

WAKE COUNTY, NC 78
LAURA M RIDDICK
REGISTER OF DEEDS
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Drawn by and HOLD FOR:
Moore & Alphin, PLLC (ch) (Box 155)

**DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS,
EASEMENTS, CHARGES AND LIENS
FOR
THE TOWNES AT WOODCREEK**

**THIS DOCUMENT REGULATES OR PROHIBITS
THE DISPLAY OF POLITICAL SIGNS.**

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

**DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS,
EASEMENTS, CHARGES AND LIENS FOR
THE TOWNES AT WOODCREEK**

THIS DECLARATION is made on the date hereinafter set forth by **PARKER & ORLEANS HOMEBUILDERS, INC.** a Delaware corporation (hereinafter "Declarant"), and **HOLLY SPRINGS RESIDENTIAL PROPERTIES LLC**, a North Carolina limited liability company (hereinafter "Developer").

PREAMBLE:

WHEREAS, Developer, together with the "Approved Developer" as defined in the Master Declaration (hereinafter defined), have developed and are developing a planned community in the Town of Holly Springs, Wake County, North Carolina known as "WOODCREEK" (the "Community"); and

WHEREAS, Developer is the declarant under the Master Declaration (hereinafter defined), and the Property (hereinafter defined) is subject to the Master Declaration; and

WHEREAS, Declarant is the owner of the real property described in **EXHIBIT A** to this Declaration, which is part of the Community and which Declarant is developing into a community of attached townhomes known as The Townes at Woodcreek (hereinafter sometimes referred to as the "Subdivision"); and

WHEREAS, Declarant desires to provide for the maintenance and upkeep of the Sub-Association Common Area (hereinafter defined) within the Subdivision and of the exterior of the Units (hereinafter defined), and to provide for enforcement of covenants and restrictions applicable to the Subdivision, and, to that end, desire to subject the property within 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 such property and each owner thereof; and

WHEREAS, Declarant has deemed it advisable to create an organization to own, maintain and administer the Sub-Association Common Area, to maintain the exterior of the Units, to administer and enforce covenants and restrictions exclusively applicable to the Subdivision, and to collect and disburse the assessments and charges hereinafter created, and Declarant has incorporated under North Carolina law as a nonprofit corporation, Townes at Woodcreek Association, Inc., for the purpose of exercising the aforesaid functions; and

WHEREAS, pursuant to Article II, Section 3.a. of the Master Declaration (hereinafter defined),

Developer joins in the execution of this Declaration to evidence its written consent to this Declaration; and

WHEREAS, also pursuant to Article II, Section 3.a. of the Master Declaration (hereinafter defined), the board of directors of the Master Association (hereinafter defined) has consented to this Declaration, as evidenced by a copy of the resolution of consent adopted by said board of directors that is attached hereto as **EXHIBIT B**;

AND WHEREAS, the Subdivision constitutes a “Neighborhood” (as defined in the Master Declaration), this Declaration is a “Neighborhood Declaration” (as defined in the Master Declaration), and the Association is a “Neighborhood Association” (as defined in the Master Declaration);

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

ARTICLE I
DEFINITIONS

Any defined term used in this Declaration shall have the meaning set forth below or, if not specifically defined in this Article I, the meaning of such term as set forth in the Act or in any other provision of this Declaration.

Section 1. “Act” shall mean and refer to Chapter 47F of the North Carolina General Statutes, known as the North Carolina Planned Community Act, as the same may be amended from time to time. Words and terms used in this Article that are defined in the Act but not defined in the Code (for example, the term “special declarant rights” [N.C.G.S. §47F-1-103(28)]) shall have the meaning contained in the Act.

Section 2. “Association” shall mean and refer to **THE TOWNES AT WOODCREEK ASSOCIATION, INC.** a North Carolina nonprofit corporation, its successors and assigns.

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

Section 4. “Annexed Property” shall mean and refer to all real property annexed or subjected (those two terms being used interchangeably herein) to all or any part of the terms of this Declaration after the initial recording of this Declaration in the Registry.

Section 5. “Board of Directors” and “Board” (the terms being used interchangeably) shall mean and refer to the board of directors of the Association, and is the “executive board” as defined in the Act. The Board is responsible for the management and administration of the Association as provided for in this Declaration, the Bylaws and the Act.

Section 6. “Bylaws” shall mean and refer to the Bylaws of the Association, as amended from time to time.

Section 7. “Code” shall mean and refer to the Code of Ordinances for the Town of Holly Springs, North Carolina, as amended from time to time.

Section 8 “Declarant” shall mean and refer to **PARKER & ORLEANS HOMEBUILDERS, INC.**, a Delaware corporation. It shall also mean and refer to any person, firm or corporation to whom or which Declarant may assign or delegate the rights and obligations of Declarant by an assignment of Declarant’s rights recorded in the Wake County Registry.

Section 9. “Declarant Annexation Date” shall mean and refer to the last date on which the Declarant has the right to annex real property to this Declaration without the consent or joinder of any Person other than the Town, which date is 5:00 p.m. on the date that is ten (10) years following the date of the recording of this Declaration. The timeliness of an Annexation Declaration is determined by the date of its recordation as stamped by the Registry, notwithstanding its date of execution.

Section 10 “Declarant Control Period” shall mean and refer to the period of Declarant control of the Association, as provided in §47F-3-103(d) of the Act, and including, without limitation, the time period in which Declarant, by itself, has sufficient voting power to elect members of the Board). The Declarant Control Period shall terminate upon the earlier of the following to occur:

- (a) December 31, 2023;
- (b) Not later than six months after the point at which the total number of votes held by the Class A Members equals the total number of votes held by the Class B Member (at the 9-to-1 ratio provided in Section 2(b) of Article III hereof); *provided, however*, that Declarant may acquire additional votes and thereby reinstate the Declarant Control Period if additional Lots within the Properties are formed by the creation and subjection to this Declaration of new Lots as set forth in Article II hereof, thus giving Declarant, by virtue of its ownership of the newly-annexed Lots and of other Lots owned by it, a sufficient number of votes (at the 9-to-1 ratio provided in Section 2(b) of Article III hereof) to cast a majority of the votes of the membership (it being hereby stipulated that the termination and rejuvenation of the Declarant Control Period shall occur automatically as often as the foregoing shall occur); or
- (c) Relinquishment or transfer of all special declarant rights as provided in §47F-3-104 of the Act.

Section 11 “Declaration” shall mean and refer to this “Declaration of Covenants, Conditions, Restrictions, Easements, Charges and Liens for The Townes at Woodcreek”, and all amendments thereto and supplements thereof.

Section 12. “Developer” shall mean and refer to **HOLLY SPRINGS RESIDENTIAL PROPERTIES LLC**, a North Carolina limited liability company, its successors and assigns.

Section 13. “Dwelling”, “Dwelling Unit” and “Unit” shall mean and refer to any building or portion thereof within the Properties which is used or occupied, or intended for use or occupancy, as a residence by an individual or by one family unit, whether by the Owner thereof or by tenants or lessees of the Owner. A Dwelling shall be deemed to constitute a Dwelling upon issuance of a certificate of occupancy therefor.

Section 14. “Governing Documents” shall mean and refer to all of the following: this Declaration, the Articles of Incorporation and Bylaws of the Association, rules and regulations of the Association (including, without limitation, architectural guidelines and parking regulations, if any), Annexation Declarations, and any other covenants applicable to the Properties, as the same may be amended, restated or supplemented from time to time.

Section 15. “Governmental Entity” shall mean and refer to the Town of Holly Springs, the County of Wake, the State of North Carolina, the United States of America, and all other governmental entities and quasi-governmental entities having jurisdiction over the Properties or any part thereof, and all applicable departments and agencies of any of them.

Section 16. “Lot” shall mean and refer to any plot of land, with delineated boundary lines, shown on any recorded subdivision map of any portion of the Subdivision (regardless of whether the Lot has been subjected to this Declaration as provided in Article II hereof), with the exception of any Sub-Association Common Area and Open Space owned in fee by the Association, Common Property and Common Area owned by the Master Association, and any publicly dedicated street rights-of-way shown on such recorded map, and greenway or park lands owned in fee simply by the Town. In the event that any Lot is increased or decreased in size by recombination or re-subdivision through recordation of a new subdivision plat, any newly-platted lot shall thereafter constitute a Lot.

Section 17. “Master Association” shall mean and refer to Woodcreek Neighborhood Association, Inc., a North Carolina nonprofit corporation, its successors and assigns.

Section 18. “Master Declaration” shall mean and refer to the “Declaration of Protective Covenants and Easements for Woodcreek”, recorded in Book 12453, Page 786, Wake County Registry, and including all amendments thereto and supplements thereof.

Section 19. “Member” shall mean and refer to every Person who or which holds membership in the Association.

Section 20. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Properties, including contract sellers and owners of an equity of redemption, but excluding those having an interest in a Lot solely as security for the performance of an obligation..

Section 21. “Person” shall mean and refer to a natural person, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, Governmental Entity,

and any other entity.

Section 22. "Property" or "Properties" shall mean and refer to the "Existing Property" described in Article II of this Declaration and any Annexed Property subsequently subject to this Declaration pursuant to said Article II.

Section 23. "Registry" shall mean and refer to as the Office of the Register of Deeds for Wake County, North Carolina (or any successor office in which deeds, plats, easements, mortgages, and deeds of trust for the Properties are recorded). All references herein to recording or to any requirement to record a document or plat refer to recording in the Registry.

Section 24. "Sub-Association Common Area" shall mean and refer to the real property, together with any improvements thereon, owned (in fee or by easement) or leased by the Association and intended for the common use and benefit of the Owners and occupants of the Properties, however such real property is described on a map or document recorded in the Registry. Sub-Association Common Area may be owned or leased by the Association or it may be owned by another Person with the Association having a right or easement therein (for example, part or all of a private storm water drainage easement located on either a Lot or real property that is not part of the Properties and that serves more than one Lot in the Properties or a right of the Association to use of a portion of a public street right-of-way pursuant to an encroachment agreement with the Town). Sub-Association Common Area may include all of the following:

- (a) any private street and private walkways in the Properties (but excluding private walkways on and solely for the benefit of an individual Lot);
- (c) any water or sewer utility line that serves more than one Lot and which is either located outside public street rights-of-way or outside any Town utility easement;
- (d) any site or facility designated a common area, common property open space, open space common area, amenity area, storm water Best Management Practices (BMP) ponds, or other similar designation on any recorded map of the Properties or in this Declaration, unless owned by the Master Association;
- (e) any Code-required shared facility or open space for the Properties, except for open space owned by the Town or the Master Association;
- (f) any public road right-of-way dedicated to the public on plats and maps of the Properties recorded in the Registry but not accepted for public maintenance by the appropriate Governmental Entity, provided, however, that the fact that a street or road has not been accepted by the applicable Governmental Entity shall not relieve the Declarant of the obligation to take such action as is necessary to have it accepted. The Association shall have the right to enforce this Declarant obligation, and the Declarant shall be liable to the Association for all costs and expenses, including court costs and reasonable attorneys' fees, incurred by the Association in connection with such unaccepted street improvements and enforcement of its rights against Declarant hereunder; and
- (g) any object or improvement located on, under, in or over public property or public right-of-way which object or improvement is subject to an encroachment agreement with a Governmental Entity that is recorded in the Registry, and may include, but not be limited to: decorative street signs, subdivision identification signs, landscaping, irrigation facilities, drain pipes, decorative surfaces and brick pavers.

Sub-Association Common Area shall be maintained by the Association or its successors in interest unless dedicated to public or private use and accepted by a public agency, authority or utility, the Master Association, or another sub-association as set forth herein.

All real property, private streets, private utility lines, and other improvements within the Subdivision owned by the Master Association are Common Property as defined in the Exhibit A of the Master Declaration and are not Sub-Association Common Area.

Common Area that is owned by or subject to being maintained by the Association is Sub-Association Common Area, even if it is referred to in this Declaration or in any recorded map of the Properties as Common Area instead of Sub-Association Common Area.

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

Section 25. “Sub-Association Common Area Easement” shall mean and refer to Sub-Association Common Area as to which the Association has only an easement interest, and not a fee simple interest.

Section 26. “Town” or “Town of Holly Springs” shall mean and refer to the Town of Holly Springs, a North Carolina municipal corporation.

Section 27. “Unit” or “Dwelling” shall mean and refer to any building or portion thereof within the Properties which is designated and intended for use and occupancy as a residence by a single family, whether by the Owner of such Unit or by tenants or lessees of such Owner.

ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION
AND WITHIN THE JURISDICTION OF THE
TOWNES AT WOODCREEK ASSOCIATION, INC.

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

Section 2. Additions to Existing Property by Declarant. At any time during the Declarant Annexation Period, additional land may be annexed by the Declarant without the consent of the Members and, therefore, become subject to this Declaration by the recording by Declarant of a supplementary declaration extending the operation and effect of this Declaration to the property to be annexed; provided, however, that such property must be contiguous to property already subjected to

this Declaration (or separated from such property only by the right-of-way of a street or road or a stream or pond) and further provided that such annexation must be approved by the Town. The addition of such property pursuant to this Section may increase the cumulative number of Lots within the Properties and, therefore, may alter the relative maximum voting strength of the various types of Members.

Section 3. Conveyance of Sub-Association Common Area in Annexed Property. Prior to the conveyance of the first Lot within any newly annexed property to an Owner other than Declarant, the owner of the annexed property shall convey to the Association all Sub-Association Common Area located within the newly annexed property. Title to such Sub-Association Common Area shall be conveyed in the same manner as set forth in Section 3 of Article IV of this Declaration.

**ARTICLE III
MEMBERSHIP AND VOTING RIGHTS**

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

Section 2. Voting Rights. The voting rights of the membership shall be appurtenant to the ownership of the Lots.

There shall be two (2) classes of membership with respect to voting rights:

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

(b) Class B Member. The Class B Member shall be the Declarant. Subject to the provisions of this subsection, Declarant shall be entitled to nine (9) votes for each Lot that it owns (each such Lot being a "Class B Lot"). Upon expiration of the Declarant Control Period, Declarant shall have one vote for each Lot that it owns; however, such Declarant-owned Lots shall continue to be treated as Class B Lots for assessment purposes.

Section 3. Declarant's Right to Appoint Directors and Officers of the Association. Notwithstanding any other provision of this Declaration or the Bylaws, until the expiration of the Declarant Control Period, Declarant may, in its sole discretion, appoint and remove all of the directors and officers of the Association. Declarant's intent to exercise or continue to exercise that right shall be

set forth in the notice of each annual meeting of the Members. See §47F-3-103(d) of the Act.

Section 4. Vacant/Leased Dwellings. If the Owner of a Lot ceases to occupy the Dwelling constructed thereon as his own personal living quarters or if any Dwelling within the Properties is leased for rental purposes to tenants, the vote as expressed by the Owners of such vacant and rental units shall not be entitled to any weight greater than forty-nine percent (49%) on any matter pending before the Association. This Section applies only to Lots and Dwellings owned by a Class A Member and specifically excludes Lots and Dwellings owned by the Declarant.

**ARTICLE IV
PROPERTY RIGHTS**

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

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

(b) the right of the Association, after notice and an opportunity to be heard, to suspend the voting rights of an Owner and the right of an Owner to use to Sub-Association Common Area and facilities thereon for any period during which any assessment against his Lot remains unpaid for a period of thirty (30) days or longer, or for a period not to exceed sixty (60) days for any infraction of the published rules and regulations of the Association, provided, however that the Association may not suspend an Owner's right to use of any Sub-Association Common Area providing access or utilities to his Lot.

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

(d) the right of the Association, with the assent of Members entitled to at least eighty percent (80%) of the votes of the entire membership of the Association to mortgage, pledge,

deed in trust, or otherwise encumber any or all of its real or personal property as security for money borrowed or debts incurred, provided that the rights of any such lender or mortgagee shall be subordinate to the property rights of the Owners as set forth herein.

(e) the right of the Association to exchange all or part of the Sub-Association Common Area for other property and consideration of like value and utility, provided that such exchange is approved by a vote of the Members entitled to at least eighty percent (80%) of the votes of the entire membership at a meeting of Members, one of the purposes of which is to vote on the exchange, and, if required, by the Town of Holly Springs.

(f) the rights of Developer as set forth in Article XII hereof.

Section 2. Delegation of Use.

(a) Family. The right and easement of use and enjoyment granted to every Owner by Section 1 of this Article may be exercised by members of the Owner's family who occupy the residence of the Owner within the Properties as their principal residence in Wake County, North Carolina.

(b) Tenants. The right and easement of use and enjoyment granted to every Owner by Section 1 of this Article may be delegated by such Owner to his tenants or contract purchasers who occupy such Owner's Unit, or a portion thereof, as their principal residence in Wake County, North Carolina.

(c) Guests. The right and easement of use and enjoyment granted to every Owner by Section 1 of this Article may be delegated to guests of such Owners, tenants or contract purchasers, subject to such rules and regulations as may be established by the Board of Directors.

Section 3. Conveyance of Title To The Association. Declarant covenants, for itself, its successors and assigns, that Declarant will convey to the Association title to those portions of the sub-Association Common Area in such phase to be owned in fee by the Association and, by and upon recording of a deed for same, the Association shall be deemed to have accepted such Sub-Association Common Area and all improvements thereon. Declarant hereby reserves and grants (regardless of whether or not such reservation and grant is specifically set forth in such deed), for itself, and its respective successors and assigns, an easement over, under, across and through the Sub-Association Common Area so long as any of them own any Lot within the Properties, for the purpose of constructing any improvements on the Sub-Association Common Area and/or the Lots as it or they deem necessary or advisable. Except as otherwise stated herein, all conveyances by Declarant or Developer to the Association shall be free and clear of all encumbrances and liens (including statutory liens of laborers and materialmen pursuant to Article 2 of Chapter 44A of the North Carolina General Statutes) except this Declaration, the Master Declaration, restrictive covenants applicable to the Properties, utility, drainage, conservation, greenway and other easements of record or shown on the recorded plats of the Properties, and the lien of *ad valorem* taxes not yet due and payable. Any improvements placed on the Sub-Association Common Area by Developer or Declarant shall become the property of the Association upon completion of such improvements, except utilities owned and maintained by the Master Association, the Town of Holly Springs or other governmental entity, or a

public or private utility company.

Section 4. Regulation and Maintenance of Sub-Association Common Area and Sub-Association Common Area Easements. It is the intent of Declarant that the Sub-Association Common Area (whether owned by the Association in fee or by easement) be preserved to the perpetual benefit of the Owners within the Subdivision. To that end, the Declarant, by recording any plat or map of any phase or section of the Subdivision, grants to the Association an easement over and across that portion of any Lot within such phase or section on which a Sub-Association Common Area Easement lies for the purpose of enabling the Association to take action permitted by subsections (b) and (c) of this Section 4.

(a) Rights and Responsibilities of the Lot Owners. Each Owner of a Lot upon which a Sub-Association Common Area Easement lies shall pay all property taxes and other assessments levied against his Lot, including that portion of such tax or assessment as is attributable to such Sub-Association Common Area Easement. Notwithstanding any other provision of this Declaration, no Owner or other person shall, without the prior written consent of the Association: (1) remove any trees or vegetation from Sub-Association Common Area; (2) erect gates, fences, buildings or other structures on any Sub-Association Common Area; (3) place any garbage receptacles on or in any Sub-Association Common Area; (4) fill or excavate any Sub-Association Common Area or any part thereof; or (5) plant vegetation on or otherwise restrict or interfere with the use, maintenance, and preservation of any Sub-Association Common Area.

It is the intent of the Declarant that a Sub-Association Common Area Easement shall be maintained in the same state as when the Lot upon which such easement lies was conveyed to an Owner (other than the Declarant), except for changes authorized or approved in writing by the Declarant or the Association. If an Owner of a Lot on which a Sub-Association Common Area Easement lies fails to maintain the easement area as provided herein, whether by act or omission, the Association shall have the right to enter upon such Owner's Lot for the purpose of maintaining same and shall have the right to charge such Owner with the costs of such maintenance, which costs, if not paid within thirty (30) days after demand for payment is made by the Association, shall be collected in the same manner and shall incur the same late charges, interest and costs of collection as set forth in Section 7 of Article V of this Declaration.

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

(c) Association's Right of Entry for Maintenance of Sub-Association Common

Area Easements. The Association and its employees, agents, contractors and subcontractors shall have a nonexclusive right and easement at all times to enter upon any portion of a Lot reserved or designated as a Sub-Association Common Area Easement, and any other portion of the Lot to the extent necessary to gain access and maintain improvements and facilities within the Sub-Association Common Area Easement, and no such entry shall be deemed a trespass. To the extent practicable, the Association shall give reasonable oral notice to the Owner or occupant of such Lot and shall reasonably restore or repair any damage resulting from the work performed on the Lot.

ARTICLE V
COVENANT FOR MAINTENANCE ASSESSMENT

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner, by execution of this Declaration or by acceptance of a deed or other instrument conveying title to a Lot, whether or not it shall be so expressed therein, is deemed to consent and agree to pay to the Association (or to any Person who may be designated by the Association to collect such monies) all assessments and other charges required by this Declaration, including the following: (1) annual assessments; (2) working capital assessments; (3) special assessments; (4) fines for violations of the provisions of this Declaration or other Governing Documents or assessments levied against Owners for misuse and damage to the Common Areas by the Owners or their family members, tenants, agents, contractors and guests; (5) individual assessments for any expense under the Code or this Declaration which the Association becomes obligated to pay and pays on behalf of an Owner; (6) late payment charges, interest on unpaid assessments, costs of collection, including without limitation, court costs, service charges, and attorney's fees as provided in the Act, and charges for dishonored checks; all as established by the Board from time to time; and (7) all other assessments and charges imposed or allowed to be imposed by this Declaration.

The Association has the right at all times to include as part of the assessments or other charges applicable to the Lots and the Owners thereof such amounts as are required to pay all Townhome Common Expenses and all financial obligations of the Association imposed by the Code either (i) directly on the Association, or (ii) indirectly on the Association by imposition of the financial obligation on some or all of the Owners, with the Association having responsibility for collection and payment.

Section 2. Purposes of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Subdivision and, in particular, for: (i) acquisition, improvement, and maintenance of properties, services and facilities related to the use and enjoyment of the Sub-Association Common Area; (ii) maintenance, repair and reconstruction of the Sub-Association Common Area and improvements thereon, including, without limitation, storm water drainage facilities, and, including, without limitation, the cost of repair, replacement and additions thereto and the cost of labor, equipment, materials, management and supervision thereof; (iii) maintenance as provided in Article VI hereof; (iv) payment of taxes and public assessments levied against Sub-Association Common Area owned by the Association in fee; (v) procurement of insurance; (vi) employment of attorneys, accountants and other persons or firms for Association business; (vii) payment of principal and interest on funds borrowed for Association purposes; and (viii) such other needs as may arise.

Annual assessments do not include Master Association dues and assessments, which must be paid by the Owner in addition to Townhome dues and assessments.

Section 3. Maximum Annual Assessment. Until December 31, 2014, the Maximum Annual Assessment shall be \$1,284.00 for each Class A Lot. The Maximum Annual Assessment for Class B Lots and Lots owned by Declarant shall be 25% of the Class A Assessment. Beginning on January 1, 2015, and on January 1 of each year thereafter, the Maximum Annual Assessment shall automatically increase by ten percent (10%) over the Maximum Annual Assessment for the previous year.

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

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

Subject to the provisions of this Section, the Board of Directors may fix the annual assessment for Class A Lots at any amount not in excess of the Maximum Annual Assessment in effect for the appropriate assessment year. The annual assessment for Class B Lots shall be 25% of the Class A Assessment, provided, however, that any Lot which contains a dwelling occupied by any person as a residence shall be assessed at the Class A rate. Unless a lower amount is set by the Board of Directors, the initial annual assessment shall be the "Maximum Annual Assessment" set forth in Section 3 of this Article and shall be prorated according to the number of months remaining in the calendar year. Annual assessments shall be fixed at a uniform rate for all Lots in each Class and may be collected on a yearly, semiannually, quarterly, or monthly basis, as determined by the Board of Directors. Any monies paid at any time by the Declarant for common expenses or otherwise for or on behalf of the Association shall be credited against past or future assessments due from the Declarant, if any.

Beginning in 2015, the Board of Directors shall adopt a proposed budget for the Association at least annually. Within thirty (30) days after the adoption of the proposed budget, the Board of Directors shall send a copy of the proposed budget to the Members and shall give written notice to the Members of a meeting of the Members to consider ratification of the budget, such meeting to be held not sooner than ten (10) days nor more than sixty (60) days after the mailing of such notice. Such meeting may, but need not be, combined with the annual meeting of the Members. There shall be no requirement that a quorum be present to vote on ratification of the budget (although a quorum must be present to vote on other matters). The budget shall be deemed ratified unless at that meeting Members having a majority of the votes of the entire membership vote to reject the budget; provided, however, if the budget provides for an annual assessment per Lot not in excess of the Maximum Annual Assessment in effect for that Fiscal Year of the Association, such budget shall be deemed ratified unless Members having at least eighty percent (80%) of the votes of the entire membership vote to reject the budget. If any proposed budget is rejected by the Members, the budget last ratified by the Members shall be continued until such time as the Members ratify a subsequent budget proposed by

the Board.

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

Section 5. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, special assessments against the Lots (or, as to expenses related to Townhome Limited Common Area, the Lots benefitted by such expenses) for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Sub-Association Common Area, including fixtures and personal property related thereto, for repayment of indebtedness and interest thereon, or for any other non-recurring expenses, *provided that* any such assessment shall have been approved by the Declarant (during the Declarant Control Period) and by not less than two-thirds (2/3) of the votes of the Class A Members present and voting (in person or by proxy) (or, as to a special assessment related to Sub-Association Limited Common Area, at least two thirds (2/3) of the Class A Members against whose Lot the special assessment will be levied) at a meeting of the Members, one of the purposes of which is to vote on the special assessment, and further provided that the special assessment for a Class B Lots shall always be zero. Special assessments shall be fixed at a uniform rate for all Lots within each Class and may be collected on a yearly, semiannually, quarterly, or monthly basis, as determined by the Board of Directors.

Written notice of any meeting called for the purpose of voting on a special assessment shall be sent to all Members not less than fifteen (15) days nor more than thirty (30) days prior to the meeting. At such meeting, the presence of Members or of proxies entitled to cast sixty percent (60%) of the votes of each Class of Lots shall constitute a quorum. If the required quorum is not present at any meeting, another meeting may be called subject to the same notice requirement, and if the meeting is called for a date not later than sixty (60) days after the date of the first meeting, the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

Section 6. Limited Special Assessments. The Board of Directors, without vote of the Members, may levy a limited special assessment against any Lot, applicable only to that Lot, for expenses incurred by the Association with regard to such Lot including, without limitation, expenses incurred under Article VI hereof. Any fine imposed against an Owner pursuant to Section 3 of Article VII of the Bylaws shall also constitute a limited special assessment against such Owner's Lot. Special assessments and limited special assessments shall constitute a lien to the same extent as other annual assessments against the Lot.

Section 7. Effect of Nonpayment of Assessments; Remedies. No Owner shall be exempt from liability for any assessment provided for herein for reason of non-use of the Common Area or such Owner's Lot, or abandonment or leasing of such Owner's Lot, or unavailability of the use or enjoyment of the Common Area.

All assessments and other charges shall be established and collected as provided in this

Declaration. All assessments and other charges remaining unpaid for thirty days (30) days or longer, together with late charges, interest, and the costs of collection thereof, including attorney's fees, shall be charge on the Owner's Lot as provided in §47F-3-116 of the Act and, upon filing of a claim of lien in the office of the clerk of superior court of the county in which the Lot is located in the manner provided in §47F-3-116(g), shall be a continuing lien upon the Lot against which such assessment is made until paid in full. The lien may be foreclosed by the Association in any manner permitted under the Act or by law. When the holder of a first mortgage or first deed of trust of record or other purchaser of a Lot who obtains title to the Lot as a result of a foreclosure of a first mortgage or first deed of trust, such purchaser and its heirs, successors, and assigns shall not be liable for the assessments and other charges against such Lot which became due prior to the acquisition of title to such Lot by such purchaser. Each assessment and other charges due hereunder, together with late charges, interest, the costs of collection thereof, including attorney's fees, shall also be the personal obligation or corporate obligation of each Person who was Owner of the Lot at the time when the assessment or other charge first became due and payable and may be collected by appropriate action at law. If more than one Person held an ownership interest in the Lot at the time the assessment or other charge first became due, then each Person shall be both jointly and severally liable. 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.

Section 8. Subordination of the Lien to Mortgages. The liens provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust on a Lot. Sale or transfer of any Lot shall not affect any assessment lien; however, the sale or transfer of a Lot pursuant to foreclosure of a first mortgage or deed of trust, or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of any assessments which became due prior to the date of conveyance pursuant to such foreclosure. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first mortgage or deed of trust.

Section 9. Working Capital Fund. At the time of closing of the initial sale of each Dwelling constructed on a Lot, a sum equal to one-sixth (1/6) of the annual assessment for Class A Lots in effect at the time of such sale shall be collected from the purchaser of such Lot and transferred to the Association as part of its working capital. The purpose of the working capital fund is to ensure that the Association will have adequate cash available to meet its operating expenses or to acquire additional equipment or serviced deemed by the Board to Directors to be necessary or desirable. Amounts paid to the Association pursuant to this Section shall not be considered as an advance payment of any regular assessment.

Section 10. Exempt Property. All Sub-Association Common Area owned in fee by the Association, all property dedicated to and accepted by a Governmental Entity, and all property owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. Notwithstanding the foregoing, no Lot devoted to residential use shall be exempt from said assessments.

Section 11. Declarant's Obligation to Fund Operating Deficits. During the Declarant

Control Period, Declarant shall be obligated to fund any deficit between the normal operating expenses of the Association and the monies received by the Association from the Owners from assessments. Declarant, at its option, may pay such expenses directly to the Person providing the services or materials or pay to the Association the amounts necessary to fund the operating deficit. Any monies paid at any time or by the Declarant for or on behalf of the Association shall be credited against past or future assessments due from the Declarant.

**ARTICLE VI
MAINTENANCE**

Section 1. Association's Responsibility.

(a) Yard Improvements. In addition to maintenance of the Sub-Association Common Area and the improvements and facilities located thereon, the Association shall be responsible for maintaining the grass, plants, shrubs, trees, landscaping, public-use sidewalks, and parking areas located on each Lot (hereinafter the "Yard Improvements") and installed by the Declarant or the Association, and any Yard Improvements installed by an Owner with the prior written consent of the Association (but only to the extent that such consent specifically provides that the Association will maintain such added Yard Improvements), provided, however, that: (i) the Association shall not be responsible for maintaining any Yard Improvements located inside of an enclosed privacy area; (ii) the Association's obligation to maintain shall not include the obligation to replace any plant, shrub or tree for any reason; and (iii) the Association shall not be responsible for repair or replacement of any Yard Improvements when such repair or replacement is necessitated by work done by or at the request of any Owner or any utility company or governmental entity. However, the Association shall also be responsible for maintenance and repair of all retaining walls constructed by the Declarant or the Association within the Properties, whether on the Sub-Association Common Area or a Lot.

(b) Dwelling Exterior. The Association shall also maintain and repair the exterior of each Dwelling, including, without limitation, repair, replacement and care of roofs, gutters, downspouts, painting and cleaning of exterior walls, but specifically excluding glass surfaces, windows, screen doors and doors (including casings and sills). In the event that the need for maintenance, repair and/or replacement is caused through the willful or negligent act of an Owner or such Owner's tenants, subtenants, family members, or guest or invitees of any of them, or is caused by fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircrafts, vehicles, and smoke, as the foregoing are defined and explained in the North Carolina Standard Fire and Extended Coverage Insurance Policies, the cost of such maintenance, repair and/or replacement shall be the responsibility of the Owner.

(c) Service Providers. The Association shall provide, or cause to be provided, the following services to any Lot served by a private street or alley, all according to procedures and policies established by the Association: (i) regular trash pick-up; (ii) leaf pick-up; (iii) snow removal; and (iv) mail delivery according to the schedules and policies of the US Postal Service.

(d) Maintenance of Private Streets and/or Alleys. The Association shall provide for the maintenance and repair of the private streets and/or alleys providing access to the Lots including, but not limited to, (to the extent required by the Town of Holly Springs to be installed): driving surfaces, street or alley subgrade, surface and subsurface drainage, curbs, sidewalks, street lights, street name

signs, traffic control signs, and traffic control signals. The Association shall establish a separate reserve fund for maintenance and repair of the foregoing items. The Association may provide rules and regulations establishing and enforcing speed controls and all parking regulations throughout the Property.

(e) Street Tree Maintenance. The Association shall maintain those trees along the streets of the Community installed by the Association or the Declarant in accordance with the landscaping plan as same is shown on Declarant's final development construction plans; replace and of said trees if damaged or dead; and maintain all trees in a manner consistent with an allowance for pedestrian and vehicular traffic on sidewalks and roadways.

(f) Decorative Street Light. The Declarant reserves the right, but not the obligation, to subject the Community to a contract with Duke Energy Progress for the installation and operation of street lighting, which may require a continuing monthly payment to Duke Energy Progress by each residential customer or by the Association.

(g) Specialty Street Signs and Posts Maintenance. The Association shall be responsible for installation costs and all costs associated with the perpetual maintenance of specialty street signs and posts that were requested by Declarant and approved by the Town of Holly Springs. If the Association fails to fulfill its responsibility for maintenance of these specialty signs and posts, the Town of Holly Springs shall then install its standard sign materials and the Association shall be required to remove the specialty signs and posts at no cost to the Town. The cost of materials and installation of standard street name signs and posts needed to replace specialty street name signs and posts which have not been properly maintained shall be borne by the Association. The Town of Holly Springs shall install its standard sign materials should any specialty signs be damaged. Upon reinstalling a new specialty sign, the Association shall contact the Town of Holly Spring Public Works Department to coordinate the return of any temporary signage.

(h) Maintenance of Environmentally Sensitive Areas. Environmentally sensitive areas such as riparian buffers, floodplains, wetlands, etc. located outside of the Town's rights-of-way must be maintained by the Association. All maintenance activities pertaining to Environmentally Sensitive areas must comply with all Federal, State, and local Regulations. All dams/embankments must comply with all Federal, State, and local dam safety laws. Maintenance easements and access areas must be kept clear of any obstructions that would prevent routine inspections and maintenance. Dams/embankments should be kept clear of woody vegetation or any other vegetation or structures that could undermine structural integrity.

(i) Maintenance of Private Drainage Easements. Drainage easements and areas outside of the Town's rights-of-way must be maintained by the Association. Drainage easements and drainage ways must remain cleared of debris and structures that would impede or alter the intended drainage pattern. Drainage pipe located on Sub-Association Common Areas or on private property off of the Town's rights-of-ways shall be maintained by the Association.

The Board of Directors of the Association or the Members, by the affirmative vote of a majority of the Members of each Class, shall have the right (but not the obligation) to accept certain items, areas or improvements on a Lot for maintenance by the Association, including, but not limited to, Yard Improvements installed by an Owner. Such acceptance shall be in writing and may be subject

to such terms and conditions, including, but not limited to, a special assessment or increased annual assessment for that Lot (which, being consensual, need not be approved as provided in Article V hereof), as the Association might establish in such written acceptance.

Section 2. Storm Water BMP Maintenance. Any and all Storm Water Best Management Practices (BMP) pond(s) located on the Property shall be initially installed and maintained by the Declarant. Once homebuilding activity in the community is substantially completed, the site is stabilized for erosion control, the Town of Holly Springs approves the conversion of the pond into a constructed wetlands, and the warranty period for such pond conversion is satisfied by the Declarant and confirmed by the Town, then the responsibility for ongoing inspections, maintenance, repairs, and annual reporting requirements associated with the BMP in order to comply with all Federal, State, and local regulations shall reside with the Master Association of Woodcreek. Declarant shall notify the Master Association when all of the foregoing requirements have been satisfied.

Section 3. Owner's Responsibility; Remedy for Owner's Failure to Maintain. Any maintenance on a Lot that is not the responsibility of the Association, whether by the terms of this Declaration or by written acceptance of same, shall be the responsibility of the Owner of such Lot. Specifically, without limitation, the Owner shall be liable and responsible for the maintenance, repair and replacement, as the case may be, of all glass surfaces, window screens, doors, screen doors or storm doors installed by Owner (any such installation being subject to Article IX hereof), heating and air conditioning equipment, driveway, private sidewalk from driveway to Dwelling, front porch stoop, patio or deck, foundation, garage door (except for the Association's obligation for painting of the exterior surface of same), and for the maintenance of any fenced or enclosed privacy area. Each Owner shall be responsible for repair and maintenance of all utility lines, fixtures and/or their connections required to provide water, light, power, telephone, sewage and sanitary service to the Owner's Lot which are not publicly maintained. Each Owner shall keep his Lot and Unit in an orderly condition and shall keep the improvements thereon in a suitable state of repair, except for those improvements that the Association is responsible for maintaining as provided in this Declaration.

If an Owner does not perform any required maintenance of his Lot or Dwelling, the Association shall have the right (but not the obligation), through its agents and contractors, by the affirmative vote of a majority of the Board of Directors, to enter upon such Lot and to repair, maintain and restore the Lot or exterior of the Dwelling erected thereon, and the cost of such maintenance, plus a surcharge of 15% for administration, shall be assessed in accordance with Section 3 of this Article. Prior to such entry, the Association shall give written notice to the Owner stating: (i) the specific items needing maintenance; (ii) the corrective action to be taken; (iii) a time, not less than 15 calendar days from the date of the notice, in which the Owner is to perform the necessary maintenance; and (iv) a statement that, if the Owner fails to perform the maintenance within such time period, the Association will exercise its right to perform the maintenance and that the Owner will be assessed with the costs thereof as provided in this Article VI.

Section 3. Assessment of Cost. In the event that the Association performs maintenance on any Lot as provided in Section 3 of this Article VI, the cost of any such maintenance, replacement or repairs (including the administration fee) shall be a limited special assessment against the Lot upon which such maintenance is done and shall be added to and become part of the assessments to which such Lot is subject under Article V hereof, enforceable under the terms thereof.

Section 4. Access at Reasonable Hours. As provided in Section 5 of Article VIII of this Declaration, the Association, through its duly authorized agents or employees, shall have the right, without notice to the Owner, to enter upon any Lot at reasonable hours on any day to perform any maintenance and repairs to be performed by the Association.

**ARTICLE VII
RIGHTS OF LENDERS**

Section 1. Books and Records. Any holder of a first deed of trust on any Lot, or its agent(s), shall have the right, during normal business hours, to examine copies of this Declaration, the Articles of Incorporation, the Bylaws, and the books and records of the Association and, upon written request to the Association, to receive a copy of the financial statement for the immediately preceding fiscal year, except that the Association shall not be required to provide the financial statement for the preceding fiscal year if said fiscal year expired less than 75 days prior to the date of the request . (See §47-3-118 of the Act).

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

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

Section 3. Approval of Holders of First Deeds of Trust. Unless at least seventy-five percent (75%) of the holders of the first deeds of trust on Lots located within the Properties have given their prior written approval, the Association shall not:

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

the Sub-Association Common Area for other than the repair, replacement, or reconstruction of the damaged improvements or, as provided in §47F-3-113 of the Act, for distribution to the Owners, provided, however, that, except as provided in §47F-2-118 of the Act, any distribution to Owners shall be in the form of a credit toward current or future assessments due from the Owners to the Association.

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

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

**ARTICLE VIII
EASEMENTS**

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

Section 1. Access and Utility Easements. Easements for the installation and maintenance of driveway, walkway, water line, sewer lines, natural gas lines, telephone, cable television, electric power transmission lines, storm water drainage facilities, and other public or quasi-public utility installations are reserved as shown on the recorded plats of the Properties. The Association may reserve and grant easements over the Sub-Association Common Area as provided in Article IV, Section 1(c), of this Declaration. Within any such easement herein provided, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation or maintenance of the utilities installed thereon, or which may change the direction of flow or drainage of water through drainage pipes or channels constructed in such easements.

For a period of ten (10) years from the date hereof, Declarant grants to and reserves for itself, the Association, and their successors and assigns, an easement and right of ingress, egress and regress on, over and under the Properties to maintain and correct drainage or surface water runoff in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees, bushes or shrubbery, remove any impediments, make any gradings of the soil, or take any other similar action that it deems reasonably necessary or appropriate. After such action has been completed, the person or entity taking such action shall grade and seed the affected property and restore the affected property to its original condition to the extent practicable, but shall not be required to replace any trees, bushes or shrubbery necessarily removed. The person or entity taking such action shall give reasonable notice of its intent to take such action to all affected Owners.

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

Section 3. Easement For Encroachments. In the event that any structure erected on a Lot encroaches upon any other Lot or the Sub-Association Common Area, and such encroachment was not caused by the purposeful act or omission of the Owner of such Lot, then an easement appurtenant to such Lot shall exist for the continuance of such encroachment upon the Sub-Association Common Area or other Lot for so long as such encroachment shall naturally exist. In the event that any structure erected principally on the Sub-Association Common Area encroaches upon any Lot, then an easement shall exist for the continuance of such encroachment of such structure onto such Lot for so long as such encroachment shall naturally exist. The foregoing shall not be construed so as to allow any extension or enlargement of any existing encroachment or to permit the rebuilding of the encroaching structure, if destroyed, in a manner so as to continue such encroachment, except such encroachment as was in existence as of the date of conveyance of the Lot to an Owner other than the Declarant.

Section 4. Easement Over Sub-Association Common Area. A perpetual, nonexclusive easement over, under and through the Sub-Association Common Area is hereby granted to each Lot and its Owners, family members and tenants of such Owners, the occupants of such Lot, and guests and invitees of such Owners, tenants or occupants, for the purpose of providing reasonable access, ingress and egress to, from and over and the use of the Sub-Association Common Area and for utilities serving such Lot. Any conveyance or encumbrance of such Sub-Association Common Area is subject to the easements granted herein.

Section 5. Association's Easement Upon Lots. The Association shall have a right, license and easement to go upon any Lot for the purpose of fulfilling its obligations under this Declaration and any other laws, ordinances, rules and regulations, public or private, which the Association is obligated or permitted to enforce. Such easement shall include, without limitation, the right to go on any Lot to correct, repair or alleviate any condition which, in the opinion of the Board of Directors of the Association or of the manager employed by the Association, creates or may create an imminent danger to the Sub-Association Common Area or improvements thereon.

Section 6. Easements for Governmental Access. An easement is hereby established over the Sub-Association Common Area and every Lot for the benefit of applicable governmental agencies for installing, removing, and reading water meters; maintaining and replacing water, sewer and drainage facilities; and acting for other purposes consistent with public safety and welfare, including, without limitation, law enforcement, fire protection, garbage collection, and the delivery of mail.

Section 7. Easements for Private Contractors. The Association shall have the right to assign its rights and delegate its duties to any Person. In the event that the Association employs or engages any Person to provide security within the Properties, perform inspections of improvements, collect garbage, landscape maintenance, or perform any other function, an easement is established over the Sub-Association Common Area and every Lot for the benefit of such contractors for such purposes.

**ARTICLE IX
ARCHITECTURAL CONTROL**

After occupancy of the dwelling constructed on a Lot pursuant to a certificate of occupancy or other certificate issued by the appropriate governmental entity, no building, fence, sign (including unit

identification signs), wall or other structure (including play equipment) shall be commenced, constructed, erected or maintained upon a Lot, nor shall any exterior addition to or change or alteration thereof be made, nor shall a building permit for such improvement or change be applied for or obtained, nor shall any major landscaping or re-landscaping be commenced or made (such construction, alteration and landscaping are hereinafter referred to as the "Improvements") until plans and specifications showing the nature, kind, shape, heights, materials, color and location of same shall have been submitted to and approved in writing by the Declarant. If the Declarant fails to approve or disapprove such proposed Improvements within forty-five (45) days after the plans and specifications have been received by it, approval will not be required, and this Article shall be deemed to have been complied with. Declarant shall have the right to charge a reasonable fee, not to exceed \$150.00, for receiving and processing each application and the right (but not the obligation), at the expense of the Owner seeking approval of the Improvements, to employ an engineer or other professional to review the plans for the Improvements. Declarant shall have the right (but not the obligation) to promulgate and from time to time amend written architectural standards and construction specifications (hereinafter the "Architectural Guidelines") which may establish, define and expressly limit the standards and specifications which will be approved, including, but not limited to, architectural style, exterior color finish, roofing material, siding material, driveway material, landscape design and construction technique. Declarant shall not approve any Improvements which it determines, in its sole discretion, not to be in harmony of external design, construction and/or location in relation to the surrounding structures, topography or the general plan of development of the Community.

Declarant may, at any time, delegate the review and approval authority contained in this Article X to the Board of Directors of the Association, which, in turn, may delegate such authority, to an Architectural Committee composed of three or more persons appointed by the Board. Declarant shall delegate such authority no later than the end of the Declarant Control Period. Except as provided in the next paragraph, any use of the term "Declarant" in this Article X shall be deemed to apply to Declarant and, when appropriate, to the Board of Directors or the Architectural Committee. Nothing herein shall be construed to permit interference with the development of the Lots by the Declarant.

Notwithstanding any other provision of this Declaration, including, without limitation, the provisions of the immediately preceding paragraph, Declarant shall have and shall exercise the rights set forth herein as to a Lot at all times prior to issuance of a certificate of occupancy or other certificate issued by the Town or appropriate governmental entity for the Dwelling constructed on a Lot. Neither the Board of Directors nor any Architectural Committee of the Board shall have the right to overturn any decision of Declarant without the prior written consent of Declarant, unless the Declarant no longer exists as a legal entity, in which event the foregoing proscription shall not apply.

In the event that any structure is commenced or constructed in violation of the provisions of this Article, in addition to any other remedy available for such breach including, without limitation, monetary fines for such violation, either Declarant or the Association may seek and obtain injunctive or other equitable relief to prevent construction and/or removal of such unapproved structure. The party prevailing in any action to enforce the provisions of this Article shall be entitled to recover from the non-prevailing party the costs of such action including, without limitation, court costs and attorneys' fees actually and reasonably incurred by the prevailing party.

ARTICLE X

USE RESTRICTIONS

Section 1. Use of Lots and Sub-Association Common Area. It is the intent of the Declarant that all Lots shall be used for residential purposes only. Except as permitted by the Town of Holly Springs Code, no trade, business, profession or other type of commercial activity shall be carried on upon any Lot, except that (a) the Declarant, real estate brokers, Owners and their agents may show Lots for sale or lease, and (b) an occupant of a Unit may conduct business activities within the Unit so long as: (i) the occupant obtains all necessary governmental licenses and approvals (including, without limitation, a special use permit, if required) for the conduct of such business in the Unit and the business is otherwise owned and operated in compliance with all applicable laws and regulations; (ii) the existence and operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit (and, in particular, no sign advertising or otherwise acknowledging the business is permitted); (iii) the business activity does not involve door-to-door solicitation of residents; (iv) the business activity is not a nuisance, a hazardous or offensive use, or a threat to the security or safety of others; and (v) the business activity does not, in the sole and exclusive discretion of the Board, generate a level of vehicular or pedestrian traffic or the movement or parking of a number of vehicles beyond that of a Unit in which no business is operated. The foregoing shall prohibit individual yard/garage sales by an Owner, but the Association may hold up to two (2) community-wide yard/garage sales annually. Notwithstanding the foregoing, the Declarant shall have the right to: (i) use Lots and improvements erected thereon for sales offices, field construction offices, storage facilities, and its own general business offices; (ii) maintain spot-lighted model homes which may be open to the public for inspection seven days per week for such hours as the Declarant deems appropriate or necessary; (iii) conduct any other activities on Lots to benefit sales and construction efforts; and (iv) use the parking facilities on the Sub-Association Common Area for parking for its employees and invitees.

Section 2. Accessory Structures. No storage buildings, sheds, animal pens, or other buildings, other than a Dwelling and its garage shall be erected on a Lot. No structure of a temporary nature may be used temporarily or permanently as a residence. Notwithstanding the foregoing, the Declarant may use temporary buildings, offices or facilities in connection with the marketing, sale and construction of Units.

Section 3. Nuisances. No noxious, illegal or offensive trade or activity shall be carried on upon any Lot or the Sub-Association Common Area, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No vehicle repairs or maintenance shall be conducted within the Properties other than in a garage and concealed from public view. Outside clothes hanging devices are not permitted.

Section 4. Animals. No animals, livestock or poultry of any kind shall be kept on any Lot, except that a reasonable number of cats, dogs, and other household pets may be kept provided they are not kept, bred, or maintained for any commercial purpose and that they do not become a nuisance to the neighborhood. The Board of Directors has the right to determine whether or not a particular animal is a nuisance and to require its removal or if there are more than a reasonable number of cats, dogs, and other household pets. No person owning or having custody of a permitted animal shall allow the animal to stray or go upon another Owner's Lot without the consent of such other Owner. No animals shall be permitted on or in the Sub-Association Common Area at any time except as permitted by the

rules and regulations of the Association or by applicable law. All animals shall be on a leash when outside the Owner's Dwelling. The owner of a permitted animal shall be responsible for removing and cleaning up any excrement deposited by such animal on any Lot or the Sub-Association Common Area.

Section 5. Signs. Except as otherwise required by the Town of Holly Springs, no sign of any kind shall be displayed to the public view on any Lot except signs used to advertise Lots for sale during the construction and sales period and no more than two (2) signs of not more than four (4) square feet each expressing support of or opposition to political candidates or other issues which will appear on the ballot of a primary, general or special election, provided that such political signs shall not be placed on a Lot earlier than forty-five (45) days before such election and shall be removed within seven (7) days after such election. No sign of any kind shall be displayed in or on the Sub-Association Common Area without the prior written consent of the Association. Notwithstanding the foregoing, Declarant and Developer shall each have the right to erect and maintain signs of any type and size on any Lot which it owns and on the Sub-Association Common Area in connection with the development and sale of the Properties and, with respect to the Developer, in connection with the development and sale of any property in the Community on Sub-Association Common Areas adjoining the street rights of way of Lockley Road and Mystic Pine Place.

Section 6. Parking. The Declarant shall provide and the Association shall maintain at least the minimum number of parking spaces required by the Town of Holly Springs for the Subdivision. The Board of Directors of the Association shall have the right and authority (but shall not be obligation) to assign parking spaces to Owners on an equal, non-discriminatory basis. The Owner of each Unit shall park his/her vehicle(s) either in the garage or in the driveway of that Unit and shall provide the Association with the make, model, color and license plate number of each vehicle owned or normally driven by the Owner and his family, any person regularly residing with the Owner, and/or any lessee or sub-lessee of such Owner.

No Owner or a member of his family, lessee or sub-lessee or guest of an Owner shall: (i) park any vehicle on the street within or adjoining the Subdivision except in a designated paved parking space; (ii) park or keep on any Lot or street within or adjoining the Subdivision any abandoned, partly dismantled or inoperative vehicle or vehicle not having current registration and inspection stickers displayed; or (iii) park or keep on any Lot or any street within or adjoining the Subdivision any boat or boat trailer, utility or other trailer, recreational vehicle, motor home, camper, bus, truck in excess of one ton weight, commercial vehicle, truck or van, or anything else other than a vehicle normally intended for use as a private passenger vehicle. For the purpose of the preceding sentence, the term "keep" shall mean present for either a period of more than ten (10) hours or overnight, whichever is less.

The Board of Directors shall have the right and authority to make, implement and enforce such additional parking rules and regulations as it might determine from time to time necessary or appropriate, and shall have the right and authority to enforce same, including, but not limited to, the right to levy fines for violations thereof. Furthermore, the Association shall have the right and authority to have towed any vehicle parked or maintained in violation of these or subsequently-adopted parking rules and regulations, and the cost of towing and storage shall be the responsibility of the Owner of the Lot to which such vehicle is registered or the Owner of the vehicle, as appropriate.

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

Section 7. Antennae and Roof Structures. No television, radio or other electrical towers, aerials, antennae, satellite dishes, or other devices of any type for the reception or transmission of radio or television broadcasts or other means of communication shall be erected, constructed, placed or permitted to remain on any Lot or upon any improvements thereon, except that this prohibition shall not apply to those antennae specifically covered by 37 C.F.R. Part 1, Subpart S, Section 1.4000 (or any successor provision) promulgated under the Telecommunications Act of 1996, as amended from time to time. The Association shall be empowered to adopt rules governing the types of antennae that are permissible hereunder and establishing reasonable, non-discriminatory restrictions relating to safety, location and maintenance of antennae.

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

Section 8. Garbage; Unsightly Storage. All trash and rubbish shall be kept in garbage containers of a size, type, and style approved by the Board of Directors or as required by the applicable governing jurisdiction, and subject to rules promulgated by the Association. The garbage containers shall be stored in the garages of the Units or, if stored outside, concealed from view utilizing an approved screen so as not to be visible from the street upon which the Units front. No trash, rubbish, stored materials, wrecked or inoperable vehicles, or any other unsightly items shall be allowed to remain on any Lot; provided, however, that the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish, and other debris for collection by governmental or other similar garbage and trash removal units. No Owner or Person shall burn rubbish, garbage or any other form of solid waste on any Lot or on Common Areas or within the rights-of-way of any street in the Community. In the event of curbside trash and/or garbage pickup, trash and/or garbage containers may be moved to the street on the night before the scheduled pickup, but all garbage containers must be returned to the garage by the evening of the scheduled pickup.

Section 9. Window Treatments. Except as may be otherwise approved in accordance with the Architectural Control provisions contained in Article IX, all window treatments visible from the outside of a Lot shall be white or off-white in color. No bed sheets, cardboard, towels, newspaper, tin foil, or similar materials may be used as window treatments at any time.

Section 10. Stoops, Driveways, Decks, and Patio Areas. Grills, patio furniture and potted

plants may be permitted on Patio Areas and Decks, subject to local ordinances and any rules promulgated by the Association with respect thereto. In addition, any items placed on Stoops and Driveways must comply with any rules promulgated by the Association with respect thereto.

Section 11. Flags. Flags may not be flown on any Lot, except that an American Flag and the North Carolina State Flag, in good repair and no larger than four (4) feet by six (6) feet in dimension, may be flown in the customary manner for flying such flags during daylight hours on the following national holidays: Presidents Day; Memorial Day; Flag Day; Independence Day; Veterans Day; and such additional and similar federal holidays as may be recognized hereafter.

Section 12. Holiday Decorations. Holiday decorations and lighting may be permitted up to thirty (30) days prior to a holiday and must be removed within ten (10) days after the holiday ends.

Section 13. Fences. Any fence or wall installed within the Subdivision must meet all requirements of the Zoning Ordinance and must be approved as provided in the Declaration. Chain-link fences will not be permitted. Nothing in this paragraph shall be deemed to apply to or regulate retaining walls made necessary by the slope or grade of any Lot nor to any fence installed by the Declarant at any entrance to or along any street within the Subdivision.

Section 14. Air Conditioning Units. Only central air conditioning units are permitted, and no window, wall or portable air conditioning units are permitted. No air conditioning or heating apparatus, unit or equipment may be installed on the ground in front of, or attached to, the front wall of any Unit.

Section 15. Swimming Pools. No above-ground or below-ground swimming pool of any type is permitted on any Lot in the Subdivision.

Section 16. Play Equipment. No recreational playground equipment of any type shall be permitted on any Lot or upon the Sub-Association Common Areas.

Section 17. Garages. No garage on any Lot may be enclosed for living spaces, but shall remain a garage for parking of vehicles of the Owner of the Lot.

Section 18. Rental of Units. No Owner may rent a Unit without the prior written consent of the Board of Directors and in no event may greater than twenty (20%) of all the Units in the Subdivision be rented at any given time. Should the Board of Directors consent to an Owner's request to rent his/her Unit, then an Owner may rent the Unit provided, however, that any rental agreement must be for at least twelve (12) months, in writing, and contain the following provision:

"Tenant shall obey, adhere to and be bound by all provisions of the Declaration of Covenants, Conditions, Restrictions, Easements, Charges And Liens For The Townes at Woodcreek, recorded in the Wake County Registry. Tenant acknowledges that he/she has received a copy of such Declaration and the rules and regulations of the Association and is familiar with the provisions of same."

If an Owner fails to include said provision in any rental agreement, it shall be conclusively deemed to be included and part of said agreement.

Notwithstanding the foregoing, however, nothing set forth in this section shall prohibit the Declarant from conducting such sales, leasing, and promotional activities on any lot as said Declarant shall determine.

Section 19. Fines. The Board of Directors, in accordance with the Bylaws, shall have the right and authority to levy fines or penalties for the violation of any provision of this Declaration and/or the rules and regulations hereafter promulgated by the Board pursuant thereto. Any monetary fine or penalty shall be deemed a limited special assessment against the Lot of the Owner against whom such fine or penalty is assessed.

**ARTICLE XI
PARTY WALLS**

Section 1. Rules of Law. All common party walls between individual Units shall conform to the requirements of the North Carolina State Building Code. The general rules of law regarding party walls, lateral support, and liability for property damage due to negligence or willful acts or omissions shall apply to each wall which is built as part of the original construction of the Dwellings within the Properties and which is placed on the dividing line between Lots, and to all reconstruction or extensions of such walls, to the extent not inconsistent with the provisions of this Article.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who or which uses the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, however, to the right of any such Owner to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Easement and Right of Entry for Repair, Maintenance and Reconstruction. Every Owner shall have an easement and right of entry upon the Lot of any other Owner and the Sub-Association Common Area to the extent reasonably necessary to perform repair, maintenance or reconstruction of a party wall and those improvements belonging to his Lot which encroach on an adjoining Lot or Sub-Association Common Area. Such repair, maintenance, or reconstruction shall be done expeditiously, and upon completion of the work, the Owner shall restore the adjoining Lot(s) and Sub-Association Common Area to as nearly the same condition as that which existed prior to commencement of the work as is reasonably practicable. Except in an emergency situation, an Owner entering upon another Owner's Lot as provided herein shall give reasonable oral or written notice to the Owner of the Lot on which such entry is to be made.

Section 5. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who, by his negligence or willful act or omission, causes the party wall to be exposed to the elements, shall bear the entire cost of furnishing the necessary protection against such elements and of repairing any damages resulting from such Owner's failure to timely and adequately provided such protection.

Section 6. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 7. Certification by Adjoining Property Owner That No Contribution Is Due. If any Owner desires to sell his Lot, such Owner, in order to assure a prospective purchaser that no Owner of an adjoining Lot has a right of contribution as provided in this Article, may request the adjoining property Owner to make a certification that no right of contribution exists, whereupon it shall be the duty of each adjoining property Owner to make such certification immediately upon request, and without charge; provided, however that where the adjoining property Owner claims a right of contribution, the certification shall contain a recital of the amount claimed. If an adjoining Owner fails to give a certification within ten (10) days of actual receipt of such request, such failure shall be conclusively deemed a certification that no such contribution is due.

ARTICLE XII
GENERAL PROVISIONS

Section 1. Enforcement. The Association and each Owner (including the Declarant) shall have the right to enforce, by proceeding at law or in equity, all restrictions, conditions, covenants, rules, regulations, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, the Act, the Bylaws or rules and regulations adopted by the Association. Failure by the Association or an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

Section 2. Term; Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless terminated or altered by a vote of the Owners as set forth below. This Declaration may be amended by an instrument signed by the Owners of not less than eighty percent (80%) of the Lots, and any amendments thereafter by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots; provided, however, that Declarant's rights hereunder may not be amended or altered without the prior written consent of Declarant. No amendment shall be effective unless it has been recorded in the office of the Register of Deeds of Wake County.

Notwithstanding the foregoing, Declarant, without the consent or joinder of any Person, may amend this Declaration during the Declarant Control Period for the limited purposes of correcting clerical or typographical errors or complying with any statute, ordinance, rule, regulation or interpretation of any Governmental Entity. Furthermore, the Declarant, without the consent of any

other Person, may amend this Declaration during the Declarant Control Period so long as such amendment does not adversely affect title to or use of any Owner's Lot or any Owner's use of the Sub-Association Common Area.

Section 3. Subdivision of Lots. No Lot within the Subdivision may be subdivided by sale or otherwise so as to reduce the total Lot area shown on a recorded plat of the Subdivision, except with the consent of the Declarant during the Declarant Control Period, and thereafter by the Association, and, if required, by the Town of Holly Springs. Subdivision or recombination of any Lot(s) may, as appropriate, increase or decrease the number of votes in the Association.

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

In addition to any other rights and remedies that the Association may have under this Declaration, the Association may impose sanctions for violations of this Declaration, the Bylaws of the Association, the rules and regulations adopted by the Association, or the restrictive covenants and other use restrictions applicable to the Properties, in accordance with procedures set forth in the Bylaws, which sanctions may include, but are not limited to, reasonable monetary fines, which fines shall be deemed a limited special assessment and a lien upon the Lot of the violator, and suspension of the right to vote and the right to use any recreational facilities within the Sub-Association Common Area; provided, however, that the Association may not suspend such Owner's right of access to or any utilities servicing his Lot.

In addition, pursuant to procedures provided in the Bylaws, the Association may exercise self-help to cure violations (specifically including, but not limited to, the towing of Owner and tenant vehicles that are in violation of parking rules) and may suspend the right of an Owner to use any Sub-Association Common Area if the Owner is more than thirty (30) days delinquent in paying any assessment or other charge due to the Association, provided, however, that the Association may not suspend such Owner's right of access to or any utilities servicing his Lot.

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

Section 5. Condemnation/Casualty. If all or any part of the Sub-Association Common Area and improvements thereon is taken by power of eminent domain or is damaged or destroyed by fire or other casualty, the proceeds of the condemnation award or any insurance policies covering such improvements shall be payable to the Association. The Board of Directors shall propose to the Members, at an annual or special meeting held within sixty (60) days after the date of the

condemnation or casualty, whether or not to reconstruct the improvements. The insurance proceeds shall be used to reconstruct the improvements except as provided in §47F-3-113(g) of the Act, in which event the proceeds shall be retained by the Association for operation expenses or reserves, as determined by the Board or the Members. Nothing in this Section shall prevent the Board from proposing and the Members from approving the use of such proceeds for construction of different improvements, e.g., playground on Sub-Association Common Area in lieu of a destroyed club house.

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

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

CERTIFICATE OF THE TOWNES AT WOODCREEK ASSOCIATION, INC.

This is to certify that, upon proper notice given a [the] Special [Annual] Meeting of the Members of the TOWNES AT WOODCREEK ASSOCIATION, INC., was held on [Date and Year] at [Time]. The purpose [One of the purposes] of the meeting, as set forth in the Notice of Meeting, was to: [State action for which Member approval is required.]

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

[President/Secretary]

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

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

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

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

Section 11. Conflicts. In the event of a conflict between any provision of this Declaration and the Master Declaration, the more restrictive provision shall control. In the event of a conflict between this Declaration and the Articles of Incorporation of the Association, the Articles of Incorporation shall control. In the event of a conflict between this Declaration and the Bylaws, this Declaration shall control.

Specific provisions shall control general provisions. Notwithstanding the foregoing, a construction consistent with the Act, the North Carolina Nonprofit Corporation Act (N.C.G.S. Chapter 55A), and the Town of Holly Springs Code shall in all cases control over any construction inconsistent therewith. The provisions of the Act and the Nonprofit Corporation Act shall in all cases control any conflicting provisions of the Town of Holly Springs Code.

Section 12. Rule Against Perpetuities. As provided in §47F-2-103(b) of the Act, the rule against perpetuities may not be applied to defeat any provision of the Declaration, Bylaws, or rules and regulations adopted pursuant to thereto and §47F-3-102(1) of the Act. In the absence of the protection provided in §47F-2-103(b) of the Act, if any provision of this Declaration violates any applicable rule against perpetuities, such provision shall be deemed amended to be and remain in effect for the maximum period of time that such provision could be in effect without violating the applicable rule against perpetuities.

IN WITNESS WHEREOF, Declarant and the Developer have each caused this instrument to be executed in its name by its duly authorized officer or Manager, as of the date set forth in the notary acknowledgment below.

DECLARANT:

PARKER & ORLEANS HOMEBUILDERS, INC.
A Delaware corporation

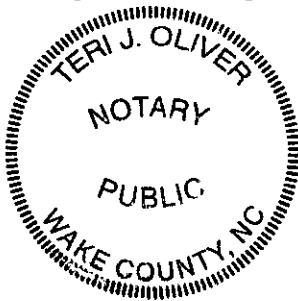
By: 
Mitchell W. Sanner, III – Division President

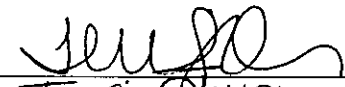
State of North Carolina – County of Wake:

I certify that the following person(s) personally appeared before me this day and acknowledged to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: **Mitchell W. Sanner, III**

Date: 3/6/14

[Official Seal]




Teri Oliver Notary Public
(Print Name)
My Commission Expires: 3/31/14

DEVELOPER:

HOLLY SPRINGS RESIDENTIAL PROPERTIES LLC,
a North Carolina limited liability company

By: Timothy R. Smith
Name: TIMOTHY R. SMITH
Title: MANAGER

State of North Carolina County/City of Wake

I certify that the following person(s) personally appeared before me this day and acknowledged to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Timothy R. Smith

Date: 4-7-14
Vanessa T. Jenkins, Notary Public
[Official Seal] (Print Name)
My Commission Expires: 1-21-2018

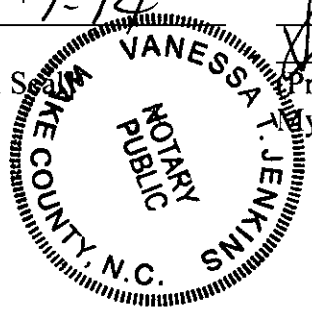


EXHIBIT A

Lying and being in the Town of Holly Springs, Holly Springs Township, Wake County, North Carolina, and being more particularly described as follows:

All of the real property shown on those maps entitled “Townes at Woodcreek” prepared by Withers & Ravenel and dated January 27, 2014, and recorded in Book of Maps 2014, Pages 292-294, Wake County Registry, to which map reference is hereby made for a more particular description.

EXHIBIT B

**WAKE COUNTY
REGISTER OF DEEDS
ADDED FOR SCANNING
PURPOSE ONLY**

**CONSENT OF DIRECTORS
OF
WOODCREEK NEIGHBORHOOD ASSOCIATION, INC.
TO ACTION WITHOUT MEETING**

The undersigned, being all of the directors of Woodcreek Neighborhood Association, Inc., a North Carolina nonprofit corporation (the "Association"), hereby unanimously adopt the following resolutions without a meeting:

WHEREAS, Holly Springs Residential Properties LLC, the "Declarant" under the "Declaration Of Protective Covenants And Easements For Woodcreek" recorded in the Wake County, North Carolina Registry in Book 12453, Page 786 (together with all recorded amendments and supplements thereto, the "Declaration") by deed recorded in the Wake County, North Carolina Registry in Book 15282, Page 417 sold to Parker & Orleans Homebuilders, Inc. ("Orleans") the following real property in Woodcreek development in the Town of Holly Springs, Wake County, North Carolina (the "Property"):

"Lot 13, consisting of 14.063 acres (612,580 square feet), more or less, in the Woodcreek development as shown on a plat recorded in the Wake County, North Carolina Registry in Book of Maps 2013, Page 680 (correcting previous version of plat recorded in Book of Maps 2013, Page 673), reference being made to said plat for a more complete description, and said plat being incorporated by reference as if fully set out herein.";

AND WHEREAS, by document recorded in the Wake County, North Carolina Registry in Book 15282, Page 422 Declarant has designated Orleans as an "Approved Builder" under the Declaration;

AND WHEREAS, Orleans is developing on the Property as a townhouse development named "The Townes At Woodcreek";

AND WHEREAS, Orleans proposes to record as a "Neighborhood Declaration" (as defined in the Declaration a "Declaration Of Covenants, Conditions, Restrictions, Easements, Charges And Liens For The Townes At Woodcreek" substantially in the form attached hereto as **Exhibit A** and incorporated by reference (the "Townes Declaration");

AND WHEREAS, pursuant to Article II, Section 3.a. of the Declaration, the Board of Directors of the Association wishes to consent to the recording of the Townes Declaration;

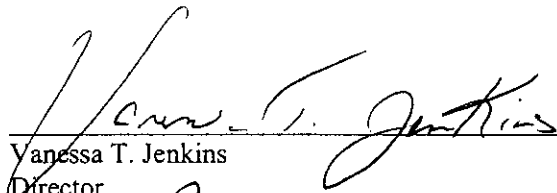
NOW, THEREFORE, it is hereby resolved that the Board of Directors of the Association hereby approves the Townes Declaration and agrees that it may be recorded in the Wake County, North Carolina Registry.

IT IS further resolved, that a copy of this Consent Of Directors, without or without **Exhibit A**, may be attached to and recorded with the Townes Declaration as evidence of the written consent of the Board of Directors to the Townes Declaration under Article II, Section 3.a. of the Declaration.

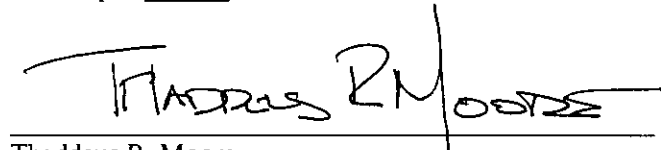
The foregoing resolutions are adopted by the Board and are effective as of the date that this Consent Of Directors is executed by the last of the undersigned directors to execute it. It is not necessary to the validity of these resolutions that the directors sign the same execution page, and an execution page signed by a director and transmitted by or on behalf of such director or any other director is deemed to be an original execution page of the transmitting director.

(Execution Page Follows)

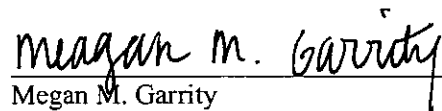
EXECUTION PAGE
CONSENT OF DIRECTORS
OF
WOODCREEK NEIGHBORHOOD ASSOCIATION, INC.
TO ACTION WITHOUT MEETING



Vanessa T. Jenkins
Director
Date: April 7, 2014



Thaddeus R. Moore
Director
Date: April 7, 2014



Megan M. Garrity
Director
Date: April 15th, 2014

Dan Marro
Director
Date: April _____, 2014

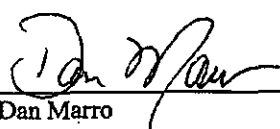
David Durham
Director
Date: April _____, 2014

EXECUTION PAGE
CONSENT OF DIRECTORS
OF
WOODCREEK NEIGHBORHOOD ASSOCIATION, INC.
TO ACTION WITHOUT MEETING

Vanessa T. Jenkins
Director
Date: April _____, 2014

Thaddeus R. Moore
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Megan M. Garrity
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Date: April _____, 2014



Dan Marro
Director
Date: April 7, 2014

David Durham
Director
Date: April _____, 2014

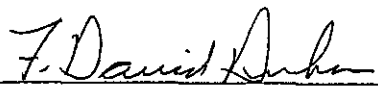
EXECUTION PAGE
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TO ACTION WITHOUT MEETING

Vanessa T. Jenkins
Director
Date: April _____, 2014

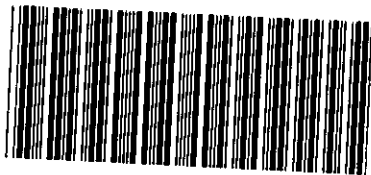
Thaddeus R. Moore
Director
Date: April _____, 2014

Megan M. Garrity
Director
Date: April _____, 2014

Dan Marro
Director
Date: April _____, 2014



David Durham
Director
Date: April 7, 2014



BOOK:015636 PAGE:01288 - 01327



Please retain yellow trailer page

It is part of the recorded document and must be submitted with the original for re-recording.

Laura M. Riddick
Register of Deeds
Wake County Justice Center
300 South Salisbury Street, Suite 1700
Raleigh, NC 27601

- ☐ New Time Stamp
- ☐ \$25 Non-Standard Fee
- ☐ Additional Document Fee
- ☐ Additional Reference Fee

This Customer Group

____ # of Time Stamps Needed

This Document

____ 40 # of Pages LG