such animal on any Lot, street right of way, or the Common Property.

Section 7. Nuisances. No noxious or offensive trade or activity shall be carried on upon any Lot or the Common Property, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No vehicle repairs or maintenance shall be conducted within the Properties other than in a garage and concealed from public view. Outside clothes hanging devices are not permitted.

Section 8. Signs. Except as otherwise required by the County, no sign of any kind shall be displayed to the public view on any Lot except signs used to advertise Lots for sale during the construction and sales period, not more than two (2) signs of not more than six (6) square feet advertising the property for sale or rent, and not more than two signs of not more than six (6) square feet expressing support of or opposition to political candidates or other issues

which will appear on the ballot of a primary, general or special election, provided that such political signs shall not be placed on a Lot earlier than sixty (60) days before such election and shall be removed within two (2) days after such election. No sign of any kind shall be displayed on the Common Property without the prior written consent of the Declarant or, after the end of the Declarant Control Period, by the Association. Notwithstanding the foregoing, Declarant shall have the right to erect and maintain signs of any type and size on any Lot or Parcel which it owns and on the Common Area in connection with the development and sale of the Properties.

Section 9. Antennas; Satellite Dishes. No television, radio or other electrical towers, aerials, antennae, satellite dishes, or other devices of any type for the reception or transmission of radio or television broadcasts or other means of communication shall be erected, constructed, placed or permitted to remain on any Lot or upon any improvements thereon unless approved in accordance with Article IX hereof, except that this prohibition shall not apply to those antennae specifically covered by 37 C.F.R. Part 1, Subpart S, §1.4000 (or any successor provision) promulgated under the Telecommunications Act of 1996, as amended from time to time. The Association shall be empowered to adopt rules governing the types of antennae that are permissible hereunder and establishing reasonable, non-discriminatory restrictions relating to safety, location and maintenance of antennae.

To the extent that the reception of an acceptable signal would not be impaired, an antenna permissible pursuant to rules adopted by the Association may be installed only if it: (i) is located in the rear or side yard of the Lot; (ii) is not visible from any street (whether by location or screening); (iii) is integrated with the Dwelling and surrounding landscape; and (iv) is approved pursuant to Article IX of this Declaration.

Section 10. Swimming Pools. No above-ground swimming pools are permitted in the Community, except that small, inflatable wading pools shall be permitted in the back yard of a Dwelling, as seasonally appropriate.

Section 11. Mailboxes. No mailbox, other than community standard mailboxes specified by the Declarant, shall be placed or maintained on any Lot unless the same has been approved in writing by Declarant or the ACC in accordance with the provisions of Article IX of this Declaration.

Section 12. Maintenance of Lot and Improvements; Construction. As more fully provided in this Declaration, each Owner shall keep his Lot, including, but not limited to, plantings, landscaping and lawns, in a neat and attractive condition and shall keep the improvements thereon in a suitable state of repair. If an Owner fails to comply with this provision, the Declarant or the Association may remedy such non-compliance and the Owner of such Lot shall be responsible for all costs of bringing the Lot into compliance with this provision. Any such costs shall be deemed a special assessment against the Lot.

In the event that any residence or structure on any Lot is destroyed or partially destroyed by fire, Act of God, or as a result of any other act or thing, the Owner of such Lot shall repair the damage and reconstruct the improvement within nine (9) months after such damage or destruction; provided, however, that if the structure damaged is not part of or attached to the residence constructed on such Lot, the Owner may, at his option, either completely remove the

damaged structure and landscape the area on which the structure stood or repair or reconstruct the structure.

All construction, landscaping or other work which has been commenced on any Lot shall be continued with reasonable diligence to completion and no partially completed house or other improvement shall be permitted to exist on any Lot, except during such reasonable time period as is necessary for completion. The Owner of each Lot shall at all times keep public streets free abutting his Lot from any dirt, mud, garbage, trash or other debris resulting from construction on his Lot.

Section 13. Garbage; Unsightly Storage. All trash and rubbish shall be kept in garbage cans stored behind the principal building in such a manner as not to be visible from the street upon which the principal building fronts. No trash, rubbish, stored materials, wrecked or inoperable vehicles, or similar unsightly items shall be allowed to remain on any Lot; provided, however, that the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish, and other debris for collection by governmental or other similar garbage and trash removal units. In the event of curbside trash and/or garbage pickup, trash and/or garbage cans may be moved to the street on the night before the scheduled pickup, but all garbage cans must be returned to an approved enclosure the night of the scheduled pickup. Trash containers used by the Declarant or, with the approval of the Declarant, by a Builder during construction are exempt from this provision.

Notwithstanding the foregoing, no vehicle of any type or size which transports inflammatory or explosive cargo or which stores or transports materials or substances defined as hazardous or toxic by any applicable legal requirements shall be kept or stored or allowed to remain in or on the Properties at any time, except as may be required to effectuate transportation or removal of such prohibited materials and substances through or from the Properties, or, with respect to explosive materials, as may be reasonably required in connection with the construction or installation of streets and utilities in the Properties, or as may be allowed by Declarant, during the Declarant Control Period, and thereafter, the Board, when reasonably required for the construction of other improvements within the Community.

Section 14. Restrictions on Rental of Dwellings. It is the intent of the Declarant that all Dwellings within the Community are intended for use and occupancy by the Owner of the Dwelling. Accordingly, and notwithstanding anything to the contrary herein, the term "residential" as used in Section 1 of this Article specifically excludes the leasing of Dwellings in any one or more of the following instances:

- (a) by an Owner who has not regularly occupied the Dwelling as the Owner's primary residence and has no future intent to do so;
- (b) by an Owner who has not regularly occupied the Dwelling as the Owner's primary residence and who enters into a lease with a tenant that gives the tenant the option to purchase the Dwelling during, or at the end of, the term of the lease; or
- (c) by an Owner where the primary purpose of the ownership of the Dwelling is for commercial purposes in that the Dwelling is intended primarily for lease to tenants and not for occupancy by the Owner as the Owner's primary residence.

Notwithstanding the foregoing restrictions on leasing of Dwellings, any model home may be leased to or by Declarant or a Class C Member, provided that such model home is not used as a residence.

Section 15. Waiver of Violations. Declarant, or the persons or firms to whom the architectural review and approval authority has been delegated pursuant to Article IX of this Declaration, may, but shall not be obligated to, waive any violation of the designated and approved building setback lines on any Lot, provided that, no waiver may be granted for a violation in excess of 25% of the applicable requirements. No such waiver shall be effective unless the Lot and all structures thereon are in full compliance with the applicable provisions of the Zoning Ordinance or a variance has been obtained for such violation. Waivers shall be effective upon recording of same in the Registry.

Section 16. Street Lighting. Declarant reserves the right to subject the Community to a contract with Progress Energy or other public utility or entity providing for installation and operation of street lighting, which requires a continuing monthly payment to Progress Energy by each residential customer or by the Association.

Section 17. Impervious Surface. Each Lot in the Community is subject to restrictions on the amount of total square footage of the Lot that may be covered by impervious surfaces, as established by the County and more specifically shown on those plats of the Community recorded at the Wake County Registry. A note on said plats states, "Maximum impervious area square footage on each individual lot will be stringently enforced with no exceptions into perpetuity." Such impervious requirement may limit an Owner from building new or expanding existing (i) Dwellings, (ii) porches, patios and decks, and (iii) parking pads and garages.

Section 18. Wetlands. Portions of the Properties may have been determined to meet the requirements for designation as a regulatory wetland or riparian area. Notwithstanding anything to the contrary that may appear herein or in any amendment hereto, Annexation Declaration or Sub-Association Declaration, any subsequent fill or alteration of any portion of the Properties that has been determined to be a regulatory wetland or riparian area under applicable laws of the United States or the State of North Carolina shall conform to the requirements of applicable wetland or riparian area rules adopted by the United States or the State of North Carolina and in force at the time of the proposed alteration. The intent of this paragraph is to prevent additional wetland or riparian area fill or degradation as defined by the Army Corp of Engineers or other applicable governmental authority.

ARTICLE XI

**ARTICLE XII
GENERAL PROVISIONS**

Section 1. Enforcement. The Association and each Owner shall have the right to enforce, by proceeding at law or in equity, all restrictions, conditions, covenants, rules, regulations, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, the Act, the Bylaws or rules and regulations adopted by the Association. Failure by

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

The Association shall not be obligated to take action to enforce any covenant, restriction or rule which the Board reasonably determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement actions, or any case in which the Board reasonably determines that the cost of enforcement outweighs the benefit to be gained by enforcement. Any such determination shall not be construed as a waiver of the right to enforce such provisions under other circumstances or to estop the Association from enforcing any other covenant, restriction or rule.

Section 2. Term; Amendment. The covenants and restrictions of this Declaration shall run and bind the land, for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless terminated or amended by a vote of eighty percent of the Members.

This Declaration may be amended only in strict compliance with this Section and the Act, including, without limitation, §47F-2-117 of the Act, except that no Amendment altering or impairing Special Declarant Rights may be made without the written consent of the Declarant. This Declaration may also be amended by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots and, during the Declarant Control Period by the Declarant; provided, however, that in no event may Declarant's rights hereunder may be amended or altered without Declarant's prior written consent. For the purpose of this section, additions to existing property as provided in Section 2 of Article II hereof shall not constitute an "amendment".

Notwithstanding the foregoing, Declarant, without the consent or joinder of the Owners or other Person, may amend this Declaration during the Declarant Control Period, provided such amendment is not expressly prohibited by the Act, and further provided that such amendment does not adversely affect the title to any Lot nor materially alter or change any Owner's right to the use and enjoyment of his Lot or the Common Property.

Amendments to this Declaration are valid from the later of the time of recording in the Registry or such later date specified in the amendment.

Section 3. Subdivision of Lots. No Lot within the Community may be subdivided by sale or otherwise so as to increase the total number of Lots in the Community, except with the consent of the Declarant during the Declarant Control Period, and thereafter of the Association, and, if required, by the County.

Section 4. Rules and Regulations. The Board of Directors shall have the authority to adopt additional rules and regulations governing the use of the Common Property and Lots and shall furnish a written copy of said rules and regulations to the Owner(s) of each Lot at least fifteen (15) days before such rules and regulations become effective.

In addition to any other rights and remedies that the Association may have under this Declaration, the Association may impose sanctions for violations of this Declaration, the Bylaws of the Association, the rules and regulations adopted by the Association, or other

restrictions applicable to the Properties, in accordance with procedures set forth in the Bylaws, which sanctions may include, but are not limited to, reasonable monetary fines, which fines shall be deemed a special assessment and a lien upon the Lot of the violator, and suspension of the right to vote and the right to use any recreational facilities within the Common Property; provided, however, that the right of access and support, the right to drain stormwater and the right to use Stormwater Control Measures, private streets, private utility services provided to the Lot through easements in Common Area, and any assigned parking areas shall not be suspended for violation of the Association's rules and regulations.

In addition, pursuant to procedures provided in the Bylaws, the Association may exercise self-help to cure violations (specifically including, but not limited to, the towing of Owner and tenant vehicles that are in violation of parking rules) and may suspend the right of an Owner to use any Common Property if the Owner is more than thirty (30) days delinquent in paying any assessment or other charge due to the Association, provided, however, that the right of access and support, the right to drain stormwater and the right to use Stormwater Control Measures, private streets, private utility services provided to the Lot through easements in Common Area, and any assigned parking areas shall not be suspended for violation of the Association's rules and regulations.

The Association shall have the right and easement to go upon any Lot for the purposes of exercising its rights hereunder, including, but not limited to, enforcement of the Architectural Guidelines applicable to the Properties. Any entry onto any Lot for purposes of exercising this power of self-help shall not be deemed as trespass. All remedies set forth in this Declaration and the Bylaws shall be cumulative of any remedies available at law or in equity. In any action to enforce its rights and remedies, the party prevailing in such action shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

Section 5. Condemnation/Casualty. If all or any part of the Common Property and improvements thereon are taken by power of eminent domain or are damaged or destroyed by fire or other casualty, the proceeds of the condemnation award or any insurance policies covering such improvements shall be payable to the Association. The Board of Directors shall propose to the Members, at an annual or special meeting held within sixty (60) days after the date of the condemnation or casualty, whether or not to reconstruct the improvements. The insurance proceeds shall be used to reconstruct the improvements except as provided in §47F-3-113(g) of the Act, in which event the proceeds shall be retained by the Association for operation expenses or reserves, as determined by the Board or the Members. Nothing in this Section shall prevent the Board from proposing and the Members from approving the use of such proceeds for construction of different improvements, e.g., playground on Common Property in lieu of a destroyed club house.

Section 6. Association Contracts and Leases During Declarant Control Period. All Association contracts and leases made during the Declarant Control Period which extend beyond the Declarant Control Period must: (i) be for a term of two years or less; (ii) be terminable without penalty by the Association upon no more than ninety (90) days written notice; and (iii) be commercially reasonable and made with an entity not affiliated with the Declarant.

Section 7. Evidence of Member Approval. In the event that any action requires evidence of consent of the Members or a specified percentage of the Members, such approval shall be conclusively presumed if supported by a Certification signed by the President or Secretary of the Association in substantially the following form:

CERTIFICATE OF THE BLALOCK FOREST
ASSOCIATION, INC.

This is to certify that, upon proper notice given a [the] Special [Annual] Meeting of the Members of the Blalock Forest Homeowner’s Association, Inc., was held on [Date and Year] at [Time]. The purpose [One of the purposes] of the meeting, as set forth in the Notice of Meeting, was to: [State action for which Member approval is required.]

At such meeting, at which a quorum was present, in person or by proxy, a total of ____ votes were cast. ____ votes were cast in favor of such action, and ____ votes were cast against such action. Accordingly, the motion to approve [describe the action approved] was approved by at least ____% of the Members as required by this Declaration and Bylaws of the Association.

[President/Secretary]

Section 8. Number and Gender. Whenever the context requires, the singular shall include the plural, and vice versa, and one gender shall include all.

Section 9. Captions. Captions are for the purpose of reference only and shall not be deemed to be in any manner interpretive of any provision of this Declaration.

Section 10. Severability. If any provision of this Declaration is held by a court of competent jurisdiction to be invalid or void, such provision shall be deemed severable from the remaining provisions of this Declaration and shall not be deemed to nullify or affect any other provision hereof. If any such provision is deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

If any item, term or provision contained in this Declaration is in conflict with any applicable federal, state or local law, this Declaration shall be affected only as to its application to such item, term or provision, and shall in all other respects remain in full force and effect.

Section 11. Conflicts.

(a) Some or all of the Properties may be subject to the provisions of the Act. To the extent that Properties are subject to the Act, the provisions of the Act control over any inconsistent provisions of this Declaration, any Annexation Declaration, any other Governing Documents, or the Code.

(b) The provisions of the Code control over any inconsistent provisions of this Declaration, any Annexation Declaration or any other Governing Documents. As applicable provisions of the Code are amended, modified, revised, deleted, or moved to different sections,

this Declaration and all Annexation Declarations are deemed to be revised so as to conform to the provisions of the Code as they exist from time to time and are applicable to the Properties or any part thereof. Notwithstanding the foregoing, any provision of this Declaration or any Annexation Declaration that is more restrictive than an applicable provision of the Code (for example, a building setback distance required by this Declaration or an Annexation Declaration that is greater than that required by the Code) is not an inconsistent provision of this Declaration unless the Code specifically provides otherwise, and is not deemed revised to conform to the Code.

(c) In the event of a conflict between this Declaration and the Articles of Incorporation of the Association, the Articles of Incorporation shall control. In the event of a conflict between this Declaration and the Bylaws, this Declaration shall control. In the event of a conflict between this Declaration and any recorded plat of the Property, the recorded plat shall control.

(d) In the event of any conflict between this Declaration and any Sub-Association Declaration, this Declaration shall control.

(e) Specific provisions shall control general provisions. Notwithstanding the foregoing, a construction consistent with the Act, the North Carolina Nonprofit Corporation Act (N.C.G.S. §55A), and the ordinances of the County shall in all cases control any construction inconsistent therewith.

Section 12. Rule Against Perpetuities. As provided in §47F-2-103(b) of the Act, the rule against perpetuities may not be applied to defeat any provision of this Declaration, Bylaws, or rules and regulations adopted pursuant to thereto and §47-F-2-102(1) of the Act.

Section 13. Declarant. Nothing contained in these Covenants shall be construed to permit interference with the development of the Lots by Declarant and construction of homes by Declarant so long as said development and construction follow the general plan of development previously approved by the County. The restrictions contained herein shall not be deemed to apply to any sales office, signs, landscaping construction trailer, model home, or other temporary or permanent improvement installed by or with the approval of Declarant.

Section 14. Non-Discrimination. Neither the Association, the Board, committee of the Board, officer of the Association, nor any member of the Board or committee, in exercising its/his/her rights and obligations under this Declaration or the Articles of Incorporation or Bylaws or Articles of Incorporation, shall discriminate against any person on the basis of the race, color, gender, religion, national origin or handicap of such person.

Section 15. Security Measures. Neither the Association nor the Board shall have any responsibility for establishing or maintaining any security measures within the Property, such measures being the sole responsibility of each Owner, as to his Lot and property, and to the appropriate public officials including, without limitation, the Wake County Sheriff's Department.

Section 16. Properties Are Subject to Code. The Properties, this Declaration and the other Governing Documents are subject to the ordinances, regulations, and rules of the County,

and shall be construed in accordance with all of the applicable provisions of the Code, whether or not such Code provisions are specifically referenced in this Declaration. There may be certain provisions of the Code that apply to all of the Properties and certain provisions of the Code that apply only to certain portions of the Properties (for example, provisions of the Code relating to private streets apply only to those portions of the Properties that contain private streets). It shall be the responsibility of the Association and each Owner of each portion of the Properties to comply with all provisions of the Code applicable to such portion of the Properties, whether or not any approval, disapproval, waiver or variance of the terms of this Declaration with respect to such portion of the Properties has been given by the Declarant or its authorized agent, the Board, any committee of the Board, or any other Person who has the authority to give such approval, disapproval, waiver or variance.

Section 17. Recreational Amenities. Declarant currently intends to construct within the Properties certain recreational amenities which include playgrounds, pavilions, and appropriate landscaping associated therewith. Such recreational amenities will be constructed on Common Area and deeded to the Association. Nothing herein shall be construed to limit the Declarant or the Association, from adding to, changing, or removing any recreational amenities in the Common Areas in their sole discretion.

(The remainder of this page is intentionally blank)

IN WITNESS WHEREOF, Declarant and Perry have caused this Declaration to be executed as of the latest date set forth in the notary acknowledgment below.

DECLARANT:

PARKER & ORLEANS HOMEBUILDERS, INC.,
a Delaware corporation

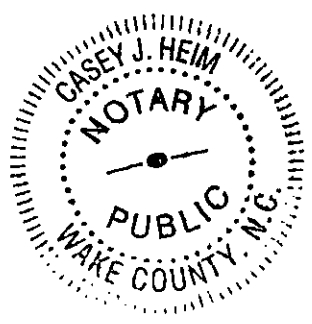
By: *[Signature]*
Name: Mitchell W. Sanner, III
Title: Raleigh Division President

STATE OF North Carolina -- COUNTY OF Wake :

I certify that the following person appeared before me this day and acknowledged to me that he or she signed the foregoing document for the purposes stated therein and in the capacity indicated:
Mitchell W. Sanner, III

Date: 12/13/2012

(Notary Stamp or Seal)



[Signature]
Notary Public
My commission expires: 11/7/2015

**CONSENT AND SUBORDINATION TO DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS,
CHARGES AND LIENS FOR BLALOCK FOREST**

JPMorgan Chase Bank, N.A. a national banking association, as Administrative Agent (“Beneficiary”), owner and holder of a note secured by that certain Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing Financing Statement dated March 9, 2012 from Parker & Orleans Homebuilders, Inc., a Delaware corporation authorized to transaction business in North Carolina (“Grantor”) to Fidelity National Title Insurance Company (“Trustee”), for the benefit of Beneficiary, recorded in Book 14680, Page 2242 in the Office of the Register of Deeds of Wake County, North Carolina (“Deed of Trust”) and Fidelity National Title Insurance Company, Trustee under said Deed of Trust hereby consent to the foregoing Declaration of Covenants, Conditions, Restrictions, Easements, Charges and Liens for Blalock Forest (the “Declaration”) made by Grantor as “Declarant” and owner of the Properties identified in the foregoing Declaration, and consent to the execution, delivery and recording of the Declaration, and agree that any subsequent foreclosure of the Deed of Trust shall not extinguish the Declaration and that the Deed of Trust, the lien created thereby, and Beneficiary’s and Trustee’s interest in the property described therein by virtue of the Deed of Trust are, and shall be, subject and subordinate to the Declaration and the provisions thereof, except and provided that the lien of assessments provided for in the Declaration shall be subordination to the lien of the Deed of Trust as provided in the Declaration.

IN WITNESS WHEREOF, the undersigned have duly executed these present under seal as of this the 5th day of December, 2012.

BENEFICIARY:

JPMORGAN CHASE BANK, N.A.,
a national banking association,
as Administrative Agent

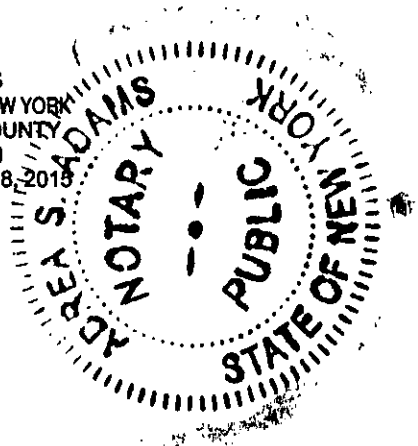
By: 
Name: Mohammad Hasan
Title: Vice President

STATE OF NEW YORK)
)
COUNTY OF NEW YORK) SS.:

On the 5 day of December in the year 2012 before me, the undersigned, personally appeared Mohammad Hasan personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Adrea Adams
Notary Public

ADREA S. ADAMS
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN BRONX COUNTY
REG. #01AD6237811
MY COMM. EXP. MARCH 28, 2015



TRUSTEE:

FIDELITY NATIONAL TITLE INSURANCE COMPANY

By: Zonia N. Vial
Its: Vice President

STATE OF GEORGIA – COUNTY OF PIKE :

I certify that the following person personally appeared before me this day and acknowledged to me that he signed the foregoing document for the purposes stated therein:

Zonia N. Vial

Date: December 10, 2012

(Stamp or Seal)



Jefferson Ward Yearwood
Signature of Notary

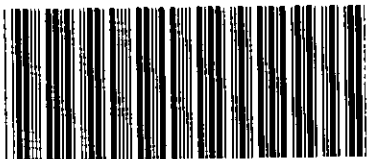
Printed Name: JEFFERSON WARD YEARWOOD
My commission expires: Sept. 3, 2015

EXHIBIT A

Lying in Panther Branch Township, Wake County, North Carolina, and being more particularly described as follows:

All of the Blalock Forest Subdivision, as shown on the maps entitled “Blalock Forest, Phase 1” recorded in Book of Maps 2009, Pages 150-154, and “Blalock Forest, Phase 2” recorded in Book of Maps 2009, Pages 980-983, in the Wake County Public Registry.

LESS AND EXCEPT Lots 33-36, Lots 41-46, and Lots 49-52 of Blalock Forest Subdivision as shown on that map recorded in Book of Maps 2009, Pages 980 through 983, Wake County Registry.



BOOK:015064 PAGE:01491 - 01533

Yellow probate sheet is a vital part of your recorded document.
Please retain with original document and submit for rerecording.



Wake County Register of Deeds
Laura M. Riddick
Register of Deeds

This Customer Group
1 # of Time Stamps Needed

This Document
43 New Time Stamp
of Pages
f