

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR
BELLEWOOD**

***THE FOLLOWING STATEMENTS ARE REQUIRED BY THE NORTH CAROLINA
PLANNED COMMUNITY ACT:***

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

THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF POLITICAL SIGNS.

Submitted electronically by "St. Amand & Efird PLLC"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Wake County Register of Deeds.

Prepared by and return to:
St. Amand & Efird, PLLC (JSE)
3315 Springbank Lane, Ste 308
Charlotte, North Carolina 28226

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
BELLEWOOD**

**WAKE COUNTY AND HARNETT COUNTY,
NORTH CAROLINA**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BELLEWOOD (the “**Declaration**”) is made as of this 23rd day of September, 2019, by LENNAR CAROLINAS, LLC, a Delaware limited liability company (hereinafter referred to as “**Declarant**”); with BELLEWOOD HOMEOWNERS ASSOCIATION, INC., a North Carolina nonprofit corporation (the “**Association**”) executing merely for purposes of subjecting any property it owns (described on **Exhibit “A-1”**) to the encumbrance of this Declaration.

RECITALS:

WHEREAS, Declarant is the owner of certain tract or parcel of land located in Wake County and Harnett County, North Carolina, which property is described on **Exhibit “A-1”** attached hereto, of if Declarant is not currently the owner thereof then the Association is and subjects its property to the encumbrance hereof (in any event all real property described on **Exhibit “A-1”** is referred to herein collectively as, the “**Property**”);

AND WHEREAS, the Property is hereby established as a residential planned community and residential subdivision community known as “Bellewood” (which also is referred to herein as the “**Community**” or the “**Subdivision**”) under the Legal Requirements of applicable governmental entities, and which may include, but shall not be required by this Declaration to include, any one or more of the following: single-family, detached residential dwellings; public or private streets; utility easements; stormwater drainage systems and facilities; buffers; greenways; open space; recreational facilities and amenities; and other uses consistent with the zoning of the Property and the Governmental Authority approvals for the Subdivision;

AND WHEREAS, the Community will contain certain Common Areas that are shared by all Members;

AND WHEREAS, as hereinafter provided in this Declaration, Declarant has retained and reserved the right, privilege and option to annex Additional Property or to withdraw Property (as the case may be) to/from the encumbrance of this Declaration, from time to time or at any time, as herein provided;

AND WHEREAS, Declarant desires, among other things, to establish a general plan of development for the Subdivision, to provide for the maintenance and upkeep of the Lots, Dwellings, and Common Elements within the Subdivision, to provide for enforcement of the Declaration and other covenants and restrictions, if any, applicable to the Subdivision, to protect the value and desirability of the Property, and, to that end, desires to subject the Subdivision 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 Subdivision and each owner of any part or all thereof;

AND WHEREAS, in furtherance of the foregoing, Declarant has incorporated or will incorporate under the nonprofit corporation laws of the State of North Carolina, BELLEWOOD HOMEOWNERS ASSOCIATION, INC. (the “**Association**”) to own and/or maintain and/or administer Common Elements, to administer and enforce this Declaration and other covenants, restrictions, and agreements applicable to the Subdivision, and to collect and disburse the assessments and charges provided for herein;

AND WHEREAS, it is intended that every Owner of any of the Lots (as defined below) automatically, and by reason of such ownership and this Declaration, become a Member of the Association and be subject to its rules and regulations and the assessments and charges made by the Association as provided herein.

NOW, THEREFORE, Declarant hereby declares that all of the Property, together with all Additional Property, if any, subjected to the Declaration pursuant to Article II hereof and less any real property withdrawn from this Declaration, all of which together is referred to as the "Property", shall be held, transferred, sold, conveyed, given, donated, leased, occupied and used subject to the following easements, restrictions, covenants, charges, liens and conditions which are hereby imposed for the purpose of protecting the value and desirability of these lands and which restrictions, easements, charges, liens, conditions and covenants shall touch and concern and run with the title to the Property and which shall be binding on all parties having any right, title or interest in the Property or any portion of them, all in accordance with the North Carolina Planned Community Act, as set forth in Chapter 47F of the North Carolina General Statutes, as the same may be amended by from to time. This instrument also binds the respective heirs, devisees, fiduciary representatives, successors, successors in title and/or assigns, and shall inure to the benefit of anyone who purchases or takes any interest in real property within the lands subject to this Declaration.

ARTICLE I DEFINITIONS

The following words and terms, when used in the Declaration (including the Recitals) or any amendment hereto, or in any Supplemental Declaration, unless amended or unless the context clearly indicates otherwise, are defined as follows and are subject to the provisions contained in such definitions (when these and other defined words or terms herein have an initial capital letter or letters, however, it is not required that their use in the Declaration have initial capital letters in order to have the defined meaning). Terms and words used herein without definition shall have the meanings, if any, specified therefor in the "Definitions" section of the Act or, if not defined in the Act, in the "Definitions" section of the Nonprofit Corporation Act, or if not defined in either the Act or Nonprofit Corporation Act, any applicable definitions section of the Code, and, in the event of any conflict between the definitions contained herein and the definitions contained in the Act, the Nonprofit Corporation Act or the Code, the Act or Nonprofit Corporation Act or Code, in that order and as appropriate, shall control. It should be noted that one or more definitions contain provisions in addition to the defined word or terms, and such additional provisions are part of the Declaration in the same manner and to the same extent as if they had been set out in an Article or Section of the Declaration other than this Article I.

(a) "Act" shall mean the North Carolina Planned Community Act, currently codified in Chapter 47F of the North Carolina General Statutes, as it exists from time to time, including all amendments, supplements and replacements thereof.

(b) "Additional Property" shall mean any and all real property described on Exhibit "A-2" attached hereto and incorporated herein by this reference, provided the Additional Property shall not be part of the Property subject to this Declaration until it has been annexed (or subjected) to this Declaration in the manner required by this Declaration.

(c) "Annexation Declaration" shall mean a document, by whatever name denominated, that is recorded for the purposes of annexing 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 the Annexation Declaration.

(d) "Annual Assessment" shall have the meaning specified in Article VI of this Declaration and shall constitute the assessments which, pursuant to the provisions of such Article, shall be levied by the Association against all Lots each year for the purpose of raising the funds necessary to pay the Common Expenses.

(e) "Architectural Control Committee" (or "ACC") shall mean those individuals appointed to have jurisdiction over construction on or within any portion of the Property and responsibility for administration of design guidelines, as more fully described in Article VII of this Declaration.

(f) "Architectural Guidelines" shall mean any guidelines and standards, if any, that are from time to time adopted by Declarant or the ACC (as the case may be and in accordance with Article VII) and in effect with respect to Dwellings and other Improvements in the Property.

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

(h) "Association" shall mean Bellewood Homeowners Association, Inc., a North Carolina nonprofit corporation, as provided above.

(i) "Board of Directors" (or "Board") shall mean the body responsible for the administration of the Association, as provided in the Bylaws.

(j) "Builder" is defined as a Person, other than the Declarant, if any, who: (1) purchases or becomes the Owner of one or more Lots within the Property with intent to construct residential Dwellings for sale to other Persons; (2) constructs residential Dwellings for resale to other Persons; and (3) is selected or consented to in writing by the Declarant. These approved builders being the only builders allowed in this community.

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

(l) "Code" shall mean the Internal Revenue Code of 1986, as amended from time to time, or any successor federal revenue law.

(m) "Common Area" (or "Common Property" or "Common Elements", the terms Common Area and Common Elements and Common Property being used interchangeably herein, whether referring to Common Area or Limited Common Area) shall mean, singularly or collectively, as applicable, all real property (including all Improvements and public and private streets, drives, lanes and alleyways thereon, if any, except for any of the same, that are in any event owned or dedicated to, and in fact maintained by another Person, such as a Governmental Entity or a Person who provides utility services to any part or all of the Property) and all real or personal property rights, including easements, which Declarant owns (prior to turnover to the Association) or which the Association owns, leases, or otherwise holds possessory or use rights in, all for the common use and enjoyment of the Owners; this includes any additional areas, if any, which by the terms of the Governing Documents, or by any Legal Requirement, or any Plat, or by contract or agreement with any other Person, become the responsibility of the Association. The term Common Area shall include the Limited Common Area, as defined below, provided, however, that unless a Common Area is expressly identified herein or on any Plat as a Limited Common Area, then it shall simply be the broader Common Area. Without limitation and for avoidance of doubt, all real property owned by the Association shall be Common Area.

(n) “Common Expenses” shall mean and include all of the expenses incurred by the Association in maintaining the Common Area, including reserves for future expenses, and in paying for all of its other obligations and liabilities under the Act, Legal Requirements, and the Governing Documents, whether or not the particular Common Expense is specifically described herein. Common Expenses also include all expenses for which the Association is liable under any contract or agreement entered into by the Association or by the Declarant on behalf of the Association as allowed herein. Expenses related to Limited Common Areas, if any, which are part of and are a subcategory of Common Expenses.

(o) “Community Wide Standards” shall mean the standard of conduct, maintenance or other activity generally prevailing throughout the Property. Such standard shall initially be established by the Declarant and may be more specifically determined by the Board of Directors or the Committee. The Community Wide Standards may change at any time and from time to time as development of the Property progresses and/or as the needs and desires change within the Property. During the Development Period, the Declarant has the right to establish all of the Community Wide Standards, including amending any Community Wide Standards established by the Board of Directors or Architectural Control Committee.

(p) “County” shall mean (whether or not so stated) Wake County and/or Harnett County, North Carolina, as applicable and as the case may be.

(q) “Deck” shall mean the deck, if any, that is constructed as part of the original construction of each Improved Lot.

(r) “Declarant” shall mean Lennar Carolinas, LLC, a Delaware limited liability company, and shall include any successor or assign who shall acquire any portion of the Property for the purpose of development and/or sale and who is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant; provided, however, that there shall be only one “Declarant” hereunder at any one time.

(s) “Declarant Control Period” shall mean the period of time commencing on the date of recording of the Declaration and ending on the date on which the first of the following occurs:

(i) the date on which all of the Lots permitted by the Subdivision Plan (i) have Dwellings thereon for which certificates of occupancy have been issued and (ii) have been conveyed to Members other than Builders. Provided, until such time as the Declarant Control Period ends under any other subparagraph of this definition, without the possibility of any reinstatement, the Declarant Control Period shall be reinstated automatically from time to time as the Subdivision Plan is revised such that the foregoing requirements for termination of the Declarant Control Period no longer are met; or

(ii) voluntary termination of the Declarant Control Period by a written instrument executed by Declarant and recorded in the Registry; or

(iii) termination of the Declarant Control Period required by any Legal Requirement; or

(iv) 11:59 PM on December 31, 2040.

Declarant has the sole authority to resolve any issues or disputes regarding the date on which the Declarant Control Period ends or is reinstated.

(t) “Declaration” shall mean this Declaration of Covenants, Conditions, and Restrictions, as the same may be hereafter amended in accordance with the terms hereof.

(u) “Development Period” shall mean the period of time from the date of recording of this Declaration through and including 11:59 P.M. on the last of the following dates to occur.

- (i) the last day on which Declarant owns any portion of the Property; or
- (ii) the last day on which Declarant has the unilateral right to subject Additional Property to this Declaration pursuant to Article II; or
- (iii) 5:00 P.M. on December 31, 2040.

Notwithstanding the foregoing, if Declarant is delayed in the development of any part or all of the Property as a result of a sanitary sewer, water or building permit moratorium, or as the result of some other cause or event beyond Declarant’s control, then the foregoing applicable time period shall be extended by the amount of time of the delay. Provided, however, Declarant may terminate the Development Period at any time by recording a termination instrument in the Registry. Except in the case of voluntary termination by the Declarant, the Development Period also shall include any periods of time after the applicable termination event during which Declarant is conducting any activity within the Property that is required by Legal Requirements or for Declarant to fulfill any obligation to a Governmental Entity, the Association, or any Owner with respect to any portion of the Property. In the event of an assignment of Declarant rights, with respect to the rights assigned the Development Period shall remain in full force and effect through the applicable periods of time as they relate to the assignee rather than the original Declarant hereunder. Declarant has the sole authority to resolve any issues or disputes regarding the date on which the Development Period ends.

(v) “Development Plan” shall mean the most current land use or development plan approved by the applicable Governmental Entity for the Property or any part thereof, whether the approval is preliminary or final, and regardless of any name other than Development Plan under which it is approved by the Governmental Entity (for example, site plan, subdivision plan, cluster unit development plan, or master plan for a planned unit development). Declarant reserves the right, in its sole discretion but subject to Legal Requirements, to modify any Development Plan in whole or in part, including the addition or deletion of real property and including the reconfiguration of Lots and Common Area. The fact that real property is included on the Development Plan does not obligate Declarant to subject it to the Declaration, nor shall Declarant be prohibited from subjecting to the Declaration any property that is not included on the Development Plan.

(w) “Dwelling” is defined as any building or portion thereof within the Property which is used or occupied, or intended for use or occupancy, as a residence by an individual or by one housekeeping unit, whether by the Owner thereof or by tenants or sub-tenants of the Owner.

(x) “Exempt Property” means all portions of the Property included within any of the following categories:

- (i) Common Area (provided, however, a Lot on which Common Area is located -- for example, a Lot on which there is an easement constituting Common Area -- is not exempt from assessments); and
- (ii) property owned by, or dedicated to and accepted by, the Town or County, or a utility, including property within the right-of-way of publicly-dedicated streets and

roads, unless such property is a Lot that has a Dwelling thereon (and provided, that a Lot is not exempt from assessments because it has an easement located on it that has been dedicated to the Town or County or a public utility/authority).

Exempt Property shall not be subject to the assessments provided for herein, and the Owner of such Exempt Property shall have no membership or voting rights in the Association associated with the ownership of such Exempt Property. Furthermore, unless and until such time, if any, as it loses its Exempt status, except as otherwise provided herein all Exempt Property owned by or subject to an easement in favor of the Town or a utility provider, and all Exempt Property within publicly-dedicated street rights-of-way, is exempt from all of the provisions of the Declaration, except for the provisions of the Declaration with respect to any easements over such Exempt Property reserved in the Declaration by or for the Declarant, the Association, the Town or any other Person, and except for provisions of the Declaration requiring Approved Plans for Dwellings and associated Improvements.

Exempt Property that loses its status as Exempt Property (e g , property within a publicly dedicated street right of-way that has been closed as a public street, property formerly owned by/dedicated to the Town which has been conveyed to a Person whose status does not qualify for the exemption) shall be reclassified to another type of property under this Declaration, as appropriate, and shall be subject to all of the terms and provisions of the Declaration in the same manner and to the same extent as other portions of the Property having the same classification. All issues with respect to reclassification of Exempt Property shall be resolved by the Declarant, during the Development Period, and thereafter by the Board.

(y) “Fiscal Year” shall mean the calendar year until such time as the Board, by appropriate resolution, establishes a different Fiscal Year for the Association.

(z) “First Mortgage” shall mean a deed or other document by means of which title to any Lot is conveyed or encumbered to secure a debt of first priority.

(aa) “Governing Documents” shall mean and include all of the following: this Declaration; the Articles and Bylaws of the Association; architectural guidelines and bulletins and rules and regulations of the Association; resolutions adopted by the Board; conditions of approval for development of any part or all of the property required by any Governmental Entity; Annexation Declarations; Supplemental Declarations; other declarations of restrictive or protective covenants applicable to the Property; all as the same may be amended, restated or supplemented from time to time. Any approvals granted by the Declarant under the Governing Documents shall be binding upon all successors to Declarant’s approval authority.

(bb) “Governmental Authority” or “Governmental Entity” shall mean and include any and all of the following that are applicable to the particular matter or matters addressed in the Governing Documents: the Town; the County, 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 Property or any part thereof, including all applicable departments and agencies of any of them.

(cc) “Improved Lot” shall mean a Lot (i) upon which there is located a Dwelling for which a certificate of occupancy has been issued by the applicable governmental authority, and (ii) which is owned by Person who is not the Declarant or a Builder.

(dd) “Improvement” shall mean any improvement of or on any Lot or other applicable portion of the Property, including any or all of the following: Dwellings and other buildings and structures (specifically including exterior materials, colors, size, location and architectural style); Decks, patios, stoops, porches, driveways, retaining walls, shade structures, parks, dog parks, playhouse, play equipment,

tot lots, walking trails, motor vehicle and other parking areas; exterior recreational areas, equipment and facilities; mail kiosks; exterior antennae, dishes and other apparatus to receive or transmit radio, television, or microwave or other signals; fences; exterior walls; hedges; other landscaping (including planted areas, grassed areas, natural areas and the plant and other materials therein); poles; flags; exterior decorative features and items; ponds; lakes; staking, clearing, grading, filling, change in grade or slope, and other site preparation; swimming pools; coverings for windows and other glass portions of a Dwelling or other building or structure (including blinds, curtains and/or shutters, if applicable) that are visible from anywhere off of the Lot or other applicable portion of the Property; exterior lights and signs; lights and signs inside a Dwelling or other building or structure from anywhere off of the Lot or Common Area parcel (if applicable); and all other items used or maintained on a Lot or Common Area parcel (if applicable) outside of a Dwelling or building or other structure located thereon or on the exterior surfaces of a Dwelling or other building or structure on the Lot or Common Area parcel (if applicable). The definition of Improvements stated for the purposes of this definition includes both initial improvements and all subsequent alterations, changes and additions to same. The term “initial improvements” is defined as all of the improvements constructed or placed or located on a Lot or Common Area parcel (if applicable), or approved for construction, placement, or location on a Lot or Common Area parcel (if applicable), in accordance with either Approved Plans or Architectural Guidelines existing at the time of issuance of a certificate of occupancy for the Dwelling or other improvements on such Lot or Common Area parcel (if applicable). The examples of improvements stated for the purposes of this definition are not inclusive of all types of improvements and do not imply that all improvements listed as examples will be allowed in the Property, and all Improvements are subject to the architectural approval provisions of the Declaration. For the purposes of this definition, the word “exterior” means located on a Lot or Common Area parcel (if applicable) outside of the Dwelling or other building or structure thereon, as well as attached to the outside of (such as on a wall or roof) a Dwelling, building, or other structure on a Lot or Common Area parcel (if applicable).

(ee) “Legal Requirement” shall mean and include any duly adopted and applicable law, ordinance, regulation or requirement, including any agreement entered into for compliance with the same, and including the Act, the Nonprofit Corporation Act, and the Code, of any Governmental Entity or quasi-governmental entity or agency having jurisdiction over the Property or any portion thereof, including any branch, department, division, section, branch, agency, or other subdivision of any of the foregoing Governmental Authorities or quasi-governmental authorities or agencies. Legal Requirements apply to the exercise of all rights or the taking of all actions under this Declaration by Declarant, the Association, or any other Person, whether or not this Declaration states that a specific right or action is subject to Legal Requirements or must be exercised or taken in accordance with Legal Requirements.

(ff) “Limited Common Area” shall mean, singularly or collectively, as applicable, all real and personal property, including easements, private streets and private alleys, which the Association owns, leases, or otherwise holds possessory or use rights in for the exclusive or primary and common use and enjoyment of one or more, but less than all, Lots in the Property, and which are designated as such by the Declarant herein, or by Declarant during the Development Period (even if originally designated as Common Area), or by the Association at any time during the Development Period, and/or including portions of the Property shown as Limited Common Area on any Plats of the Property.

(gg) “Lot” (or “Unit”) shall mean each portion of the Property shown on any of the Plats which may be independently owned and conveyed and which is intended for development, use, and occupancy, or actually is used or occupied, as a detached residence for a single family.

(hh) “Maintain”, “maintenance”, “maintaining”, or any similar term used herein shall mean and include any one or more of the following, as the context requires or allows: acquisition, purchase, construction, re-construction, installation, maintenance, inspection, examination, upkeep,

cleaning, renewal, alteration, repair, replacement, repainting, remodeling, restoration, removal, improvement, administration, operation, use, planting, mowing, cutting, trimming, pruning, fertilizing, watering and preservation.

(ii) “Member” shall mean a Person subject to membership in the Association pursuant to Article V hereof.

(jj) “Mortgagee” shall mean the beneficiary or payee under any mortgage or deed of trust, and the term mortgage and deed of trust are deemed to refer to both mortgages and deeds of trust.

(kk) “Notice and Opportunity for Hearing” or “notice and opportunity for hearing” means giving at least fifteen (15) days’ prior notice of a proposed action and the reasons therefor, and an opportunity to be heard by the Board or such other body or group as may be required by the Act, orally or in writing, not less than five (5) days before the effective date of the proposed action.

(ll) “Owner” shall mean any Person who is a record owner by purchase, transfer, assignment or foreclosure of a fee or undivided fee interest in a Lot; provided, however, that any Person who holds such interest merely as security for the performance of an obligation or as a tenant shall not be an Owner.

(mm) “Person” shall mean a natural person, corporation, trust, limited liability company, partnership or any other legal entity.

(nn) “Plans” shall mean the complete plans and specifications for a proposed Improvement showing (where applicable) the size, shape, dimensions, materials, exterior finishes and colors, location on the applicable portion of the Property, driveway, parking areas, provisions for handling stormwater, landscaping, floor plans and elevations, and other items, all as specified from time to time in any applicable Architectural Guidelines or required by the Reviewer. “Approved Plans” shall mean Plans that have been approved by the Reviewer.

(oo) “Plats” shall mean all plats for any portion of the Property recorded in the Registry, including any amendments to such Plats recorded in the Registry.

(pp) “Property” or “Properties” shall mean all real property subject to this Declaration, including any Additional Property, as applicable. The Property initially subject to this Declaration is described on Exhibit A-1.

(qq) “Recreational Amenities” or “Recreational Amenity” shall mean, singularly or collectively, as applicable, all Common Areas, equipment and facilities, Improvements, IF ANY, which Declarant owns (prior to turnover to the Association) or which is leased or possessed or owned by the Association, for the use and benefit of the Members for recreational purposes, whether active or passive recreation, or, if part of Limited Common Area, then solely for the use and benefit of the Members (and their guests, tenants and invitees) benefited by the Limited Common Area.

(rr) “Registry” shall mean the office of the Office of the Register of Deeds for Wake County and the Office of the Register of Deeds for Harnett County, North Carolina.

(ss) “Reviewer” shall mean the Declarant, Board, Architectural Control Committee, or other Person who has the authority to review and approve Plans under the architectural control provisions of this Declaration.

(tt) “Rules and Regulations” is defined as rules, regulations, requirements, prohibitions, and/or conditions with respect to any one or more of the following that are adopted by the Declarant or the Association and are in effect from time: (i) use of the Property or any part thereof, including the Common Elements, or (ii) the conduct of Persons while in or on the Property or any part thereof, including the Common Area, or (iii) implementation and enforcement of the Governing Documents, or (iv) any other matters that the Declarant or Board, as applicable, determines to adopt as part of the Association’s Rules and Regulations.

The Board may adopt, amend, modify, and enforce Rules and Regulations for the use and operation of the Common Area (including the Limited Common Area) and/or for the implementation and enforcement of the Governing Documents without having to comply with the procedures specified herein for adoption, amending, modifying, and enforcing other Rules and Regulations. Such Rules and Regulations with respect to use and operation of the Common Area and/or implementation and enforcement of the Governing Documents also may be referred to herein as “Board Policies”.

(uu) “Special Declarant Rights” or “Declarant Rights” is defined as all rights granted to, or reserved by, or established for the benefit of, Declarant, in the Act or in this Declaration or in other Governing Documents, whether or not such rights are referred to as Special Declarant Rights or Declarant Rights in the Act, this Declaration, or other Governing Documents. Declarant may assign Special Declarant Rights, in whole or in part, temporarily or permanently, subject to such terms and conditions as Declarant specifies in the assignment document. Unless this Declaration or other Governing Documents specify that Special Declarant Rights may be exercised by any Person other than the Declarant or that they become rights exercisable in whole or in part by the Association at any time, or as otherwise provided in Legal Requirements, any assignment of Special Declarant Rights must be in writing and recorded in the Registry, executed by the assignee, and the assignment becomes effective only upon the recording of the document in the Registry or any later date specified therein. Special Declarant Rights shall be construed broadly so as to allow Declarant the greatest flexibility in development and sale of the Property.

(vv) “State” shall mean the State of North Carolina.

(ww) “Stormwater Agreement” is defined as any agreement (including without limitation any applicable Operation and Maintenance Agreement) recorded in the Registry among the Declarant, the Association, and a Governmental Entity, or between the Declarant and a Governmental Entity, or between the Association and a Governmental Entity, if any, relating to Stormwater Control Measures for the Property or any part thereof, and includes all amendments and supplements to such agreements.

(xx) “Stormwater Control Measures” or “Stormwater Control Facilities”, such terms being used interchangeably herein and in the Stormwater Agreement, is defined as one or more of the following devices and measures, together with associated private stormwater drainage easements (however identified on a plat or in a document) that serves any part or all of the Property: conduits, inlets, channels, pipes, level spreaders, ditches, grassed swales, sand filters, wetponds, dry detention basins, wetlands, permanently protected undisturbed open space areas, bioretention areas, retention or detention ponds, and other devices, facilities, appurtenances and measures, necessary to collect, convey, store, and control stormwater runoff and pollutants for more than one (1) Lot in the Property, and which are located outside public street rights-of-way and public drainage easements. Private stormwater drainage easements that serve more than one (1) Lot in the Property, however identified on a Plat or in a document recorded in the Registry, are deemed to be dedicated to the Association for the benefit of the Property or applicable portion thereof. All Stormwater Control Measures owned by or dedicated to the Association are Common Area or Limited Common Area, as applicable.

(yy) “Subdivision Plan” shall mean the most current land use or development plan or plans approved by the Town or by the County for the Property (it being recognized that there may be two or more development plans approved by the Town or by the County that together constitute the Subdivision Plan under this definition), whether the approval is preliminary or final, and regardless of any name other than Subdivision Plan under which it approved by the Town or by the County (for example, site plan, cluster unit development plan, or master plan for a planned unit development), all as the same may be revised at any time or from time to time; it being express that the Property need not be developed in accordance with any one version of the Subdivision Plan. Declarant reserves the right, in its sole discretion but subject to Legal Requirements, to modify any Subdivision Plan in whole or in part, including the addition or deletion of property and including the reconfiguration of Lots and Common Area. The fact that property is included on the Subdivision Plan does not obligate Declarant to subject it to the Declaration, nor shall Declarant be prohibited from subjecting to the Declaration any Additional Property that is not included on any Subdivision Plan.

(zz) “Supplemental Declaration” shall mean an instrument recorded in the Registry which designates and/or imposes restrictions and/or obligations on the land described in such instrument in addition to or different from (when this Declaration allows) those imposed by this Declaration. An “Annexation Declaration” would be a Supplemental Declaration, but not all Supplemental Declarations are necessarily Annexation Declarations.

(aaa) “Town” shall mean the Town of Angier, North Carolina.

ARTICLE II PROPERTY SUBMITTED TO THIS DECLARATION; ANNEXATION; WITHDRAWAL

Section 1. Property Hereby Subjected to this Declaration. The Declarant, for itself and its respective successors and assigns, hereby submits the real property described on Exhibit A-1 to this Declaration, and such real property constitutes the “Property” initially subjected to this Declaration. The Property shall hereafter be held, transferred, sold, conveyed, used, leased, occupied, mortgaged or otherwise encumbered subject to all of the terms, provisions, liens, charges, easements, covenants and restrictions set forth in this Declaration, including, but not limited to, the lien provisions set forth herein. All of the terms, provisions, liens, charges, easements, covenants and restrictions set forth in this Declaration as applicable to the Lots shall be a permanent charge thereon and shall run with the Lots.

Section 2. Annexation of Additional Property. The Declarant may, at any time and from time to time during the Development Period, in its sole discretion annex all or part of the Additional Property to the terms, provisions, liens, charges, easements, covenants and restrictions of this Declaration by executing and recording in the Registry an Annexation Declaration describing the portion of the Additional Property being annexed. Declarant further has the right to convey to the Association additional Common Areas contained within such Additional Property, the maintenance of which may increase the Annual Assessment as provided elsewhere herein and may increase the amount of Annual Assessment which shall be levied against each Lot.

From and after such recording, the annexed Additional Property shall be part of the Property and shall be held, transferred, sold, conveyed, used, leased, occupied, mortgaged or otherwise encumbered subject to all of the terms, provisions, liens, charges, easements, covenants and restrictions of this Declaration, including, without limitation, all lien and assessment provisions set forth in this Declaration, and all of the terms, provisions, liens, charges, easements, covenants and restrictions set forth in this Declaration shall be a permanent charge on, and shall run with, such Additional Property.

No approval, consent or joinder from any Member of the Association, or from any other party whatsoever, shall be required for the Declarant to subject Additional Property to this Declaration.

Section 3. Withdrawal of Property. The Declarant may, in its sole discretion at any time and from time to time during the Development Period, withdraw any portion of the Property from the coverage of this Declaration, regardless of the fact that such actions may affect the relative voting strength of any Member or class of membership in the Association or increase or reduce the number of Owners subject to assessment under this Declaration, by recording an amendment to this Declaration describing the portion of the Property being withdrawn; provided, however, if the property is part of the Common Areas and is owned or leased by the Association, the written consent of the Association shall be required to effect such withdrawal. From and after such recording, the withdrawn portion of the Property no longer shall be part of the Property and may be held, transferred, sold, conveyed, used, given, leased, occupied, mortgaged or otherwise encumbered free and clear of any and all of the terms, provisions, liens, charges, easements, covenants and restrictions of this Declaration, including, without limitation, all lien and assessment provisions set forth in this Declaration.

Section 4. Order of Development and Annexation. Declarant contemplates that it may develop any portion of the Property it owns in accordance with a Development Plan, as modified from time to time; provided, however, but subject to Legal Requirements that provide otherwise, no Development Plan shall obligate the Declarant to develop any particular portion of the Property now or in the future, whether for the purposes shown thereon or for any other purpose, the Declarant shall not be required to follow any particular sequence or order of development of the Property, and the Declarant may annex or consent to annex Additional Property to the Declaration, and/or withdraw portions of the Property from the Declaration, before completing development of all of the Property previously subjected to the Declaration.

Section 5. All Lots Bear the Burdens and Enjoy the Benefits of this Declaration. Every Owner, by taking record title to a Lot, agrees to accept title to such Lot, and to be bound by, all of the terms and provisions of this Declaration. Each Lot is subject to all burdens, and enjoys all benefits, made applicable hereunder.

ARTICLE III ASSOCIATION PROPERTY

Section 1. Common Areas. The Declarant shall have the right to transfer and convey to the Association any portion of the Property, and the Association shall accept all such transfers and conveyances from the Declarant. All portions of the Property which the Declarant shall so transfer or convey to the Association shall thereafter constitute Common Areas or Limited Common Areas, as the case may be. Said right may be exercised by the Declarant any time, and from time to time, prior to the end of the Development Period.

Common Areas shall be conveyed to the Association by special warranty deed free of debt encumbrance, and subject to this Declaration and all applicable rights of way and easements, including the rights and easements set forth in this Article and shown on Plats, irrespective of whether the deed of conveyance shall make a specific reference to such rights and easements. Upon Declarant's written request at any time during the Development Period, the Association shall reconvey to Declarant any unimproved portions of the Common Area which Declarant originally conveyed to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines or as part of the Development Plan.

Notwithstanding any other terms and provisions herein, Declarant and its assigns and/or social invitees shall have the right to use all Common Areas (including without limitation, Recreational Amenities) for all purposes for which they are intended.

Section 2. Member's Rights in Common Area. Except in the case of Common Areas designated as Limited Common Areas, each Owner shall have a non-exclusive right and easement of enjoyment and use in and to the Common Areas and such right and easement shall be appurtenant to, and shall pass with, the title to the Lot owned by such Owner. Where Common Areas are or become designated as Limited Common Areas, then except as otherwise provided herein, the Owners of Lots benefited by said Limited Common Areas shall have the exclusive right and easement of enjoyment and use in and to said Limited Common Areas. The right and easement of enjoyment and use of the Common Areas and Limited Common Areas are and shall be subject to the easements which are described in this Article and to the following:

- (a) The Governing Documents and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The Board's right to:
 - (i) adopt rules regulating use and enjoyment of the Common Area, including Recreational Amenities, and including rules limiting the number of guests who may use the Common Area;
 - (ii) suspend an Owner's right to use recreational facilities within the Common Area (i) for any period during which any charge against such Owner's Unit remains delinquent; and (ii) for a period not to exceed thirty (30) days for a single violation, or for a longer period in the case of any continuing violation, of the Governing Documents after notice and a hearing as required by the Governing Documents or the Act. Provided, however, and notwithstanding anything to the contrary appearing in any Governing Documents, (i) if ingress and egress from a public street to and from any Lot is over any part of the Common Area as shown on any Plat or described in any instrument recorded in the Registry, or (ii) Stormwater Control Facilities, stormwater drainage, sanitary sewer, water or other utility services are provided to a Lot over or through an easement located on the Common Area as shown on any Plat or described in any instrument recorded in the Registry, any conveyance or encumbrance of the affected portion of the Common Area shall be subject to those easements for ingress and egress and/or utilities, and no suspension of the rights of the Owner of said Lot in and to the use and enjoyment of the Common Area as allowed herein shall include suspension of any such rights of such Owner to ingress and egress or utilities;
 - (iii) dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in the Governing Documents and/or the Act;
 - (iv) impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any Recreational Amenity situated upon the Common Area;
 - (v) permit use of any Recreational Amenity by persons other than Owners, their families, lessees, and guests upon payment of use fees established by the Board and designate

other areas and facilities within the Common Area as open for the use and enjoyment of the public; and

(vi) mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to such approval requirements as may be set forth in the Governing Documents and/or the Act.

(d) The rights of certain Owners to the exclusive or primary use of those portions of the Common Area designated "Limited Common Areas" as described herein.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable Board regulation. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit for the period of the lease.

Section 3. No Partition. The Common Areas shall remain undivided and no Owner shall bring any action for partition or division of the whole or any part thereof without the written consent of all Owners of all portions of the Property and without the written consent of all holders of all mortgages encumbering any portion of the Property.

Section 4. Condemnation. For the purposes of this Section, "condemnation" or "taking" or "taken" means an acquisition of all or any part of the affected portion of the Property or of any interest therein or right accruing thereto as a result of, in lieu of, or in anticipation of, the exercise of the right of condemnation or eminent domain, or any other action by a Governmental Authority or other Person having the power of eminent domain that affects the value of the applicable portion of the Property or any part thereof so severely as to amount to a taking. In the event that any part of the Common Areas shall be taken by any authority having the power of condemnation or eminent domain or conveyed in lieu of, and under threat of, condemnation by the Board acting on the written direction of at least eighty percent (80%) of the total Class A votes, and, during the Development Period, the written consent of Declarant, the Association shall restore or replace the Improvements on the remaining land included in the Common Areas to the extent available unless, within sixty (60) days after such taking at least eighty percent (80%) of the total Class A votes, and Declarant (if during the Development Period) otherwise agree. The provisions of subsection 6 of this Article III below regarding funds for the repair of damage or destruction shall apply. If the taking or conveyance does not involve any Improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds may be used by the Association for such purposes as the Board shall determine.

Section 5. Insurance on Common Areas. The Association shall maintain and keep in good repair the Common Areas. Additionally, the Association shall obtain the insurance coverage necessary to satisfy the requirements of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the U.S. Department of Veterans Affairs, and the U S Department of Housing and Urban Development, as applicable to the Common Areas. The Board shall obtain casualty insurance for all insurable Improvements located on the Common Areas, which the Association is obligated to maintain. This insurance shall provide, at a minimum, fire and extended coverage and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction of any insurable Improvement in the event of damage or destruction from any such hazard. The Board of Directors shall obtain a public liability policy with a combined single limit of at least Two Million and No/100 Dollars (\$2,000,000.00) applicable to the Common Areas covering the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents, and, if reasonably available, directors' and officers' liability insurance. Policies may contain a reasonable deductible as determined by

the Board of Directors. In addition, the Board of Directors shall obtain worker's compensation insurance, if and to the extent necessary to satisfy the requirements of applicable laws, and a fidelity bond or bonds on all persons handling or responsible for the Association's funds, if reasonably available. If obtained, the amount of fidelity coverage shall at least equal three months' total assessments plus reserves on hand. Fidelity coverage shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation. All such insurance coverage shall be written in the name of the Association. An insurer that has issued an insurance policy under this Section 5 shall issue certificates or a memorandum of insurance to the Association and, upon request, to any Owner, Mortgagee or beneficiary under a deed of trust. Any insurance obtained pursuant to this Section 5 may not be cancelled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association, each Owner and each Mortgagee or beneficiary under deed of trust to whom certificates of insurance have been issued.

Section 6. Damage or Destruction. In the event that any Improvements located on any Common Areas shall be damaged or destroyed on account of the occurrence of any casualty, the Board shall proceed with the filing and settlement of all claims arising under any policy of insurance maintained by the Association with respect to such Improvements and shall obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Improvements.

Any such damage or destruction shall be repaired or reconstructed unless it shall be decided, within ninety (90) days after the occurrence of casualty, by at least eighty percent (80%) of the total Class A votes (including one hundred percent (100%) of those to whom any Limited Common Area is allocated), and by Declarant during the Development Period, not to so repair or reconstruct such damage. In the event that it shall be so decided not to repair or reconstruct some damage or destruction, the proceeds of any insurance as may become payable to the Association as a result of such damage or destruction shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Lot. If the insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Class A and Members, levy Special Assessments to cover the shortfall.

Section 7. Actions Requiring Owner Approval. If the U.S. Department of Housing and Urban Development is insuring the Mortgage on any Lot or the U.S. Department of Veterans Affairs is guaranteeing the Mortgage on any Lot, then any conveyance or mortgaging of the Common Areas by the Association shall require the consent of at least sixty-seven percent (67%) of the total Class A votes held by Members other than the Declarant and, during the Development Period, the consent of Declarant. Notwithstanding anything to the contrary in this section, however, the Association, acting through the Board, may grant easements over the Common Areas for installation and maintenance of utilities and drainage facilities and for other purposes not inconsistent with the intended use of the Common Area, without the approval of the membership.

Section 8. Limited Common Area.

(a) Any Limited Common Area, if any, shall be designated as such in the deed conveying such area to the Association, or on the Plat relating to such Limited Common Area, or by the recording by Declarant of another document containing the designation; provided, however, any such designation shall not preclude Declarant, at any time during the Development Period but only with the written consent of any Builder who owns any Lot or has the right to purchase any Lot from Declarant, from assigning or reassigning use of the same Limited Common Area to additional Lots.

Following the end of the Development Period, and only with the written consent of any Builder, if any Builder still owns or has the right to purchase any Lot from Declarant, portions of the Common Area may be designated as Limited Common Area and Limited Common Area may be reassigned upon

approval of the Board and the vote of Voting Members representing a majority of the total Class A votes in the Association.

(b) Upon approval of a majority of Owners of Lots to which any Limited Common Area is assigned, including the written approval of any Builder who owns any Lot or has the right to purchase any Lot from Declarant, the Association may permit Owners of Lots, and/or may permit other Persons who are not Owners, to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the Common Expenses attributable to such Limited Common Area.

Section 9. Stormwater Management. Except for maintenance responsibilities (i) placed on Owners by the Declaration and/or Legal Requirements, or (ii) assumed or undertaken by other Persons (for example, the Town), the Association shall maintain the Stormwater Control Measures as part of the Common Expenses. As used in the immediately preceding sentence, the word “maintain” includes provision for maintenance of, which may include financial contributions toward maintenance of Stormwater Control Measures located on and/or shared with other Property not subject to the Declaration. Provided, however, such maintenance obligations shall cease and terminate, or be reduced proportionally, temporarily or permanently as applicable, at such time as the Town or State, through a department of public works or some other agency or division, accepts responsibility to maintain, in whole or in part, the Stormwater Control Measures for the Property, or some other Person is providing the necessary maintenance therefor (for example, pursuant to an agreement which requires monetary payments by the Association to the Person who is performing the maintenance). Following any such assumption of maintenance by the Town, State or other Person, the Association may, without obligation, continue to provide maintenance to the extent that the Town, State or other Person fails to provide adequate maintenance in the opinion of the Board, or to the extent required by any Legal Requirements, and shall continue to provide maintenance for those portions of the Stormwater Control Measures with respect to which the Town, State or such other Person has not assumed maintenance responsibility, or following termination of the Town’s, State’s or such Person’s maintenance responsibility. The Owner of any Lot on, over or through which any Stormwater Control Measures or portion thereof is located shall be responsible for the following with respect thereto: (i) mowing of grass with reasonable frequency, where applicable, unless the Association assumes such responsibility; and (ii) removal of debris and other materials to the best of the Owner’s ability, where such debris or materials has impeded or threatens to impede the free flow of stormwater on, over or through the Stormwater Control Measures located on the Lot. Such Owner’s responsibility shall include notification of the Association of any defects in any fencing surrounding or within any such Stormwater Control Measures, any debris or other matter which the Owner reasonably believes is beyond the Owner’s ability to remove, and any excessive erosion within any such Stormwater Control Measures. The Owner of a Lot on which a Stormwater Control Measure is located shall not obstruct it or interfere with its normal and intended operation. Notwithstanding anything to the contrary herein, each Owner of a Lot, and not the Association, shall be responsible for maintenance of all stormwater drainage easements and stormwater management facilities located on and used exclusively in connection with such Owner’s Lot or the Improvements thereon, including guttering, and pipes and drains for transportation of stormwater from such Lot into any other Stormwater Control Measures. All issues as to whether a stormwater drainage easement or stormwater management facility is part of the Stormwater Control Measures for which the Association is responsible or whether it is the responsibility of an Owner shall be determined by the Declarant during the Development Period (unless Declarant assigns such right to the Board), and thereafter by the Board.

Declarant, during the Development Period, and thereafter, the Association, subject to any approval required by the Town or State may grant, relocate, abandon and/or release one or more stormwater drainage easements in the Property, subject to the following: (i) the grant of any such stormwater drainage easement also must be consented to in writing by the Owners of all portions of the Property on which such

stormwater drainage easement is located, unless the stormwater drainage easement is shown on a previously recorded plat of such portions of the Property, in which event the consent of the Owners is not required and the Declarant or the Association, as applicable, may grant the stormwater drainage easement by written instrument, and the required Owner consent shall not be unreasonably withheld, delayed or conditioned; (ii) no such relocation, abandonment or release shall materially adversely affect the portions of the Property on which the stormwater drainage easement then is located or the portions of the Property served thereby, or if it does have such material adverse effect it is consented to in writing by the Owners of all portion of the Property on which such stormwater drainage easement is located and which are served thereby, and the required Owner consent shall not be unreasonably withheld, delayed or conditioned; and (iii) no such grant, relocation, abandonment or release shall materially adversely affect the Stormwater Control Measures for the Property. The provisions of this paragraph also are applicable to any access easement over any portion of the Property that provides pedestrian or vehicular access from a public sheet right of way or other public easement or facility to and from any Stormwater Control Measures.

With respect to its obligations under this Section, the Association shall pay, post, provide for or comply with all bonds and other financial obligations under Legal Requirements, Stormwater Agreements, and/or other agreements related to Stormwater Control Measures that are executed by the Association (or, during the Development Period, by the Declarant on behalf of the Association or for later assignment to the Association), and the Association (and, during the Development Period, the Declarant on behalf of the Association) may enter into Stormwater Agreements and/or other agreements and amend, add to, or supplement existing Stormwater Agreements and other agreements (and when Stormwater Agreements or other agreements are referred to in this Section, the reference includes amendments, additions, and supplements thereto), with the Town, State another association that exists for purposes similar to those of the Association, or any other Person with respect to inspecting, monitoring, measuring, testing, collecting, controlling, transporting, conveying, handling, storing, discharging, operating and managing any part or all of the stormwater on, to, or from the Property and/or any or all of the Stormwater Control Measures for the Property, whether such Stormwater Control Measures are located within or outside of the Property. Such Stormwater Agreements and other agreements shall be binding on all Owners (or, with respect to Limited Common Area, all Owners to whose portion of the Property such Limited Common Area is assigned), and may require payments from the Association or the Owners whose Lots are served by the applicable Stormwater Control Measures for the services provided by the Town, State or such other Person in inspecting, monitoring, measuring, testing, collecting, controlling, transporting, conveying, handling, storing, discharging, operating or managing any part or all of such stormwater and/or Stormwater Control Measures, and such Stormwater Agreements and other agreements may include all other terms and obligations required by Legal Requirements. In connection with the foregoing purposes expressed in this paragraph, the Association (and, during the Development Period, the Declarant on behalf of the Association) may grant rights over, in, under, upon and through any and all stormwater drainage easements in the Property, and may grant rights over, in, under, upon and through all easements in the Property that provide pedestrian and/or vehicular access from a publicly dedicated street right of way to and from stormwater drainage easements and/or Stormwater Control Measures. Provided, however, during the Development Period no such Stormwater Agreement or other agreement shall be valid unless the same shall have been consented to in writing by the Declarant.

In recognition of the fact that different Stormwater Control Measures may be necessary or desirable for different portions of the Property (for example, because of the topography of the different phases of the Property, as different portions of the Property are developed it may be desirable for a portion of the Property to have Stormwater Control Measures separate from and/or in addition to, other Stormwater Control Measures in or serving other portions of the Property and it may be desirable for other portions of the Property to utilize Stormwater Control Measures located outside of the Property), and in further recognition of the desire of the Declarant for the provisions of the Declaration to be as flexible as reasonably necessary in order to maximize the benefit to the Property of having or using one or more

Stormwater Control Measures in accordance with sound engineering practices and approvals by the Town, The County or State, in fulfilling its obligations under the Declaration the Association (or, during the Development Period, the Declarant on behalf of the Association or for later assignment to the Association) may enter into different Stormwater Agreements and other agreements for different portions of the Property, and/or may amend, add to, or supplement existing Stormwater Agreements (including the County or Town Stormwater Agreement if any), subject to all of the other terms of the Declaration. It further is recognized and contemplated by the Declaration that if such multiple Stormwater Control Measures and/or Stormwater Agreements or other agreements are determined to be necessary or desirable: (i) the costs of maintaining such Stormwater Control Measures and/or funding such Stormwater Agreements or other agreements may be different for different portions of the Property and annual assessments and/or stormwater assessments (as defined herein) may be different for Lots in different portions of the Property (for example, there may be different portions of the Subdivision that have different Stormwater Control Measures or different portions of the Subdivision that share some of the same Stormwater Control Measures but also have one or more separate Stormwater Control Measures); and (ii) some Stormwater Control Measures may be classified as Limited Common Area (and during the Development Period Declarant has the right to designate Stormwater Control Measures as Limited Common Area, including existing and new Stormwater Control Measures in the Property as well as existing and new Stormwater Control Measures associated with Additional Property).

Declarant hereby informs all Owners and other Persons who may from time to time deal with or come in contact with the Property, that as stormwater drains from the Property or other Property into any of the Stormwater Control Measures for the Property, it is possible that substances or materials that may be classified or regulated as “hazardous substances” or “toxic substances” or other regulated substances or materials under Legal Requirements relating to the environment, may flow through and/or accumulate in such Stormwater Control Measures. Accordingly, each Owner and other Person assumes the risk that such flowing through and/or accumulation may occur. In addition, each Owner further acknowledges that if it becomes necessary (as determined by Legal Requirements or by the Board) for such substances to be removed from the Stormwater Control Measures or otherwise handled in accordance with Legal Requirements, and for such Stormwater Control Measures to be cleaned-up following such removal or other handling, that the costs associated with such removal, handling and/or clean-up are Common Expenses, and that an additional assessment may be required to pay for such removal and/or resultant clean-up of the Stormwater Control Measures.

Declarant may assign to the Association, and the Association shall accept from Declarant the assignment of, all obligations of the Declarant under: Stormwater Agreements (including the Town or County Stormwater Agreement if any) and other agreements entered into by the Declarant with respect to Stormwater Control Measures for the Subdivision, provided the Declarant has performed, or made adequate provision for the performance of all obligations, if any, specifically required of the Declarant under the Stormwater Agreement or other agreement being assigned to the Association. The provisions of this Section shall be construed liberally in order to allow the Declarant and the Association, on behalf of the Subdivision and all Owners, the necessary flexibility to comply with all Legal Requirements with respect to stormwater, including the execution of Stormwater Agreements or other agreements with the Town, State or other Persons and the granting of easements to the Town, State or other Persons.

ARTICLE IV EASEMENTS AND PROPERTY RIGHTS IN THE COMMON AREAS

Section 1. Easements and Agreements Regarding Association Property. All Common Areas, including Limited Common Areas, shall be subject to, and Declarant and the Association do hereby reserve or grant, as applicable, the following easements:

(a) Use of Common Areas. An easement in favor of Declarant and any Builder for the exclusive use of such portions of the Common Areas, including, but not limited to any Recreational Amenities on the Common Area, as may be reasonably desirable, convenient or incidental to the construction and installation of Improvements on, and the marketing or sale of; any Lots, including, but not limited to, sales and business offices, storage areas, construction yards and signs. Such easements shall be exercisable by any and all Persons whom the Declarant or any Builder shall authorize to exercise the same, including, without limitation, real estate sales agents and brokers, and their subcontractors, of residences upon the Lots, irrespective of whether such persons are affiliated with the Declarant or any Builder. Such easements shall exist notwithstanding any provision of this Declaration which might be construed to the contrary, but shall terminate two (2) years after the later of the end of the Development Period or the date that all of the Lots are Improved Lots. Such easements shall and do exist without affecting the obligation of the Owner of any Lot to pay assessments or charges coming due during such period of time as portions of the Common Areas shall be used by authorized persons pursuant to the exercise of the easements herein stated.

(b) Declarant Activities. Notwithstanding any provision contained in this Declaration, the Bylaws or the Articles of Incorporation to the contrary, or any amendments thereto, until the expiration of the Development Period, Declarant expressly reserves for itself, and any Builder, and any Person authorized by Declarant or any Builder, in the sole discretion of the Declarant or Builder (as applicable) and without payment of any fee or charge or compensation to any Person for doing so, the right to do any and all of the following, which right also includes the right of vehicular and pedestrian access, ingress, egress and regress over any portion of the Property reasonably necessary for the exercise of the right to: (i) tie into any portion of the Property with driveways, parking, areas, and walkways; (ii) tie into and/or maintain any device which provides utility or similar service including, without limitation, electrical, telephone, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under, or over the Property; (iii) carry on sales, marketing, and promotional activities on the Property; (iv) construct and operate business offices, signs, construction trailers, and model residences; and (v) maintain and carry on, upon such portion of the Property as Declarant or any Builder (as applicable) may deem necessary, such facilities and activities as may reasonably be desired by the Declarant, Builder, and such authorized Persons. The rights of Declarant, Builder, and any Person approved by Declarant under this subsection shall further specifically include, without limitation, the right to keep entrances to the Property unlocked and open during the sales office hours.

Section 2. Easements Over All Lots. The Lots shall be subject to, and the Declarant does hereby grant, the following non-exclusive easements for the enjoyment and benefit of Declarant, the Association, any Builders, and any subcontractors or developers authorized by Declarant or Builder, the Members, the Owners, and the successors-in-title of each, which shall run perpetually except that to the extent they run in favor of Declarant (or its assigns) they shall run until expiration of the Development Period (unless otherwise expressly stated); provided, further (and for avoidance of doubt if not otherwise), if not otherwise reserved in the Declaration the right to undertake actions consistent with the purposes of the easements hereby granted/reserved is likewise hereby reserved:

(a) Easements Shown on Plats. Each portion of the Property shall be subject to all easements, borders, setbacks, buffers and other matters which are shown and depicted on the Plats as affecting and burdening such portion of the Property.

(b) Entrance Monuments. Any Lot on which an entrance monument, sign, or other Improvement (including landscaping, walls, fences) related to such entrance monument or sign is located, or on which there is an easement reserved for any such entrance monument, sign, or other Improvement, shall be subject to a perpetual easement in favor of the Association (and during the Development Period

the Declarant) for maintenance of such entrance monument or sign and related Improvements which are or will be located on said Lot. The Owners of these Lots shall not remove, camouflage, damage or otherwise alter in any way said entrance monuments or sign and related Improvements. These same Lots shall also be subject to a temporary easement for real estate sales signs which shall be exercisable by any and all persons who the Declarant shall authorize to exercise the same, including, without limitation, real estate sales agents and brokers and Builders of residences upon the Lots, irrespective of whether such persons are affiliated with the Declarant. Such temporary easement shall exist notwithstanding any provision of this Declaration which might be construed to the contrary, but shall terminate thirty (30) days after all Lots in the Community are Improved Lots.

(c) Entry. Each Lot shall be subject to an easement for the entry by the authorized agents and representatives of the Association to go upon such Lot under such circumstances and for such purposes as are described elsewhere in this Declaration.

(d) Encroachments. Reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, are hereby established between each Lot and any adjacent Common Area and between adjacent Lots due to the unintentional placement or settling or shifting of the Improvements constructed, reconstructed, or altered thereon (in accordance with the terms of this Declaration) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

(e) Maintenance. Each Lot shall be subject to a perpetual easement in favor of the Association and its contractors for the maintenance of the Lots as provided for in the Article entitled "General Maintenance" herein.

(f) Private Streets. The Property shall be subject to a perpetual easement in favor of the Association and all other Lot Owners for maintenance, management, repair, landscaping, and non-exclusive use and enjoyment of the private streets, private lanes, and private alleyways, if any and including such of the same as are merely private until accepted as public, which are located on the Property, as shown on the Plats, whether said streets and drives are located in the Common Areas or are located on Lots. This easement right includes the right of contractors engaged by the Association to enter upon the Lots from time to time as necessary in order to perform such repair and maintenance work. The Owners of the Lots shall not impair access to, or otherwise alter in any way, said street and drives. The Association shall also have the right, but not the obligation, to cut, remove and plant trees, shrubbery and flowers along said streets, drives and alleyways.

(g) Slope Control. Each Lot shall be subject to an easement in favor of the Declarant, the Association, Builders, and subcontractors, as well as any Governmental Entity for slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity that might interfere with slopes or which might create erosion or sliding problems or which might change, obstruct or retard drainage flow.

(h) Surface Water Drainage. Each Lot shall be subject to a perpetual easement in favor of the Association and all other Lots for the drainage of surface waters over and across such Lot.

(i) Utilities. Each Lot shall be subject to a perpetual easement in favor of the Declarant, the Association, Builders, and subcontractors, as well as any Governmental Entity or public

utility company who installs, provides, or maintains such services, for the erection, installation, construction and maintenance of wires, lines, conduits, attachments, and other facilities and equipment, both above and below ground, in connection with the transmission of electricity, gas, water, telephone, community antennae or satellite dish, television cables, systems for sending and receiving data and/or other electronic signals, security and similar systems, and other utilities. The easement rights to which the Lots shall be subject shall include the right of employees, agents or contractors engaged by the Declarant, or any Builder, the Association, the Town, or the applicable utility company, to enter upon said Lots from time to time as necessary in order to perform repair and maintenance work and to read utility meters. The Association shall be responsible for the maintenance and management of the private water and sewer facilities, if any, located on or under the Common Areas.

(j) Corrections. Without limitation, easements and related rights: i) to inspect, monitor, test, redesign, and correct any structure, Improvement, or condition (including any wall, swale or lack thereof) which may exist on any portion of the Property, including on Lots, and ii) a perpetual, nonexclusive easement of access throughout said Property, all as and to the extent reasonably necessary to exercise the rights described in this subsection (j) or otherwise in this Declaration. Except in an emergency, entry onto a Lot shall be only after reasonable notice to the Owner and no entry into a house shall be permitted without the consent of the Owner. The person exercising this easement shall promptly repair, at such person's own expense, any damage resulting from such exercise.

Section 3. Specific Easements. Declarant reserves for itself, during the Development Period, the non-exclusive right and power to grant and record such specific easements as may be necessary, in Declarant's sole discretion, in connection with the orderly development of any portion of the Property. The Association (with respect to Common Area) or the Owner of any Lot to be burdened by any easement granted pursuant to this subsection shall be given written notice in advance of the grant and if any such easement burdens any portion of the Property owned by a Builder, then such Builder's written consent shall be required to grant such easement. The location of the easement shall be subject to the written approval of the Association or other Owner of the burdened property, which approval shall not unreasonably be withheld, delayed, or conditioned.

Section 4. Minimal Interference. All work associated with the exercise of the easements described in this Article shall be performed in such a manner as to minimize interference with the use and enjoyment of the portions of the Property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the affected portions of the Property, to the extent reasonably possible, to the same or better condition in which it was in immediately prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into any Dwelling or other structure on any Lot or the Common Area, nor shall it unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

Section 5. Easements for Maintenance, Emergency, and Enforcement. Easements are hereby established for the Association over the Property as may be reasonably necessary to enable the Association to fulfill its maintenance responsibilities under the Declaration. The Association also shall have the right, but not the obligation, to enter upon any Lot for emergency, security, and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforce the Governing Documents. The Board and its duly authorized agents and assignees and all emergency personnel in the performance of their duties may exercise such right. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

Section 6. Project Easements; Maintenance. For avoidance of doubt if not otherwise, and without limiting any existing rights in the Declaration, and in addition thereto, Declarant, for itself, its successors and assigns, including but not limited to any developer of the Project and the Association, hereby reserves easements (and the right to later convey/reserve the same) over any portion of any Lot or otherwise within the designated as “Project Easement” or other similar designation (in any case, a “Project Easement”), on any currently or subsequently recorded plat, easement instrument, or other instrument (for example in an amendment or supplement to the Declaration), recorded by Declarant in the Registry during such time as Declarant owns any portion of the Community. Every Project Easement shall be for all of the following purposes: development, installation, construction, operation and maintenance of landscaping, berms, retaining walls, drainage and stormwater facilities, utilities, lighting and sprinkler systems, monuments, fencing, signage and other Improvements installed by or at the direction of Declarant in conjunction with development of the Community. No fences, structures, driveways, plantings, swing-sets or any other objects, temporary or permanent, shall be permitted on any Project Easement area other than those initially installed by Declarant or its designated successor, without Declarant’s prior written approval, or, after Declarant no longer owns any portion of the Community, then without the written approval of the Board. The Association shall at all times have the right of access for its employees, agents and subcontractors over Project Easement areas for the purpose of constructing, improving, repairing, replacing, landscaping, planting, mowing and otherwise maintaining the area and Improvements within such easements, and shall likewise have the right (but not the obligation to do so). In the event that the Board (in its sole discretion) opts to maintain or otherwise undertake activities within the Project Easement area (and consistent with the scope of said Project Easement), then any costs incurred by the Association in doing so shall be assessed against all Owners as part of the assessments under the Declaration and enforceable as the same. Notwithstanding any of the foregoing, the Owner of any Lot containing any portion of a Project Easement shall maintain all portions thereof that are not maintained or landscaped by the Declarant or the Association. The reservation of this easement imposes no obligation on Declarant, its successors and assigns, or the Association, to continue to maintain the planting, retaining walls, landscaping or other Improvements located within the described easements, except to the extent otherwise required herein.

ARTICLE V THE ASSOCIATION

Section 1. The Association. Declarant has caused or will cause the Association to be formed, and the Association does or will exist under its Articles of Incorporation and Bylaws. The Association is and shall be responsible for the maintenance of the Common Area including all Limited Common Area, the enforcement of the covenants and restrictions set forth in this Declaration, and the performance of such other duties and services as are required of the Association under the Governing Documents or as the Board of Directors shall deem to be in the best interests of the Members or applicable portion of Members of the Association. The Association shall have all rights and powers reasonably necessary to provide the services and perform the obligations and functions required of it by the Governing Documents.

Section 2. Membership. Each and every Owner of a Lot is a Member of the Association, with classes of membership as provided herein, and, by execution of the Declaration or by acceptance of a deed conveying to such Owner title to any Lot, each Owner consents to be a Member of the Association and to be subject to the terms of the Governing Documents. Membership shall be appurtenant to and may not be separated from ownership of the Lot. An Owner’s membership in the Association automatically terminates whenever such Person ceases to be an Owner, and Declarant shall be the Class B Member at all times that Declarant owns at least one (1) Lot (or any unsubdivided land that is part of the Property if Declarant owns no other Lots in the Property). Termination of membership shall not release or relieve any such Owner from any liability or obligation incurred under the Declaration during the period of such

Owner's membership in the Association, nor impair any rights or remedies which the Association or any other Owner has with respect to such former Owner.

Section 3. Classes of Membership Voting Rights. The Association initially shall have two (2) classes of voting membership: Class A and Class B.

(a) Class A. The Class A Members shall be all those Persons (including Builders if applicable) holding an interest required for membership in the Association, as specified in this Article, except for those Persons who are Class B Members. Until such time as the Class A Members shall be entitled to full voting privileges, as hereinafter specified, the Class A Membership shall be a non-voting membership except as to such matters and in such events as are hereinafter specified.

The Class A Members shall be entitled to full voting privileges as and where required by the Act, and otherwise on the earlier of the following dates to occur: (i) the date which the Declarant may so designate by notice in a writing delivered to the Association, or (ii) the end of the Development Period. Provided, however, prior to entitling Class A Members to full voting privileges, in any such notice delivered by Declarant to the Association, Declarant may entitle Class A Members to limited voting privileges, subject to such terms and conditions as Declarant, in its sole discretion, determines (provided, however if not sooner granted, the Class A Members shall have full voting privileges upon the expiration of the Development Period). Until the earlier of these dates occurs, the Class A Members shall be entitled to vote only on matters for which it is provided by law that approval of each and every class of membership of the Association is required. When entitled to vote, a Class A Member shall be entitled to cast one (1) vote for each Lot owned by said Class A Member, and where more than one Person owns a Lot, each shall be a Member but there shall only be a single vote allocated to their Lot and exercisable by the Members together; in no event will more than one (1) vote be cast per Lot.

(b) Class B. Declarant shall be the only Class B Member. Class B membership shall be a full voting membership and, during its existence, the Class B Members shall be entitled to vote on all matters and in all events. During all times that the Class B membership exists the Class B Member is the only Member eligible to vote on Association matters, unless a Legal Requirement requires that all Members have a right to vote. With respect to each Association matter on which all Members are eligible to vote, the Class B Member has ten (10) votes for each Lot owned by Declarant and ten (10) votes for each Lot owned by a Person other than Declarant. Any one or more times that the Class B membership terminates because Declarant owns no Lots, and Declarant later acquires ownership of one or more Lots, the Class B membership shall be reinstated until such time as Declarant again owns no Lots. With respect to any Additional Property annexed to this Declaration by Declarant, Declarant may provide for such additional Class B Member votes in the Association as Declarant determines, in its sole discretion, and such additional Class B Member votes in the Association shall be added to the other Class B Votes in the Association possessed by Declarant to determine the total number of Class B Member votes in the Association. Provided, however, if no specific Class B Member votes is provided by Declarant for Additional Property annexed to this Declaration, Declarant shall have ten (10) votes for each Lot owned by Declarant and ten (10) for each Lot owned by a Person other than Declarant. At such time as the Class A Members shall be entitled to full voting privileges, as provided in paragraph (a) hereof, the Class B membership shall automatically terminate and cease to exist, and the Class B Member shall be and become a Class A Member insofar as it may then hold any interest required for membership.

Section 4. Joint Ownership. When more than one Person is the Owner of any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one ballot be cast with respect to any Lot. The vote or votes for each such Lot must be cast as a unit, and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to

vote on the matter in question. If any Owner casts a ballot representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Lot. In the event more than one ballot is cast for a particular Lot, none of said votes shall be counted and said votes shall be deemed void.

Section 5. Suspension of Voting Rights. In the event any Owner is in arrears in the payment of any Assessments or other amounts due under any of the provisions of the Governing Documents for a period of thirty (30) days, said Owner's right to vote as a Member of the Association may be suspended for each infraction of the Governing Documents after Notice and Opportunity for Hearing, and if suspended after Notice and Opportunity for Hearing shall remain suspended until all payments, including accrued interest and attorneys' fees, are brought current.

Section 6. Fines. The Association, acting through its Board of Directors, shall have the right to adopt a schedule of fines for violation of any provision of the Governing Documents by any Owner or such Owner's licensees and invitees. No fine shall be imposed unless the Owner is provided Notice and Opportunity for Hearing. If it is decided after Notice and Opportunity for Hearing that a fine should be imposed, a fine not to exceed one hundred and 00/100 dollars (\$100.00) may be imposed for the violation without further hearing for each day more than five (5) days after the decision that the violation occurs. All fines shall constitute a lien on all Lots or Units owned by the Owner and shall be paid within thirty (30) days following imposition. Except as otherwise limited by the Act or other applicable law, failure to pay any fine shall subject the Owner to the same potential penalties and enforcement as failure to pay any assessments under Article VI of this Declaration.

Section 7. Limitation on Claims. No claim arising against Declarant or any officer, director, member, manager, employee or other representative of Declarant, including without limitation any claims arising from Declarant's exercise of any right arising from Declarant's Class B membership or arising from any action or inaction by any person in such person's capacity as an officer, director, member or manager of the Association, shall be asserted by the Association more than six (6) months following the later of termination of the Class B membership or the termination of such person's service as an officer or director of the Association. All claims that are not filed in a proper court within the foregoing time period shall be deemed forever waived and released. This section shall not be subject to amendment without the written approval of the Declarant.

Section 8. Association Acts Through Its Board of Directors. Whenever approval of, or action or inaction by, the Association is referred to or called for in this Declaration, such action, inaction or approval shall be by the Board of Directors of the Association, unless it is otherwise required by the Legal Requirements or otherwise specifically stated in this Declaration, the Articles of Incorporation or the Bylaws with respect to such action, inaction or approval that the Members of the Association must vote. No member of the Board of Directors of the Association or any officer of the Association (including, without limitation, any such individual who shall have been elected by a vote of the Class B Member) shall be personally liable to any Owner of any Lot for any mistake of judgment or for any other act or omission of any nature whatsoever while acting in the capacity of a member of the Board, officer of the Association, or member of a committee appointed by the Board, except for any acts or omissions found by a court of competent jurisdiction to constitute gross negligence or fraud. The foregoing shall not preclude such Person who also is the Owner of a Lot from being liable for matters in the same manner and to the same extent as Owners of other Lots with respect to matters not related to such Person's actions as a member of the Board, officer of the Association, or member of a committee appointed by the Board.

Section 9. Professional Management. The Association may, but shall not be obligated to, obtain and pay for the services of any Person to manage the affairs of the Association, or any part thereof, as the Board of Directors deems to be in the best interests of the Association. The Board may delegate such

authority to such Person, and authorize such Person to act on behalf of the Association, as the Board determines in the exercise of its discretion.

Section 10. Period of Declarant Control. During the Development Period, the Declarant shall be entitled to appoint, remove, and replace all of the directors of the Board and the officers of the Association, from time to time or at any time, or Declarant may authorize one (1) or more directors of the Board to be elected by the total vote of the Class A Members of the Association together, upon such terms and conditions as Declarant, in its sole discretion, determines. Quorum and meeting requirements are not applicable to Declarant's right to appoint, remove, or replace directors and officers, with no meeting being necessary for Declarant to exercise these rights.

ARTICLE VI ASSESSMENTS

Section 1. Creation of Lien and Personal Obligation. Each Owner, by acceptance of a deed or other conveyance for a Lot, covenants and agrees to pay to the Association all assessments and charges which are levied by the Association against the Lot(s) owned by such Person in accordance with the terms and provisions of the Act and/or the Governing Documents as applicable. All assessments and charges shall be established and collected as hereinafter provided. All assessments and charges remaining unpaid for a period of thirty (30) days or longer, together with the costs of collection thereof, including reasonable attorneys' fees, shall constitute a lien on the Lot against which they are assessed or charged from the time of the filing of a lien in the office of the Clerk of Superior Court of Wake County, North Carolina and the Clerk of Superior Court of Harnett County, North Carolina and shall be the personal and continuing obligation of the Person who was the Owner of such Lot at the time when the assessment or other charge first became due and payable. An Owner's personal obligation for payment of such assessments and other charges shall not become the personal obligation of a subsequent Owner unless expressly assumed by the subsequent Owner, although the lien shall continue against the Lot until the amounts due are paid, as the covenant to pay assessments herein stated is and shall be a covenant running with land. Note that for avoidance of doubt if not otherwise, and in any event in order to obviously comply with the terms and provisions of Sec. 47F-3-116(h) of the Act, the Association may charge, and the assessments and charges described in this Section 1 include (but are not limited to), all reasonable service, collection, consulting and/or administrative fees charged by the association in any amount that does not exceed any amount allowable by law, provided, however, that if required under Sec. 47F-3-116(h) of the Act any lien securing a debt consisting solely of these types of fees (meaning not including any liens for other fees or assessments) may only be enforced by judicial foreclosure.

No Owner shall be exempt from liability for any assessment provided for herein by reason of non-use of the Common Area or such Owner's Lot, or abandonment of a Lot, or temporary unavailability of the use or enjoyment of the Common Area; provided, however that Declarant shall be exempted from paying assessments as herein provided. No Owner shall be relieved of, or released from, the obligation to pay assessments and other charges under the Governing Documents because of any resignation or attempted resignation by such Owner of membership in the Association while such Owner owns a Lot, or because of any suspension of such Owner's membership or membership rights in the Association as allowed under the Governing Documents.

If necessary to establish the right to collect reasonable attorneys' fees under the Declaration, any obligation of an Owner to pay assessments or other charges or monetary obligations under the Declaration shall constitute evidence of indebtedness for the purpose of establishing under Section 6-21.2 of the North Carolina General Statutes (or any successor statute) the right to collect reasonable attorneys' fees in any action or proceeding to enforce or collect payment of such obligation. Provided, however, the foregoing sentence specifically is intended to supplement, and not to interfere, limit, invalidate or be in conflict with,

any provisions of the Act with respect to reasonable attorneys' fees, and in fact this entire Section 1 supplements all provisions of the Act relative to establishment and enforcement of assessment liens, all of which apply as if repeated herein.

Section 2. Purposes of Assessments. The assessments levied by the Association pursuant to this Article shall be used to pay the Common Expenses and other charges as required or allowed by the Declaration. Without limiting the generality of the foregoing, the Association may assess the following types of assessments for payment of the Common Expenses: (i) annual assessments; (ii) working capital assessment; (iii) stormwater assessments; (iv) special assessments for capital Improvements or other matters as set forth herein; (v) special individual assessments levied against an Owner to reimburse the Association for maintenance expenses resulting from the failure of such Owner to maintain adequately that Owner's Lot, or for damages to Common Elements, or for such other purposes as stated herein; (vi) architectural review fees and costs as specified herein; (vii) fines for violations of Restrictions and Rules and/or Association rules and regulations with respect to use of the Common Elements; (viii) late payment penalties and interest on unpaid assessments and other charges; and any other assessments, if any, for any/all of the following purposes: (1) costs and expenses incurred by the Association in connection with the maintenance of the Common Area and the Association's other operations and Common Expenses; (2) payment of the premiums for all fidelity bonds which shall be obtained by the Association; (3) the payment of the fees of such management firms as the Board of Directors shall employ; (4) payment of fees for the provision of such professional services as the Board of Directors shall determine to be required by the Association, including but not limited to legal, accounting and architectural services; (5) loans to the Association for construction of the Recreational Amenities; and (6) the provision of adequate reserves for the replacement of capital Improvements including, without limiting the generality of the foregoing, paving, and any other major expense for which the Association is responsible; (7) other charges imposed under authority contained in the Act (specifically including all fees allowed under Section 47F-3-102 of the Act) or Governing Documents (architectural review fees, fines, penalties, interest and other fees and charges all being referred to herein collectively as "other charges"), and, in addition to such assessments and other charges, to pay all costs, fees and expenses, including reasonable attorneys' fees, incurred by the Association in enforcing or collecting any of the foregoing assessments or other charges against such Owner or the Lot of such Owner; and (8) such other purposes as the Board of Directors shall deem necessary or desirable to promote the health, safety and welfare of the Association and its Members.

All assessments and other charges collected by the Association shall be the separate property of the Association. As assessments and other charges are paid to the Association by Owners, such funds may be commingled with assessments and other charges paid to the Association by other Owners. No Member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer, such Member's interest in the assets of the Association, except as an appurtenance to the Lot owned by such Member. When any Owner ceases to be a Member of the Association, the Association shall not be required to account to such Owner for any share of the funds or assets of the Association or any portion thereof which may have been paid to the Association by such Owner or acquired with any funds paid to the Association by such Owner.

Section 3. Commencement and Liability for Payment. Except that Builder's assessments commence immediately at such time as a Builder acquires title to a Lot (such assessments being described more particularly below in Section 15 of this Article VI) the assessments provided for in this Declaration shall commence as to a Lot on the date that a Lot becomes an Improved Lot and is owned by a Person who is not the Declarant. All Lots owned by the same class of Members of the Association shall be assessed equally, except for any additional assessments that may be required to pay Common Expenses associated with Limited Common Areas (such assessments shall only be assessed against those Lots in the Community benefitted by the Common Expenses). The Annual Assessment for any Lot that first commences with respect to such Lot on any day other than the first day of the applicable fiscal year of the

Association is determined for that first fiscal year by multiplying the applicable Annual Assessment amount by a fraction whose numerator is the number of days remaining in that fiscal year from and after the day on which it becomes a Lot and whose denominator is the total number of days in that fiscal year.

Section 4. Operating Budget and Annual Assessment. For the fiscal year beginning on such date as the Board shall determine in its sole discretion and for subsequent fiscal years, the Board shall adopt for each fiscal year a proposed “annual operating budget”, also referred to herein as the “budget”, containing an estimate of the total amount believed to be necessary to pay all of the Common Expenses for that fiscal year (including, at the Board’s discretion, estimated amounts for unexpected contingency items). Based on such proposed budget, the Board shall determine the amount to be assessed against each Lot for that fiscal year to fully fund the proposed budget, such amount being referred to herein as the “annual assessment”. In adopting a proposed budget and annual assessment, the Board may consider any assessment income expected to be generated from any additional Lots reasonably anticipated to become subject to assessment during the applicable fiscal year. In the Board’s discretion, a proposed budget may include a provision that allows the Board to assess and collect from the Owners during the applicable fiscal year, without the necessity of revising the budget and holding a meeting of the membership of the Association to vote on ratification of the revised budget, one or more additional annual assessments, not to exceed a total amount as specified by the Board, as necessary to pay for Common Expenses that exceed the budgeted amount and/or new or unexpected additional Common Expenses incurred during the applicable fiscal year.

Within thirty (30) days after adoption of the proposed budget, the Board shall provide a copy or summary of the proposed budget and annual assessment to all Members (a copy or summary provided to any one (1) of multiple Owners of a Lot is deemed to be provided to all Owners of such Lot), together with a notice of the annual or special meeting of the Association at which ratification of such proposed budget will be considered, including a statement that the proposed budget may be ratified without a quorum for the meeting. The annual or special meeting at which ratification of the proposed budget is to be considered shall be held not less than ten (10) days nor more than sixty (60) days after mailing of the summary and notice. There shall be no requirement that a quorum be present at the meeting at which ratification of the proposed budget is to be considered (although if other matters are to be considered at such meeting applicable quorum requirements are in effect with respect to those other matters). The budget is ratified unless rejected at that meeting as follows: (i) if the proposed annual assessment does not exceed the annual assessment for the immediately preceding fiscal year by more than fifty percent (50%), the budget is ratified unless Members possessing ninety percent (90%) or more of the total number of votes in the Association reject it; (ii) if the proposed annual assessment per Lot exceeds the actual annual assessment per Lot for the immediately preceding fiscal year by more than fifty percent (50%), the budget is ratified unless Members possessing sixty-seven percent (67%) or more of the total number of votes in the Association reject it. In the event that 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 Of adopted by the Members.

Beginning with the annual assessment for the first fiscal year as the Board shall determine in its sole discretion, the Association shall send written notice of each annual assessment to the Members of the Association (for purposes of notice of all assessments under the Declaration, notice sent to any one (1) of multiple Owners of a Lot is deemed to be notice sent to all of such Owners) not less than thirty (30) days in advance of the payment due date specified in the notice (which shall not be earlier than the first day of the applicable fiscal year), which written notice may be in the form of an invoice for the annual assessment, or which written notice may be included in the notice of the meeting to vote on the proposed budget. The failure of the Board to establish the amount of any annual assessment or send timely notice as required herein shall not constitute a violation, waiver or modification of the provisions of the Declaration, or a waiver of the Board’s right to establish and collect the annual assessment at any time during the fiscal year

to which it is applicable, or a release of any Member from the obligation to pay the assessment or any installment thereof for that or any subsequent fiscal year. Until the Board has established an annual assessment for a fiscal year, the annual assessment for the immediately preceding fiscal year shall continue in effect, but when the new annual assessment is established, it shall be retroactive to the first day of the applicable fiscal year, and notice of same shall be sent to the Members not less than thirty (30) days in advance of the payment due date specified in the notice. If the annual assessment for any fiscal year has not been established by the last day of the immediately preceding fiscal year, the Board may send a notice of assessment to the Members for the amount of the immediately preceding fiscal year's annual assessment, together with notice that a new assessment may be established for that fiscal year that may require an additional payment. Once the new annual assessment is established, any additional amount owed is due and payable by the payment due date specified in a supplemental notice to the Members sent not less than thirty (30) days in advance of the payment due date specified in the supplemental notice.

During any fiscal year, the Board may revise the budget and adjust the annual assessment (including the maximum amount of any additional annual assessment), subject to the same notice and ratification requirements as those applicable to the initial budget for that fiscal year. Upon ratification of a revised budget, it shall replace all previously ratified budgets for the applicable fiscal year.

Section 5. Special Assessments. In addition to other authorized assessments, the Association may levy "special assessments" during any fiscal year to pay for any or all of the following: (i) unbudgeted Common Expenses; (ii) Common Expenses in excess of those budgeted; or (iii) the costs of any capital Improvements or capital repairs. No special assessment shall be imposed unless approved by the affirmative vote of fifty percent (50%) or more of the votes cast by the Members present at a meeting of the Association and, during the Development Period, the written consent of the Declarant. Notices for all meetings of the Association at which there is to be a vote on a special assessment shall include notice of the purpose and amount of the proposed special assessment. A special assessment is effective on the later of the date it is approved by the Members or Declarant (if such approval is required), or such later date adopted by the Members in the vote approving the special assessment, and is due and payable as established by the vote of the Members approving the special assessment, or, if not established by such vote of the Members, as established by the Board. Each Lot shall be liable for the payment of an equal share of every special assessment which shall be levied by the Association pursuant to the provisions of this section.

Section 6. Specific Assessments. The Board may levy specific assessments against individual Owners (i) for the purpose of paying for the costs of any construction, reconstruction, repair or replacement of any damaged component of the Common Area, or of any monument, landscaping, detention pond or other thing maintained by the Association, which is occasioned by the acts of individual Owners(s) and not the result of ordinary wear and tear; or (ii) for the payment of fines, penalties or other charges imposed against an individual Owner relative to such Owner's failure to comply with the terms and provisions of this Declaration, the Bylaws, or any rules or regulations promulgated hereunder; provided, that Declarant shall not be obligated to pay any specific assessments; or (iii) for payment of expenses associated with Limited Common Areas benefitting some but not all Lots and Owners (if such expenses are not otherwise assessed against only such Owners). Failure of the Board to exercise its authority under this section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this section in the future with respect to any expenses.

Upon the establishment of a specific assessment under this section, the Board shall send written notice of the amount and due date of such specific assessment to the affected Owner (s) at least thirty (30) days prior to the date such specific assessment is due.

Section 7. Intentionally Omitted.

Section 8. Working Capital Contribution. Upon the closing of any sale of any Lot by Declarant or by any Builder, to a homeowner, and only upon such initial sale, the Owner shall pay to the Association a one-time initial capital contribution in the one-time minimum amount of Five Hundred and 00/100 dollars (\$500.00). This contribution shall be collected at the applicable closing and shall be part of the general operating funds of the Association. It shall be the obligation of every purchaser to verify with the Association the amount of the working capital amount due at the Lot closing. Such sum is and will remain distinct from the annual assessment and will not be considered advance payment of the annual assessment. The working capital receipts may be used by the Association in covering operating expenses or any operating short-fall, as well as any other expense or capital outlay incurred by the Association pursuant to this Declaration and the Bylaws. It is expressly understood that working capital receipts may be used in lieu of deficit funding or to reimburse Declarant for any previous deficit funding.

Section 9. Reserve Funds. The Association may establish and maintain one or more reserve funds, as the Board shall determine, for the periodic maintenance, repair and replacement of Improvements to the Common Area and those other portions of the Property which the Association may be obligated or deem desirable to maintain. Such reserve funds shall be established out of regular annual assessments in accordance with standard accounting practices and procedures for Common Area replacements and maintenance in the initial budget of the Association. Each budget subsequently adopted by the Board shall provide for funds to be placed in reserves in at least the amount of reserves established in the initial budget unless a lower level of reserves is approved by the vote or written consent of greater than fifty percent (50%) of all votes in the Association. Funds deposited in reserve for a particular purpose shall be held for that purpose and shall not be expended for any other purpose without the vote or written consent of greater than fifty percent (50%) of all votes in the Association, except that if the Board determines that funds held in reserve for a particular purpose exceed an amount reasonably required as a prudent reserve for that purpose, then, without the vote or written consent of Members, the excess may be allocated to any other reserve fund established by the initial budget or any later-adopted budget of the Association and expended for the purpose for which such other reserve fund has been established.

Section 10. Collection of Assessments; Penalties for Late Payment.

(a) Assessments may be collected on a monthly, quarterly, annual or other basis, as determined from time to time by the Board, with the payment due date to be specified in the notice of the applicable assessment. The billing schedule and payment due date shall be the same for all Owners. Provided, however, the Board has the power, in its sole discretion and upon such terms as the Board deems appropriate, to allow percentage discounts to Owners who pay assessments earlier than the payment due date therefor; provided, however, all such discounts shall be made available and applied uniformly to all Owners.

(b) Subject to any limitations contained in the Declaration, other Governing Documents, or any Legal Requirement, the Board has the authority to establish the payment due dates, interest rate on unpaid amounts, and penalties for late payment of assessments and other charges. Assessments and other charges not paid by the payment due date shall bear interest at a rate equal to the lesser of (i) eighteen percent (18%) per annum, or (ii) the highest lawful rate under Legal Requirements, or (iii) the amount, if any, established by the Board (or, in the absence of any amount being established by the Board, the lesser amount otherwise established by this subsection). In addition to the obligation to pay the assessment and other charges and interest charges thereon, the defaulting Owner also shall pay all of the Association's costs and expenses of collection thereof, including reasonable attorneys' fees.

(c) The Board may authorize a management company or other billing agent, on behalf of the Association, to bill and collect all assessments and other charges payable under the Declaration.

Section 11. Certification of Assessments Paid. The Association, or any property manager or agent authorized by the Association, upon written request, shall furnish to any Owner or such Owner's authorized agents, a certificate signed by an officer of the Association or other Person authorized by the Board to give such certificate setting forth whether or not and through what date the assessments and other charges against that Owner's Lot have been paid, and the amount of any unpaid assessments or charges. The certificate shall be furnished within ten (10) business days after receipt of the request therefor and is binding on the Association, the Board and every Owner. The Association or property manager or agent authorized to furnish the certificate may charge a reasonable fee for furnishing the certificate as established or approved by the Board.

Section 12. Assessment Lien and Foreclosure. The assessments and other charges provided for herein shall be the personal and individual debt of each Person who, at the time of the assessment or other charge, is an Owner of the Lot against which they are assessed or charged. Any assessment or other charge not paid on or before the payment due date and remaining unpaid for a period of thirty (30) days or longer, together with the fines, penalty and interest charges as provided in the Declaration, plus the costs of collection (including reasonable attorneys' fees), shall be a charge and continuing lien on the Lot against which they are assessed or charged from and after the date on which a claim of lien is filed by the Association in the office of the Clerk of Court of the County in which the Lot is located. Except as otherwise provided in the Declaration or by Legal Requirements, such lien shall be superior to all other liens and charges against the Lot. The Board shall have the power, in its sole discretion, to subordinate the Association's lien to any other lien. The claim of lien shall set forth the name and address of the Association, the name of the record Owner of the Lot at the time the claim of lien is filed, a description of the Lot, and the amount of the lien claimed. In addition to the claim of lien, the Association may execute, issue or record such other evidence of the lien as the Board deems necessary. The Association may foreclose the claim of lien in like manner as a mortgage on real estate under a power of sale or in any other manner allowed or required by Legal Requirements, and/or the Association may institute suit against the Owner personally obligated to pay the assessment or charge, and/or the Association may seek any other available remedy or relief. In any foreclosure proceeding, the Association shall have the right to appoint a trustee or commissioner (or other appropriately named Person) to implement the foreclosure, and the defaulting Owner shall be required to pay the costs, expenses, trustee's (or commissioner or other) fees, and reasonable attorneys' fees incurred by the Association. The Association shall have the power to bid on and purchase the Lot at foreclosure and to acquire, hold, lease, mortgage, convey or otherwise deal therewith. The remedies against a defaulting Owner and such Owner's Lot are cumulative and not mutually exclusive, and the Association may seek none, or any one or more of such remedies, separately or simultaneously, as deemed appropriate by the Board.

Section 13. Lien Priority. The lien for unpaid assessments and other charges provided for herein is prior to all liens and encumbrances on a Lot except (i) liens for ad valorem taxes on the Lot; (2) the lien of any first priority mortgage covering the Lot and the lien of any mortgage recorded prior to the recording of this Declaration; (3) the lien of any secondary purchase money mortgage covering the Lot, provided that neither the grantee nor any successor grantee on the mortgage is the seller of the Lot; and (4) the lien of any mortgage given by any Builder or other Person to secure payment of any sum owed to the Declarant, whether or not Declarant is the seller of the Lot liens and encumbrances. Provided, however, this Section does not affect the priority of mechanic's or materialmen's liens. A lien for unpaid assessments and other charges is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the docketing of the claim of lien in the office of the County Clerk of Court of the County in which the Lot is located. Where the holder of a First Mortgage, or other purchaser of a Lot obtains title to the Lot as a

result of foreclosure of a First Mortgage or deed or other proceeding in lieu of foreclosure, such purchaser and its heirs, successors, and assigns, shall not be liable for the assessments against such Lot which became due prior to the acquisition of title to such Lot by such purchaser. Such unpaid assessments shall be deemed to be Common Expenses collectible from all the Owners, including such purchaser, its heirs, successors, and assigns in the event that the Association is unable to collect, or chooses not to pursue collection, from the Person who was the Owner of the Lot during the time the assessments were assessed against the Lot.

Section 14. Exempt Property. All Exempt Property is exempt from the assessments, charges and liens established pursuant to the Declaration.

Section 15. Declarant's Obligation; Lots owned by Declarant; Builder Reduced Assessments. Notwithstanding any term or provision of this Declaration which may be construed to the contrary, no Lot owned by the Declarant shall be subject to any assessment provided for in this Article VI. Rather, all Lots owned by the Declarant shall be exempt from the payment of all assessments for so long as such Lots are owned by the Declarant. However, in the event Declarant shall pay any amount(s) necessary to cover any shortfalls or deficits in the budget or to pay any expenses that should have been paid from the Annual Assessments, then such amount(s) so paid by the Declarant shall be credited against the Declarant's obligations to pay any further assessments, if such obligation to pay assessments were imposed upon the Declarant by law. At such time as any Lot which is owned by the Declarant shall be conveyed or transferred by the Declarant, all liens and assessments provided for in this Article VI shall become immediately levied against such Lot and the Owner of such Lot shall immediately become liable for the payment of all such assessments. The amount of each Annual Assessment which shall become so payable with respect to any Lot shall be prorated according to the respective portions of the fiscal year that such Lot was owned by the Declarant and by such successor owner.

Commencing at such time as a Builder takes title to a Lot and thereafter for so long as the Builder owns the Lot, a Builder shall pay assessments for said Lot at a rate of fifty percent (50%) of what the Class A Members pay for their Lots. Immediately upon conveyance of an Improved Lot to a Class A Member (not to the Declarant), full assessments hereunder shall commence as to such Lot, all as provided in Section 3 of this Article VI, and in any event.

ARTICLE VII ARCHITECTURAL CONTROL

Section 1. Architectural Control.

(a) Except for ordinary and routine maintenance to an existing Improvement, and excluding routine planting and maintenance of flowers, bushes, grass and trees that do not result in any material change in the landscaping approved as part of the Approved Plans ("material" being as determined from time to time by the Reviewer) or allowed by any Architectural Guidelines without the necessity of obtaining Approved Plans, and except as otherwise provided herein (for example, portions of the Property exempt from architectural review), no improvement, and no alteration, addition to, or changes to any Lot shall be commenced, nor shall any of the same be placed, altered or allowed to remain, until the Reviewer has approved in writing the Plans therefore, or the Architectural Guidelines allow the Improvement without the necessity of obtaining Approved Plans.

(b) No structure or Improvement shall be constructed, placed at or installed upon any Lot in a location without the prior written approval of the ACC, which approval may be withheld in the sole discretion of the ACC. No fence shall be constructed or erected upon any Lot in any location without

the prior written approval of the ACC. No chain link fences shall be erected or maintained on any Lot or other portion of the Property.

Section 2. Combination of Lots. Contiguous Lots may not be combined together without prior written consent of the Declarant, during the Development Period, and thereafter by the Board of Directors. In the event that the Declarant or Board of Directors, as applicable approves such a combination, such combination shall thereafter be deemed to be a single Lot for all purposes of this Declaration, except that notwithstanding the foregoing, the amount of assessments for which such single Lot shall be thereafter liable shall be equal to the total assessments for which all of the Lots which were so combined would have been liable had such combination not taken place.

Section 3. Architectural Review.

(a) Until the later of the end of the Development Period or the date on which one hundred percent (100%) of the Lots are Improved Lots and are owned by Persons other than the Declarant (such period of time being referred to herein as the “Declarant Review Period”), the Declarant has the sole right under the Declaration to serve as the Reviewer with respect to all Improvements. In reviewing and acting upon any request for approval of Plans for Improvements, Declarant or its designee shall be acting solely in Declarant’s interest and shall owe no duty to any other Person. Declarant, in its sole discretion, may designate one or more Persons to act on its behalf in reviewing Plans. Declarant may, at any time and from time to time, temporarily or permanently, but without any obligation to do so, delegate all or any portion of its rights reserved under this Article to an ACC. Prior to the end of the Declarant Review Period, Declarant may modify or terminate any or all its rights reserved under this Article in whole or in part, at any time and from time to time, temporarily or permanently, by recording an instrument in the Registry describing the action taken by Declarant.

(b) Upon delegation by Declarant during the Declarant Review Period, and upon the end of the Declarant Review Period, the Association, acting through an ACC appointed by the Board, shall assume jurisdiction and responsibility for architectural review under this Article. The members of any ACC need not be Members of the Association or representatives of Members, and may, but need not, include architects, landscape architects, engineers or similar professionals. The number, qualifications, composition, jurisdiction, procedures (including appeal of its decisions to the Declarant or Board), and compensation of the members, if any, of the ACC shall be established from time to time by the Declarant or Board, as applicable.

(c) The Declarant or the Board, as applicable, may establish and charge reasonable fees for review of applications and Plans hereunder and may require such fees to be paid in full prior to review thereof. Such fees may include the reasonable costs incurred in having any Plans reviewed by architects, engineers or other professionals. If any such fees are required in connection with any review, no Plans submitted for review shall be complete until such fees are paid.

Section 4. Review Procedures. When Approved Plans are required for commencement of any Improvement, the required number of sets of Plans for the proposed Improvement (as determined by the Reviewer), together with any application or request for approval and review fees required by the Reviewer, shall be submitted to the Reviewer by the Person requesting the approval or such Person’s authorized representative. The Architectural Guidelines and the Reviewer may require the submission of such additional information as may be reasonably necessary to consider any application. All of the foregoing together constitutes a “complete application”, and no time period within which any Reviewer under this Declaration is required to complete the review shall commence until the Reviewer has received a complete application.

In reviewing each submission, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular Improvements. The Reviewer shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment and such determinations shall not be subject to review (except with respect to appeals to the Declarant or Board as may be authorized by the Declarant or Board) so long as made in good faith and in accordance with the procedures set forth herein.

The Reviewer shall make a determination on each application within forty-five (45) days after its receipt of a complete application. The Reviewer may (i) approve the application, with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application. The Reviewer shall notify the applicant in writing of the final determination on any application within five days after making the determination. In the case of disapproval, the Reviewer may, but shall not be obligated to, specify the reasons for any objections and/or offer suggestions for curing any objections.

In the event that the Reviewer fails to respond within forty-five (45) days after its receipt of a complete application, the application shall be deemed to have been denied. No approval shall be inconsistent with the Architectural Guidelines unless a written variance has been granted. Notice shall be deemed to have been given at the time the envelope containing the response is deposited with the US Postal Service and addressed to the applicant at the mailing or residence address indicated on the application for review. However, personal delivery of such written notice shall be sufficient and shall be deemed to have been given at the time of delivery to the applicant.

If construction does not commence on a project within ninety (90) days after the date of approval, such approval shall be deemed withdrawn and it shall be necessary for the Owner to reapply for approval before commencing any activities. Once construction is commenced, it shall be diligently pursued to completion. All work shall be completed within six (6) months of commencement unless otherwise specified in the notice of approval or unless the Reviewer grants an extension in writing, which it shall not be obligated to do. If approved work is not completed within the required time, it shall be considered nonconforming and shall be subject to enforcement action by the Association, Declarant or any aggrieved Owner.

The Reviewer may, by resolution, exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

Section 5. Architectural Guidelines. Declarant may (but need not) prepare initial Architectural Guidelines, which contain general provisions applicable to all of the Property. Any Architectural Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern to the Reviewer in considering applications. The Architectural Guidelines are not the exclusive basis for decisions of the Reviewer and compliance with the Architectural Guidelines does not guarantee approval of any application. Declarant shall have sole and full authority to put in place and implement and amend the Architectural Guidelines during the Development Period, notwithstanding a delegation of reviewing authority to the ACC or any other Person, unless Declarant also delegates the power to amend the Architectural Guidelines to the ACC. Upon termination or delegation of Declarant's right to amend, the ACC shall have the authority to amend the Architectural Guidelines with the consent of the Board, and the Board shall have the authority to amend the Architectural Guidelines following the end of the Development Period.

Any amendments to the Architectural Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Architectural Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Architectural Guidelines less restrictive.

Upon request, the Reviewer shall make the Architectural Guidelines available to Owners and Builders who seek to engage in development or construction within the Property In Declarants discretion, such Architectural Guidelines may be recorded, in which event the recorded version, as it may be amended from time to time, shall control in the event of any dispute as to which version of the Architectural Guidelines was in effect at any particular time.

Section 6. No Waiver of Future Approvals. Each Owner acknowledges that the Persons reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Architectural Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features until work is completed, in which case it may be unreasonable to require changes to the Improvements involved, but the Reviewer may refuse to approve similar proposals in the future Approval of Plans, granting of variances, or other approvals given in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

Section 7. Legal Requirements. Approval by the Architectural Control Committee of any Plans shall not relieve the Owner, Builder, or applicant from any obligation to obtain all required Town and State approvals and permits, and shall not relieve the Owner, Builder, or applicant of the obligation and responsibility to comply with all Legal Requirements with respect to such Improvements.

Section 8. Variances. The Reviewer may authorize variances from compliance with any of the applicable Architectural Guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. No variance shall: (a) be effective unless in writing; (b) preclude the Reviewer from denying a variance in any other circumstances; or (c) be contrary to any Legal Requirements. For purposes of this Section, the inability to obtain approval of any Governmental Authority, the issuance of any permit or the terms of any financing shall not be considered a hardship warranting a variance.

Section 9. Limitation of Liability. The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of the Property; they do not create any duty to any Person. Review and approval or denial of approval or conditioning of approval of any application pursuant to this Article may be made on the basis of aesthetic considerations only, and the Reviewer shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all Dwellings are of comparable quality, value or size, of similar design, or aesthetically pleasing or otherwise acceptable to neighboring property owners.

Declarant, the Association, the Board, the ACC, or member of any of the foregoing shall not be held liable for any of the following: soil conditions, drainage or other general site work; any defects in plans revised or approved hereunder or their failure to comply with Legal Requirements; any loss or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any contractor or its subcontractors, employees, or agents, whether or not Declarant has approved or featured such contractor as a builder in the Property or anywhere else; or any injury, damages, or loss arising out

of the manner or quality or other circumstances of approved construction on or modifications to any Improvement. In all matters, the Association shall indemnify the Board, the ACC, and the members of each as provided in the Governing Documents.

Section 10. Violation. When Approved Plans are required under this Article prior to the commencement of the construction, installation, alteration, addition, removal, or maintenance of any Improvement, in the event that any such construction, installation, alteration, addition, removal, or maintenance commences, or is undertaken or performed in the absence of Approved Plans or in violation of Approved Plans, the Person upon whose portion of the Property such activity was undertaken or performed may be required by the Declarant (during the Development Period) or by the Board to restore to its original condition, at such Person's sole expense, the portion of the Property upon which the activity was undertaken or performed. Upon the failure or refusal of any Person to perform the restoration required herein, the Declarant or Board, as applicable, or their authorized agents or employees, may, after fourteen (14) days' prior notice to such person, enter upon such portion of the Property and make such restoration as the Declarant or Board, as applicable, in the exercise of its discretion, may deem necessary or advisable. The Owner of the portion of the Property upon which such restoration work shall have been performed shall be personally liable to the Declarant or Association, as applicable, for all direct and indirect costs which the Declarant or Association incurs in the performance of such restoration work, including without limitation attorney's fees and court costs related to the collection of such costs from the Owner, and the liability for such costs shall be secured by all the liens, and shall be subject to the same means of collection, as the assessments provided for in this Declaration.

Section 11. Declarant and Association Exemption. NOTWITHSTANDING ANYTHING STATED TO THE CONTRARY HEREIN, NOTHING CONTAINED IN THIS ARTICLE SHALL BE CONSTRUED AS PROHIBITING OR LIMITING ANY CONSTRUCTION, INSTALLATION, ALTERATION, ADDITION, REMOVAL, OR MAINTENANCE OF ANY IMPROVEMENT, BY DECLARANT OR AT THE DIRECTION OF DECLARANT, OR BY ANY BUILDER WHO HAS WRITTEN APPROVAL FOR SUCH ACTIVITIES BY DECLARANT; THIS ARTICLE SHALL NOT APPLY TO ANY SUCH ACTIVITIES AND NOT APPROVALS UNDER THIS ARTICLE ARE REQUIRED THEREFOR.

ARTICLE VIII USE OF THE PROPERTY

In order to provide for the maximum enjoyment of the Lots by all of the residents thereof and to provide protection for the value of the same, the use of the Lots shall be restricted to, and shall be only in accordance with, the following provisions:

Section 1. Residential Use. Except as otherwise provided in this Declaration, all the Lots are hereby restricted to residential uses only and for single-family occupancy, and no business or business activity shall be carried on or upon any Lot at any time, except with the prior written approval of the Board of Directors and in accordance with the terms and conditions set forth hereinbelow. When used herein, "single-family occupancy" shall mean occupancy by (a) an individual and the individual's children and/or parents, or (b) two (2) or more persons related by blood, marriage, adoption, guardianship, or duly-authorized custodial relationship and their children and/or parents, or (c) any two (2) unrelated persons and the children and/or parents related to either of them, or (d) a group of no more unrelated persons than the number of bedrooms in the residence located on the lot, living together as a single housekeeping unit. A group of unrelated persons will be deemed to be living together as a "single housekeeping unit" when the occupants have a family-like structure, and/or a sharing of responsibility associated with the household such as equitable rent, use of space, etc. This definition is intended to exclude (i) any group whose

association is temporary or seasonal in nature, such as a group of college students sharing a house, and (ii) any group providing a framework for transients or transient living.

(a) Business Activity. Nothing herein shall prevent the Declarant or any Builder of homes in the Subdivision who is approved by Declarant from using any Lot owned by Declarant or such Builder for the purpose of carrying on business related to the development, improvement and sale of property in the Subdivision; and provided, further that, to the extent allowed by applicable zoning laws, private offices may be maintained in Dwellings located on any of the Lots so long as such use is incidental to the primary residential use of the Dwelling. Except as provided in this Declaration, no Owner shall use or cause or permit his Lot to be used for any business, commercial, manufacturing or mercantile use or purpose, or for any other nonresidential use or purpose, except with the approval of the Board or ACC empowered by the Board to do so, and provided that:

(i) The existence or operation of the business is not apparent or detectable by sight, sound or smell from outside the Dwelling;

(ii) The business activity conforms to all zoning requirements for the Subdivision;

(iii) The use of a portion of a residence as an office by an Owner or an occupant will not be considered to be a violation of this covenant if such use does not create regular customer, client, or employee traffic;

(iv) The business activity does not involve door-to-door solicitation of residents in the Subdivision; and

(v) The business activity is consistent with the residential character of the Subdivision and does not constitute a nuisance, a hazardous or offensive use or threaten the security or the safety of other residents of the Subdivision, as may be determined in the sole discretion of the Board of Directors of the Association.

The term "business" and "trade" as used in this Section shall be construed to have the ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether:

(A) such activity is engaged in full or part time;

(B) such activity is intended or does generate a profit; or

(C) a license is required therefor.

This Section shall not apply to any activity conducted by the Declarant with respect to its development and sale of the Property or its use of any Lots that it owns within the Subdivision.

Sections 2. Sales Offices; Model Homes. Notwithstanding the provisions of Section 1 of this Article or any other provision of this Declaration, Declarant, for itself and its successors or assigns, hereby reserves the right to maintain sales offices and model homes for sales of Lots throughout the Property. Declarant, its successors or assigns, shall have the right to relocate, and to discontinue and re-establish, sales offices and model homes within the Property from time to time until all of the Lots have been

conveyed to Owners other than Declarant. Declarant, its successors and assigns, also shall have the right to change the use or combination of uses of such offices or model homes. Model homes are those homes constructed by Declarant, as well as by any Builder of homes in the Subdivision approved by Declarant to build model homes, which are used for the purpose of inducting the sale of other homes in the Subdivision. Declarant, its successors or assigns, also reserves the right to erect and maintain signs on the Common Area advertising the Property until all of the Lots have been conveyed to Owners other than Declarant or Builder.

Section 3. Minimum Square Footage The minimum square footage of each home constructed upon a Lot shall be not less than one thousand two hundred (1,200) square feet of heated space; provided, however, that the aforesaid square footage requirement shall be based on interior floor space, exclusive of basements, garages, porches, decks, balconies and overhangs.

Section 4. Temporary Structures. Except as provided in this Declaration, no residence or structure of a temporary nature (unless approved by the Board or ACC empowered by the Board to perform such review and approval) shall be erected or allowed to remain on any Lot, and no boat, truck, trailer, camper, shack, tent, barn, detached garage, recreational vehicle or any other building or vehicle of a similar nature shall be used as a residence on any Lot, either temporarily or permanently; provided, however that this Section shall not be construed to prevent the Declarant and those engaged in construction from using sheds or other temporary structures during construction.

Section 5. Accessory Structures. No free standing metal garages, free-standing utility buildings of any kind, and no sheds, free-standing storage units, or any other similar types of accessory structures shall be erected on any Lot or attached to any residence located on the Lot, EXCEPT with the written approval of the Declarant, the Board or the ACC; provided, however that this restriction shall not prohibit detached garages if constructed by Declarant or any Builder.

Section 6. Outdoor Living Space. The Declarant/Builder reserves the right to build an outdoor living space to be designed at its discretion. Homeowners must submit an architectural approval request for any additions or changes being made to the exterior of their property as noted in Article VII of this Declaration.

Section 7. Cluster Mailboxes. Declarant may install one (1) or more cluster mailboxes on the Property and may assign a single box in each cluster to each Lot. If cluster mailboxes are installed and assigned to a Lot then the Owner of said Lot may not install any additional mailbox on its Lot. The Association shall be responsible for the maintenance, repair and replacement (if necessary) of all cluster mailboxes, with any and all costs associated with the same being a Common Expense; provided, however, and without limitation, if any Owner or occupant damages a mailbox that owner shall be responsible for all costs to repair/replace the same and the Association may enforce the payment obligation in the same manner in which it may enforce any assessment hereunder. Declarant may install, maintain, repair and/or replace cluster mailboxes on any portion of the Common Area or in any easement area shown on any recorded plat (including any easement on a Lot if applicable). Notwithstanding the foregoing, if at the time of any conveyance, cluster mailboxes are located on any portion of any Lot, the Association shall have an easement over said Lot as reasonably necessary for maintenance, repair and replacement of the same, regardless of whether or not said easement is shown on a recorded plat. Except that the Association shall maintain, repair and replace any cluster mailboxes so as to keep the same in good working order (with each Owner having the duty to report any problems with its mailbox to the Board), neither the Association, the Board, nor Declarant shall have any liability relative to condition, operation or access of/to the cluster mailboxes (or any events/actions/occurrences arising from the same or lack of the same) AND BY ACCEPTANCE OF THE DEED FOR ANY LOT, EACH OWNER THEREBY WAIVES ANY

OR ALL CLAIMS, ACTIONS AND/OR DAMAGES REGARDING OR ARISING OUT OF THE SAME, AGAINST THE BOARD, THE ASSOCIATION OR THE DECLARANT.

Section 8. Obstructions. No part of any structure or the lower branches of trees or other vegetation shall be permitted to obstruct the view at street intersections. No doorways, walkways or streets shall be obstructed in any manner which would interfere with their use for ingress or egress in the event of fire, earthquake or other emergency.

(a) Removal of Obstructions.

(i) The Declarant, its successors or assigns, without notice, may remove any obstructions of any nature located within road rights-of-way (including, but not limited to, trees, shrubs, fences, basketball goals and mailboxes) which, in the opinion of the Declarant, its successors or assigns, either might produce a hazard or might interfere with the ability or willingness of the State or any municipality (or agency or department thereof) to take over the responsibility for maintenance of the roads.

(ii) The Declarant, its successors or assigns, shall have the right, in its sole discretion, to charge the actual cost of removing obstructions to the Lot Owner who, directly or through his agents, contractors or invitees, caused or permitted the obstruction to be placed in the road right-of-way, and such Lot Owner shall indemnify and save the Declarant, its successors or assigns, harmless from all liability, claims, damages and expense imposed upon the Declarant, its successors or assigns, at law or in equity, caused by or resulting from the placement of the obstruction in the road right-of-way and its removal. In the event that the Lot Owner responsible for such charge or liability fails and refuses, after demand by the Declarant, its successors or assigns, to pay said charge or liability, then the Declarant, its successors or assigns, shall have the right to levy a specific assessment against the Lot of that Owner for the violation or non-compliance. The amount of a specific assessment may include any cost to remedy the violation or non-compliance, and/or to enforce compliance (including attorney's fees) and any costs of collection and/or enforcement.

Section 9. Owner's Lease or Rental; No Timeshares.

(a) Owner Use and Enjoyment of Facilities During Tenancy.

Any Owner who rents or leases his Lot to a tenant shall not be entitled to use and enjoy any recreational or other common facilities on the Common Area and/or Recreational Amenity during the period the Lot is occupied by such tenant.

(b) Owner's Right to Lease or Rent.

No Owner shall lease or rent less than an entire Lot (inclusive of the Dwelling thereon), which shall be leased or rented for residential purposes and for single-family occupancy, as defined in Article VIII. The Lots shall not be leased or rented for hotel or transient purposes and no rental agreement or lease shall be made for a period of less than six (6) months. Subject to the foregoing restrictions and to the limitations on rentals within the Community set forth in Subsection (c) of this Section 9, Owners shall have the right to lease or rent their Lots, provided that any lease or rental agreement between an Owner and a tenant shall be in writing and shall provide that it is in all respects subject to the provisions of this Declaration, the Bylaws, and the Regulations and that any failure by the tenant to comply with such provisions shall be a default under the rental agreement or lease. However, the failure of any lease or rental agreement to so provide shall not excuse any person from complying with the provisions of this Declaration, the Bylaws, and the Regulations.

(c) Restrictions Upon Lease or Rental.

The following restriction shall apply to the lease or rental of any Lot:

(i) Intentionally Omitted.

(ii) General Lease Conditions. All leases, including renewals, shall be in writing, and no lease shall be entered into for a term of less than six (6) months without the prior written approval of the Board. No portion of any Lot other than the entire Lot and Improvements thereon may be leased for any period. No subleasing is permitted. No Owner will be permitted to lease or rent his/her Lot if the Owner is delinquent in paying any Assessments or other charges due to the Association at the time the lease is to be entered into. All leases shall be made expressly subject and subordinate in all respects to the terms of the Declaration, Bylaws and Regulations promulgated by the Board, as amended, to the same extent as if the tenant were an Owner and a member of the Association; and shall provide for direct action by the Association and/or any other Owner against the tenant with or without joinder of the Owner of the Lot. The Owner of the Lot shall supply copies of the Declaration, Bylaws and Rules and Regulations to the tenant prior to the effective date of the lease. In addition, the Board shall have the power to promulgate such additional Rules and Regulations as it, in its discretion, may determine to be necessary or appropriate concerning leasing. Prior to commencement of a lease, the Owner shall immediately give to the Association in writing:

- (A) the name of the tenant(s) and the Lot(s) rented or leased;
- (B) the current address of such Owner;
- (C) a true and complete copy of the lease or rental agreement and all amendments and/or renewals thereto; and
- (D) the certification of the Owner that the tenant has been given a copy of this Declaration, any applicable amendments, the Bylaws and the Rules and Regulations and that such tenant has been advised of any obligations he may have thereunder as a tenant.

(iii) Owner Remains Liable. No lease shall provide, or be interpreted or construed to provide, for a release of the Lot Owner from his/her responsibility to the Association and the other Owners for compliance with the provisions of the Declaration, Bylaws and Rules and Regulations promulgated by the Board, or from the Lot Owner's liability to the Association for payments of Assessments. In no event shall any lease or rental agreement release or relieve an Owner from the obligation to pay Annual and Special Assessments to the Association, regardless of whether the obligation to pay Assessments has been assumed by the tenant in such lease or rental agreement.

(iv) Non-compliance with These Restrictions. Specific Assessments for non-compliance may be imposed in an amount of not more than five hundred and 00/100 dollars (\$500.00) for each day of non-compliance with these restrictions by an Owner or against an Owner for any non-compliance by such Owner's lessee with this Declaration, the Bylaws, the Architectural Guidelines and/or the Rules and Regulations established by the Board.

(d) No Timeshare or Vacation Rental: Declarant Reservation. No part of the Property subject to this Declaration, including any Improvements thereon or to be built thereon, will be used for

or subject to any type of Time Share Program or Time Share Project as defined by the North Carolina Time Share Act, North Carolina General Statutes 93A-41 (1983), or any subsequent laws of this State dealing with that or similar type of ownership by a Lot Owner, or which is used for, in conjunction with and/or as an advertised part of any time share exchange program which makes available as accommodations the Lot and which is not otherwise registered as a Time Share Program or Time Share Project or which utilizes the Lot as accommodations for time share sale prospects of any person. No part of the Property subject to this Declaration, including any Improvements thereon or to be built thereon, will be used for or subject to any type of short-term rental (less than 6 months) or vacation rental purposes.

(e) Declarant Reservation. Notwithstanding the above, no restrictions in this Section 9 shall apply to Declarant or to any Lot owned by Declarant.

Section 10. No Offensive and Unlawful Activity. No noxious, offensive or unlawful activities shall be conducted on any Lot, on the Common Area, or in any other part of the Subdivision. Nothing shall be done within the Subdivision that is, or becomes an unreasonable annoyance, inconvenience or nuisance to other residents of the Subdivision, or which unreasonably interferes with the quiet enjoyment of occupants of Lots.

Section 11. Parking. Without limitation, the Board may enforce this Section 11 by towing vehicles (or having them towed) at the sole cost and expense of the Owner of the Lot being visited or serviced by the vehicle that is improperly parked. The following parking restrictions apply in the Community:

(a) Commercial vehicles are prohibited within the Community except as expressly provided in this Section. For purposes of this Declaration, a "commercial vehicle" shall include any vehicle having a carrying capacity and/or size designation greater than or equal to three-fourths (3/4) ton; any vehicle other than a law enforcement vehicle bearing a company name or logo; any vehicle with ladders on top or in a truck bed; and any "box" van or truck; provided, however, that passenger work vehicles that are typical and primarily passenger vehicles that simply also contain business logos shall not be considered "commercial vehicles". The Board shall have the authority to further define the term "commercial vehicles" in the Rules and Regulations to include other vehicles used primarily for commercial purposes other than commuting to and from the workplace.

(b) Unless otherwise permitted by the Rules and Regulations, no boat, trailer, recreational vehicle, camper, camper truck or commercial vehicle shall be stored (a) on any part of the Common Area, except such portions of the Common Area (if any) as may have been designated by the Board for such purpose; (b) in any driveway or (c) in any alley or (d) on any other part of a Lot, or (e) otherwise in the Community unless the same are fully enclosed within the garage located on the Lot and the garage door closed when not entering and exiting the garage.

(c) Restrictions contained in this Section shall not apply to sales trailers, construction trailers, or other vehicles which may be used by Declarant and such Builders as maybe designated by Declaration, and their agents, invitees and contractors, in the conduct of their business prior to Completion of Sales.

(d) No boat, truck, trailer, pre-manufactured home, camper, recreational vehicle or tent shall be used as a living or dwelling area within the Community. No repairs to or maintenance of any automobile or other vehicle shall be made or performed on any driveway within the Community, except in the case of emergency and except as may be permitted by the Rules and Regulations. No unlicensed, wrecked or inoperable vehicles may be left on a Lot outside an enclosed structure.

(e) Street-side parking (meaning parking along any street or road in the Community) of any vehicles is prohibited except if any spaces are striped and designated therefor; provided, however, that temporary street-side parking by guests or invitees visiting or providing services to any Owner at its Lot is allowed so long as: i) the visiting/servicing vehicle is parked directly in front of the benefitted Lot, ii) the street-side parking does not inhibit or materially impede traffic and/or create an unsafe condition within in the Community; and iii) the street-side parking does not continue for more than eight (8) consecutive hours or eight (8) hours in any single calendar day.

(f) Private parking pads for Common Areas, multi-space parking lots, two or more marked/striped parking spaces together, and those parking lots labeled on plats of the subdivision as "Private Drive," "Parking Lot," "Spaces," if any, and wherever they may exist throughout the Property, but expressly not including driveways on Lots, shall be Common Areas and shall be restricted to use for short-term parking by Owners or tenants along with any guests and invitees of the same; any use inconsistent with this, may result in towing pursuant to this Section 11.

Section 12. Garages. Garage doors are required for garages. All ducts, pipes and wiring in garages shall be concealed from view above the level of the finished ceiling. For aesthetic purposes, all garage doors shall remain closed whenever possible. Carports are not allowed.

Section 13. Signs, Curtains and Flags. No advertising signs or billboards shall be erected on any Lot. This restriction shall not apply to signs used to identify and advertise the Subdivision as a whole, nor to signs for selling Lots and/or houses during the development and construction period or for the re-selling of houses, provided such signs are approved by the Board or ACC empowered by the Board to do so. Also, the provisions of this Article shall not apply to notices posted in connection with judicial or foreclosure sales conducted with respect to a mortgage.

(a) No Owner shall place on or about any window any metallic foil or other coating, substance or material which acts as a reflector of light and no Owner shall display, hang, store or use any signs (including, without limitation, political signs), curtains, draperies, shades, stained glass, flags (including, without limitation, flags of the United States of America or the State) or other articles whatsoever outside of the Dwelling on any Lot so as to be visible from outside the Lot, excluding seasonal decorations, the flag of the United States of America or the State, and political signs, provided that such seasonal decorations, flags of the United States of America, flags of the State, and political signs, conform with the requirements of this Section, and with all Regulations.

(b) Flagpoles (whether for seasonal decorations, or for the flag of the United States of America, or for the flag of the State, or for any other flag) must be, in any event, attached to the main Dwelling and may not be free-standing. Furthermore, no flagpole may be greater than six (6) feet in length and no flagpole may be mounted on the roof of any Dwelling. Only one flag (whether a seasonal decoration, the flag of the United States of America, the flag of the State, or any other flag) may be displayed on any Lot at any given time. No flag (whether a seasonal decoration, the flag of the United States of America, the flag of the State, or any other flag) may exceed the size of four (4) feet by six (6) feet.

(c) No more than two (2) political signs may be displayed on any Lot at any one time, unless the applicable Town or County ordinance allows more than two (2) signs, in which event no more signs than are allowed by the applicable municipal or County ordinance shall be displayed on any Lot at any one time. Political signs may not be displayed any earlier than forty-five (45) days before the day of the election or later than seven (7) days after an election day. No political sign may exceed the dimensions of twenty-four (24) inches by twenty-four (24) inches, unless the applicable municipal or County ordinance allows a greater size, in which case no political sign shall exceed the dimensions set forth in such municipal or County ordinance. For purposes of this Section, "political sign" means a sign that

attempts to influence the outcome of an election including supporting or opposing an issue on the election ballot.

(d) Notwithstanding the foregoing, one professionally manufactured sign of not more than five (5) square feet advertising a Lot for sale or rent may be placed on the Lot by the Owner and/or in the window of its Dwelling in such manner that it will be visible from outside the Lot. The prohibitions in this Section shall not apply to Declarant or its agents, who may erect such signs or flags as Declarant deems desirable to promote the sale of Lots.

(e) Holiday decorative lighting shall be allowed from Thanksgiving to January 15 of each calendar year; provided, however, the Board may adopt Regulations limiting the type, intensity and number of decorative lights so allowed. Other seasonal decorations are approved two weeks prior to the event until two weeks after the event.

(f) Except as approved in writing by the Declarant, all exterior and landscape lighting shall be approved in writing by the Board of Directors or ACC empowered by the Board to do so prior to installation.

Section 14. Antennas and Dishes. No radio or television transmission or reception towers, antennas, satellite dishes or disks or similar transmission equipment shall be erected on any structure or on any Lot or within the Property, except in accordance with the Telecommunications Act of 1996 and the implementing rules therefor issued by the Federal Communications Commission and by the Board or the ACC empowered by the Board to do so in compliance with the Regulations adopted therefor.

Section 15. Laundry. No laundry or wash shall be dried or hung upon the exterior of any Lot or any place visible within the Subdivision from outside such Lot.

Section 16. Perimeter and Privacy Fences. No perimeter fence or wall shall be erected on any Lot closer to the street than the rear back corner of the Dwelling or the side street setback for corner lots. Owners of Dwellings with rear-entry garages may install fences up to 10 feet from the rear corner of said garage. However, Declarant has the right to grant a fence location variance on any particular lot due to the particular character of said lot. All proposed perimeter or privacy fences shall be subject to review and approval by Architectural Control Committee and subject to such terms, conditions and design standards as may be established therefor, from time to time. Unless otherwise required or allowed in the Architectural Guidelines, all perimeter and privacy fencing shall be black aluminum picket fencing only, four feet (4') or five feet (5') in height, and any other fencing, including chain link, split rail, wood privacy, PVC, or other type of metal fencing, is expressly prohibited. The spacing between the pickets of perimeter fencing shall not be less than one and one-half (1½") inches and all such pickets shall be installed on the exterior. However, Declarant and any Builder expressly permitted in writing by the Declarant may install any fencing make or style and may install temporary decorative fencing on a model home. No perimeter fence or wall shall be erected on any berm of dirt which was placed on side or rear lot line by the Declarant.

Notwithstanding the restrictions provided in this Section 16, an Owner may install a fence or wall generally parallel with the side of a residence that forms an enclosed courtyard with that portion of the residence set back from the remainder of the side of the residence with which the fence or wall runs parallel, and subject to terms, conditions and design standards from time to time adopted therefor and the written approval of its location by the Board or the ACC.

Section 17. Pets.

(a) No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot or the Common Area, except that dogs, cats, or other small household pets may be kept or maintained, subject to applicable leash laws, and provided that they are not kept, bred or maintained for commercial purposes. The number of household pets shall not exceed three (3) in number except for newborn offspring of such household pets which are under nine (9) months of age. No animal shall be allowed if such animal constitutes an unreasonable annoyance, inconvenience, nuisance or threat to any other Owner, or creates or causes unsanitary conditions. If the Board receives any complaint that an animal constitutes an unreasonable annoyance, inconvenience, nuisance, threat or creates an unsanitary condition, the Board shall afford the Owner of such animal Notice and Opportunity for Hearing, and if the Board finds that such animal constitutes an unreasonable annoyance, inconvenience, nuisance, threat or creates an unsanitary condition, the Board may require that such animal be removed from the Subdivision. All animals shall be kept on a leash when in the Common Area or any other area within the Subdivision other than a fenced area on a Lot. Owners shall be required to properly remove any excrement deposited by a pet on any Lot and/or any portion of the Property and dispose of same properly and in accordance with any Regulations pertaining thereto. Owners shall also be responsible for repairing any damage caused to any Lot and/or any portion of the Property by a pet. Violations by an Owner or an Owner's pet under this Section may subject an Owner to an Assessment for Non-Compliance.

(b) The Board may adopt Regulations concerning animals which are more restrictive than the provisions of this Declaration, including rules requiring that animals be restricted from designated areas within the Common Area. The Board may adopt a rule prohibiting certain pets, which is more restrictive than the provisions of this Declaration, except that such rule shall not apply to animals residing in the Subdivision at the time such rule is adopted. In any event, the Board at any time may require that any animal found to be an unreasonable annoyance, inconvenience, nuisance, threat or creating unsanitary conditions be removed from the Subdivision. Current breeds restricted from the community are pit bulls, pit bull mix, and rottweilers.

Section 18. Trash and Vegetation.

(a) Trash. No trash, rubbish, garbage, debris or waste material shall be kept or permitted upon any Lot or the Common Area, except in sanitary containers located in an appropriate area screened and concealed from view of neighboring Lots and streets, except on the day of collection when such containers may be moved on the Lot to the location designated for its collection. Trash cans and recycle bins shall never be store on the side of the homes. Trash cans and recycle bins must be stored in the garage or directly behind the home and screened from neighbor's view.

(b) Landscaping. Only Bermuda grass shall be used on Lots in the Subdivision (other grasses may be used in Common Areas). Grass, hedges, shrubs, vines and mass planting of any type on any Lot or any portion of the Subdivision shall be kept trimmed, and shall at regular intervals be mowed, trimmed and cut so as to appear neat and attractive. No weeds or dead or dying vegetation shall be permitted to accumulate on any Lot or any portion of the Subdivision which would render it unsanitary, unsightly, offensive, or detrimental to any property in the vicinity thereof or to the Owners or occupants of any property in such vicinity. Trees, shrubs, vines and plants which die shall be promptly removed. If any Owner, after Notice and Opportunity for Hearing, fails to maintain such Owner's Lot in the manner provided by this Section, the Association, at the expense of such Owner, may take such steps as are necessary in order to remedy such condition, including cutting and removing of weeds, vegetation, rubbish, debris, garbage, waste materials and other accumulations on any Lot at the sole cost and expense of such Owner, and the Board, without the vote or written consent of Members, may levy a Special Assessment against such Owner to obtain reimbursement of the cost therefor as provided in this

Declaration, or, after Notice and Opportunity for Hearing, levy a fine against such Owner. Only pine needles and/or black or brown mulch may be used as ground cover in landscaping beds or around the base of trees.

Section 19. Above Ground Pools. No above ground pools shall be erected or installed on a Lot.

Section 20. Window Air Conditioners. No window air conditioners are allowed in any window of the Dwelling.

Section 21. Construction Material. The storage of construction material, equipment and/or other objects on a Lot in a manner that is unsightly or for a period that is deemed inappropriate by the Declarant, the Board and/or the ACC is prohibited.

Section 22. Play and Exercise Equipment. All swing sets, play structures, trampolines, goals (including soccer and basketball goals), and similar equipment must be installed in locations that comply with the Rules and Regulations, and in any event the locations and extent thereof must be approved in writing by the Board or the ACC in accordance with the provisions of this Declaration and subject to terms and conditions from time to time established therefor. No metal swing sets shall be allowed. In addition, permitted basketball goals must have permanently installed poles (not portable) and must be installed, if at all, at least 20 feet back from the back of curb and may not face the street. Portable basketball goals shall be prohibited. No trampolines shall be permitted on any Lot.

Section 23. Changing Elevations. No Lot Owner shall excavate or extract earth for any business or commercial purpose. No elevation changes shall be permitted on any Lot which materially affects surface grades of surrounding Lots or any drainage, unless approved in advance in writing by the ACC.

Section 24. Completion of Construction and Condition of Site.

(a) Construction of any “primary” Improvements on any Lot (such as a home and the initial installation of walls and landscaping) shall proceed consistently and diligently and shall, unless a variance is granted by the Declarant during the Declarant Control Period, and thereafter by the Board or the ACC, be completed within one (1) year from the date of commencement of construction. An Owner shall be solely responsible for securing from the governmental entity with jurisdiction, and at the Owner’s sole cost and expense, such permits and approvals as shall be required prior to any construction or installation governed thereby.

(b) The period that is appropriate for the completion of “secondary” Improvements (such as walls, fences, paving, landscaping, etc. or the modification to an existing structure), shall be determined by the Declarant or the Board (when such authority is transferred to the Board by the Declarant), or by an ACC established by either.

(c) During construction, the Owner shall, at all times, maintain the construction site in accordance with any standards and Regulations established by the Declarant and/or the Board and/or the ACC. The Board shall have the right to take appropriate legal action, whether at law or in equity, or to levy specific assessments, to compel the immediate completion of any primary Improvements not completed within eighteen (18) months from the date of commencement of construction or any secondary Improvements not completed by the deadline set out in the approval for the modification provided to the Owner of the Lot. The Declarant, the Board and/or the ACC shall have the right, but not the obligation, to extend any time period for completion, but any such extension must be in writing and a copy kept on file with the corporate records of the Association.

(d) If an Owner or their builder, agents, representatives, employees, family members, and/or contractors store construction material, equipment and/or other objects on a Lot in a manner that is unsightly or for a period that is deemed inappropriate by the Declarant, the Board and/or the ACC, the Declarant, Board and/or the ACC may impose an Assessment for Non-Compliance on the Owner of the Lot.

(e) No building or other structure shall be placed or permitted to remain on any Lot which may alter, damage or interfere with the use, maintenance, repair or replacement of any of the drainage, water and/or sewer facilities and appurtenances thereto serving the Subdivision. No Owner shall perform, or permit to be performed, any work, construct any Improvements, place any landscaping or suffer the existence of any condition whatsoever which shall alter or interfere with the drainage pattern for the Lots or Common Area, except to the extent such alteration in drainage pattern is approved in writing by the Association, Declarant and all public (or quasi-public) authorities having jurisdiction. All drainage, water and sewer facilities and appurtenances shall at all times be accessible to Declarant until the Subdivision is completed and shall at all times be accessible to the Association and all persons installing, using, maintaining, repairing or replacing such drainage facilities and appurtenances. Declarant may, from time to time, present for recordation in the official records of the County, plats, engineering plans, and/or other instruments showing the approximate locations of subsurface storm drainage facilities, subsurface groundwater drainage facilities, water and sewer lines and appurtenant facilities. If, for any reason, any such instrument is not accepted for recording, Declarant may deliver such instrument to the Association, and the Association shall maintain the same as part of its permanent records. In either event, each Owner shall be deemed to have notice of the location of such drainage facilities as may be shown in such instrument.

Section 25. Sewage System. Sewage disposal shall be through the municipal system or, a type approved by appropriate State and local agencies. No Owner shall construct, place or permit to remain on any Lot any building or other structure which may alter, damage or interfere with the use, maintenance, repair or replacement of any of the sewer lines, facilities and appurtenances thereto serving any portion of the Subdivision.

Section 26. Water System. Water shall be supplied through the municipal system or, a type approved by appropriate State and local agencies. No Owner shall construct, place or permit to remain on any Lot any building or other structure which may alter, damage or interfere with the use, maintenance, repair or replacement of any of the water lines, facilities and appurtenances thereto serving any portion of the Subdivision.

Section 27. Utility Facilities. Declarant reserves the right to approve the necessary construction, installation and maintenance of utility facilities, including but not limited to water, telephone, electric, cable, natural gas and sewage systems, which may be in variance with these restrictions. No Owner shall construct, place or permit to remain on any Lot any building or other structure which may alter, damage or interfere with the use, maintenance, repair or replacement of any of the utility lines, facilities and appurtenances thereto serving any portion of the Subdivision.

Section 28. Dog Pens and Runs. No dog pen or dog runs are permitted; provided, however, dog houses are permitted as long as they are located in the rear yard of a residence and not visible from the street. In addition to other requirements of this Declaration applicable to pets, pets must be on a leash or restrained at all times.

Section 29. Exterior Changes. All exterior changes for improvements to any Lot shall first be approved in writing by the Board or the ACC empowered by the Board to review and approve such change, and as further provided in this Declaration. All exterior colors must conform to the original, approved

scheme incorporated into the original construction. Shutters and doors must complement the approved exterior color scheme and conform to the original, approved colors incorporated into the original construction. When submitted a request for a color change, color chips and siding examples shall be attached to the architectural approval request form.

Section 30. Storm Doors. Storm doors are permitted provided that prior written approval is granted therefor by the Board, or by the ACC empowered by the Board, following review and approval of a request therefor using the standard form of request adopted for architectural review submissions. Permitted storm doors shall be full-view glass or glass/screen and must match the existing façade color scheme. Door hardware shall also match the existing hardware (brass handle for brass lights, etc.).

Section 31. Window Boxes and Planters. Window boxes and planters shall be allowed; provided, however, window boxes and planters must be of a color and material complementary to the residence exterior and shall be maintained in a neat and attractive manner. Dead, dying and diseased plants and all weeds shall be promptly removed. Statues and figurine planters, however, shall not be allowed.

Section 32. If Rule or Regulation Requiring Irrigation Adopted. If the Association enacts any rule or Regulation requiring the irrigation of landscaping, such requirement to irrigate landscaping shall be suspended during periods of mandatory water conservation measures as provided in North Carolina General Statutes § 47F-3-122. No Owner may drill or use a private well for irrigation, nor draw water from any pond or other body of water within the Community.

Section 33. Unintentional Violations; Waiver of Setbacks, Building Lines and Building Requirements. In the event of the unintentional violation of any of the building setback line restrictions set forth herein, Declarant reserves the right to change or grant variances for the setbacks, location of Lot lines, and easements; provided, however, that such changes shall not be in violation of any provisions of the zoning provisions of the appropriate governmental authority. The Declarant, or the ACC, may, for good cause, waive unintentional violations of the setbacks and minimum square footages provided for in this Declaration. Such waiver shall be in writing and recorded in the Registry. A document executed by the Declarant or the ACC shall be, when recorded, conclusive evidence that the Owner of a Lot has met the requirements of this Declaration regarding such violation. The Declarant or the ACC may also handle violations of setbacks and boundary lines by amending the any plat of the Subdivision showing the amendment or adjustment. Nothing contained herein shall be deemed to allow the Declarant or the ACC to waive violations, which must be waived by an appropriate governmental authority.

Section 34. Solar Collectors. For purposes hereof, “Solar Collectors” are panels/equipment that gather solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for a Lot or Dwelling. Solar Collectors are subject to the provisions of North Carolina General Statutes §22B-22 (“State Solar Panel Regulations”). To the maximum extent allowed under the State Solar Panel Regulations, the following shall apply:

(a) No Solar Collectors shall be permitted on any Lot or Dwelling unless the design and location is approved in writing by the ACC with such screening as the ACC may require.

(b) Solar Collectors on Dwellings must be façade or roof mounted and not visible from areas open to common areas or street or other areas of public access (this may therefore require that all Solar Collectors mounted on roofs/facades must be on the rear facing side of Dwellings (away from road frontage).

(c) All Solar Collectors shall be placed so as not to be visible by a person on the ground and must be (a) on the façade of a structure that faces areas open to common or public access, (b) on a roof surface that slopes downward towards the same areas open to common or public access that the

façade faces, or (c) within an area set off by a line running across the façade of the structure extending to the property boundaries on either side of the façade, and those area of common or public access faced by the structure.

(d) Owners must install and maintain screening Improvements (“Screening”) around Solar Collectors to screen items that would otherwise be Visible from Neighboring Property unless such requirement would violate State Solar Panel Regulations.

(e) Since the Association has such exterior maintenance obligations as are required under Article IX below: (i) each Owner shall be responsible for all damages caused by the installation, existence, or removal of Solar Collectors; (ii) each Owner shall hold harmless and indemnify the Association for any damages caused by the installation, existence, or removal of Solar Collectors; and (iii) the Association shall not be responsible for maintenance, repair, replacement, or removal of solar collectors unless expressly agreed in a written agreement that is recorded in the Registry.

The provisions of this Section 34 are severable from each other; the invalidity or unenforceability of any provision or portion of this section shall not invalidate or render unenforceable any other provisions or portions of this section, and all such other provisions or portions shall remain valid and enforceable. The invalidity or unenforceability of any provisions or portions of this section to a particular type of Solar Collector or to a particular Solar Collector on a particular Lot or Dwelling shall not invalidate or render unenforceable such provisions or portions regarding other Solar Collectors on other Lots or Dwellings.

ARTICLE IX GENERAL MAINTENANCE

Section 1. Association’s General Maintenance Responsibility. The Association shall keep the Common Area in good condition, and shall maintain and repair the same, including but not limited to: private (and public if not yet accepted for maintenance by the applicable Governmental Entity) streets and alleyways as shown on the Plats (along with all streets and alleys within the Property, including any portions of the future proposed right-of-way for Hwy 55 if applicable, that have been dedicated to but not yet accepted by and maintained by public authorities); all sidewalks, Common Area easement areas, street-side curbing, and detention/retention ponds (except to the extent this is the obligation of an Owner hereunder); all entry features and entry landscaping and all retaining walls (whether or not the same are located on a Lot or otherwise); all street signage and street lights (unless the same are maintained by Duke Energy); electric meters for private lighting on subdivision level entrance monuments; irrigation meters and connections for irrigating Common Areas; all Recreational Amenities and Common Area open spaces (including any of the same as may be encumbered by utility, access or other easements that do not otherwise assign the maintenance obligation for such areas); perimeter buffer strips not located on Lots but located along the outer boundary of the Property adjacent other communities or public rights-of-way; and any other or any Common Areas and Limited Common Areas. The Association may be relieved of all or any portion of its maintenance responsibilities to the extent that such responsibility is assumed and carried out by any local, state or federal government or quasi-governmental entity accepting responsibility for such maintenance. In the event of any such assumption, assignment or dedication, however, the Association may reserve or assume the right or obligation to continue to perform all or any portion of its maintenance responsibilities, if the Board determines that such maintenance is desirable or necessary to maintain the Community Wide Standards. In the event that the Association determines that any maintenance for which the Association is responsible, hereunder, is caused through the willful or negligent act of an Owner, or the occupant, family member, guest, invitee or lessee of an Owner, then the Association may perform such maintenance and all costs thereof may be assessed against the Owner as a specific assessment.

The Board of Directors, in its sole discretion, may leave portions of the Common Area as undisturbed natural areas and may change the landscaping on the Common Area at any time and from time to time, including the adding or modifying of landscaping improvements, such as the planting of seasonal flowers. Any common irrigation system installed by the Declarant or the Association for the use by the Association shall be operated, maintained, repaired and replaced by the Association.

If and to the extent the following portions of the Common Area are not maintained adequately (in the opinion of the Board) by a governmental entity, and without limiting the above and for avoidance of doubt, the Association shall also maintain the following: (a) subdivision level entry features to the Property; (b) streets, parking areas and sidewalks (except to the extent this is the obligation of an Owner hereunder); (c) landscaping within public street rights-of-way abutting or within the Property; (d) Stormwater Control Measures (all to the extent described in Article III, Section 9 herein); and (e) Recreational Amenities.

In the event that the Association determines that any maintenance, repair, or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, or the occupant, family member, guest, invitee or lessee of an Owner, then the Association may perform such maintenance, repair or replacement and all costs thereof not paid for by insurance shall be assessed against the Owner as a specific assessment.

Section 2. Maintenance by Owners. Each Owner, at all times, shall maintain, repair and otherwise be responsible for the condition and maintenance of his Lot and all Improvements thereon. Without limiting the generality of the foregoing, and subject to the requirements of this Declaration, an Owner shall be responsible for maintaining in good condition, the paint on the exterior of his Improvements, replacement and care of roofs, gutters, downspouts, exterior building surfaces, lawns (including, but not limited to watering), landscaping, trees, shrubs, driveways, walks, and other exterior improvements, as well as those areas on a Lot or adjacent thereto which the Association requires a Lot Owner to maintain at his expense; replacement and reconstruction of improvements on an Owner's Lot required because of damage or destruction by fire or other casualty, maintenance, repair and replacement of the surface and subsurface drainage facilities and appurtenances located on his Lot as may be necessary to maintain good and proper drainage of his Lot and other real property in the vicinity, except for such facilities the maintenance of which has been assumed by the Association, the County or other Governmental Entity.

(a) The Association reserves the right, in its sole discretion, to plant, install, cut, edge and seed grass, cut or trim shrubbery and trees, install pine needles and/or to require certain Lots from time to time to be grassed, cut, trimmed, and maintained, all of which shall be at the expense of the particular Lot Owner. If the Association manages lawn maintenance in a particular section of the Subdivision, Owners with fences will be required to make arrangements to leave the gate open on lawn servicing dates; otherwise the Owner will be responsible for the portion of their yards enclosed by such fences.

(b) Each Owner shall maintain his Lot such that no activities, buildings, structures, or other Improvements thereon, and shall be placed or permitted to remain on any Lot which may damage or interfere with the surface and subsurface drainage facilities and appurtenances located on his Lot, and/or damage or interfere with the use, maintenance, repair or replacement of such drainage facilities and appurtenances. No Owner shall do any work, construct any Improvements, place any landscaping or suffer the existence of any condition whatsoever which shall alter or interfere with the drainage pattern for the Lots or Common Area, except to the extent such alteration in drainage pattern is approved in writing in advance by the Association, Declarant and all public (or quasi-public) authorities having jurisdiction. All such drainage facilities and appurtenances shall at all times be accessible to Declarant until all Lots in the Subdivision have been sold and at all times shall be accessible to the Association and all persons

installing, using, maintaining, repairing or replacing such drainage facilities and appurtenances. Declarant may from time to time present for recordation in the official records of the County instruments showing the approximate locations of subsurface storm drainage facilities and of subsurface groundwater drainage facilities. If for any reason any such instrument is not accepted for recording, Declarant may deliver such instrument to the Association, and the Association shall maintain the same as part of its permanent records. In either event, each Owner shall be deemed to have notice of the location of such drainage facilities as may be shown in any such instruments.

Section 3. Failure of Owner to Maintain.

(a) In the event that the Owner neglects or fails to maintain his Lot and/or the exterior of his or her dwelling in the Subdivision, or any easement areas and/or Improvements required by the Association to be maintained by the Owner of that Lot, the Association may, but shall not be obligated to, provide such maintenance at the Owner's expense. Other than where such maintenance, repair and replacement pertains to a vacant or unimproved Lot, or where in the sole determination of the Board of Directors, such failure to maintain, repair or replace constitutes a significant nuisance or hazard to other Owners, the Association shall first be required to provide such non-complying Owner with written notice: (a) of the required maintenance, repair and/or replacement to be performed by that Owner and of the time frame for compliance; and (b) where applicable, of the Association's intent to remedy such violation by providing such maintenance, repair and/or replacement at the Owner's expense, should such maintenance, repair and/or replacement not be performed by the Owner by the deadline set out in the notice. The determination as to whether an Owner has neglected or failed to maintain his Lot and/or Dwelling in a manner consistent with other Lots and Dwellings in the Subdivision and what constitutes a significant hazard or nuisance to other Owners shall be made by the Board, in its sole discretion. In order to enable the Board to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access, egress and regress over and upon each Lot at all reasonable times to perform the maintenance, repair and/or replacement, as provided in this Article.

(b) If any Owner, after Notice and Opportunity for Hearing, fails to maintain their Lot and the Improvements thereon, the Association, at the expense of such Owner, may, but shall not be obligated to, perform such maintenance, repair and/or replacement, and the Board, without the vote or written consent of Members, may levy a specific assessment against such Owner in an amount to be determined by the Board, which shall be added to and become a part of the Assessment to which such Lot is subject, and constitute the Association's lien upon that Lot.

Section 4. Work Required by Owner's Willful or Negligent Act. In the event that the Association determines that any need for maintenance, repair and/or replacement, is caused through the willful or negligent act of an Owner or the family, guests, lessees, or invitees of any Owner, then the Association may, but shall not be obligated to, perform such maintenance, repair and/or replacement at such Owner's sole cost and expense, and all costs thereof, together with a penalty determined by the Board, shall be added to and become a part of the specific assessment to which such Owner is subject and shall become a lien against the Lot of such Owner.

Section 5. Rights of Entry.

(a) By Declarant and Association.

This Declaration hereby reserves unto the Declarant, the Association and their successors, agents, representatives, employees, and contractors an easement for ingress, egress, access and regress and for maintenance, repair and replacement over, upon and through every Lot and the Common Area, when necessary, practical or desired, in order to inspect, repair, maintain, construct, and/or replace Improvements or to bring a Lot into compliance with this Declaration, the Architectural Guidelines or the

Regulations for which the Association is responsible for enforcing, and each Owner accepting title to a Lot in the Subdivision takes title subject to such right of access of the Association and Declarant and their successors, agents, representatives, employees, and contractors.

(b) By Safety and Emergency Personal.

In addition, this Declaration reserves unto any police, fire, paramedic and other safety and emergency personnel, and to such governmental agencies having jurisdiction over the Subdivision, their agents and employees, the right of immediate access to the Common Area and the Lots at all times for emergency situations, and for the preservation of public health, safety and welfare.

Section 6. Individual Insurance. Each Owner, by virtue of taking title to a Lot subject to this Declaration, acknowledges that the Association has no obligation to provide any insurance for any portion of individual Lots or Dwellings, and each Owner covenants and agrees with all other Owners and with the Association that each Owner will carry at all times all-risk casualty insurance on the Lot and all structures constructed thereon and a liability policy covering damage or injury occurring on a Lot. The casualty insurance shall cover loss or damage by fire and other hazards commonly insured under an all-risk policy, if reasonably available, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard.

ARTICLE X MORTGAGEE PROVISIONS

Section 1. Obligation of Association to First Mortgagees. So long as any First Mortgagee shall hold any first lien upon any Lot, or shall be the Owner of any Lot, such First Mortgagee, upon timely written request to the Association, shall have the following rights:

(a) To inspect the books and records of the Association during normal business hours and to be furnished with at least one (1) copy of the annual financial statement and report of the Association prepared by a certified public accountant designated by the Board, such financial statement or report to be furnished by April 15 of each calendar year;

(b) To be given notice by the Association of the call of any meeting of the membership to be held for the purpose of considering any proposed amendment to this Declaration, the Articles of Incorporation, or the Bylaws of the Association or of any proposed abandonment or termination of the Association or the effectuation of any decision to terminate professional management of the Association and assume self-management by the Association;

(c) To receive notice of any condemnation or casualty loss affecting the Common Areas or any portion thereof;

(d) To be notified of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

(e) To have the right to approve any alienation, release, transfer, hypothecation or other encumbrance of the Common Areas, other than those specific rights vested in the Association; and

(f) To be given notice of any delinquency in the payment of any Assessment or charge (which delinquency remains uncured for a period of sixty (60) days) by any Owner owning a Lot encumbered by a mortgage held by the First Mortgagee, such notice to be given in writing and to be sent to the principal office of such First Mortgagee, or to the place which it may designate in writing.

Section 2. Requirements of First Mortgagee. Whenever any First Mortgagee desires to avail itself of the provisions of this Article, it shall furnish written notice thereof by certified mail, postage prepaid, return receipt requested, to the Association at the Registered Agent's address registered with the Secretary of State for the State identifying the Lot or Lots upon which any such First Mortgagee holds any first lien or identifying any Lot or Lots owned by such First Mortgagee and such notice shall designate the place to which notices, reports or information are to be given by the Association to such First Mortgagee.

Section 3. Subordination. No provisions contained in this Declaration shall defeat or render invalid the lien of any mortgage which is made in good faith and for value. The lien of the Assessments provided for herein shall be subordinate to the lien of any mortgage recorded prior to the date any such Assessment becomes due. This subordination shall apply only to Assessments on a Lot which have become due and payable prior to a sale or transfer of such Lot pursuant to a decree of foreclosure or exercise of power of sale. Any mortgagee who acquires title to or comes into possession of a Lot pursuant to exercise of remedies provided for in the mortgage, including foreclosure by judicial action or exercise of a power of sale, and any purchaser at a foreclosure sale, shall take the Lot free of any claims for unpaid Assessments or charges against the Lot which have accrued prior to the time such mortgagee or purchaser acquires title to or comes into possession of the Lot; provided, however, this exception shall not be applicable to any claim for Assessments or charges levied by the Association against all Lots for the purpose of recovering any revenue lost by reason of the nonpayment of past due Assessments upon such Lot; and provided further, that except as otherwise provided in this Section, all of the limitations, restrictions, covenants, conditions, easements, liens, charges, Assessments, and equitable servitudes contained herein shall be binding upon any Owner whose title is derived through foreclosure sale, trustee's sale or otherwise. Except as provided above, the sale, transfer or conveyance of title to a Lot shall not relieve a selling Owner from personal liability for any assessments which became due and payable prior to such sale, transfer or conveyance, nor relieve such Lot from a duly recorded lien for any such prior unpaid assessment.

ARTICLE XI AMENDMENT

Section 1. Amendment by Declarant. Until the expiration of the Declarant Control Period, Declarant may, in its sole discretion, and unilaterally, without the requirement of approval, joinder or consent of the Owners or any other party, amend this Declaration as long as such amendment does not materially alter or change any Owner's right to the use and enjoyment of such Owner's Lot or use of the Common Area as set forth in this Declaration and the amendment does not adversely affect the title to any Lot owned by any party other than Declarant, unless such Owner shall consent in writing thereto, which consent shall be filed with such amendment. Any amendment to the Declaration adopted by the Declarant shall be effective upon the later of the effective date contained therein or the date of its recording in the Registry.

Declarant may (in Declarant's sole discretion) also amend and modify this Declaration without obtaining the consent or approval of the Owners if such amendment or modification is necessary to cause this Declaration to comply with the requirements of the Federal Housing Administration, the Veterans Administration, Federal National Mortgage Association, or other similar agency. Any such amendment must be with the consent and approval of such agency and must be recorded in the office of the Register of Deeds for the County.

Section 2. Amendment by the Members. Unless amended as allowed under Section 1 of this Article, the Declaration may be amended only as follows:

(a) Unless a higher percentage or different voting requirement is specified herein or by Legal Requirements, the Declaration may be amended only by (i) the written agreement or consent of those Members, or the affirmative vote at a meeting of the Association of those Members, who hold sixty-seven percent (67%) or more of the total number of votes in the Association, and (ii) during the Development Period, with the written consent of Declarant.

(b) Written notice of an annual or special meeting of the Association at which any proposed amendment to the Declaration is to be voted on, together with at least a summary description of the proposed amendment, shall be given to all Members not less than ten (10) days and not more than sixty (60) days in advance of the date of such meeting.

(c) When any amendment to the Declaration is approved by Members of the Association (and Declarant, when applicable) as provided in this Section, the appropriate officers of the Association (and Declarant, when applicable) shall execute in the same manner as a deed and record in the Registry, a document setting forth the following: the amendment; the effective date of the amendment (if no effective date is stated the amendment shall be effective upon the recording of same in the Registry); and if applicable, the date of the meeting of the Association at which such amendment was adopted, the date that notice of such meeting was given, the total number of votes required to constitute a quorum at such meeting, the total number of votes present at such meeting, the total number of votes necessary to adopt the amendment, the total number of votes cast in favor of such amendment and the total number of votes cast against the amendment. The document shall be recorded in the Registry within thirty (30) days following the date of the meeting at which the amendment was adopted or the written agreement for the amendment is completed. Provided, however, and notwithstanding the foregoing or anything to the contrary appearing herein, no amendment to the Declaration duly adopted by the Members of the Association shall be void or invalid solely because the document describing the amendment is not recorded in the Registry within said thirty (30) day period, and any such duly adopted amendment to the Declaration recorded following the end of said thirty (30) day period shall become effective on the later of the effective date specified therein, if any, or on the date it is recorded in the Registry.

(d) Amendment of Subdivision Declarations and Supplemental Declarations shall be governed by the provisions for amendment contained therein, if any; otherwise, the provisions regarding amendment of the Declaration shall apply to amendment of those documents.

Section 3. Consent of Mortgagees. No consent of any Mortgagee to any amendment of the Declaration is required unless (i) the amendment adversely affects the rights of Mortgagees under the Declaration, or (ii) a Legal Requirement requires the consent of Mortgagees or a percentage of Mortgagees, or (iii) the mortgage held by such Mortgagee specifically requires the Mortgagee's consent with respect to the portion of the Property subject to the mortgage, and if either (ii) or (iii) is applicable, the Mortgagee has notified the Association of its rights regarding consent to amendments in the same manner required for an Mortgagee to notify the Association in the Article of the Declaration dealing with Mortgagee Provisions. If the amendment is adopted by the required percentage of Members exclusive of the Member or Members who own portions of the Property for which consent of a Mortgagee is required under this Section, then the amendment is valid whether or not the necessary Mortgagees have consented to the amendment.

Section 4. Prohibited Effects of Amendment. Notwithstanding the provisions of Sections 1, 2 and 3 of this Article allowing amendments to the Declaration, no amendment to the Declaration, whether adopted by the Declarant, by the Association, or by the Members or any applicable group of Members of the Association, shall do or result in any of the following:

(a) without the written consent of Declarant, diminish, impair, or in any way affect the rights of Declarant, including Declarant's rights to develop any part or all of the Property in accordance with a Subdivision Plan;

(b) without the written consent of Declarant, impose additional obligations upon Declarant;

(c) diminish or impair the express rights of Mortgagees under the Declaration without the prior written approval of a majority of the Mortgagees who have requested the exercise of such rights as provided herein;

(d) terminate or revise any easement established by the Declaration, without the written consent of the Person benefitted by the easement or by the Owner of the portion of the Property benefitted (and/or, with respect to a revision, burdened) by the easement, whichever is applicable;

(e) violate any provision of any Stormwater Agreement in effect, if any;

(f) alter or remove or attempt to alter or remove any otherwise applicable Legal Requirement.

ARTICLE XII DURATION OF DECLARATION; DISSOLUTION OF ASSOCIATION

Section 1. Duration. Unless sooner terminated as required by Legal Requirements, the Declaration shall run with and bind the Property and each Owner, and shall inure to the benefit of the Association, and each other Owner of any portion of the Property, and their respective heirs, successors, and assigns, from and after the recording of the Declaration in the Registry and in perpetuity or until such time as it is terminated by a written termination agreement, executed or ratified in the same manner as a deed, by those Members who hold eighty percent (80%) or more of the total number of votes in the Association, and also with the written consent of Declarant during the Development Period. Execution or ratification by any one of multiple Owners of a Lot is sufficient for that Lot unless, prior to the time the termination agreement is recorded in the Registry, any other Owner of that Lot files with the Association a written objection to the termination of the Declaration (in which event the vote allocated to that Lot shall be considered as not having been exercised). The termination agreement shall specify a date after which it will be void unless it is recorded in the Registry before that date. The termination agreement may not be recorded in the Registry unless and until the requisite number of signatures have been obtained as provided herein, and it shall be effective only upon recording. If, pursuant to the termination agreement, any real estate in the Property is to be sold following termination of the Declaration, the minimum terms of the sale shall be set forth therein.

Section 2. Dissolution of the Association. The Association shall be dissolved upon the termination of the Declaration. Provided, however, until any sale of the Common Property authorized by the termination agreement or approved by the Owners in the same manner as required for approval of the termination agreement is completed and the sale proceeds distributed, the Association shall continue in existence with all of the powers it had before termination. The Association, on behalf of the Owners, may contract for the sale of the Common Property, but the contract is not binding unless such sale has been authorized in the termination agreement or it has been approved by the Owners in the same manner as required for approval of the termination agreement. Proceeds of the sale of Common Property shall be distributed to the Owners and lienholders as their interests may appear, as provided in the termination agreement or other agreement approved by the Owners in the same manner as required for approval of the termination agreement. If the Common Property is not to be sold following termination of the Declaration,

title to the Common Property vests in the Owners upon termination, as tenants in common in proportion to their respective interests as provided in the termination agreement.

Upon dissolution of the Association or upon loss of ownership of all of the Common Property by the Association for any reason whatsoever (except for exchange or dedication or conveyance of any part or all of the Common Property as allowed by the Declaration, or by reason of merger and/or consolidation with any other association as allowed by the Declaration), except as otherwise provided in the termination agreement, other agreement approved by the Owners in the same manner as required for approval of the termination agreement, or Legal Requirements (in particular, Section 47F-2-118 of the Act, or any successor Section of the Act), any portion of the Common Property not under the jurisdiction of and being maintained by another association substantially similar to the Association, together with all other assets of the Association, first shall be offered to the Town (or, if the Town refuses such offer, then to some other appropriate Governmental Entity or public agency as determined by the Board) to be dedicated for public use for purposes similar to those to which the Common Property and such assets were required to be devoted by the Association. If the Town or such other appropriate Governmental Entity or public agency accepts the offer of dedication, such portion of the Common Property and assets shall be conveyed by the Association to the Town or such other appropriate Governmental Entity or public agency, subject to the superior right of an Owner to an easement (if necessary) for reasonable ingress and egress to and from such Owners Lot and the public or private street(s) on which that Lot is located, subject to all other applicable rights of way and easements, and subject to ad valorem property taxes subsequent to the date of such conveyance.

If the Town or such other appropriate Governmental Entity or public agency refuses the offer of dedication and conveyance, the Association may transfer and convey such Common Property and assets to any nonprofit corporation, association, trust or other entity which is or shall be devoted to purposes and uses that would most nearly conform to the purposes and uses to which the Common Property was required to be devoted by the Declaration, such transfer and conveyance to be made subject to the rights of Owners and the other matters set forth in the immediately preceding paragraph of this Section. If there is no nonprofit corporation, association, trust or other entity who will accept such transfer and conveyance of the Common Property and assets of the Association, then such Common Property and assets shall be distributed as provided in the plan of termination/dissolution adopted by the Association.

ARTICLE XIII DISCLOSURES AND WAIVERS

The following are in addition to any other disclosures and waivers in the Declaration.

Section 1. Construction Activities. All Owners and other Persons who use the Property hereby are placed on notice that Declarant, Builders and/or their respective agents, contractors, subcontractors, licensees, and other designees, successors, or assigns, may, from time to time, conduct blasting, excavation, construction, and other activities within the Property. By the acceptance of a deed or other conveyance or mortgage, leasehold, license, or other interest, and by using any portion of a Lot or the Property generally, such Owners and such other Persons acknowledge, stipulate, and agree: (i) such activities shall not be deemed nuisances, or noxious or offensive activities, under any applicable covenants or at law generally; (ii) not to enter upon, or allow their children or other Persons under their control or direction to enter upon (regardless of whether such entry is a trespass or otherwise) any property within or in proximity to the portion of the Property where such activities are being conducted (even if not being actively conducted at the time of entry, such as at night or otherwise during non-working hours); (iii) that Declarant, Builders and their respective agents, contractors, subcontractors, licensees, and other designees, successors, and assigns, shareholders, directors, officers, partners, members, managers, agents and employees shall not be liable but, rather, shall be held harmless for any and all losses, damages

(compensatory, consequential, punitive, or otherwise), injuries, or deaths arising from or relating to the aforesaid activities; (iv) that any purchase or use of any portion of the Property has been and will be made with full knowledge of the foregoing; and (v) this acknowledgment and agreement is a material inducement to Declarant to sell, convey, lease, and/or allow the use of the Property.

Section 2. Conveyance of Common Property. Declarant may convey or transfer all portion of the Property it owns, including but not limited to Common Property, and including all Improvements thereon, to the Association in an “AS IS, WHERE IS” condition and may designate the same as Common Property. Declarant hereby disclaims and makes no representations, warranties or other agreements, express or implied, by law or fact, with respect to any Property or Common Property conveyed any Improvements thereon, including, without limitation, representations or warranties of merchantability regarding the condition, construction, accuracy, completeness, design, adequacy of size or capacity thereof in relation to the utilization, date of completion, or the future economic performance or operations of, or the materials, furniture, or equipment used therein. Neither the Association nor any Owner or any other Person shall make any claim against Declarant, its successors and assigns, relating to the condition, operation, use, accuracy or completeness of the Common Property, or for incidental or consequential damages arising therefrom.

Declarant shall transfer and assign to the Association, without recourse, all warranties received from manufacturers and suppliers relating to any of the Common Property or Improvements thereon, or relating to any personal property transferred by Declarant to the Association, which exist at the time of transfer and are assignable, but Declarant’s failure to do so shall not constitute any grounds for any claim, cause of action or other legal recourse against Declarant for failing to do so, other than to compel Declarant to transfer or assign same.

Section 3. Liability for Association Operations. The Association shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless Declarant, its successors and assigns, and its shareholders, directors, officers, partners, members, managers, agents and employees from and against any and all losses, claims, demands, damages, costs, and expenses of whatever kind or nature (including, without limitation, reasonable attorneys’ fees and costs at all tribunal levels and whether or not suit is instituted, including those incurred in establishing the right to be indemnified, defended, and held harmless pursuant hereto), which relate to or arise out of Association management and operations, including, without limitation, Improvement, maintenance, and operation of Common Property and the collection of assessments.

Section 4. Public Facilities and Services. Certain facilities and areas within and adjoining the Property may be open for use and enjoyment of the public. Such facilities and areas may include, by way of example: greenways, trails and paths, parks, and other neighborhood spots conducive to gathering and interaction, roads, sidewalks, and medians. In addition to any such facilities and areas that are open for use and enjoyment of the public pursuant to Legal Requirements, Declarant may designate facilities and areas as open to the public at the time Declarant makes such facilities and areas a part of the Common Property or the Board may so designate at any time thereafter.

Section 5. Safety and Security. Each Owner and occupant of a Dwelling, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in the Property. The Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to enhance the level of safety or security which each Person provides for himself or herself or itself and his or her or its property. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of safety or security within the Property, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to the Property, cannot be compromised or circumvented, not that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing such Owner's tenants and all occupants of its Dwelling that the Association, its Board and committees, and Declarant are not insurers or guarantors of security or safety and that each Person within Property assumes all risks of personal injury and loss or damage to property, including Dwellings and the contents of Dwellings, resulting from acts of third parties.

Section 6. View Impairment. None of Declarant, any Builder or the Association guarantee or represent that any view from, over, or across any portion of the Property will be preserved without impairment. None of Declarant, any Builder or the Association shall be obligated to relocate, prune, or thin trees or other landscaping except as otherwise required under a separate covenant or agreement, if any. The Association (with respect to the Common Property) has the right to add or remove trees and other landscaping to and from the Common Property, subject to Legal Requirements. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

Section 7. Water Management. Each Owner and any other Person who uses any portion of the Property acknowledges and agrees that any or all bodies of water (including lakes, ponds, creeks, streams, and wetlands in the Property), together with any dams or other facilities or devices that contain, control, or direct such waters, may be designed as water management areas (including designation as Stormwater Measures) and not designed solely as aesthetic features, and that, with respect to those that are water management areas, due to fluctuations in ground water elevations within the immediate area and/or the receipt or discharge of stormwater, the water level of such lakes, ponds, and wetlands may rise and fall. Each Owner and other such Person further acknowledges and agrees that Declarant has no control over such elevations. Therefore, each Owner and other such Person releases and discharges Declarant, and its successors, assigns, contractors, subcontractors, shareholders, directors, officers, partners, members, managers, agents and employees from and against any and all losses, claims, demands, damages, costs, and expenses of whatever nature or kind, including reasonable attorneys' fees and costs at all tribunal levels, related to or arising out of any claim relating to such fluctuations in water elevations.

Declarant reserves for itself, the Association, and their successors, assigns, and designees, the perpetual, non-exclusive right and easement, but not the obligation, to enter upon bodies of water and wetlands located within the adjoining the Property to do any or all of the following: (i) install, operate, maintain, and replace pumps to supply irrigation water to the Common Areas; (ii) construct, maintain, and repair structures and equipment used for retaining water; and (iii) maintain such areas in a manner consistent with the Community Wide Standard.

Declarant further reserves for itself, the Association, and their successors, assigns, and designees, a perpetual, non-exclusive right and easement of access and encroachment over the Common Area and Lots (but not the Dwellings thereon) adjacent to or within 50 feet of bodies of water within or adjoining the Property, in order to do any or all of the following: (i) temporarily flood and back water upon and maintain water over such portions of the Property; (ii) alter in any manner and generally maintain the bodies of water within and adjoining the Property; and (iii) maintain and landscape the slopes and banks pertaining to such areas. All Persons entitled to exercise these easements shall use reasonable care in and repair any damage to a Lot resulting from the intentional exercise of such easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to hurricanes, heavy rainfall, or other natural occurrences.

Owners and other Persons who use any portions of the Property shall not alter, modify, expand, or fill any lakes, ponds, or wetlands located in the Property without the prior written approval of the local

permitting authority, the Town, the Association, the Declarant, the U.S. Army Corps of Engineers (to the extent it has authority), and such other governmental entities as may have relevant jurisdiction over such matters.

ARTICLE XIV MISCELLANEOUS

Section 1. Enforcement. The Declarant, the Association, each Owner, and, when enforcement rights are granted by the Declaration, a Mortgagee, shall have the right, but not the obligation, to enforce the Declaration by any proceeding at law or in equity (or otherwise, as provided in the Declaration) against any Person who has violated, is violating, or is attempting to violate, any part of the Declaration, either to restrain the violation, recover damages, or seek other available legal or equitable remedies. Any failure by the Declarant, the Association, an Owner, or any other Person to enforce the Declaration or seek any applicable remedy with respect to any specific violation or lien shall not constitute a waiver of the right to do so thereafter, nor shall it constitute a waiver of the right to enforce the Declaration at any other time with respect to the same or substantially similar matter. All rights, remedies and privileges granted to the Declarant, the Association, any Owner, or any other Person herein are cumulative, and the exercise of any one or more of such rights, remedies or privileges shall not constitute an election of remedies or preclude subsequent exercise of other rights, remedies and privileges.

Section 2. Severability of Provisions. If any paragraph, section, sentence, clause or phrase of the Declaration shall be or become illegal, null or void for any reason or shall be held by any court of competent and final jurisdiction to be illegal, null or void, the remaining paragraphs, sections, sentences, clauses and phrases of the Declaration shall continue in full force and effect and shall not be affected thereby. To the extent that any provision of the Governing Documents is determined to be overly broad or unenforceable and a narrower or partially enforceable construction may be given to such provision without destroying its intent, then the narrower or partially enforceable provision shall be applied and, to the extent lawful, shall be enforced. It is hereby declared that said remaining paragraphs, sections, sentences, clauses and phrases would have been and are imposed irrespective of the fact that any one or more other paragraphs, sections, sentences, clauses or phrases shall become or be illegal, null or void.

Section 3. Notice. Except as otherwise provided herein, whenever written notice to any Person (including Owners and Members) is required hereunder; such notice may be hand delivered to such Person, or given by first class United States mail, postage prepaid, or given in such other manner specifically allowed or required by Legal Requirements, or given in such other manner determined by the Board to be proper and which does not violate any Legal Requirements, addressed to the address of such Person appearing on the records of the Association or to the address for such Person appearing in the records of the County Tax Collector. Properly addressed notice shall be deemed to have been given by the Association as follows: (i) in the absence of any delays in delivery by the United States Postal Service resulting from acts of war or terrorism, on the third day following the date the notice was deposited in the United States mail, first class postage prepaid; or (ii) on the date of personal delivery to the Person or an adult residing with the Person, as evidenced by a receipt signed by the Person or such other Person; or (iii) on the delivery date indicated on a return certified or registered mail receipt, or (iv) on the date indicated by the records of a national, regional or local same day or overnight courier service, or (v) on the date acknowledged in writing by the recipient Person or other adult residing with such Person, or (vi) upon execution of a written waiver of such notice by the Person. Notice to the Association may be given and shall be deemed to have been given in the same manner as notice to a Person, when addressed to the principal business office of the Association or the property manager employed by the Association. It shall be the duty of each Owner and Member to keep the Association informed of such Owner's or Member's current mailing address and telephone number. If an Owner or Member has not provided the Association with such current mailing address the Association may use as the mailing address the street address of the

Lot owned by such Owner or Member or the address for such Owner or Member in the records of the County Tax Collector. If no address for an Owner or Member is reasonably available to the Association, the Association shall not be required to give notice to such Owner or Member. Notice given to any one of multiple Owners of any portion of the Property shall be deemed to have been given to all of such Owners.

Section 4. Titles. The titles, headings and captions which have been used throughout the Declaration are for convenience only and are not to be used in construing the Declaration or any part thereof, except as necessary with respect to any cross-referencing of any provisions of the Declaration.

Section 5. Number and Gender. Whenever the context of the Declaration requires, the singular shall include the plural and one gender shall include all.

Section 6. No Exemption. No Owner may become exempt from any obligations imposed hereby by non-use or abandonment of the Common Property or any Lot owned by such Owner.

Section 7. Consent. Except as otherwise may be specifically required by the Governing Documents or Legal Requirements, where the consent of the Owner of a Lot is necessary, and such Lot is owned by more than one Person, the consent of any one of such Owners is sufficient.

Whenever the written consent of Declarant is required for the effectiveness of some action under the Declaration in addition to any required vote of the Members of the Association, the votes in the Association allocated to Declarant shall be counted in determining the vote of the Members, the written consent requirement being in addition to the voting requirement, whether or not Declarant actually participates in the voting.

Section 8. Subdivision Combination of Lots; Plat Re-recording. A Lot may be subdivided, and the boundaries of a Lot may be altered, only with the written consent of the Owner thereof and the Declarant (during the Development Period and, thereafter, the Board), and with any prior approval required of the Town. Provided, however, and notwithstanding the foregoing sentence, such written consent of the Declarant is not required for leases, deeds of correction, deeds to resolve boundary line disputes or similar corrective instruments, or deeds or other instruments granting any easement, right-of-way or license to Declarant, the Association, the Town or a public utility provider, provided that the number of then existing Lots in the Property is not changed by any such action.

One (1) or more Lots may be combined into a single Lot, and a Lot may be subdivided into two (2) or more Lots, only with the written consent of the Owner thereof and the Declarant (during the Development Period and, thereafter, the Board). When two (2) or more Lots are combined into one (1) Lot, the resulting Lot shall continue to be assessed and have voting rights in the Association based on the number of Lots that were combined into one Lot. When one (1) Lot is subdivided into two (2) or more Lots, the resulting Lots each shall be considered as a separate Lot and each shall be subject to assessments and have voting rights in the Association in accordance with the assessments and voting rights then applicable to a Lot. When the boundaries of two (2) or more such Lots are changed but the resulting number of Lots is the same as the original number of Lots, the assessments and voting rights in the Association for those resulting Lots shall continue as they were immediately prior to the change. When two (2) or more such Lots are combined into one (1) Lot, the easements reserved by the Declaration or a Plat around the boundaries of the former Lots shall continue in effect, except that any such easements reserved along the former common boundary line(s) between the combined parcels and not actually being exercised or used by any Person shall terminate. Provided, however, it shall be the responsibility of the Owner of such resulting Lot to obtain any documentation that is necessary or required to confirm such termination and to obtain termination or relocation of any such easements that are actually being exercised

or used at the time of the combination of Lots. When a Lot is subdivided into two (2) or more Lots, the easements established herein adjacent to the boundaries of a Lot shall apply to all of the resulting Lots.

Nothing contained herein shall prohibit or restrict the right of Declarant, during the Development Period to (i) subdivide, combine, re-subdivide or recombine, or to record or rerecord Plats relating to, any portion of the Property owned by Declarant, or (ii) to approve or disapprove such activities with respect to portions of the Property owned by other Owners. The provisions of the immediately preceding paragraph with respect to the effects of subdivision or combination of Lots are applicable to subdivision or combination of Lots owned by the Declarant unless the Declarant otherwise indicates on the plat of such subdivision or combination recorded in the Registry or in an instrument recorded in the Registry prior to the end of the Development Period.

Section 9. Exclusive Rights to Use Name of Subdivision. During the Development Period, no Person shall use the name “Bellewood,” or any derivative of such name in any logo or depiction, in any printed or promotional material without Declarant’s prior written consent; except that Builders may use such names in conjunction with any and all marketing, sales and construction efforts without need for consent of Declarant. Furthermore, and notwithstanding the foregoing, all Owners may also use the name “Bellewood,” in printed or promotional matter where such term is used solely to specify that a particular Lot is located within the Property, and the Association shall be likewise be entitled to use such names in its name and in Association materials.

Section 10. Association Contracts and Leases During Declarant Control Period. All Association contracts and leases which affect or relate to the Property or any part thereof and which (i) are entered into prior to the time that the first Board elected by the Members takes office, and (ii) are not bona fide or were unconscionable to the Owners at the time entered into under the circumstances then prevailing, may be terminated without penalty by the Association at any time after the first Board elected by the Members takes office, upon not less than ninety (90) days written notice to the other parties to the contract or lease (or any different minimum time period provided for in the Act), and all such commas and leases are terminable as provided in this Section, whether or not the right of the Association to terminate is stated therein. For avoidance of doubt if not otherwise, the foregoing shall not be deemed to allow for termination of typical contracts entered into with local utility departments for street lighting.

Section 11. Conflicts. Whenever there exists a conflict among the Governing Documents of the Association, the provisions of the Declaration and thereafter, any applicable Supplemental Declaration or Subdivision Declaration, shall control, except as to matters of compliance with the Nonprofit Corporation Act, in which event the Articles shall control. Whenever there is a conflict between the provisions of the Articles and Bylaws, the provisions of the Articles shall control. The provisions of the Bylaws shall control over any conflicting provision of any rules and regulations, Board resolutions, or Architectural Guidelines. With respect to the foregoing, specific provisions shall control general provisions, except that a construction consistent with the Act, the Nonprofit Corporation Act and the Code shall in all cases control over any construction inconsistent therewith.

Whenever the Act, the Nonprofit Corporation Act, or the Code provides for limitations on any amount of assessments, fines, late payment fees, charges, or attorney fees that may be assessed, fined, charged, imposed, or collected by the Association, and the amount of any such assessment, fine, late payment fee, charge, or attorney fee allowed or authorized by the Declaration or other Governing Documents (including any assessment, fine, late payment fee, charge, or attorney fee amount established by the Board as allowed by the Declaration or other Governing Documents) exceeds the applicable limitation of the Act, the Nonprofit Corporation Act, or the Code, unless the applicable limitation specified by the Act, the Nonprofit Corporation Act, or the Code is a mandatory limitation that cannot be exceeded by provisions in the Declaration or other Governing Documents allowing or providing for the possibility

of a greater amount than the applicable limitation otherwise allows, the provisions of the Declaration or other Governing Documents control and are deemed to constitute an express provision contrary to the limitation contained in the Act, the Nonprofit Corporation Act, or the Code. The provisions of the Act and Nonprofit Corporation Act shall in all cases control over any conflicting provisions of the Code. The Governing Documents shall be construed together with the construction that avoids, insofar as possible, conflicts among them.

For the purposes of this Article and any other references in the Declaration to similar conflicts, a 'conflict' is a situation in which the provisions in question cannot be reconciled or where enforcement of one provision necessarily would prohibit enforcement of another provision. Two provisions that are different, but not mutually exclusive or prohibitive of each other do not constitute a conflict for the purposes of this Article, and where two restrictive provisions are merely different, the more restrictive shall apply.

Section 12. Assignment. Declarant specifically reserves the right, in Declarant's sole discretion, to assign temporarily or permanently any or all of its rights, privileges, powers and/or obligations under the Declaration or under any Supplemental Declaration or Subdivision Declaration, including assignment of any or all of same as security for any obligation of Declarant to any Person. Except as otherwise provided in this Section, no such assignment shall be effective unless (i) it is in writing, (ii) it is executed by the assignee, (iii) it is recorded in the Registry or other governmental entity office required under Legal Requirements, with the date of recording or such later effective date stated in the assignment being the effective date thereof (and the terms of the recorded assignment shall be conclusive and binding as to the matters assigned), and (iv) if it purports to assign any obligations of the Declarant to complete initial capital Improvements within the Subdivision required by the Subdivision Plan or other Legal Requirements, it describes the specific obligations assigned.

Upon Declarant's request, the Association shall execute any such assignment by Declarant to the Association, but Declarant may not assign to the Association any obligation to complete initial capital Improvements within the Property required by the Subdivision Plan or other Legal Requirements. With respect to assignments described in any instrument under which Declarant rights specifically or impliedly are given as security for an obligation of Declarant, the terms of such instrument shall control over the provisions of this Section, including execution and recording requirements and the matters assigned thereby. Upon any completed foreclosure sale pursuant to any instrument under which the Declarant rights become security for an obligation, or the recording or filing of a deed or other instrument in lieu of foreclosure, the purchaser at the foreclosure sale, or the grantee under any deed or other instrument in lieu of foreclosure, shall receive the rights, privileges, powers and/or obligations that were assigned as security for the Declarant's obligation, unless the foreclosure documents or conveying document specifically exclude such rights, privileges, powers and/or obligations.

Notwithstanding anything to the contrary in this Section, with respect to the Common Area (including Common Property and Stormwater Control Measures) and utilities in the Property, Declarant may assign to the Association, and the Association shall accept assignment of and execute the assignment document with respect to, any or all of the following in whole or in part, including the costs thereof: all rights, duties, liabilities, obligations and indemnities of the Declarant under all permits issued by the Town or any provider of utilities to any part or all of the Property, and/or under all agreements between the Declarant and the Town or any provider of utilities to any part or all of the Property, with respect to maintenance of the Common Area and/or utilities in the Property. Provided, however, and notwithstanding the foregoing, Declarant may not assign to the Association any of its obligations or liabilities or indemnities directly related to the Improvements for the initial installation of Common Property, Stormwater Control Measures and/or utilities and/or publicly dedicated street in the Subdivision as required by the Town or a utility provider for development of the Property in accordance with a

Subdivision Plan, including warranties for construction of such Improvements, if any, required by any governmental entity or utility provider prior to its acceptance of maintenance responsibility, if any, for such Improvements (it being recognized that one or more of such Improvements may not be of a type that are accepted for maintenance by a governmental entity or utility provider). Declarant shall have the authority to resolve any dispute as to what rights, duties, liabilities, obligations and/or indemnities can be assigned to the Association pursuant to this paragraph.

Section 13. Costs and Reasonable Attorneys' Fees. In any action to enforce the provisions of any Governing Documents, the court may award reasonable attorneys' fees to the prevailing party, even if such action is settled prior to any trial, judgment or appeal. It also is the specific intent of this Section that it constitutes the allowance of the award of reasonable attorneys' fees as required under Section 47F-3-120 of the Act.

Section 14. Dispute Resolution.

(a) Provisions Mandatory. The Declarant, the Association, its officers, directors, and committee members, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Properties, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that those claims, grievances or disputes described in this Sections ("Claims") shall be resolved using the procedures set forth below in lieu of filing suit in any court. Unless specifically exempted below, all claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of any of the Governing Documents, or the rights, obligations and duties of any Bound Party under the Governing Documents or relating to the design or construction of Improvements on the Common Area shall be subject to the provisions of this Section 14. Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of this Section:

(i) any suit by the Association against any Bound Party to enforce the provisions of Article VI (Assessments);

(ii) any suit by the Association to obtain a temporary restraining order, or other mandatory or prohibitive equitable relief, and such other ancillary relief as permitted to enforce the provisions of Article VII (Architectural Control) and Article VIII (Use of the Property);

(iii) any suit by an Owner to challenge the actions of the Declarant, the Association, the ACC, or any other committee of the Board with respect to approval, disapproval, application or enforcement of the provisions of Article VII (Architectural Control) or Article VIII (Use of the Property);

(iv) any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;

(v) any suit in which any indispensable party is not a Bound Party; and

(vi) any suit which otherwise would be barred by any applicable statute of limitations.

With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in this Section.

(b) Notice. Any Bound Party having a Claim (“Claimant”) against any other Bound Party (“Respondent”) (collectively, the “Parties”) shall notify each Respondent in writing (the “Notice”), stating plainly and concisely:

- (i) the nature of the Claim, including the Persons involved and Respondent’s role in the Claim;
- (ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
- (iii) Claimant’s proposed remedy; and
- (iv) that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

(c) Negotiation and Mediation.

(i) The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in resolving the dispute by negotiation.

(ii) If the Parties do not resolve the Claim within thirty (30) days of the date of the Notice or within such other period as may be agreed upon by the Parties) (“Termination of Negotiations”), Claimant shall have thirty (30) additional days to submit the Claim to mediation under the auspices of an independent agency providing dispute resolution services in the County in which the Property is located.

(iii) If Claimant does not submit the Claim to mediation within thirty (30) days after Termination of Negotiations, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

(iv) Any settlement of the Claim through mediation shall be documented in writing by the mediator. If the Parties do not settle the Claim within thirty (30) days after submission of the matter to the mediation process, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings (“Termination of Mediation”). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

(v) Within five (5) days of the Termination of Mediation, the Claimant shall make a final written settlement demand (“Settlement Demand”) to the Respondent and the Respondent shall make a final written settlement offer (“Settlement Offer”) to the Claimant. If the Claimant fails to make a Settlement Demand, Claimant’s original Notice shall constitute the

Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a “zero” or “take nothing” Settlement Offer.

(d) Final and Binding Arbitration.

(i) If the Parties do not agree in writing to a settlement of the Claim within fifteen (15) days of the Termination of Mediation, the Claimant shall have fifteen (15) additional days to submit the Claim to arbitration in accordance with the Rules of Arbitration contained in Exhibit “B” or such rules as may be required by the agency providing the arbitrator. If not timely submitted to arbitration or if the Claimant fails to appear for the arbitration proceeding, the Claim shall be deemed abandoned, and Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to Persons other than Claimant.

(ii) This is an agreement to arbitrate and is specifically enforceable under the applicable arbitration laws of the State of North Carolina. The arbitration award (the “Award”) shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of North Carolina.

(e) Allocation of Costs of Resolving Claims.

(i) Subject to the following subsection (ii), each Party shall bear its own costs, including any attorneys’ fees incurred, and each Party shall share equally all charges rendered by the mediator(s) and all filing fees and costs of conducting the arbitration proceeding (“Post Mediation Costs”).

(ii) Any Award which is equal to or more favorable to Claimant than Claimant’s Settlement Demand shall add Claimant’s Post Mediation Costs to the Award, such costs to be borne equally by all Respondents. Any Award which is equal to or less favorable to Claimant than any Respondent’s Settlement Offer shall award to such Respondent its Post Mediation Costs.

(f) Enforcement of Resolution. After resolution of any Claim, if any Party fails to abide by the terms of any agreement or Award, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or Award without the need to again comply with the procedures herein. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys’ fees and court costs.

Section 15. Actions Against Declarant. The affirmative vote or consent of the Members that is equal to or greater than sixty-seven percent (67%) of the total number of votes in the Association first shall be required prior to the Association doing any or all of the following with respect to the Declarant or any successor Declarant, regardless of whether such Person is the Declarant at the time the Association takes the action or obtains the necessary vote or consent required to take such action: (i) file a complaint, on account of any act or omission of Declarant, with any governmental entity which has regulatory or judicial authority over the Property or any part thereof; or (ii) assert a claim against Declarant or sue Declarant in any court of law or equity or before any administrative or other board or committee or branch of any Governmental Entity, or request legal or equitable relief against Declarant.

Section 15. Rule Against Perpetuities. As provided in Section 47F-2-103(b) of the Act, the rule against perpetuities may not be applied to defeat any provision of the Declaration, or the Bylaws, rules, or regulations adopted pursuant to Section 47F-3-102(1) of the Act. In the event of the absence of the protection of Section 47F-2-103(b) of the Act, if the Declaration or any provision thereof violates any applicable Rule Against Perpetuities, the Declaration or such provisions shall be deemed reformed to continue in effect for the maximum period of time that the Declaration or such provision could exist without violating such applicable Rule Against Perpetuities.

Section 16. Reserved Rights. Whenever the Declaration reserves a right for, or requires or authorizes a consent, approval, variance or waiver by, Declarant during the Declarant Control Period or Development Period, and thereafter confers such right upon, or requires or authorizes such approval or waiver by, the Association or Board, the applicable right may be exercised, or the applicable approval or variance or waiver may be given, only by Declarant (or its assigns, which may include the Board) during the applicable period, and, thereafter; only by the Board or its authorized designee (unless a vote or consent of the Members of the Association also is required or alone is required).

Section 17. Legal Requirements. All Governing Documents shall be subject to and construed in accordance with all Legal Requirements, including all applicable provisions of the Code. It shall be the responsibility of each Owner to comply with all Legal Requirements, whether or not any approval, disapproval, waiver or variance of the terms of any Governing Documents has been given by Declarant, the Association or the ACC. It is the express intention of the Governing Documents to comply with the Act, and any provisions of the Governing Documents that are not in compliance with the Act shall be deemed reformed from time to time to comply therewith. Provided, however, it also is the intention of the Governing Documents that, unless its provisions violate the Act, such provisions shall control, and, insofar as reasonably possible, the provisions of the Governing Documents shall be construed in such manner as to be consistent with, and not in violation of, the Act. Notwithstanding the above, nothing herein shall be deemed to restrict or limit any otherwise applicable portion of any Town ordinance.

Section 18. Marketable Title Act. It is the intention of the Declarant that the Declaration exist and continue until terminated as provided herein, and that it constitute an exception to any automatic termination or expiration provision that might be applicable under the Real Property Marketable Title Act as contained in Chapter 47B of the North Carolina General Statutes, or under any successor or replacement statute or any other Legal Requirement that would or could terminate the Declaration other than in the manner provided for termination herein. Accordingly, the Association, in its discretion, may re-record in the Registry the Declaration or some memorandum or other notice hereof in order to continue the Declaration in full force and effect and/or to qualify the Declaration as an exception to any such automatic termination or expiration provision of the Real Property Marketable Title Act or any other Legal Requirement.

**[The remainder of this page is intentionally left blank.
Signature page immediately follows.]**

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day and year notarized below.

LENNAR CAROLINAS, LLC, a Delaware limited liability company

By: [Signature]
Name: Troy J. George
Title: Vice President and ~~Division~~ President

STATE OF NORTH CAROLINA
WAKE COUNTY

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

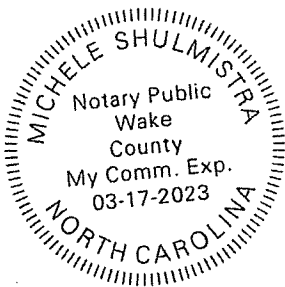
Date: 9/20/19

[Signature]
Official Signature of Notary Public

Michele Shulmistra, Notary Public
Wake County, NC

[OFFICIAL SEAL]

My commission expires: 3/17/23



02/04

IN WITNESS WHEREOF, The Association has executed this Declaration as of the day and year notarized below for the purposes described in the Declaration.

Consenting Association

BELLEWOOD HOMEOWNERS
ASSOCIATION, INC., a North Carolina
nonprofit corporation

By: Heather G Gaster
Name: Heather G Gaster
Title: HOA Board President

STATE OF NORTH CAROLINA
WAKE COUNTY

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Heather Gaster
Name of person signing

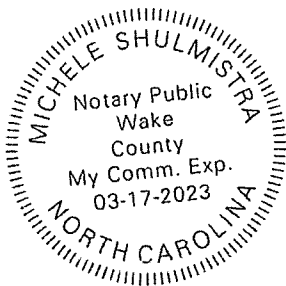
Date: 9/20/19

Michele Shulmistra
Official Signature of Notary Public

Michele Shulmistra, Notary Public
Wake County, NC

[OFFICIAL SEAL]

My commission expires: 3/17/23



1065

Exhibit "A-1"

Legal Description of Property

BEING all that certain real property as shown on plat entitled "BELLEWOOD SUBDIVISION PHASE 1" recorded in Book of Maps 2019, Pages 1565-1569, in the Office of the Register of Deeds of Wake County, North Carolina, and in Plat Book 2019, Pages 304-308, in the Office of the Register of Deeds of Harnett County, North Carolina, including without limitation, Lots 74 through 164, and OPEN SPACE 1, OPEN SPACE 2, OPEN SPACE 3, OPEN SPACE 4, AND OPEN SPACE 9.

Exhibit "A-2"

Additional Property

Being all or any real property that either is contiguous to any boundary of the Property or is located within five (5) miles of any boundary of the Property as such boundaries are constituted at the time of the annexation of such real property to this Declaration.

Exhibit “B”**Rules of Arbitration**

1. Claimant shall submit a Claim to arbitration under these Rules by giving written notice to all other Parties stating plainly and concisely the nature of the Claim, the remedy sought and Claimant’s submission of the Claim to arbitration (“Arbitration Notice”).
2. The Parties shall select arbitrators (“Party Appointed Arbitrators”) as follows: if all the Parties do not agree upon one neutral arbitrator (“Neutral”) to resolve the Claim, then all the Claimants shall agree upon one Party Appointed Arbitrator, and all the Respondents shall agree upon one Party Appointed Arbitrator. The Party Appointed Arbitrators shall, by agreement, select one Neutral so that the total arbitration panel (“Panel”) has three arbitrators.
3. If the Panel is not selected under Rule 2 within 45 days from the date of the Arbitration Notice, any party may notify the nearest chapter of The Community Associations Institute, for any dispute arising under the Governing Documents, or the American Arbitration Association, or such other independent body providing arbitration services, for any dispute relating to the design or construction of Improvements on the Properties, which shall appoint one Neutral (“Appointed Neutral”), notifying the Appointed Neutral and all Parties in writing of such appointment. The Appointed Neutral shall thereafter be the sole arbitrator and any Party Appointed Arbitrators or their designees shall have no further duties involving the arbitration proceedings.
4. No person may serve as a Neutral in any arbitration in which that person has any financial or personal interest in the result of the arbitration. Any person designated as a Neutral or Appointed Neutral shall immediately disclose in writing to all Parties any circumstance likely to affect impartiality, including any bias or financial or personal interest in the outcome of the arbitration (“Bias Disclosure”). If any Party objects to the service of any Neutral or Appointed Neutral after receipt of that Neutral’s Bias Disclosure, such Neutral or Appointed Neutral shall be replaced in the same manner in which that Neutral or Appointed Neutral was selected.
5. The Appointed Neutral or Neutral, as the case may be (“Arbitrator”) shall fix the date, time and place for the hearing. The place of the hearing shall be within the Properties unless otherwise agreed by the Parties. In fixing the date of the hearing, or in continuing a hearing, the Arbitrator shall take into consideration the amount of time reasonably required to determine Claimant’s damages accurately.
6. Any Party may be represented by an attorney or other authorized representative throughout the arbitration proceedings. In the event the Respondent fails to participate in the arbitration proceeding, the Arbitrator may not enter an Award by default, but shall hear Claimant’s case and decide accordingly.
7. All persons who, in the judgment of the Arbitrator, have a direct interest in the arbitration are entitled to attend hearings. The Arbitrator shall determine any relevant legal issues, including whether all indispensable parties are Bound Parties or whether the claim is barred by the statute of limitations.
8. There shall be no stenographic record of the proceedings.

9. The hearing shall be conducted in whatever manner will, in the Arbitrator's judgment, most fairly and expeditiously permit the full presentation of the evidence and arguments of the Parties. The Arbitrator may issue such orders as it deems necessary to safeguard rights of the Parties in the dispute without prejudice to the rights of the Parties or the final determination of the dispute.
10. If the Arbitrator decides that it has insufficient expertise to determine a relevant issue rose during arbitration, the Arbitrator may retain the services of an independent expert who will assist the Arbitrator in making the necessary determination. The scope of such professional's assistance shall be determined by the Arbitrator in the Arbitrator's discretion. Such independent professional must not have any bias or financial or personal interest in the outcome of the arbitration, and shall immediately notify the Parties of any such bias or interest by delivering a Bias Disclosure to the Parties. If any Party objects to the service of any professional after receipt of a Bias Disclosure, such professional shall be replaced by another independent licensed professional selected by the Arbitrator.
11. No formal discovery shall be conducted in the absence of express written agreement among all the Parties. The only evidence to be presented at the hearing shall be that which is disclosed to all Parties at least 30 days prior to the hearing; provided, however, no Party shall deliberately withhold or refuse to disclose any evidence which is relevant and material to the Claim, and is not otherwise privileged. The Parties may offer such evidence as is relevant and material to the Claim, and shall produce such additional evidence as the Arbitrator may deem necessary to an understanding and determination of the Claim. The Arbitrator shall be the sole judge of the relevance and materiality of any evidence offered, and conformity to the legal rules of evidence shall not be necessary. The Arbitrator shall be authorized, but not required, to administer oaths to witnesses.
12. The Arbitrator shall declare the hearings closed when satisfied the record is complete.
13. There will be no post-hearing briefs.
14. The Award shall be rendered immediately following the close of the hearing, if possible, and no later than 14 days from the close of the hearing, unless otherwise agreed by the Parties. The Award shall be in writing, shall be signed by the Arbitrator and acknowledged before a notary public. If the Arbitrator believes an opinion is necessary, it shall be in summary form.
15. If there is more than one arbitrator, all decisions of the Panel and the Award shall be by majority vote.
16. Each Party agrees to accept as legal delivery of the Award the deposit of a true copy in the mail addressed to that Party or its attorney at the address communicated to the Arbitrator at the hearing.