

advances shall, upon request of Declarant, be evidenced by promissory notes from the Association in favor of the Declarant. The failure of Declarant to obtain a promissory note shall not invalidate the debt; or

b. Cause the Association to borrow such amount, or a general borrowing, from a third party at the then prevailing rates for such a loan in the local area of the Community. Declarant, in its sole discretion, may guarantee repayment of such loan, if required by the lending institution, but no Mortgage secured by the Common Property or any of the improvements maintained by the Association shall be given in connection with such loan; or

c. Acquire property for, or provide services to, the Association or the Common Property. Declarant shall designate the value of the property or the services provided and such amounts, at the request of the Declarant, shall be evidenced by a promissory note. Failure to obtain a promissory note shall not invalidate the obligation referred to in this Section.

ARTICLE V. MAINTENANCE & CONVEYANCE OF COMMON PROPERTY TO ASSOCIATION

5.1. Association's Responsibility. The Association shall maintain in good repair all Areas of Common Responsibility, including (without limitation), maintenance, repair, and replacement of all landscaping and improvements situated on the Common Property. The Association shall also maintain all lakes and associated dams in or serving the Community, to the extent maintenance of such lake is required and the lake is not otherwise maintained by a governmental entity or third party.

a. The Association shall also maintain all entry features, and common areas, operate and maintain street lights (if not maintained and operated by a governmental entity) for the Community including the expenses for water and electricity, if any, provided to all such entry features; all stormwater detention facilities and easements serving the Community (to the extent such facilities and easements are not maintained by a governmental entity or third party). The Association will maintain the street tree easement located within the Common Property or within the Lots, and street trees located within the easement. The Association will maintain any buffer plantings located within the Lots.

b. The Association shall have the right, but not the obligation, to maintain other property not owned by the Association, within the Community, where the Board has determined that such maintenance would benefit the Owners. In order to maintain a uniform appearance, the Association shall have the right, but not the

obligation, to maintain all or a portion of the lawns of Lots visible from the Common Area and all rear yards as depicted on the recorded map.

c. In the event that the Association determines that the need for maintenance, repair, or replacement of property described in (a) or (b) above is caused through the willful or negligent act of an Owner, or the family, guests, lessees, or invitees of any Owner, and is not covered or paid for by insurance maintained by or on behalf of the Association, in whole or in part, then the Association may perform such maintenance, repair, or replacement at such Owner's sole cost and expense, and all costs thereof shall be an assessment against such Owner and such Owner's Lot subject to the Association's lien and collection rights provided for in this Declaration; provided, however, during Declarant's Control Period, any such action by the Association shall require the Declarant's prior written consent. Such Owner may request a hearing by the Board of Directors, or an adjudicatory panel appointed by the Board, to determine responsibility for the damages if the monetary amounts involved are less than or equal to the jurisdictional amount established for small claims under North Carolina law. The hearing shall afford notice of the charge to the Owner, an opportunity for the Owner to be heard and to present evidence, and a notice of decision by the Board. The Board of Directors or its appointees may not assess liability in an amount in excess of the jurisdictional amount established for small claims under North Carolina law.

d. The maintenance shall be performed consistent with the Community Standard.

e. The Association shall maintain in good repair the landscaping and exterior building surface materials, fixtures, and equipment attached thereto as specifically provided therein. All maintenance of Lots and Dwellings which is not specifically assigned to the Association shall be the responsibility of the Owner.

i. The Association shall maintain all landscaping originally installed by Declarant, a Builder, or by the Association. The Association's responsibilities with respect to maintenance of such landscaping shall be limited to cutting of grass, trimming and replacement of trees, shrubs, hedges, bushes, flowers, and other plantings, from time to time as necessary or appropriate as determined in the Board's sole discretion. Owner of Lots shall not alter such landscaping or landscaping equipment and shall not interfere with the Association's landscaping activities. Should any landscaping be installed by Owners, pursuant to Section 6.3, the Association shall have no responsibility to maintain such landscaping or have any liability for damage to such landscaping which may occur in the course of performing the Association's duties under this Section 5.

- ii. The Association shall be responsible for cleaning, repairing, and repainting the exterior surface material of each townhome Dwelling, including stucco, wood and trim. Except for windows and doors, the Association shall maintain all exterior building surfaces (e.g., shingles, decking, and other surface roofing materials); provided, all other portions of the roof system and any vents, fans, plumbing stacks, or other items attached to the roof and serving a single Dwelling shall be the maintenance responsibility of the Owner. Doors and windows, except for repainting the exterior surface and trim, shall be the Owner's responsibility unless the Board determines otherwise.

5.2. Owner's Responsibility. Except as provided in Section 5.1 above, all maintenance of the Lot and all structures, landscaping, and other improvements thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a manner consistent with the Community Standard and this Declaration. Each Owner shall maintain the routine cleanliness and general upkeep of their Lot, including without limitation, the repair, replacement and maintenance of the following: (a) all landscaped areas within the boundaries of the Lot installed by someone other than the Declarant or the Builder, including, without limitation any harmonious trees, shrubs, flowers and grass planted by an Owner in their rear yard; (b) all portions of an Owner's rear yard; (c) any Limited common Area (including, but not limited to, patios, decks and porches) serving a single Townhome Unit; (d) screens and screen doors, exteriors doors, exterior glass surfaces, windows, window fixtures and other related hardware. All fixtures and equipment installed with a Townhome Unit commencing at a point where the utility lines, pipes, wires conduits or systems are within the Townhome Unit's exterior walls, including within any courtyards, shall be maintained and kept in repair by its Owner. The Owner shall be responsible for maintaining any fence installed on a Lot, whether installed by the Builder or the Owner, and any yard improvements inside of such fence. An Owner shall not do anything that will impair the structural soundness or integrity of another Lot or Townhome Unit, nor impair any easement or hereditament, nor do any act or allow any condition to exist which will adversely affect other Lots or their Owners. Nothing shall be done in any Lot or in, on or to the Common Area that will impair the structural integrity of the Property or will structurally change any Townhome building of which a Townhome Unit is a part, except as is otherwise provided in this Declaration. In no event shall interior walls or partitions contributing to the support of any Townhome Unit, Townhome Building or Common Area be altered or removed. Any cost associated with maintenance within the owner's responsibility shall not be an item of Common Expense. No planting or maintenance by an Owner shall reduce the assessment payable by the Owner to the Association.

In the event that the Board determines that any Owner has failed or refused to discharge properly any of such Owner's obligations with regard to the maintenance, repair, or replacement of items for which such Owner is responsible, the Association may perform such maintenance, repair, or replacement for the Owner at the expense of the Owner. Except in an emergency situation, the Association shall give the Owner written notice of the

Association's intent to provide such necessary maintenance, repair, or replacement. The notice shall set forth with reasonable particularity the maintenance, repairs, or replacement deemed necessary. The Owner shall have ten (10) days after receipt of such notice within which to complete such maintenance, repair, or replacement, or, in the event that such maintenance, repair, or replacement is not capable of completion within a ten (10) day period, to commence such work which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair, or replacement at such Owner's sole cost and expense, and all costs shall be an assessment levied against the Owner and a lien on such Owner's Lot in accordance with the provisions of Article IV hereof.

5.3 Party Walls. Each wall which is built as a part of the original construction of a Townhome Building upon the property and placed on a boundary line between Lots, and all reconstruction or extension of such walls, shall constitute party walls. Except as provided in this Article, the general rules of law regarding party walls, lateral support in below-grade construction and liability for property damage due to negligence or willful acts or omissions shall apply to party walls on the Property. The following rules and principles shall also apply to the party walls:

5.3.1 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 or benefit therefrom in proportion to such use and benefit.

5.3.2 Construction and reconstruction of Party Wall. The Owner of any Lot may construct, reconstruct, or extend a party wall in any direction (subject to and within the limitation of architectural control and other limitation of the Declaration) with the right to go upon the adjoining Lot to the extent necessary to perform such construction. Such construction shall be done expeditiously. Upon completion of such construction, such Owner shall restore the adjoining Lot to as near the same condition as prevailed before the commencement of such construction as is reasonably practicable.

5.3.3 Weatherproofing. Notwithstanding any other provision of this section, an Owner who, by their negligence or willful act, causes the party wall to be exposed to the elements shall bear whole cost of furnishing the necessary protection against such elements.

5.3.4 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.

5.3.5 Certification by Adjoining Lot Owner that No Contribution is Due. If any Owner desires to sell their Lot, they may, in order to assure a prospective purchaser that no adjoining Owner has a right of contribution as provided in this Article, request of the adjoining Owner a certification that no right of contribution exists, whereupon it shall be the duty of each adjoining Owner to make such certification immediately upon request and