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DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR
PHILLIPS PLACE

DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS FOR
PHILLIPS PLACE
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DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS FOR
PHILLIPS PLACE

THIS DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR PHILLIPS PLACE ("Declaration") is made on the date hereinafter set forth by **KB HOME RALEIGH-DURHAM, INC.**, a Delaware corporation (hereinafter sometimes called "Declarant");

WITNESSETH

WHEREAS, Declarant is the owner, or if not the owner has the consent of the owner, of the real property described in Exhibit "A" attached hereto and by this reference incorporated herein; and

WHEREAS, Declarant desires to subject the real property described in Exhibit "A" hereof to the provisions of this Declaration to create a residential community of single-family housing and to provide for the subjecting of other real property to the provisions of this Declaration;

NOW, THEREFORE, Declarant and the undersigned owner hereby declare that the real property described in Exhibit "A" attached hereto and by this reference incorporated herein is hereby subjected to the provisions of this Declaration and shall be held, sold, transferred, conveyed, used, occupied, mortgaged and otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments and liens, hereinafter set forth, which are for protecting the value and desirability of and which shall run with the title to the real property hereby and hereafter made subject hereto and shall be binding on all persons having any right, title or interest in all or any portion of the real property now and hereafter made subject hereto, their respective heirs, legal representatives, successors, successors-in-title and assigns and shall inure to the benefit of each owner of all or any portion thereof.

Article 1
Definitions

The following words, when used in this Declaration or in any Supplementary Declaration, shall have the following meanings:

1.1 "Act" means the North Carolina Planned Community Act, Chapter 47F of the North Carolina General Statutes, as the same may be supplemented and/or amended from time to time.

1.2 "Articles of Incorporation" means the Articles of Incorporation of Phillips Place Homeowners Association, Inc., filed with the North Carolina Secretary of State and incorporated herein by this reference, as the same may be amended from time to time.

1.3 "Association" means Phillips Place Homeowners Association, Inc., a North Carolina nonprofit corporation, its successors and assigns.

1.4 "Board of Directors" or "Board" means the appointed or elected body of the Association, vested with the authority to operate and manage the affairs of the Association under the North Carolina Nonprofit Corporation Act, as the same may be supplemented and/or amended from time to time.

1.5 "Bylaws" means the Bylaws of Phillips Place Homeowners Association, Inc., attached to this Declaration as Exhibit "C" and incorporated herein by this reference, as the same may be amended from time to time.

1.6 "Common Property" means any and all real and personal property, including, without limitation, easements and other interests therein, and the facilities and improvements located thereon, now or hereafter owned by the Association for the common use and enjoyment of the Owners.

1.7 "Community" refers to that certain real property described in Exhibit "A", attached hereto, and such additions thereto as may be made by Supplementary Declaration as provided herein.

1.8 "Community-Wide Standard" means the standard of conduct, maintenance or other activity generally prevailing in the Community. Such standard may be more specifically determined by the Board of Directors of the Association and as may be articulated in the Architectural Guidelines as provided in Article 6 hereof. Such determination, however, must be consistent with the Community-Wide Standard originally established by the Declarant.

1.9 "Declarant" means **KB HOME RALEIGH-DURHAM, INC.**, a Delaware corporation, and its successor, successor-in-title or assigns taking title to any portion of the property described in Exhibit "A" or Exhibit "B" hereof for the purpose of development and/or sale and designated as Declarant in a recorded instrument by the then holder of rights of Declarant hereunder. Any or all of the rights of Declarant set forth in this Declaration or the Articles of Incorporation or the Bylaws may be transferred or assigned in whole or in part to other Persons, provided that, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration, the Articles of Incorporation or the Bylaws. No such transfer or assignment shall be effective unless it is in a written instrument signed by Declarant and recorded in the public real estate records of the county where the property is located. Notwithstanding the foregoing, so long as Phillips Place Associates, LLC, a North Carolina limited liability company ("Phillips Place Associates") owns any property described on Exhibit "A" or Exhibit "B" to this Declaration, any such assignment or transfer of the rights of Declarant as provided herein shall require the consent and approval of Phillips Place Associates, which consent and approval shall not be unreasonably withheld.

Notwithstanding the foregoing, in the event Declarant is in breach or default of the purchase and sales agreement (the "Phillips Purchase Agreement") with Phillips Place Associates

for the acquisition of all or any portion of the property described in Exhibit "A" or Exhibit "B" hereto, and Phillips Place Associates subsequently terminates such contract, Declarant shall, upon written request of Phillips Place Associates, or its successors or assigns, assign all rights, duties, powers, obligations and responsibilities of Declarant arising under the Declaration to Phillips Place Associates, its successors or assigns, by filing a document to such effect in the Wake County, North Carolina land records. Upon the date of recording of said assignment document, all rights, duties, powers and obligations of Declarant thereafter arising under the Declaration shall automatically inure to the assignee of such rights and obligations and KB Home Raleigh-Durham, Inc. thereafter shall have all the obligations and responsibilities of a Lot Owner under the provisions of this Declaration with respect to any Lot it owns in the Community.

1.10 "Lot" means any plot of land within the Community, whether or not improvements are constructed thereon, which constitutes or will constitute, after the construction of improvements, a single-family dwelling site, as shown on the recorded subdivision plat(s) for the Community recorded in the land records of the county where the Community is located. The ownership of each Lot shall include, and there shall pass with the title to each Lot as an appurtenance thereto, whether or not separately described, membership in the Association and all rights and interests of an Owner in the Common Property.

1.11 "Mortgage" means any and all instruments used for the purpose of encumbering or conveying title to real property in the Community as security for the payment or satisfaction of an obligation, including, without limitation, any mortgage, deed to secure debt or deed of trust.

1.12 "Mortgagee" means the holder of a Mortgage.

1.13 "Occupant" means any Person occupying all or any portion of a Lot or other property located within the Community for any period of time, regardless of whether such Person is a tenant of the Owner of such property.

1.14 "Owner" means the record owner, whether one or more Persons, of the fee simple title to any Lot located within the Community, excluding, however, any Person holding such interest merely as security for the performance or satisfaction of any obligation.

1.15 "Person" includes any individual, individual acting in a fiduciary capacity, corporation, limited partnership, limited liability company, general partnership, joint stock company, joint venture, association, company or other organization, recognized as a separate legal entity under North Carolina law.

1.16 "Supplementary Declaration" means a supplement to this Declaration which subjects additional property to this Declaration and/or imposes additional covenants, conditions, restrictions or easements on the land described therein.

1.17 "Total Association Vote" means the votes attributable to the entire membership of the Association as of the record date for such action (including votes of the Declarant), whether

or not such members are present or represented at the meeting, if any, where such votes are to be cast, but specifically excluding those Owners whose voting rights have been suspended as provided herein.

Article 2
Property Subject To This Declaration

2.1 Property Hereby Subjected To This Declaration. The real property which is, by the recording of this Declaration, subject to the covenants, conditions, restrictions and easements hereinafter set forth and which, by virtue of the recording of this Declaration, shall be held, transferred, sold, conveyed, used, occupied and encumbered subject to this Declaration is the real property described in Exhibit "A" attached hereto and by this reference made a part hereof.

2.2 Unilateral Annexation By Declarant. As the owner thereof or, if not the owner, with the consent of the owner thereof, Declarant shall have the unilateral right, privilege, and option from time to time at any time until ten (10) years after the recording of this Declaration to subject all or any portion of the real property described in Exhibit "B" attached hereto and by this reference incorporated herein, to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the Office of the Register of Deeds of Wake County, North Carolina a Supplementary Declaration executed by Declarant, and the owner of the property if it is not owned by Declarant, describing the property being subjected. Any annexation shall be effective upon the filing for record of a Supplementary Declaration executed by the Declarant, and the owner of the property if it is not owned by Declarant, unless a later effective date is provided therein. Notwithstanding anything to the contrary herein, any annexation of additional property to the Community by Declarant or any consent by Declarant to a proposed annexation of property to the Community shall require the consent of Phillips Place Associates, which consent and approval shall not be unreasonably withheld, so long as Phillips Place Associates owns any property described on Exhibit "A" or Exhibit "B" to this Declaration.

Declarant presently intends to annex hereto the property contained in Declarant's plan for the development, as amended from time to time, which plan presently includes all or a portion of the property described in Exhibit "B". Declarant, however, presently does not own the property described on Exhibit "B". Inclusion of the property on Declarant's land plan or in Exhibit "B" shall not obligate the Declarant or any current or future owner of the property to subject such property to the Declaration, nor shall exclusion of property from the initial development plan bar Declarant from subjecting such property to the Declaration. At such time, if any, as Declarant may elect to annex any portion of the property described on Exhibit "B" or otherwise shown on Declarant's development plan, as amended from time to time, Declarant shall do so by filing a Supplementary Declaration that describes with particularity the property to be annexed. Any Supplementary Declaration may contain such additions, deletions and modifications to the covenants, conditions, restrictions and easements contained herein as the parties annexing such additional property may desire; provided, however, in no event shall any such Supplementary Declaration revoke, modify or add to the covenants, conditions, restrictions or easements established by this Declaration or a previously filed Supplementary Declaration as it applies or they apply to property described on Exhibit "A" or to any property annexed pursuant to any previously recorded Supplementary Declaration. If any property described in Exhibit "B" or

otherwise shown on any development plan is not subjected to this Declaration, Declarant's reserved rights shall not impose any obligation on Declarant or any current or future owner of such property to impose any covenants and restrictions similar to those contained herein upon such property nor shall such rights in any manner limit nor restrict the use to which such property may be put by Declarant or any current or subsequent owner thereof, regardless of whether such uses are consistent with the covenants and restrictions imposed herein or in any Supplementary Declaration.

2.3 Annexation by Association. Upon the written consent of: (a) the owner(s) thereof; (b) the Declarant; and (c) the Owners of at least two-thirds (2/3) of the Lots, the Association may annex real property to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the Office of the Register of Deeds of Wake County, North Carolina a Supplementary Declaration describing the property being annexed. Any such Supplementary Declaration shall be executed on behalf of the Association by the President of the Association whose signature shall be attested by the Secretary of the Association. The annexation shall be effective only upon the filing for record of such Supplementary Declaration, unless a later effective date is provided therein.

2.4 Withdrawal of Property. Declarant reserves the right to amend this Declaration so long as it has a right to annex additional property to the Community pursuant to this Article for the purpose of removing any portion of the Community then owned by Declarant or the Association from the coverage of this Declaration, to the extent originally included in error or as a result of any changes whatsoever in the plans for the Community, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Community. Any such withdrawal shall be accomplished by filing an amendment to the Declaration executed by Declarant describing the property to be removed. Such amendment shall be executed by the Declarant and the owner(s) of the property being removed if said property is not owned by the Declarant and shall not require the vote or consent of members of the Association and shall be effective upon the filing of record in the Office of the Register of Deeds of Wake County unless a later effective date is provided therein. Notwithstanding anything to the contrary herein, any amendment withdrawing all or a portion of the property from the provisions of the Declaration shall require the consent of Phillips Place Associates, which consent and approval shall not be unreasonably withheld, so long as Phillips Place Associates owns any property described on Exhibit "A" or Exhibit "B" to this Declaration.

Article 3
Association Membership and Voting Rights

3.1 Membership. Every Person who is the record owner of a fee or undivided fee interest in any Lot subject to this Declaration shall have a membership in the Association. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one (1) or more Persons, shall have more than one (1) membership per Lot. Membership shall be appurtenant to and may not be separated from ownership of a Lot. The rights and privileges of membership, including the right to hold office, may be exercised by a member or the spouse of a member, but in no event shall more than one

(1) office be held for each Lot owned. This Section is not intended to prohibit the same individual from being both an officer and a director of the Association. Nothing in this Section shall restrict the number of votes cast or the number of the officers and directors appointed by the Declarant.

3.2 Voting. Members shall be entitled to one (1) vote for each Lot owned. When more than one (1) Person holds an ownership interest in a Lot, the vote for such Lot shall be exercised as those Owners themselves determine and advise the Secretary prior to any meeting or referendum. The vote attributable to a Lot shall be suspended in the event more than one (1) Person seeks to exercise it. The Board of Directors may suspend the voting rights of an Owner for any period during which any past due assessment against any Lot of the Owner remains unpaid for a period of thirty (30) days or longer; and, for a reasonable period of time for an infraction of the Declaration, Bylaws, rules and regulations or Architectural Guidelines adopted hereunder, subject to the notice and hearing requirements set forth in the Bylaws.

Article 4
Assessments

4.1 Purpose of Assessments. The assessments provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners of Lots, including, without limitation, the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors.

4.2 Creation of the Lien and Personal Obligation for Assessments. Each Owner of a Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (a) general assessments or charges; (b) special assessments; and (c) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Declaration and the Bylaws. In addition to the foregoing, the Board may charge each Owner a service, collection, consulting or administration fee (an "Administrative Fee") in an amount to be determined by the Board from time to time in connection with the assessment and collection of the assessments provided for in this Declaration.

Each such assessment, together with late charges (in an amount determined by the Board from time to time, but not to exceed the greater of Twenty and No/100 Dollars (\$20.00) per month or ten percent (10%) of any assessment installment unpaid or such higher amount as may be permitted by the Act), interest (at a rate not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum or such other amount as may be permitted by the Act), costs of collection, reasonable attorney's fees actually incurred and any Administrative Fee, shall be the personal obligation of the Person who was the Owner of such Lot at the time the assessment fell due. Each Owner shall be personally liable for his or her portion of each assessment coming due while he or she is the Owner of a Lot and his or her successor-in-title shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, further, however, the liability of a grantee for the

unpaid assessments of the grantor shall not apply to any first Mortgagee or other purchaser taking title through foreclosure proceedings or deed in lieu of foreclosure.

No Owner may waive or otherwise be exempt from liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot or nonuse of the Common Property. No diminution or abatement of any assessment shall be claimed or allowed by reason of any failure of the Association to take some action or perform some function required to be taken or performed by the Association, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance or directive of any governmental or municipal authority, the obligation to pay assessments being a separate and independent covenant on the part of each Owner. All payments shall be applied first to costs, then to late charges, then to interest and then to delinquent assessments.

Assessments shall be paid at a uniform rate per Lot in such manner and on such dates as may be fixed by the Board of Directors, which may include, without limitation, acceleration, upon ten (10) days' written notice, of assessments for delinquents; provided however, (a) notwithstanding any provision in this Declaration to the contrary, assessments to pay a judgment against the Association may be made only against the Lots in the Community at the time the judgment was entered; and (b) if any common expense is caused by the negligence or misconduct of any Owner or Occupant, the Association may assess the expenses exclusively against that Owner or Occupant's Lot, as more particularly set forth in Section 4.6 hereof.

All sums assessed against any Lot pursuant to this Declaration, together with late charges (in an amount determined by the Board from time to time, but not to exceed the greater of Twenty and No/100 Dollars (\$20.00) per month or ten percent (10%) of any installment unpaid or such higher amount as may be permitted by the Act), interest on the principal amount due (at a rate not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum or such higher amount as provided in the Act), costs of collection, reasonable attorney's fees actually incurred and any Administrative Fee when remaining unpaid for thirty (30) days or longer, shall be secured by a lien on such Lot in favor of the Association when the Association files a claim of lien in the Wake County, North Carolina land records in the manner provided by law, if filing of such lien is required by law, otherwise such lien shall automatically attach. Such lien shall be superior to all other liens and encumbrances on such Lot, except for (i) liens and encumbrances recorded before the docketing of the claim of lien, and (ii) liens for real estate taxes and other governmental assessments and charges against the Lot. This Section does not affect the priority of mechanics' or materialmens' liens.

All Persons acquiring a lien or encumbrance on any Lot after this Declaration has been recorded in the Wake County, North Carolina land records shall be deemed to consent that such lien or encumbrance shall be inferior to future liens for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such lien or encumbrance.

4.3 Budget. It shall be the duty of the Board to prepare and adopt a budget covering the estimated costs of operating and managing the Association during the coming year, which may include a capital contribution or reserve in accordance with a capital budget separately prepared.

The Board shall cause the budget and the general assessment to be levied against each Lot for the year and a notice of the meeting to consider ratification of the budget (which notice shall include a statement that the budget may be ratified without a quorum being present) to be provided to each member no more than thirty (30) days after the adoption of the budget. The date of the meeting of the members to consider ratification of the budget shall be not less than ten (10) days nor more than sixty (60) days after the mailing of the budget and the notice of the meeting to consider the ratification of the same. There shall be no requirement that a quorum be present at the meeting. The meeting shall be held at least thirty (30) days prior to the due date of the general assessment or the first installment thereof. The budget shall be ratified and the general assessment shall become effective unless disapproved at a meeting by at least a majority of the Total Association Vote. Notwithstanding the foregoing, however, in the event the membership disapproves the proposed budget or the Board fails for any reason to determine the budget for the succeeding year, the budget last ratified shall continue in effect until a new budget is ratified.

4.4 General Assessments. Unless otherwise provided by the Board, the general assessment shall be paid in one (1) annual installment. General assessments include any sums the Board determines necessary for the continued ownership, operation and maintenance of the Common Property, operating expenses of the Association, payment for any items of betterment and the establishment of reserve funds as the Board shall deem proper. General assessments may include, without limitation, sums for property taxes, insurance premiums, legal and accounting fees, management fees, charges for utilities and other services provided by the Association, if any, cleaning and janitor services, landscape maintenance, costs and expenses associated with the operation and maintenance of the storm water drainage facilities and storm water detention/retention pond(s) in the Community, and expenses and liabilities incurred as provided herein and in the Articles of Incorporation and Bylaws for indemnification of officers and directors and in connection with the enforcement of rights and duties of the Association against Owners and others.

The monthly costs of operating the Association may fluctuate dramatically during each budget year. Therefore, the Board is not required to prorate the amount of the general assessment for any Owner who has not lived in the Community for a full year. For example, if the bulk of the costs of operating the Association are likely to be incurred in the summer months, any Owner moving into the Community after the beginning of the budget year but prior to the summer months may be required to pay the full amount of the general assessment.

4.5 Special Assessments. The Association may levy a special assessment against all Owners in the Community for unbudgeted or unanticipated expenses or expenses in excess of those budgeted without the approval of the Owners so long as the amount of the special assessment allocated to each Lot does not exceed Three Hundred and No/100 Dollars (\$300.00) in any one fiscal year. In the event the amount of the special assessment allocated to each Lot exceeds Three Hundred and No/100 Dollars (\$300.00) in any one fiscal year, such special assessment must be approved by two-thirds (2/3) of the Total Association Vote and the Declarant. Special assessments shall be paid as determined by the Board. The Board may permit a special assessment to be paid in installments extending beyond the fiscal year in which such special assessment is imposed.

4.6 Specific Assessments. The Board shall have the power to levy specific assessments as, in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. Fines levied pursuant to this Declaration, the initiation fee and the costs of maintenance performed by the Association for which the Owner is responsible shall be specific assessments. The Board of Directors may also specifically assess Owners for Association expenses as follows: (a) expenses of the Association which benefit less than all of the Lots may be specifically assessed equitably among all of the Lots which are benefited according to the benefit received; (b) expenses of the Association which benefit all Lots, but which do not provide an equal benefit to all Lots, may be assessed equitably among all Lots according to the benefit received; and (c) expenses of the Association which are incurred as a result of the conduct of a particular Owner or Occupant or the guests, tenants, invitees or licensees of such Owner or Occupant may be assessed against the Lot of such Owner or Occupant.

4.7 Subordination of Liens to Mortgages. The lien of all assessments authorized herein is hereby made subordinate to the lien of any first Mortgage if, but only if, all assessments and charges with respect to such Lot authorized herein having a due date on or prior to the date of the Mortgage as filed of record have been paid. The lien hereby subordinated is only such lien as relates to assessments and charges authorized hereunder having a due date subsequent to the date such Mortgage is filed of record and prior to the satisfaction, cancellation or foreclosure of such Mortgage or the sale or transfer of the Lot pursuant to any proceeding in lieu of foreclosure or the sale or transfer of the Lot pursuant to a sale under power contained in such Mortgage. Such subordination is merely a subordination and shall not relieve the Owner of the Lot of the personal obligation to pay all assessments coming due during such period of ownership; shall not relieve such Lot from the lien provided for herein (except to the extent a subordinated lien is extinguished as a result of such subordination as against a Mortgagee or such Mortgagee's assignee or transferee by foreclosure or by sale under power); and no sale or transfer of such Lot to the Mortgagee or to any other Person pursuant to a decree of foreclosure, or pursuant to any other proceeding in lieu of foreclosure or pursuant to a sale under power, shall relieve any existing or previous Owner of such Lot of any personal obligation or relieve such Lot or the then Owner of such Lot from liability for any assessment authorized hereunder that becomes due after such sale and transfer.

4.8 Remedies of the Association. Any sums or charges (including assessments or installments thereof) assessed against any Lot pursuant to this Declaration which are not paid when due shall be delinquent. Any such sums delinquent for a period of more than ten (10) days shall incur a late charge (in an amount determined by the Board from time to time, but not to exceed the greater of Twenty and No/100 Dollars (\$20.00) per month or ten percent (10%) of any installment unpaid or such higher amount as may be permitted by the Act) and interest (at a rate not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum or such higher amount as may be permitted by the Act). The Association shall cause a notice of delinquency to be given to any member who has not paid within ten (10) days following the due date (the "Delinquency Notice"). The Delinquency Notice shall state: (i) the

outstanding balance due as of the date of the Delinquency Notice; (ii) that the member has fifteen (15) days from the mailing of the Delinquency Notice (the "Grace Period") to pay the outstanding balance without being required to pay attorneys fees and court costs; (iii) the name of and contact information for a representative of the Association whom the member can contact to discuss a payment schedule for the outstanding balance; provided however, the Association shall not be required to permit payment of the outstanding balance in installments; and (iv) that if the outstanding balance is not paid within the Grace Period, the Association intends to seek payment of attorneys' fees and court costs. The Delinquency Notice must be sent by first class mail to the Lot of such member and, if different, to the mailing address of the member in the Association's records. If any such sums are not paid within thirty (30) days after the due date, the Board may accelerate and declare immediately due all such sums (including annual assessments or installments thereof) without any further notice being given to the delinquent Owner, and (i) to the extent permitted by applicable law, a lien, as herein provided, shall attach; and (ii) a claim of lien, as herein provided, may be filed in the Wake County, North Carolina land records in the manner provided by law. Such lien shall include, interest, all late charges from the date first due and payable, any Administrative Fee, all costs of collection, and, if the Owner has been provided with a Delinquency Notice and failed to pay the outstanding balance set forth therein within fifteen (15) days from the mailing of the Delinquency Notice, court costs and reasonable attorney's fees actually incurred, and any other amounts provided or permitted by law.

Notwithstanding anything to the contrary in this Declaration, if a member does not contest the collection of the unpaid assessments and enforcement of a lien after the expiration of the Grace Period, then reasonable attorneys fees collected by the Association in connection with such debt shall not exceed One Thousand Two Hundred and No/100 dollars (\$1,200.00), or such higher amount as may be permitted by the Act, not including costs or expenses incurred; provided however, such limitation shall not apply to judicial foreclosures or to proceedings authorized under Section 116 (d) or Section 120 of Article 3 of the Act. The collection of the unpaid assessments and enforcement of the lien shall be deemed uncontested as long as the member does not dispute, contest or raise any objection, defense, offset or counterclaim as to the amount or validity of the unpaid assessments and lien asserted or the Association's right to collect the debt and enforce the lien.

If any sum assessed against any Lot pursuant to this Declaration remains unpaid after sixty (60) days from the due date, the Association may, as the Board shall determine, institute suit to collect such amounts and/or to foreclose its lien. The Association may foreclose the claim of lien in like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the North Carolina General Statutes or in any other manner permitted by applicable law; provided however, (i) the Association may not foreclose the lien under Article 2A of Chapter 45 of the North Carolina General Statutes if the debt securing the lien consists solely of fines imposed by the Association, interest on unpaid fines, or attorneys fees incurred by the Association solely associated with fines imposed by the Association (such lien may be enforced by judicial foreclosure as provided in Article 29A of Chapter 1 of the North Carolina General Statutes); and (ii) any lien securing a debt consisting solely of Administrative Fees may only be enforced by judicial foreclosure as provided in Article 29A of Chapter 1 of the North Carolina General Statutes. Each Owner, by acceptance of a deed or as a party to any other type

of a conveyance, vests in the Association or its agents, to the extent permitted by this Declaration and applicable law, the right and power to bring all actions against him or her, personally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the North Carolina General Statutes; or in any other manner permitted by applicable law. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage or convey the same.

In addition to the foregoing, in the event that an Owner is at least thirty (30) days delinquent in the payment of any assessment or charge owed to the Association, the Association may suspend the right of such Owner to vote, suspend the right of such Owner to use and enjoy the Common Property and the suspend any services or utilities which may be provided to Lots in the Community, subject to any notice requirements imposed by the institutional providers providing such services or utilities in the Community and in accordance with the notice and hearing procedure in the Bylaws.

4.9 Date of Commencement of Assessments. Assessments shall commence when the Board of Directors first determines a budget and levies assessments. The assessments provided for herein shall commence as to a Lot on the date that the Lot is first occupied for residential purposes. A Lot shall be deemed to be occupied for residential purposes when it has been improved with a dwelling for which a certificate of occupancy has been issued and has been conveyed to an Owner who intends to occupy the dwelling, or, if the dwelling is occupied as a residence before such conveyance, the date of such occupancy. Any Lot which has been approved by Declarant for use as a model home for marketing and sales purposes shall not be deemed to be occupied for residential purposes and shall not be subject to assessments under this Declaration whether owned by Declarant or any other Person, so long as such Lot is approved for use as a model home and is not occupied for residential purposes.

4.10 Budget Deficits During Declarant Control. Until seventy-five percent (75%) of the Lots planned for the Community have been improved with a dwelling for which a certificate of occupancy has been issued and conveyed to an Owner for occupancy as a residence, Declarant shall: (a) advance funds to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association (but specifically not including an allocation for capital reserves), and the sum of the general, special and specific assessments collected by the Association in any fiscal year; or (b) cause the Association to borrow such amount from a commercial lending institution at the then prevailing rates for similar loans in the local area of the Community. No Mortgage secured by the Common Property or any of the improvements maintained by the Association shall be given in connection with such loan. Notwithstanding anything to the contrary herein, the Declarant and its affiliates may contribute assessments due from them in services or materials or a combination of services and materials, rather than in money (herein collectively called "in kind contribution"). Notwithstanding anything to the contrary herein, any borrowing by the Association, secured or otherwise, shall require the consent of Phillips Place Associates, which consent and approval shall not be unreasonably withheld, so long as Phillips Place Associates owns any property described on Exhibit "A" or Exhibit "B" to this Declaration.

4.11 Failure to Assess. The omission or failure of the Board to fix the assessment amounts or rates or to deliver or mail to each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay assessments on the same basis as for the last year for which an assessment was made, if any, until a new assessment is made, at which time any shortfalls in collections may be assessed retroactively by the Association.

4.12 Estoppel Letter. The Association shall, within ten (10) days after receiving a written request therefor, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot shall be binding upon the Association as of the date of issuance.

4.13 Initiation Fee. Upon the first sale of each Lot in the Community after the residential dwelling constructed thereon has been issued a certificate of occupancy by the appropriate governmental authority, an initiation fee in the amount of One Hundred Fifty and No/100 Dollars (\$150.00) shall be collected from the purchaser at the closing of such sale for the benefit of the Association, or if not collected at the closing, shall be paid immediately on demand by the Association. The initiation fee shall be a specific assessment against the Lot and shall be in addition to not in lieu of the general assessment. The initiation fee may be used for any purpose, including, without limitation, funding the general operating expenses of the Association. Notwithstanding anything to the contrary herein, it is the intent of this Section 4.13 that the initiation fee provided for herein shall only be paid by the first Owner of a Lot after a residential dwelling constructed thereon has been issued a certificate of occupancy by the appropriate governmental entity and such fee shall not be binding or enforceable at law or equity against any subsequent Owner or Mortgagee.

Notwithstanding anything to the contrary herein, the initiation fee shall not apply to the holder of any first Mortgage on a Lot who becomes the Owner of a Lot through foreclosure or any other means pursuant to the satisfaction of indebtedness secured by such Mortgage, but shall apply to the Owner acquiring the Lot from the foreclosing Mortgagee.

4.14 Surplus Funds. Any surplus funds of the Association remaining after payment of or provision for the operating expenses of the Association, the funding of a reasonable operating expense surplus, and any prepayment of reserves may be refunded or credited to the Owners in the discretion of the Board, may be used by the Association to cover operating and other common expenses incurred by the Association pursuant to the terms of this Declaration and the Bylaws or may be placed in a reserve account for the benefit of the Association.

Article 5
Maintenance; Common Property

5.1 Association's Responsibility. The Association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair and replacement of all landscaping and improvements situated on the Common Property.

The Association shall also maintain (whether or not constituting Common Property) the following: (a) all Community entry features whether or not such entry features are on a Lot, Common Property or public right-of-way, including entry area landscaping, irrigation and lighting serving said entry features and the expenses for water and electricity, if any, provided to the same; (b) all storm water drainage facilities, storm water detention/retention pond(s) and any gate, fence or other enclosure surrounding said storm water detention/retention ponds, regardless of whether such storm water detention/retention ponds and storm water drainage facilities are located on a Lot or Common Property, if and to the extent such facilities are not maintained by a governmental entity or third party; provided however, each Owner of a Lot, and not the Association, shall be responsible for the maintenance of all storm water drainage facilities located on and exclusively serving said Lot; (c) all Community greenspace and open space; (d) any retaining walls located in the Community; (e) all walking trails and pedestrian paths located in the Community, including, without limitation the Greenway Easement as provided in Section 7.36 hereof; and (f) any medians or islands located in or along the right-of-way of public streets within the Community, if and to the extent the same are not maintained on an ongoing basis by a governmental entity.

In addition, the Association shall have the right, but not the obligation, to maintain other property not owned by the Association, whether within or outside the Community and to enter into easement and covenant to share costs agreements regarding such property where the Board has determined that such action would benefit the Owners. The Board of Directors may authorize the officers of the Association to enter into contracts with any Person or Persons to perform maintenance hereunder on behalf of the Association. In the event that the Association determines that the need for maintenance, repair, or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, or the Occupants, family, guests, lessees or invitees of an Owner, then the Association may perform such maintenance, repair or replacement and all costs thereof shall be assessed against the Owner as a specific assessment. All maintenance performed by the Association shall be consistent with the Community-Wide Standard.

5.2 Owner's Responsibility. Except for maintenance performed on a Lot by the Association pursuant to Section 5.1, if any, all maintenance of the Lot and all structures, landscaping, and other improvements located thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a manner consistent with the Community-Wide Standard and this Declaration. Such maintenance obligation shall include, without limitation, the following: prompt removal of all litter, trash, refuse, and waste; lawn mowing on a regular basis; tree and shrub pruning; watering landscaped areas; keeping improvements, and exterior lighting in good repair and working order; keeping lawn and garden areas alive, free of weeds, and attractive; keeping driveways in good repair; complying with all governmental health and police requirements; repairing and maintaining improvements located on a Lot, including, without limitation, periodic painting and pressure washing as needed or other appropriate external care of said improvements; and maintenance of grading and storm water drainage as originally established on a Lot. In addition to the foregoing, each Owner shall be responsible for the landscaping to the area located between the curb and sidewalk along the public right-of-way and adjacent to his or her Lot. This provision shall not apply to any Lot(s) owned by the Declarant, unless improved with a dwelling and occupied as a residence.

In the event that the Board of Directors 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 hereunder, the Association shall, except in an emergency situation, give the Owner written notice of the Association's intent to provide such necessary maintenance, repair or replacement at the Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair 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-day period, to commence such work which shall be completed within a reasonable period of time as determined by the Board in its sole discretion. If any Owner does not comply with the provisions hereof or in an emergency situation, the Association may provide such maintenance, repair or replacement to the Lot at such Owner's sole cost and expense, and all costs shall be added to and become a part of the assessment to which such Owner is subject, shall, to the extent permitted by applicable law, become and be a lien against the Lot, and shall be collected as provided herein for the collection of assessments.

5.3 Damage to Common Property and Lots.

(a) Damage to Common Property. As provided in Section 5.1 hereof, if a Lot Owner is responsible for damage to the Common Property, the Association may require such Owner to repair such damage, or alternatively, the Association may cause the repairs to be made and assess the costs thereof which are not covered by insurance as a specific assessment as provided in Section 4.6 hereof.

(b) Damage to Lots. If damage is inflicted on any Lot by the Association in the performance of its duties under this Declaration, the Association shall be responsible to repair such damage or to reimburse the Lot Owner for the cost of repairing such damage.

(c) In accordance with Article 3, Section 107 of the Act, when the claim under subsection (a) or (b) above is less than or equal to the jurisdictional amount established for small claims by North Carolina General Statutes 7A-210, any aggrieved party may request that a hearing be held before an adjudicatory panel appointed by the Board to determine if a Lot Owner is responsible for damages to the Common Property or the Association is responsible for damages to any Lot. Such panel shall accord to the party charged with causing damages notice of the charge, an opportunity to be heard and to present evidence and notice of the decision, all as may be provided in this Declaration and the Bylaws. The panel may assess liability for each damage incident against each Lot Owner charged or against the Association not in excess of the jurisdictional amount established for small claims by North Carolina General Statutes 7A-210. When the claim under subsection (a) or (b) above exceeds the jurisdictional amount established for small claims, liability of a Lot Owner charged or the Association shall be determined as otherwise provided by law. Notwithstanding anything to the contrary herein, if the Board fails to appoint an adjudicatory panel to hear such matters, hearings under this Section shall be held before the Board and any and all references to an adjudicatory panel or panel in this Section 5.3(c) shall be a reference to the Board.

5.4 Conveyance of Common Property to Association; No Implied Rights. Declarant, or the owner of the property with the consent of the Declarant, may transfer or convey to the Association at any time and from time to time any personal property and any interest in improved or unimproved real property. Such conveyance shall be deemed to be accepted by the Association upon delivery of any personal property or upon recordation of an instrument of conveyance of any interest in real property, and the property shall thereafter be Common Property to be used and, if and as provided in Section 5.1 hereof, maintained by the Association for the benefit of its members. So long as Declarant owns any property primarily for development and/or sale in the Community or Declarant has the right unilaterally to annex additional property to the Declaration, Declarant may, upon written notice to the Association, require the reconveyance by the Association to Declarant of all or any portion of the Common Property, improved or unimproved, at no charge to Declarant, without a vote of the members of the Association, if all or any portion of the Common Property is: (i) found by Declarant to have been conveyed in error, (ii) needed by Declarant to make adjustments in property boundary lines, or (iii) reasonably determined by Declarant to be needed by Declarant due to changes in the overall scheme of development for the Community. The Association hereby constitutes and appoints Declarant as its agent and attorney-in-fact to accept/make on behalf of the Association any such conveyance and reconveyances and to execute on behalf of the Association any and all documents, including, without limitation, deeds, necessary or convenient to effectuate and document any such conveyances and reconveyances, and all acts of such attorney-in-fact are hereby ratified. The power and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise. The Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section and shall have no duty or obligation to convey any property or property rights to the Association regardless of whether or not any such property has been made available for the use of Owners. Declarant, or the owner of the property with consent of Declarant, may reserve, by lease, license, easement or otherwise such rights of use and enjoyment in and to all or any portion of the property so conveyed as Declarant may reasonably require so long as such reservation is not materially inconsistent with the overall scheme of development for the Community. Neither the recordation of any subdivision plat nor the use by the Owners or maintenance by the Association of any property shall create any rights, easements or licenses, in the Association or the Owners, express or implied, unless and until any such property rights, easements or licenses are conveyed by the Declarant or the owner of such property to the Association or the Owners, as the case may be, by an instrument recorded in the Office of the Register of Deeds of Wake County, North Carolina. Notwithstanding anything to the contrary herein, any conveyance of Common Property to the Association and any conveyance or encumbrance of Common Property by or on behalf of the Association shall require the consent of Phillips Place Associates, which consent and approval shall not be unreasonably withheld, so long as Phillips Place Associates owns any property described on Exhibit "A" or Exhibit "B" to this Declaration.

5.5 Partition. The Common Property shall remain undivided and no Owner shall bring any action for partition or division of the whole or any part thereof without the written consent of all Owners of all portions of the property located within the Community and without the written consent of all holders of all Mortgages encumbering any portion of the property, including, but not limited to, the Lots located within the Community.

5.6 Condemnation. In the event of a taking by eminent domain of any portion of the Common Property on which improvements have been constructed, the Association shall, if reasonably possible, restore or replace such improvements so taken on the remaining Common Property, unless within sixty (60) days after such taking, an alternative plan is approved by at least seventy-five percent (75%) of the Total Association Vote and the Declarant. The provisions of this Declaration applicable to replacement or restoration of damaged improvements on the Common Property shall also apply to and govern the actions to be taken in the event that the improvements are not restored or replaced after a condemnation.

5.7 Liability. Owners, Occupants and their guests shall use the common areas maintained by the Association and all other Common Property and all portions of the Community not contained within a Lot at their own risk and shall assume sole responsibility for their personal belongings used or stored thereon. All Owners and Occupants shall have an affirmative duty and responsibility to inspect the Common Property and all portions of the Community not contained within a Lot for any defects, perils or other unsafe conditions relating to the use and enjoyment thereof. The Association, the Declarant and their respective officers, directors, employees, representatives and agents shall not be held liable for personal injury to any person, nor for loss or damage to personal belongings used or stored on any of the foregoing property. The Association shall not be liable for injury or damage to any Person or property: (a) caused by the elements or by an Owner or any other Person, (b) resulting from any rain or other surface water which may leak or flow from any street, pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association or from any portion of the Common Property, or (c) caused by any street, pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association, becoming out of repair. Nor shall the Association be liable to any Owner or Occupant for loss or damage, by theft or otherwise, of any property of such Owner or Occupant.

Article 6
Architectural Standards

6.1 General. No exterior construction, alteration or addition of any improvements of any nature whatsoever (including, without limitation, staking, clearing, excavating, grading, filling, constructing impervious surfaces, building, exterior alteration of existing improvements, changing the exterior color of any existing improvement, and planting and removing landscaping materials), shall be commenced or placed upon any part of the Community unless installed by the Declarant or an affiliate of the Declarant, approved in accordance with this Article, or otherwise expressly permitted under this Declaration. Any Owner may remodel, paint or redecorate the interior of structures on the Lot without approval hereunder. However, modifications to the interior of porches, patios and similar portions of a structure visible from outside the Lot shall be subject to approval. No approval shall be required to repaint the exterior doors and shutters of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. This Article shall not apply to the activities of the Declarant or its affiliates, nor to improvements to the Common Property made by or on behalf of the Association. This Article may not be amended without the

written consent of the Declarant until (a) the Declarant no longer owns any property in the Community and no longer has the right to unilaterally annex additional property to the Community; and (b) each Lot has been improved with a dwelling for which a certificate of occupancy has been issued.

6.2 Architectural Control Committee. The Architectural Control Committee ("ACC") of the Association shall consist of three (3) members. Until Declarant's rights terminate as provided in Section 10.5 hereof, the Declarant shall have the sole right, power and authority to appoint the members of the ACC.

Prior to the termination of the rights of Declarant hereunder, the ACC may in its sole discretion relinquish architectural control as to certain types of improvements or modifications to an advisory ACC comprised of individuals appointed by the Board while retaining control over all other building and construction in the Community. For example and without limitation, the ACC may relinquish control over modifications of existing structures to such advisory ACC while retaining all authority to review and approve new home construction. Any right, power or authority of the ACC which may be relinquished to the Association prior to the termination of the rights of Declarant hereunder shall be by written recorded instrument only executed by Declarant and no such right, power or authority shall be relinquished by implication or otherwise. The establishment of an advisory ACC shall not be deemed to be a relinquishment by Declarant of any of its right, power and authority hereunder. Upon the termination of all rights of Declarant hereunder, the Board of Directors shall appoint the members of the ACC, which shall have jurisdiction over all architectural control within the Community as provided herein.

6.3 Guidelines and Procedures. Except as provided in Section 6.1 above, no exterior construction, addition or alteration shall be made unless and until plans and specifications shall have been submitted in writing to and approved in writing by the ACC. Such plans and specifications shall be of sufficient detail to allow the ACC to make its review and, to the extent required by the ACC, shall show the nature, kind, shape, height, materials and location of the proposed improvement. The ACC shall be the sole arbiter of such plans and may withhold approval for any reason, including, without limitation, purely aesthetic considerations, and it shall be entitled to stop any construction in violation of these restrictions. If the ACC fails to approve or to disapprove submitted plans and specifications within thirty (30) days after receipt of all required plans and specifications, such approval shall be deemed to have been given. If construction does not commence on a project for which plans have been approved within twelve (12) months of such approval, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to resubmit the plans to the ACC for reconsideration. As a condition of approval under this Article, each Owner, on behalf of such Owner and such Owner's successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement and insurance to and on any improvement, change, modification, addition or alteration.

6.4 Architectural Guidelines. The ACC may prepare and adopt, from time to time at its sole discretion and without notice, written design and development guidelines and application and review procedures, which may provide for a review fee (collectively the "Architectural Guidelines"). The ACC shall make the Architectural Guidelines available to Owners and other

Persons who seek to engage in construction upon all or any portion of the Community and such Owners and other Persons shall conduct their operations strictly in accordance therewith. The ACC shall provide, without cost, a copy of the Architectural Guidelines in effect to any Owner or Mortgagee. In the event the ACC modifies, expands or repeals all or any portion of the Architectural Guidelines, said new Architectural Guidelines shall be distributed to all Owners prior to the date they are to become effective and shall thereafter be binding upon all Owners and Occupants unless and until overruled, canceled or modified by a majority of the Total Association Vote and the consent of the Declarant.

All Owners and Occupants of Lots are hereby notified that use of their Lot is limited by the Architectural Guidelines as they may be amended, expanded, and otherwise modified hereunder. Each Owner, by acceptance of a deed or entering into a contract of sale, acknowledges and agrees that the use and enjoyment and marketability of his or her Lot can be affected, that the Architectural Guidelines may change from time to time, and that such changed Architectural Guidelines may or may not be set forth in an instrument recorded in the Wake County, North Carolina land records.

6.5 Limitation of Liability. Plans and specifications are not approved for engineering or structural design or quality of materials or for compliance with applicable building codes, permitting requirements, zoning conditions or local laws or ordinances governing construction in the Community, and by approving such plans and specifications the ACC, the Declarant or the Association assume no liability or responsibility therefor or for any defect in any structure constructed from such plans and specifications or for any violation of applicable building codes, zoning conditions or local laws or ordinances governing construction in the Community. It shall be the responsibility of the Owner to secure and obtain any necessary permits or approvals prior to the commencement of any construction activity on a Lot in the Community. Neither the ACC, Declarant, the Association, nor the officers, directors, members, employees and agents of any of them shall be liable in damages to anyone submitting plans and specifications to any of them for approval or to any Owner of property affected by these restrictions by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every Person who submits plans and specifications and every Owner agrees that such Person or Owner will not bring any action or suit against the ACC, Declarant, the Association or the officers, directors, members, employees and agents of any of them to recover any damages and hereby releases, remises, quitclaims and covenants not to sue for all claims, demands and causes of action arising out of or in connection with any judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands and causes of action not known at the time the release is given.

6.6 No Waiver. The approval of the ACC of any proposals, plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring approval or consent of the ACC, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications or drawings or matters whatsoever subsequently or additionally submitted for approval or consent.

6.7 Variances. Notwithstanding anything to the contrary contained herein, the ACC shall be authorized to grant individual variances from any of the provisions of this Declaration and the Architectural Guidelines, if any, if it determines that waiver of application or enforcement of the provision in a particular case is dictated by unique circumstances, such as, but not limited to, topography, natural obstructions, hardship, aesthetic considerations or environmental considerations. No variance shall (a) be effective unless in writing, (b) be inconsistent with the overall scheme of development for the Community, or (c) prevent the ACC from denying a variance in other similar circumstances. For purposes of this provision, the inability to obtain approval of any governmental agency or the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

6.8 Enforcement. Any structure, improvement or landscaping improvement placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the ACC, an Owner shall, at its own cost and expense, remove such nonconforming structure or improvement and restore the land to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Declarant or the Board, as the case may be, and their agents shall have the right to enter the property, remove the nonconforming structure or improvement, and restore the property to substantially the same condition as previously existed. All costs incurred by the Association in enforcing this Article 6, including, without limitation, attorney's fees, may be assessed against the Lot as a specific assessment. In such event, neither the ACC, Declarant, the Association or the officers, directors, members, employees and agents of any of them shall be held liable to any Person for exercising the rights granted by this Article, including, without limitation, claims for damages resulting from the removal of the nonconforming structure or improvement in accordance with the procedures herein. Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Architectural Guidelines, if any, may be excluded by the ACC from the Community, subject to any applicable notice and hearing procedures contained in the Bylaws. In addition to any other remedies available to the Declarant and the Association, in the event of noncompliance with this Article, the Board may record in the appropriate land records a notice of violation hereunder naming the violating Owner. The Declarant and the Board shall also have the authority and standing to pursue any and all remedies available at law and equity to enforce the provisions of this Article, including, without limitation, the right to levy and collect fines as provided herein, subject to applicable notice and hearing provisions contained in the Bylaws.

Article 7
Use Restrictions and Rules

7.1 Rules and Regulations. The Board of Directors may, from time to time, with the consent of Declarant and without a vote of the members, promulgate, modify or delete reasonable rules and regulations applicable to the Community. Such rules and regulations shall be distributed to all Owners prior to the date that they are to become effective and shall thereafter be binding upon all Owners and Occupants until and unless overruled, canceled or modified by a majority of the Total Association Vote and the consent of Declarant.

7.2 Residential Use. Each Lot shall be used for single-family residential purposes exclusively. Leasing of a Lot for single-family residential occupancy shall not be considered a business or business activity. No trade or business of any kind may be conducted in or from a Lot, except that the Owner or Occupant residing at the Lot may conduct business activities within the dwelling located on such Lot so long as the business activity: (a) does not otherwise violate the provisions of the Declaration, Bylaws, or the rules and regulations adopted by the Board; (b) is not apparent or detectable by sight, sound or smell from the exterior of the Lot; (c) does not unduly increase traffic flow or parking congestion; (d) conforms to all zoning requirements for the Community; (e) does not increase the insurance premium paid by the Association or otherwise negatively affect the ability of the Association to obtain insurance coverage; (f) is consistent with the residential character of the Community; (g) does not constitute a nuisance or a hazardous or offensive use; (h) does not threaten the health, security or safety of other residents of the Community; (i) does not involve door-to-door solicitation in the Community; (j) does not involve more than five individuals within the Lot at any one time, of which non more than two may reside outside the Lot; and (k) does not involve regular visitation to the Lot by employees who do not reside at the Lot, clients, customers, suppliers or other business invitees, all as may be determined in each case in the sole discretion of the Board of Directors. The Board may issue rules regarding permitted business activities. The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to Persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) the activity is engaged in full or part-time; (ii) the activity is intended to or does generate a profit; or (iii) a license is required for the activity. Notwithstanding anything to the contrary herein, nothing in this Section shall be construed as prohibiting the Declarant from maintaining model homes or speculative housing, construction trailers or sales offices on Lots in the Community or from use Lots as parking facilities for such model homes or speculative housing.

7.3 Leasing. Lots may be leased for residential purposes only. Unless otherwise provided by the Board of Directors, all leases shall have a minimum term of at least twelve (12) months. No fraction or portion of a Lot may be leased, except with the prior written approval of the Board of Directors. There shall be no subleasing of a dwelling located on a Lot except for prior written approval of the Board. All leases shall require, without limitation, that the Occupants acknowledge receipt of a copy of the Declaration, Bylaws, use restrictions,

Architectural Guidelines and rules and regulations of the Association. Any lessee shall abide by and comply with all provisions of the Declaration, Bylaws, Architectural Guidelines, and rules and regulations adopted pursuant thereto and shall control the conduct of all other Occupants and guests of the leased Lot in order to ensure such compliance.

(a) Compliance. Every Owner agrees to cause all Occupants of his or her Lot to comply with the Declaration, Bylaws, the rules and regulations, use restrictions and Architectural Guidelines adopted pursuant thereto and is responsible for all violations caused by such Occupants, notwithstanding the fact that such Occupants of the Lot are fully liable and may be sanctioned for any violation of foregoing. In the event that the lessee or a person living with the lessee violates the Declaration, Bylaws, or a rule or regulation or Architectural Guideline for which a fine is imposed, notice of the violation shall be given to the Owner and the lessee, and such fine may be assessed against the lessee in accordance with the Declaration and Bylaws. If the fine is not paid by the lessee within the time period established by the Board, the Owners shall pay the fine upon notice from the Association of the lessee's failure to pay such fine. Unpaid fines shall constitute a lien against the Lot.

Any violation of the Declaration, Bylaws, rules and regulations, use restrictions or Architectural Guidelines adopted pursuant thereto by the lessee, any Occupant, or any guest or invitee of the lessee, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee and/or Occupant(s) in accordance with North Carolina law.

(b) Notice. Within seven (7) days of entering into a lease agreement for the lease of a dwelling located on a Lot, the Owner shall provide the Board with a copy of the lease, the name, address and telephone number of the Occupant(s), the name, address and telephone number of the Owner other than at the Lot and such other information as the Board may reasonably require.

(c) Delegation of Use. The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Property.

(d) Payment of Assessments. When a Lot Owner who is leasing his or her Lot fails to pay any general, special or specific assessment or any other charge for a period of more than thirty (30) days after it is due and payable, the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board of Directors, lessee shall pay to the Association all unpaid general, special and specific assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. However, lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board of Director's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board of Director's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under the Declaration as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

7.4 Signs. No sign of any kind shall be erected or displayed within the Community without prior written approval under Article 6 hereof; provided, however, the Board and the Declarant shall have the right to erect reasonable and appropriate signs, which shall include, but not be limited to, marketing materials used to advertise the sale of Lots in the Community. In addition, the Board shall have the right to adopt reasonable rules and regulations governing the display or placement of signs in the Community which may include reasonable time, place and manner restrictions. Customary for-sale signs and security signs consistent with the Community-Wide Standard and any signs required by legal proceedings may be erected upon any Lot without the approval under Article 6 hereof. The provisions of this Section shall not apply to any Mortgagee in possession due to foreclosure of a first Mortgage or as grantee pursuant to any deed in lieu of such foreclosure. Nothing herein shall be construed to permit any Owner to display a sign on or from within any structure located on a Lot which is visible to the right-of-way or neighboring Lots without approval under Article 6 hereof.

7.5 Vehicles; Parking. Vehicles shall be parked only in appropriate parking areas serving the Lot or other areas designated by the Board, if any. All parking shall be subject to such rules and regulations as the Board may adopt. The term "vehicles," as used herein, shall include, without limitation, motor homes, boats, trailers, motorcycles, minibikes, scooters, go-carts, golf carts, trucks, campers, buses, vans and automobiles. The term "parking areas serving the Lot" shall refer to the number of garage parking spaces and if, and only if, the Occupants of a Lot have more vehicles than the number of garage parking spaces, those excess vehicles which are an Occupant's primary means of transportation on a regular basis may be parked on the driveway on the Lot. All homes shall contain a garage; carports shall not be permitted. Garage doors should be kept closed at all times, except during times of ingress and egress from the garage and garages shall not be converted to additional living space unless approved pursuant to Article 6 hereof.

No vehicle may be left upon any portion of the Community, except in a garage or other area designated by the Board, for a period longer than five (5) days if it is not licensed or if it is in a condition such that it is incapable of being operated upon the public highways. After such five-day period, such vehicle may be removed from the Community by the Board of Directors. Any towed vehicle, boat, personal water craft, recreational vehicle, motor home, trailer, motorcycle, minibike, scooter, go-cart, golf cart, commercial vehicle, camper, bus or mobile home regularly stored in the Community or temporarily kept in the Community, except if kept in an enclosed garage or other area designated by the Board, for periods longer than twenty-four (24) hours may be removed from the Community by the Board of Directors (the temporary removal of a vehicle shall not be sufficient to establish compliance with this restriction). Trucks with mounted campers which are used as a primary means of transportation shall not be considered recreational vehicles provided they are used on a regular basis for transportation and the camper is stored out of public view upon removal. No eighteen wheel trucks or the cabs of such trucks or trucks with a load capacity in excess of three-quarters of a ton shall be parked, kept or stored within the Community except during the time reasonably necessary to provide service or delivery within the Community.

Commercial vehicles may not be visibly parked or stored on any Common Property or any Lot except if in an enclosed garage; provided, however, construction, service, and delivery

vehicles are exempt from this provision while providing service or making a delivery to a Lot or the Common Property. The term "commercial vehicle" is defined as any type of vehicle used for a specific business or commercial purpose and which is not used primarily for the transportation of passengers; vehicles bearing any indicia of commercial use, including but not limited to, writings, logos, or signage of a business or commercial nature; vehicles equipped with external racks, ladders, or tool boxes; or vehicles having visible work equipment stored in or on the vehicle. Notwithstanding anything to the contrary herein, Declarant and its respective agents, subcontractors and assigns shall have the right to park any and all vehicles, including commercial vehicles, on any and all streets in the Community as needed in order to facilitate the construction, development and build-out of the Community.

If any vehicle is parked on any portion of the Common Property in violation of this Section or in violation of the Association's rules and regulations, the Board or agent of the Association may place a notice on the vehicle specifying the nature of the violation and stating that after twenty-four (24) hours the vehicle may be towed. The notice shall include the name and telephone number of the person or entity that will do the towing and the name and telephone number of a person to contact regarding the alleged violation. If twenty-four (24) hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six (6) months of such notice, the Board or agent of the Association may have the vehicle towed in accordance with the notice, without further notice to the Owner or user of the vehicle. The Board of Directors may exercise any and all remedies available for violations of this Section, including, without limitation, the right to levy and collect fines against a non-complying Owner or Occupant which remedies shall be in addition to and not in lieu of its authority to remove the violating vehicle, subject to applicable notice and hearing provisions in the Bylaws.

7.6 Animals and Pets. No animals, livestock or poultry of any kind may be raised, bred, kept or permitted on any Lot, with the exception of dogs, cats or other usual and common household pets in reasonable number as determined by the Board. No pets shall be kept, bred or maintained for any commercial purpose. No exterior pens for household pets shall be erected or maintained on any Lot unless approved in accordance with the provisions of Article 6 hereof. Pets at all times when outside a dwelling on a Lot shall be kept on a leash or otherwise kept under control at all times. All pets shall be registered, licensed and inoculated if and as required by law. The Association shall have the authority to adopt reasonable rules and regulations governing animals and pets in the Community and may require the removal of any animal that presents an actual threat to the health or safety of residents and require abatement of any animal which constitutes a nuisance or unreasonable source of annoyance, as determined by the Board in its sole discretion.

Every person owning or having possession, charge, care, custody or control of any dog, cat or other uncaged pet shall keep such pet exclusively inside his own residential unit or inside the confines of such Owner's Lot; provided, however, that such pet may be off the Owner's Lot if it is under the control of a competent person and restrained by a chain, leash or other means of adequate physical control. All Owners must control their pets at all times, whether or not such Owner is present, in a manner that will prevent any pet from (i) making noise at objectionable sound levels for extended periods of time, whether continuously or intermittently, (ii) endangering the health or safety of other Owners, their families, guests or invitees or creating

fear in other Owners as to the safety of themselves, their families, guests or invitees, or (iii) otherwise constituting a nuisance or inconvenience to the Owner(s) of any other Lot; all of the foregoing as determined by the Association. Any Owner or Occupant who keeps or maintains any animal within the Community shall be deemed to have agreed to indemnify and hold harmless the Association and its officers, directors, employees and agents from any and all loss, claim, or liability of any kind or character whatsoever arising by reason of keeping or maintaining such animal in the Community.

7.7 Nuisance. It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly or unkempt condition on a Lot. No property within the Community shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of the occupants of surrounding property. No plants, animals, device or thing of any sort shall be maintained in the Community whose activities or existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of the Community by other Owners and Occupants. Without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells, or other sound devices, except security devices used exclusively for security purposes, screaming, shouting, excessively loud talking, fighting, raucous behavior, insobriety, playing loud music or television, use of any alarm, equipment, or device, mechanical or otherwise which creates or produces excessively loud sounds or any vibrations, or any conduct which creates any noxious or offensive odors outside a home shall be permitted, located, used or placed on any Lot, or any portion thereof. The inconvenience complained of shall not be fanciful, or such as would affect only one of fastidious taste, but it shall be such as would affect an ordinary, reasonable person as determined in a particular instance by the Board.

7.8 Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly or unkempt conditions, shall not be pursued or undertaken in any part of the Community. This provision shall not apply to the Declarant during the construction and build-out of the Community.

7.9 Antennas. No exterior antenna, receiving dish or similar apparatus of any kind for receiving or transmitting audio or video signals shall be placed, allowed or maintained upon any portion of the Community, including any Lot or residential dwelling located thereon, unless approved in accordance with the provisions of Article 6 hereof; provided, however, no such approval shall be necessary to install (a) antennas designed to receive direct broadcast satellite services, including direct-to-home satellite services or to receive or transmit fixed wireless signals via satellite, that are one meter or less in diameter; (b) antennas designed to receive video programming services via multi-point distribution services or to receive or transmit fixed wireless signals other than via satellite that are one meter or less in diameter or diagonal measurement; or (c) antennas that are designed and intended to receive television broadcast signals. Owners shall install any permitted antennae on the rear of the dwelling located on a Lot

unless such installation (i) imposes unreasonable delay or prevents the use of the antennae; (ii) unreasonably increases the cost of installation; or (iii) an acceptable quality signal cannot otherwise be obtained.

7.10 Tree Removal. No trees that are more than four (4) inches in diameter at a point twelve (12) inches above the ground and no ornamental or flowering trees, including, but not limited to, dogwood trees, cottonwood trees, cherry trees or apple trees, regardless of diameter, shall be removed from a Lot without prior written approval pursuant to Article 6 hereof. Owners shall also comply with any local ordinances and zoning conditions applicable to tree removal. In the event of a conflict between the provisions of this Section and any local ordinance or zoning condition, the more restrictive provision shall govern. This provision shall not apply to the removal of trees by the Declarant or the Association.

7.11 Drainage. Catch basins, retention ponds, detention ponds, drainage swales and drainage easement areas are for the purpose of controlling the natural flow of water only. No obstruction or debris shall be placed in these areas. Owners shall not obstruct or alter the drainage flows on a Lot or within the Community after location and installation of catch basins, retention ponds, detention ponds, drainage swales, storm sewers or storm drains without approval in accordance with the provisions of Article 6 hereof.

7.12 Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, shrub or other planting or thing shall be placed or permitted to remain where, in the opinion of the Board, it would create an unsafe condition.

7.13 Garbage Cans, Woodpiles, Etc. All garbage cans, woodpiles, swimming pool pumps, filters and related equipment, and other similar items shall be located or screened so as to be concealed from view from neighboring streets and property. All rubbish, trash and garbage shall be regularly removed and shall not be allowed to accumulate. Trash, garbage, debris, or other waste matter of any kind may not be burned within the Community except by the Declarant during the construction of dwellings on Lots in the Community. The Association shall have the right to adopt reasonable rules and regulations governing trash removal, yard waste and/or recycling in the Community.

7.14 Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed except with the prior written approval in accordance with the provisions of Article 6 hereof. Declarant, however, hereby expressly reserves the right to subdivide and/or revise and re-record the subdivision plat of any Lot(s) with the consent of the Owner of the affected Lot(s) and to approve the revision and re-recording of any plat of any Lot(s) owned by any builder or developer, including, but not limited to, changing any Lot to Common Property or creating a public or private street over any Lot or property that was formerly a Lot, without the consent of any Person, other than the Owner(s) of such property.

7.15 Firearms. The use or discharge of firearms in the Community is prohibited. The term "firearms" includes, without limitation, "B-B" guns, pellet guns, archery equipment and other firearms of any type, regardless of size.

7.16 Fences. Except as herein provided, no fence or fencing type barrier of any kind shall be placed, erected, allowed or maintained upon any Lot without prior written approval in accordance with the provisions of Article 6 hereof and in compliance with state and local laws governing the installation of fences in the Community. Guidelines detailing acceptable fence styles or specifications may be issued pursuant to Article 6, but in no event may a chain link or barbed wire fence be approved; provided, however, the Declarant and the Association may erect any type of fence on the Common Property or elsewhere within the Community as they may deem appropriate or as necessary to satisfy the requirements of any law, regulation or governmental entity or for the health and safety of Owners and Occupants.

7.17 Utility Lines. Except as may be permitted under and pursuant to Article 6 hereof, no overhead utility lines, including lines for cable television, shall be installed within the Community, except for temporary lines as required during construction and lines installed by or at the request of the Declarant.

7.18 Air-Conditioning Units. No window air-conditioning units may be installed.

7.19 Lighting. Exterior lighting on any Lot visible from the street shall not be permitted, except for: (a) approved lighting as originally installed on a Lot; (b) one decorative post light; (c) street lights in conformity with an established street lighting program for the Community; (d) reasonable seasonal decorative lights displayed during the normal and customary season(s); (e) front house illumination of model homes; or (f) other lighting approved under and pursuant to Article 6 hereof or in compliance with the Architectural Guidelines.

7.20 Artificial Vegetation, Exterior Sculpture and Similar Items. No artificial vegetation shall be permitted on the exterior of any Lot. Exterior sculpture, fountains, or similar items must be approved under and pursuant to Article 6 hereof.

7.21 Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless said equipment is installed such that it does not face the street or any open space in the Community and is an integral and harmonious part of the architectural design of a structure and has been approved in accordance with the provisions of Article 6 hereof.

7.22 Swimming Pools. No swimming pool shall be constructed, erected or maintained upon any Lot without prior written approval in accordance with the provisions of Article 6 hereof and in no event shall any above-ground swimming pool be permitted; provided however, small, inflatable, plastic or otherwise portable wading pools intended for use by small children shall be permitted in the rear yard of a Lot so long as such wading pools are properly maintained by the Owner in a manner consistent with the Community-Wide Standard and are stored out of view when not in use.

7.23 Gardens, Play Equipment and Garden Pools. No vegetable garden, hammock, statuary, play equipment (including, without limitation, basketball goals) or garden pool shall be

erected on any Lot without the prior written approval in accordance with the provisions of Article 6 hereof or in compliance with the Architectural Guidelines, if any.

7.24 Mailboxes. All mailboxes serving Lots shall be approved in accordance with the provisions of Article 6 hereof. Identical replacement mailboxes may be installed without further approval; but no modification to or change in mailboxes may be made unless approved in accordance with the provisions of Article 6 hereof.

7.25 Clotheslines. No exterior clotheslines of any type shall be permitted upon any Lot.

7.26 Entry Features. Owners shall not alter, remove or add improvements to any entry features constructed by the Declarant on any Lot, or any part of any easement area associated therewith without prior approval in accordance with the provisions of Article 6 hereof.

7.27 Window Treatments. No foil or other reflective materials shall be used on any windows for sunscreens, blinds, shades, or any other purpose. The side of all window treatments which can be seen at any time from the outside of any structure located on a Lot must be white, off-white or neutral in color, or, in the event of wooden blinds or shutters, natural or lightly stained wood.

7.28 Outbuildings and Similar Structures. No structure of a temporary nature shall be erected or allowed to remain on any Lot, and no trailer, camper, shack, tent, garage, barn or other structure may be used as a residence, either temporarily or permanently, without written approval in accordance with the provisions of Article 6 hereof. However, this Section shall not be construed to prevent Declarant and those engaged in development, construction, marketing, property management or sales in the Community from using sheds, trailers or other temporary structures for any of the foregoing purposes. In addition, nothing in this Section shall be construed as preventing or prohibiting Declarant from developing, constructing, marketing, or maintaining model homes, speculative housing or construction trailers within the Community.

7.29 Garage Sales. No garage sale, carport sale, yard sale, flea market, or similar activity shall be conducted in any portion of the Community without the prior written consent of the Board of Directors. If so permitted, any such activities shall be subject to all reasonable conditions that the Board may impose.

7.30 Construction Activities. All Owners, Occupants and other Persons in the Community are hereby placed on notice that Declarant and/or its agents, contractors, subcontractors, licensees, and other designees, successors, or assigns, may, from time to time, engage in construction and other related activities in the Community. By the acceptance of a deed or other conveyance or Mortgage, deed of trust, leasehold, license, or other interest and by using any portion of a Lot, Common Property or other portion of the Community, such Owners, Occupants and such other Persons acknowledge, stipulate and agree: (i) such activities shall not be deemed nuisances, noxious or offensive activities under this Declaration or at law; (ii) not to enter upon, or allow their children or other Persons under their control or direction to enter upon (regardless of whether such entry is a trespass or otherwise) any property within or in proximity

to the property of the Community where such activities are being conducted (even if not being actively conducted at the time of entry, such as night or other non-working hours); and (iii) that Declarant and its agents, contractors, subcontractors, licensees, and other designees, successors, assigns, shareholders, directors, officers, partners, members, managers, agents and employees shall not be liable but, rather, shall be held harmless for any and all losses, damages (compensatory, consequential, punitive, or otherwise), injuries or deaths arising from or relating to the aforesaid activities.

7.31 Storm and Screen Doors and Windows. Except as may be installed by the Declarant, Owners shall not install or maintain storm doors, screen doors, storm windows, window screens or any of them on any Lot without prior approval in accordance with the provisions of Article 6 hereof, except as may be authorized by any Architectural Guidelines established thereunder.

7.32 Walking Trails/Pedestrian Paths. Except as herein provided, the private walking trails and/or pedestrian paths within the Community, as the same are identified on the recorded subdivision plat(s) for the Community, shall be used as foot paths only. Bicycles, roller blades, skate boards, go-carts, minibikes, scooters or motorcycles, with or without electric motors, or similar wheeled means of transportation or recreation shall not be permitted on the paths in the Community. Nothing in this Section 7.32 shall be construed as prohibiting the use of a path by any person with a disability by the use of a wheelchair or other necessary transportation device and the Board of Directors may adopt such rules as may be deemed reasonable and appropriate concerning the use of the paths. This provision shall not apply to concrete sidewalks located along the public streets within the Community.

7.33 Stream Buffer. Land-disturbing activities shall not be conducted within any stream buffer area as shown on the recorded subdivision plats for the Community, except with prior written approval under Article 6 hereof and in compliance with North Carolina law, including without limitation, the Sedimentation Pollution Control Act of 1973, Chapter 113-50A, *et seq.*, of the North Carolina General States, as amended from time to time.

7.34 Wetlands, Ponds and Streams. Except as herein provided, all wetlands, storm water retention or detention ponds and streams within the Community shall be used for aesthetic amenities and storm water drainage only, no other use thereof, including, without limitation, swimming, ice skating, playing, or use of personal flotation devices, and other recreation, shall be permitted, without the written consent of the Board of Directors. The Association and/or the Declarant shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of the wetlands, or streams within the Community. For this purpose, "wetlands" means any area labeled as wetlands on a recorded plat for the Community or otherwise designated as wetlands by the Declarant or the Board of Directors. No Owner shall have any right to place rocks, stones, trash, garbage, sewage, waste water, rubbish, debris, ashes or other refuse in any wetlands, storm water retention ponds or streams within the Community. Applicable governmental agencies, the Declarant and the Association, shall have the sole right to control the water level of all bodies of water located within the Community and to control the growth and eradication of plants, fowls, reptiles, animals, fish and fungi in and around any wetlands, storm water retention ponds and streams

within the Community. Owners shall have no riparian or littoral rights with respect to the waters in any stream within the Community and shall not be permitted to withdraw water from any stream as may exist in the Community without the prior written consent of the Board of Directors.

7.35 Urban Transition Buffer. Portions of the Community contain a one hundred foot (100') urban transition buffer, as the same are depicted on the recorded subdivision plat(s) for the Community. Any land-disturbing or construction activities in said buffer area(s) shall be approved in accordance with Article 6 hereof and shall comply with any and all local laws and ordinances relating to said urban transition buffers.

7.36 Town of Cary Greenway Easement. All Owners hereby acknowledge that portions of the Common Property contain a Town of Cary Greenway Easement ("Greenway Easement"), as the same is more particularly identified on the recorded subdivision plat(s) for the Community and that non members of the Association shall be entitled to use and enjoy the Greenway Easement which is located in the Community. All Owners and Occupants further acknowledge that the use of Greenway Easement shall be subject to those rules and regulations as may be promulgated by the Town of Cary Department of Parks, Recreation and Cultural Resources and by the Board of Directors of the Association. The rules and regulations regarding the use of the pedestrian paths and walking trails in Section 7.32 hereof shall also apply to the use and enjoyment of the Greenway Easement.

Article 8
Insurance and Casualty Losses

8.1 Insurance on Common Property. The Association's Board of Directors or its duly authorized agent shall have the authority to and shall obtain all insurance required by the Act or any other applicable law. Without limiting the generality of the foregoing, the Association's Board of Directors or its duly authorized agent shall have the authority to and shall obtain insurance for all insurable improvements located on the Common Property (a "Property Insurance Policy"). This insurance shall cover all risks, loss or damage commonly insured against including, without limitation, fire or other hazards, including extended coverage, vandalism and malicious mischief and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. Alternatively, the Board may purchase "all risk" coverage in like amounts. Nothing herein shall be construed as obligating the Association to obtain or maintain any insurance for a Lot, including any structures or improvements located thereon or a Lot Owner's personal property.

If available at reasonable cost, as determined in the sole discretion of the Board, the Board shall obtain a public liability policy applicable to the Common Property insuring the Association and its members covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Property (a "Liability Policy"). The Liability Policy shall have a combined single limit of at least One Million and No/100 Dollars (\$1,000,000.00). If available

at reasonable cost, as determined in the sole discretion of the Board, the Board shall also obtain directors' and officers' liability insurance.

The Property Insurance Policy and the Liability Policy shall provide that (a) each Owner is an insured Person under the policy to the extent of the Owner's insurable interest, (b) the insurer waives its rights to subrogate under the policy against any Owner or member of the Owner's household, (c) no act or omission by any Owner, unless acting within the scope of the Owner's authority on behalf of the Association, will preclude recovery under the policy; and (d) if at the time of a loss under the policy, there is other insurance in the name of a Lot Owner covering the same risk covered by the policy, the Association's policy shall provide primary insurance. If a Property Insurance Policy or a Liability Policy is not reasonably available, the Association promptly shall cause notice of that fact to be hand-delivered or sent prepaid United States mail to all Owners.

The Board is hereby authorized to contract with or otherwise arrange to obtain the insurance coverage required hereunder through Declarant or its affiliates and to reimburse the Person so providing or arranging the insurance coverage for the cost thereof, and Declarant or its affiliates shall be authorized, but not obligated, to purchase such insurance coverage for the benefit of the Association and the Owners upon Declarant or its affiliates, as the case may be, and the Association agreeing upon the terms and conditions applicable to reimbursement by the Association for costs incurred by Declarant or its affiliates, as the case may be, in obtaining such coverage.

Premiums for all insurance shall be common expenses of the Association and shall be included in the general assessment to be paid by Lot Owners as provided herein. The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association, as trustee for the respective parties which may be benefited by such insurance, as their interests may appear. Such insurance shall be governed by the provisions hereinafter set forth:

- (a) All policies shall be written with a company authorized to do business in North Carolina.
- (b) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto, but insurance proceeds for the loss are payable to any insurance trustee designated for that purpose or otherwise to the Association and not to any Mortgagee.
- (c) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance

purchased by individual Owners, Occupants, or their Mortgagees, and the insurance carried by the Association shall be primary.

(d) All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement, if reasonably available, and all insurance policies shall be reviewed annually by one or more qualified Persons, at least one of whom must be in the real estate industry and familiar with construction in the county where the Community is located.

(e) In addition to the requirements regarding the Property Insurance Policy and the Liability Policy set forth above, the Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners and their respective tenants, servants, agents and guests;

(ii) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;

(iii) that no policy may be canceled, subjected to nonrenewal, invalidated or suspended on account of any one or more individual Owners;

(iv) that no policy may be canceled, subjected to nonrenewal, invalidated or suspended on account of any defect or the conduct of any director, officer or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be effected by the Association, its manager, any Owner or Mortgagee;

(v) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration;

(vi) that no policy may be canceled, subjected to nonrenewal, or substantially modified without at least ten (10) days' prior written notice to the Association; and

(vii) that each Owner is an insured Person under the policy to the extent of the Owner's insurable interest.

In addition to other insurance coverage required by this Section, the Board shall obtain workers compensation insurance, if and to the extent necessary to satisfy the requirements of applicable law, and, if available at reasonable cost, as determined in the sole discretion of the Board, a fidelity bond or employees dishonesty coverage covering directors, officers, employees and other Persons handling or responsible for the Association's funds. The amount of fidelity or employees dishonesty coverage, if obtained, shall be determined in the directors' best business judgment. Such coverage, if obtained, shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation and shall not be subject to cancellation,

nonrenewal or substantial modification without at least ten (10) days' prior written notice to the Association. The Association shall also obtain construction code endorsements, steam boiler coverage and flood insurance, if and to the extent necessary to satisfy the requirements of The Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

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

8.3 Damage and Destruction -- Insured by Association.

(a) In General. Immediately after the damage or destruction by fire or other casualty to all or any portion of any improvement covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty, allowing for any changes or improvements necessary to comply with applicable building codes.

(b) Repair and Reconstruction. Any damage or destruction to property required to be covered by insurance written in the name of the Association shall be repaired or reconstructed unless, (i) the Community is terminated, (ii) repair or reconstruction would be illegal under any state or local health or safety statute or ordinance, or (iii) within sixty (60) days after the casualty, at least eighty percent (80%) of the Total Association Vote and the Owner or Owners of any damaged Lot or Lots otherwise agree. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.

If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Association's members, levy a special assessment against all Owners in proportion to the number of Lots owned by such Owners. Additional assessments may be made in like manner at any time during or following the

completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association.

In the event that it should be determined in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the insurance proceeds attributable to the damaged Common Property shall be used to restore it to its natural state and it shall be maintained as an undeveloped portion of the Community by the Association in a neat and attractive condition consistent with the Community-Wide Standard. The remainder of the insurance proceeds, if any, shall be distributed to all the Owners or lienholders, as their interests may appear, in proportion to the common expense liabilities of all Lots.

8.4 Damage and Destruction -- Insured by Owners. The damage or destruction by fire or other casualty to all or any portion of any improvement on a Lot shall be repaired by the Owner thereof within seventy-five (75) days after such damage or destruction or, where repairs cannot be completed within seventy-five (75) days, they shall be commenced within such period and shall be completed within a reasonable period of time thereafter as determined by the Board in its sole discretion. Alternatively, the Owner may elect to demolish all improvements on the Lot and remove all debris therefrom within seventy-five (75) days after such damage or destruction and maintain the property in a neat and attractive condition consistent with the Community-Wide Standard and this Declaration. In the event that the Owner rebuilds any structure or dwelling located on a Lot resulting from a fire or other casualty and rebuilds in accordance with the original plans and specifications, no approval under Article 6 shall be required; provided, however, any substantial or material deviation from the original plans and specifications shall require the approval of the ACC under Article 6 hereof.

Article 9
Easements

9.1 General. Each Lot shall be subject to those easements, if any, shown or set forth on the recorded subdivision plats for the Community, as amended from time to time, as well as the easements now or hereafter established by the Declarant in this Declaration or by any other document recorded in the public records of the county where the Community is located.

9.2 Easements for Use and Enjoyment. Every Owner of a Lot shall have a right and easement of ingress and egress, use and enjoyment by the Owner and the Occupants of the Owner's Lot in and to the Common Property which shall be appurtenant to and shall pass with the title to each Lot, subject to the following:

(a) the right of the Association to borrow money for the purpose of improving the Common Property, or any portion thereof, or for constructing, repairing or improving any facilities located or to be located thereon and, upon the affirmative vote of the Owners entitled to cast at least eighty percent (80%) of the Total Association Vote (other than Declarant) and the consent of Declarant, to give as security for the payment of any such loan a Mortgage conveying all or any portion of the Common Property; provided, however, the lien and encumbrance of any

such Mortgage given by the Association shall be subject and subordinate to any rights, interests, options, easements and privileges herein reserved or established for the benefit of Declarant or any Owner or the holder of any Mortgage encumbering any Lot or other property located within the Community (Regardless of any contrary provision in this Declaration or in any such Mortgage given by the Association, the exercise of any rights by the holder of such Mortgage in the event of a default thereunder shall not cancel or terminate any rights, easements or privileges herein reserved or established for the benefit of Declarant or any Owner or the holder of any Mortgage encumbering any Lot or other property located within the Community.);

(b) the right of the Association, acting through the Board of Directors and without a vote of the members, to dedicate or grant licenses, permits, easements and rights-of-way over, under and through the Common Property;

(c) the right of the Association to convey or transfer all or any portion of the Common Property upon the approval of the Owners entitled to cast at least eighty percent (80%) of the Total Association Vote (other than Declarant) and the Declarant;

(d) all other rights of the Association, the Declarant, Owners and Occupants set forth in this Declaration, in any Supplementary Declaration or in any deed conveying Common Property to the Association;

(e) all encumbrances and other matters shown by the public records affecting title to the Common Property; and

(f) the right of non members of the Association to use and enjoy the Greenway Easement, as provided herein.

9.3 Easements for Utilities. There is hereby reserved to the Declarant and granted to the Association a blanket easement upon, across, above and under all property within the Community for access, ingress, egress, installing, altering, repairing, replacing, and maintaining all utilities serving the Community or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone and electricity, as well as storm drainage and any other service such as, but not limited to, a master television antenna system, cable television system, or security system which the Declarant or the Association might decide to have installed to serve the Community. Declarant, the Association or the designee of any of them, as the case may be, may alter drainage and water flow, install, repair, replace and maintain or authorize the installation, repair, replacement and maintenance of such wires, conduits, cables and other equipment related to the providing of any utility or service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the Declarant or the Board shall have the right to grant such easement. Notwithstanding anything to the contrary herein, the easement granted herein shall not encroach upon any portion of a Lot intended to be developed with a residence, as may be more particularly shown on the recorded subdivision plat(s) for the Community.

9.4 Easement for Emergency Entry. The Association shall have the right, but not the obligation, to enter upon any Lot for emergency, security and safety reasons and to inspect for

the purpose of ensuring compliance with this Declaration, any Supplementary Declaration, Bylaws, and rules and regulations or Architectural Guidelines, which right may be exercised by any member of the Board, the officers, agents, employees, and managers of the Association in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter upon any Lot to cure any condition which may increase the possibility of a fire, slope erosion or other hazard in an emergency situation and in the event an Owner fails or refuses to cure the condition within a reasonable time after requested by the Association, but shall not authorize entry into any single family dwelling located on a Lot without permission of the Owner.

9.5 Easement for Association Maintenance. Declarant hereby grants to the Association a perpetual easement across the exterior portions of all Lots as may be reasonably necessary for the maintenance required hereunder. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment to Lots, reasonable steps shall be taken to protect such property and damage shall be repaired by the Association or its contractors at their sole expense.

9.6 Easement for Drainage. There is hereby reserved by the Declarant and granted to the Association an easement upon, across, above and under all storm water drainage easement areas as shown on the recorded subdivision plat(s) for the Community for access, ingress, egress, installing, altering, repairing, replacing, and maintaining the storm water drainage system and related facilities serving the Community or any portion thereof. This easement shall include the right to construct and maintain catch basins, retention ponds, detention ponds, drainage swales, storm sewers, storm drains, sloping banks, cut or fill. In addition, there is hereby reserved to the Declarant and granted to the Association a blanket easement across all Lots for creating and maintaining satisfactory drainage in the Community; provided, however, such easement area shall not include any portion of a Lot within the outer perimeter of the dwelling structure. It is anticipated that increased storm water run-off across downstream Lots will result from the construction of impervious surface within the Community. Neither the Declarant, the Association nor any other builder or Owner constructing according to plans and specifications approved under Article 6 hereof shall have any liability to any Owner due to the increased flow or increased velocity of surface water resulting from approved construction within the Community.

9.7 Easement During Construction and Sale Period. Notwithstanding any provisions now or hereafter contained in this Declaration, the Bylaws, Articles of Incorporation, use restrictions, rules and regulations, Architectural Guidelines, and amendments thereto, Declarant reserves an easement across the Community for Declarant to maintain and carry on, upon such portion of the Community as Declarant may reasonably deem necessary, such facilities and activities as in the sole opinion of Declarant may be required or convenient for Declarant's development, construction and sales activities related to property hereby and hereafter subjected to this Declaration or nearby property being developed by Declarant, including, but not limited to: the right to place or authorize the placement of marketing and directional signs on Lots or right-of-way at street intersections within the Community; the right of access, ingress and egress for vehicular and pedestrian traffic and construction activities over, under, on or in the

Community, including, without limitation, any Lot; the right to tie into any portion of the Community with streets, driveways, paths, parking areas and walkways; the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain and repair any device which provides utility or similar services including, without limitation, electrical, telephone, cable television, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community; the right to grant easements over, under, in or on the Community, including without limitation the Lots, for the benefit of neighboring properties for the purpose of tying into and/or otherwise connecting and using sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community; the right to convert Lots (with the consent of the Owner thereof) to Common Property and/or streets; the right to construct recreational facilities, utilities and other improvements on Common Property; the right to carry on sales and promotional activities in the Community; and the right to construct and operate business offices, signs, construction trailers, model residences and sales offices. Declarant may use residences, offices or other buildings owned or leased by Declarant as model residences and sales offices and may also use Community recreational facilities as a sales office without charge. This Section shall not be amended without the written consent of Declarant until the rights of Declarant have terminated as herein provided.

9.8 Easement for Entry Features. There is hereby reserved to the Declarant and granted to the Association an easement for ingress, egress, installation, construction landscaping and maintenance of entry features for the Community, over and upon any portion of a Lot containing such entry features as may be more fully described on a recorded subdivision plat for the Community. The easement and right herein reserved shall include the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around entry features and the right to grade the land under and around the same.

9.9 Easement for Pedestrian Paths and Walking Trails. Declarant hereby reserves and grants to the Association an easement for ingress, egress, installation, construction, landscaping and maintenance of the pedestrian paths and walking trails serving the Community, over and upon any portion of the Community containing such pedestrian paths and walking trails as may be shown on one or more recorded subdivision plats for the Community. The easement herein granted shall permit joint usage of such easement by: (a) the Owners and Occupants, (b) the legal representatives, successors and assigns of the Owners, and (c) guests of the Owners and Occupants. Declarant hereby expressly reserves for itself, its successors and assigns, all rights and privileges incident to the ownership of the fee simple estate of the pedestrian paths which are not inconsistent with the rights and privileges herein granted, including, without limitation, the right to grant additional non-exclusive easements to third parties, over, under and across the pedestrian paths. The easement hereby granted shall include, without limitation, the right to erect appropriate signs, grading adjacent property for proper drainage, and related activities and improvements.

9.10 Town of Cary Greenway Easement. Declarant hereby reserves and grants to the Town of Cary, North Carolina a non-exclusive easement for access, ingress and egress over and upon any portion of the Community containing the Greenway Easement, as the same is identified on one or more recorded subdivision plats for the Community. Notwithstanding anything to the

contrary herein, the easement granted herein shall not be construed as granting access, egress or ingress over any portion of a Lot located in the Community. Declarant hereby expressly reserves for itself, its successors and assigns, all rights and privileges incident to the ownership of the fee simple estate of the Greenway Easement which are not inconsistent with the rights and privileges herein granted.

9.11 Easements in Favor of Phillips Place Associates, its Successors or Assigns. There is hereby reserved to Phillips Place Associates, its successors and assigns, an easement for the benefit of any and all of the property described on Exhibit "B" and any other property owned by Phillips Place Associates as of the date of the recording of this Declaration and located adjacent or contiguous to the property described on Exhibit "A" or Exhibit "B" (the "Phillips Place Associates Property") on, over and upon the Community for the following purposes: (i) the right to tie into and/or otherwise connect and use (without a tap-on fee for so doing), replace, relocate, maintain and repair any device which provides utility or similar services including, without limitation, electrical, telephone, cable television, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on under and/or over the Community; (ii) the right of access, ingress and egress reasonably necessary to carry on such activities; and (iii) the right to further grant and convey such easements to the providers of such utilities as may be required or requested by such providers in order to provide service to the Phillips Place Associates Property. In addition, there is hereby reserved to Phillips Place Associates, its successors and assigns, an easement for the benefit of the Phillips Place Associates Property, for the placement of marketing and directional signs within that portion of the Community shown on the plat entitled "PHILLIPS PLACE SUBDIVISION, PHASE 1A, LOTS 1-16 AND 76-91" and recorded in Book of Maps ^{220 and} 221, in the Office of the Register of Deeds, Wake County, North Carolina, and identified thereon as "TYPE "B" STREETSCAPE BUFFER" or within any portion of the Common Property within the Community that abuts the Phillips Place Associates Property. TO HAVE AND TO HOLD said rights and easements unto Phillips Place Associates, its successors and assigns, forever, it being expressly agreed that the easements hereby reserved, granted and conveyed are appurtenant to and shall run with and benefit the Phillips Place Associates Property and shall run with and burden the described portions of the Community. Notwithstanding anything otherwise herein provided to the contrary, the provisions of this Section 9.11 may not be terminated, modified, or amended without the express written consent of the then current owner of the Phillips Place Associates Property.

Article 10
General Provisions

10.1 Enforcement. Each Owner and Occupant shall comply strictly with the Bylaws, rules and regulations, use restrictions and Architectural Guidelines, as amended or modified from time to time, and with the covenants, conditions, easements and restrictions set forth in this Declaration, the recorded subdivision plat(s) for the Community and in the deed to such Owner's Lot, if any. Declarant or the Association acting through the Board may impose fines or other sanctions for violations of the foregoing in accordance with the Declaration and Bylaws, which fines shall be collected as provided herein for the collection of assessments; provided, however, only one fine may be imposed for a single violation such that an Owner or Occupant may not be fined by the Declarant and the Association for the same violation; provided further, that the

Declarant or the Association, as the case may be, may count each day a violation continues after notice thereof as a separate violation. In the event fines or sanctions are imposed by Declarant, Declarant shall have any and all rights to collect such fines or sanctions (which fines shall be payable to the Association) and any related charges, including, without limitation, reasonable attorneys' fees actually incurred and costs of collection, in the same manner as provided herein for the collection of assessments by the Association acting through the Board.

Failure to comply with this Declaration, the Bylaws, the rules and regulations, use restrictions or Architectural Guidelines shall be grounds for an action to recover sums due for damages or injunctive relief or both, including, without limitation, reasonable attorney's fees actually incurred, maintainable by the Association, the Declarant or an aggrieved Owner. Failure by the Declarant, the Association or any Owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter. The Association shall have the right to record in the appropriate land records a notice of violation of the Declaration, Bylaws, rules and regulations, use restrictions or Architectural Guidelines and to assess the cost of recording and removing such notice against the Lot of the Owner who is responsible (or whose Occupants are responsible) for violating the foregoing.

10.2 Occupants Bound. All provisions of the Declaration, Bylaws, rules and regulations, use restrictions and Architectural Guidelines which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Occupants and the guests and invitees of Owners and Occupants. The Owner shall be responsible for insuring that the Occupants, the guests, invitees and licensees of the Owner and Occupant strictly comply with all provisions of the Declaration, Bylaws, rules and regulations, use restrictions and Architectural Guidelines. Fines may be levied against Owners or Occupants. If a fine is first levied against an Occupant and is not timely paid, the fine may then be levied against the Owner.

10.3 Self-Help. In addition to any other remedies provided for herein, the Association, the Declarant and their respective duly authorized agents shall have the power to enter upon any Lot or any other portion of the Community to abate or remove any structure, thing or condition which violates this Declaration, the Bylaws, the rules and regulations, the use restrictions or the Architectural Guidelines. Unless an emergency situation exists, the violating Owner shall be given ten (10) days' written notice of the intent to exercise self-help. Notwithstanding the foregoing, vehicles may be towed after giving any notice required herein or by law. All costs of self-help, including, without limitation, reasonable attorney's fees actually incurred, shall be assessed against the violating Owner as a specific assessment.

10.4 Duration. The covenants, conditions, restrictions and easements contained in this Declaration shall run with and bind the Community, and shall inure to the benefit of and shall be enforceable by the Association, the Declarant and any Owner, their respective legal representatives, heirs, successors, and assigns, perpetually, unless and until terminated by the agreement of Lot Owners to which eighty (80%) percent of the votes in the Association are allocated as provided in and in accordance with the Act. It is the intention of the Declarant that the Declaration exist and continue until terminated as provided herein, and that it constitute an exception to any automatic termination or expiration provision that might be applicable under the Real Property Marketable Title Act as contained in Chapter 47B of the North Carolina General

Statutes, or under any successor or replacement statute or any other applicable law that would or could terminate the Declaration other than in the manner provided for termination herein. Accordingly, the Association, in its discretion, may at any time and from time to time, re-record in the land records of the county where any portion of the Community is located the Declaration or some memorandum or other notice hereof in order to continue the Declaration in full force and effect and/or to qualify the Declaration as an exception to any such automatic termination or expiration provision of the Real Property Marketable Title Act or any other applicable law.

10.5 Termination of Rights of Declarant. The rights of Declarant to take, approve or consent to actions under this Declaration, the Articles of Incorporation and the Bylaws shall cease and be of no further force and effect upon the earlier of: (a) the date that the Declarant no longer owns any property in the Community and Declarant no longer has the right to unilaterally annex additional property to the Community as provided herein and a certificate of occupancy has been issued for a dwelling on each Lot in the Community; or (b) the date of recording by Declarant in the real estate records of the county where the Community is located of a written instrument terminating all of Declarant's rights hereunder. "Notwithstanding anything to the contrary herein, any termination by Declarant, or any consent to termination by Declarant, of any right of Declarant established in this Declaration, shall require the consent and approval of Phillips Place Associates, which consent and approval shall not be unreasonably withheld, for so long as Phillips Place Associates owns any property described on Exhibit "A" or Exhibit "B" to this Declaration.

10.7 Amendment.

(a) By the Declarant. This Declaration may be amended unilaterally at any time and from time to time by Declarant: (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, without limitation, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase Mortgage loans on the Lots subject to this Declaration; or (d) if such amendment is necessary to enable any governmental agency or private insurance company, including, without limitation, the U.S. Department of Housing and Urban Development and the U.S. Department of Veterans Affairs, to insure or guarantee Mortgage loans on the Lots subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Lot unless the Owner of such Lot consents thereto in writing. Further, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any amendments shall not materially adversely affect the substantive rights of any Owners hereunder nor shall it adversely affect title to any Lot without the consent of the affected Owner.

(b) By the Association. In addition to the above, this Declaration may be amended upon the affirmative vote or written agreement of the Owners to which at least sixty-seven (67%) percent of the Total Association Vote is allocated and the consent of Declarant.

Amendments to this Declaration shall become effective upon recordation unless a later effective date is specified therein. The consent of the Declarant to any amendment shall be evidenced by the execution of said amendment by Declarant. The consent of the requisite number of Owners to any amendment shall be evidenced by the execution of the amendment by said Owners, or, in the alternative, the sworn statement of the President or any Vice President or the Secretary of the Association attached to or incorporated in the amendment, which sworn statement states unequivocally that the consent of the required number of Owners was obtained and that any notices required by this Declaration, the Bylaws, the Articles of Incorporation and North Carolina law were given.

Notwithstanding anything to the contrary in Sections (a) and (b) above, any amendment to the Declaration by the Declarant or the Association, as the case may be, shall require the consent and approval of Phillips Place Associates, which consent and approval shall not be unreasonably withheld, for so long as Phillips Place Associates owns any property described on Exhibit "A" or Exhibit "B" to this Declaration.

10.8 Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine or feminine pronoun shall include the neuter, masculine and feminine.

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

10.10 Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular Article or Section to which they refer.

10.11 No Merger. There shall be no merger of any of the covenants, conditions, restrictions or easements created or reserved hereby with the fee estate of Declarant, by reason of the fact that Declarant may own or hold the estate or interest both encumbered and benefited by such covenants, conditions, restrictions or easements and no such merger shall occur unless and until Declarant while owning all of the estate or interests shall execute a written statement or instrument affecting such merger and shall duly record the same.

10.12 Notices. Notices provided for in this Declaration or the Articles or Bylaws shall be in writing, and shall be addressed to an Owner at the address of the Lot and to the Declarant or the Association at the address of their respective registered agent on file with the Secretary of State of the State of North Carolina. Any Owner may designate a different address for notices to such Owner by giving written notice to the Association. Notices addressed as above shall be mailed by United States Registered or Certified Mail, return receipt requested, postage paid, or delivered in person, including delivery by Federal Express or other reputable private courier

service. The time period in which a response to any such notice must be given or any action taken with respect thereto, shall commence to run from the date of personal delivery or the date of receipt shown on the return receipt. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice sent.

10.13 No Discrimination. No action shall be taken by the Association or the Board of Directors which would discriminate against any person on the basis of race, creed, color, national origin, religion, sex, familial status or disability.

10.14 Indemnification. To the fullest extent allowed by the North Carolina Nonprofit Corporation Act, and in accordance therewith, the Association shall indemnify every current and former officer, director and committee member against any and all expenses, including, but not limited to, attorney's fees, imposed upon or reasonably incurred by any officer, director or committee member in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which such officer, director or committee member may be a party by reason of being or having been an officer, director or committee member. The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers, directors and committee members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association and the Association shall indemnify and forever hold each such officer, director and committee member free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director or committee member, or former officer, director or committee member, may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available.

10.15 Variances. Notwithstanding anything to the contrary contained herein, the Board of Directors shall be authorized to grant individual variances from any of the provisions of this Declaration, the Bylaws and any rule, regulation, use restriction or Architectural Guideline promulgated pursuant thereto, if it determines that waiver of application or enforcement of the provision in a particular case is warranted and would not be inconsistent with the overall scheme of development for the Community.

10.16 Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by at least seventy-five percent (75%) of the Total Association Vote and the Declarant. This Section shall not apply to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided herein, (c) proceedings involving challenges to *ad valorem* taxation, (d) counterclaims brought by the Association in proceedings instituted against it, or (e) actions brought by the Association against any contractor, vendor, or supplier of goods or services arising out of a contract for goods or services to which the Association is a party. This Section shall not be amended unless such

amendment is made unilaterally by the Declarant as provided herein or is approved by the percentage votes necessary to institute proceedings as provided above.

10.17 Security. ALL OWNERS, OCCUPANTS, GUESTS, LICENSEES, AND INVITEES, AS APPLICABLE, ACKNOWLEDGE THAT THE DECLARANT, THE ASSOCIATION AND ITS BOARD OF DIRECTORS AND THE ARCHITECTURAL CONTROL COMMITTEE DO NOT REPRESENT OR WARRANT THAT ANY SAFETY OR SECURITY MEASURES WILL BE IMPLEMENTED IN THE COMMUNITY OR, IF IMPLEMENTED, THAT SUCH SAFETY OR SECURITY MEASURES MAY NOT BE COMPROMISED OR CIRCUMVENTED, OR THAT ANY SUCH SAFETY OR SECURITY MEASURES WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THEY ARE DESIGNED. EACH OWNER, OCCUPANT, GUEST, LICENSEE, OR INVITEE, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE DECLARANT, THE ASSOCIATION, THE BOARD OF DIRECTORS AND THE ARCHITECTURAL CONTROL COMMITTEE ARE NOT INSURERS AND THAT EACH OWNER, OCCUPANT, GUEST, LICENSEE, AND INVITEE ASSUMES ALL RISKS OF PERSONAL INJURY AND PROPERTY DAMAGE AND FURTHER ACKNOWLEDGES THAT THE DECLARANT, THE ASSOCIATION, THE BOARD OF DIRECTORS AND THE ARCHITECTURAL CONTROL COMMITTEE HAVE MADE NO REPRESENTATIONS OR WARRANTIES, NOR HAS ANY OWNER, OCCUPANT, GUEST, LICENSEE, OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OR MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE RELATIVE TO ANY SAFETY OR SECURITY MEASURES IMPLEMENTED OR APPROVED. IT IS THE OBLIGATION OF THE LOT OWNER AND ITS OCCUPANTS TO PROVIDE INDIVIDUAL SECURITY TO HIS OR HER LOT.

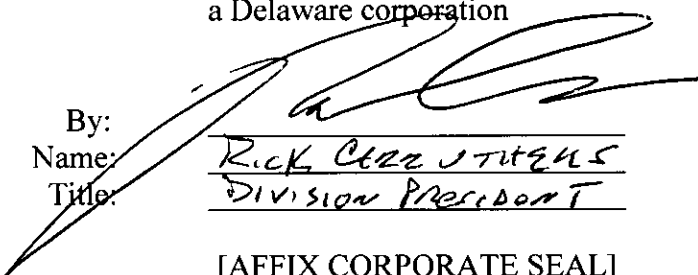
10.18 Agreements. Subject to the prior approval of Declarant, all agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board of Directors, shall be binding upon all Owners, their heirs, legal representatives, successors, assigns and others having an interest in the Community or the privilege of possession and enjoyment of any part of the Community.

10.19 Notice of Sale or Acquisition. Prior to the sale of a Lot, the Owner shall provide the Association with written notice of the name of the purchaser and such other information as the Board may reasonably require. Upon acquisition of a Lot, each new Owner shall provide the Association with written notice of the name and mailing address of the Owner and such other information as the Board may reasonably require.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Declarant herein hereby executes this instrument, this 24th day of MARCH, 2011.

DECLARANT: **KB HOME RALEIGH-DURHAM, INC.,**
a Delaware corporation

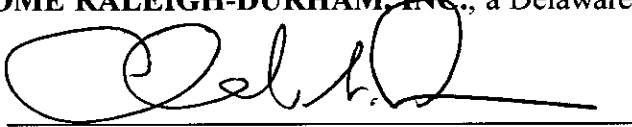
By: 
Name: RICK CARRUTHERS
Title: DIVISION PRESIDENT
[AFFIX CORPORATE SEAL]

STATE OF NORTH CAROLINA

COUNTY OF ORANGE

I certify that the following person personally appeared before me this day, and acknowledged to me that he/she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: (name) RICK CARRUTHERS, (title) DIVISION PRESIDENT of **KB HOME RALEIGH-DURHAM, INC.,** a Delaware corporation.

Date: 3/24/2011



CHRISTOPHER A. CROWSON, Notary Public

My commission expires: MAY 7, 2014

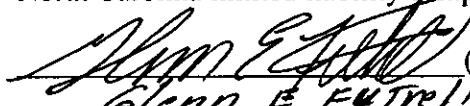
CHRISTOPHER A. CROWSON
NOTARY PUBLIC
ORANGE COUNTY, N.C.

P:\Clients\1385\NORTH CAROLINA\Phillips Place \Declaration.Phillips Place.

CHRISTOPHER A. CROWSON
NOTARY PUBLIC
ORANGE COUNTY, N.C.

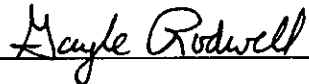
IN WITNESS WHEREOF, the undersigned Owner of all or a portion of the tract or parcel of land described on Exhibit "A" attached hereto does hereby declare and consent, on behalf of such Owner and such Owner's heirs, successors, legal representatives, successors-in-title and assigns, that from and after the date hereof the property of Owner described on Exhibit "A" attached hereto shall be owned, held, transferred, sold, conveyed, used, occupied, and encumbered subject to all of the terms, provisions, covenants, restrictions and easements contained in the Declaration. This 8TH day of March, 2011.

Owner: PHILLIPS PLACE ASSOCIATES, LLC, a North Carolina limited liability company

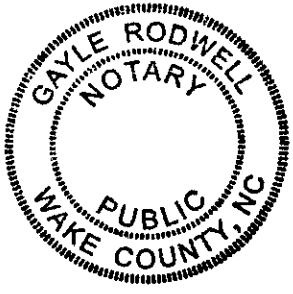
By:  (SEAL)
Name: Glenn E. Futrell
Title: manager

STATE OF NORTH CAROLINA COUNTY OF WAKE

I certify that the following person personally appeared before me this day, and acknowledged to me that he/she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: (name) Glenn E. Futrell, (title) Manager of PHILLIPS PLACE ASSOCIATES, LLC, a North Carolina limited liability company.

Date: March 8, 2011 
Gayle Rodwell, Notary Public

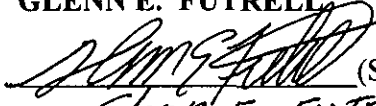
(Official Seal) My commission expires: July 28, 2015



CONSENT OF LIEN HOLDER

GLENN E. FUTRELL, ("Lender"), as beneficiary of that certain North Carolina Deed of Trust, dated January 20, 2010, and recorded January 21, 2010 at Deed Book 13830, Pages 2673-2685, Wake County, North Carolina land records; as amended by that certain Subordination Agreement, dated March 10, 2010, recorded March 11, 2010 at Deed Book 13875, Page 52, *et seq.*, aforesaid records; and as beneficiary of that certain North Carolina Future Advance Deed of Trust and Security Agreement, dated May 1, 2010 and recorded June 29, 2010 in Deed Book 13988, Page 2159, *et seq.*, aforesaid records (collectively "Deed of Trust"), encumbering the property described in Exhibit "A", hereby consents to the Declaration and agrees that any foreclosure of the security title and interest under the Deed of Trust or any other instrument that Lender holds shall be subject to the Declaration and any amendments thereto with respect to the property encumbered by the Deed of Trust and described in Exhibit "A".

This 8TH of March, 2011.

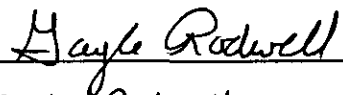
LENDER: **GLENN E. FUTRELL**
By:  (SEAL)
Name: GLENN E. FUTRELL
Title: _____

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I certify that the following person personally appeared before me this day, and acknowledged to me that he/she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Glenn E. Futrell.

Date: March 8, 2011


Gayle Rodwell, Notary Public

(Official Seal)

My commission expires: July 28, 2015

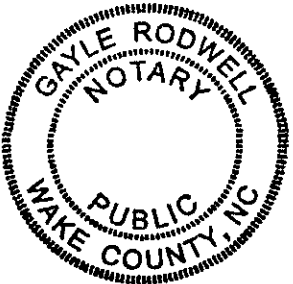


EXHIBIT "A"

Property Description

Being all of that real property situated in the Cedar Fork Township of Wake County, North Carolina and more particularly described as follows:

All of Lots 1-16, inclusive and all of Lots 76-91, inclusive, as shown on the subdivision plat (the "Subdivision Plat") entitled "PHILLIPS PLACE SUBDIVISION, PHASE 1A, LOTS 1-16 AND 76-91" recorded in Book of Maps 2011, Pages 220-221, in the Office of the Register of Deeds of Wake County, North Carolina, and all of the property identified as "20' TYPE "A" BUFFER" and "50' TYPE "B" BUFFER" and shown on said Subdivision Plat .

EXHIBIT B

Additional Property Which May Unilaterally Be Submitted to This Declaration By Declarant

TRACT ONE (Pittard Tract):

BEGINNING at an iron pipe found, the southeast corner of Tract A-1 as shown in Book of Maps 1979, Page 1060, Wake County Registry; thence South 89 degrees 05 minutes 31 seconds East 169.99 feet to an iron pipe; thence South 16 degrees 44 minutes 51 seconds West 379.51 feet to an iron pipe; thence continuing South 16 degrees 44 minutes 51 seconds 18.10 West feet to a point; thence North 84 degrees 43 minutes 17 seconds West 5.64 feet to a point; thence North 35 degrees 10 minutes 27 seconds West 25.78 feet to a point; thence North 89 degrees 20 minutes 22 seconds West 19.82 feet to a point; thence South 14 degrees 56 minutes 50 seconds West 78.41 feet to a point; thence South 02 degrees 01 minute 32 seconds East 259.56 feet to an iron pipe; thence North 88 degrees 59 minutes 22 seconds West 115.60 feet to an iron pipe; thence North 89 degrees 31 minutes 48 seconds West 653.77 feet to a rebar found; thence North 04 degrees 15 minutes 00 seconds East 703.82 feet to an iron pipe; thence South 88 degrees 59 minutes 45 seconds East 713.22 feet to the point and place of beginning and being all of Tract 4 containing 12.839 acres according to a plat of survey by Kenneth Close, Inc. dated March 16, 2006 and entitled "Boundary Survey for Glenn Futrell".

TRACT TWO (Al Phillips Tract):

BEGINNING at an iron pipe in the easternmost margin of the Durham & Southern Railroad 100 foot right of way which beginning point marks the southwesternmost corner of the Triangle Brick Company property (now or formerly) described in Book 1879, Page 8 and also shown on Book of Maps 1965, Page 241, Wake County Registry; thence from said point of beginning along the easternmost margin of the said Durham & Southern Railroad right of way the following bearings and distances: South 18 degrees 15 minutes 08 seconds East 12.78 feet to a point; thence South 17 degrees 23 minutes 32 seconds East 52.41 feet to a point; thence South 16 degrees 17 minutes 08 seconds East 51.46 feet to a point; thence South 15 degrees 16 minutes 33 seconds East 50.95 feet to a point; thence South 14 degrees 15 minutes 40 seconds East 51.87 feet to a point; thence South 13 degrees 25 minutes 24 seconds East 50.23 feet to a point; thence South 12 degrees 24 minutes 23 seconds East 51.85 feet to a point; thence South 11 degrees 17 minutes 46 seconds East 52.49 feet to a point; thence South 10 degrees 09 minutes 21 seconds East 52.09 feet to a point; thence South 09 degrees 04 minutes 34 seconds East 50.86 feet to a point; thence South 07 degrees 58 minutes 54 seconds East 51.86 feet to a point; thence South 06 degrees 55 minutes 18 seconds East 50.41 feet to a point; thence South 05 degrees 56 minutes 40 seconds East 51.57 feet to a point; thence South 05 degrees 05 minutes 04 seconds East 51.21 feet to a point; thence South 04 degrees 25 minutes 10 seconds East 50.46 feet to a point; thence South 03 degrees 47 minutes 10 seconds East 49.39 feet to a point; thence South 03 degrees 19 minutes 04 seconds East 50.75 feet to a point; thence South 03 degrees 11 minutes 04 seconds East 50.03 feet to a point; thence South 03 degrees 01 minute 43 seconds East 320.49 feet to a point having N.C. Grid Coordinates N=758,279.087 E=2,036,857.406; which point is also North 21 degrees 52 minutes 16 seconds West a grid distance of 1,917.53 feet, a ground distance of 1,917.70 feet from N.C.G.S. "Hurst" NAD 83 having N.C. Grid Coordinates N=756,499.573 E=2,037,571.722; thence leaving the railroad right of way South 89 degrees 38 minutes 26 seconds East 798.33 feet to the centerline of a branch; thence along the centerline of said branch the following bearings and distances: North 11 degrees 44 minutes 46 seconds West 30.03 feet to a point; thence North 85 degrees 50 minutes 36 seconds East 15.72 feet to a point; thence North 52 degrees 09 minutes 20 seconds East 40.47 feet to a point; thence North 24 degrees 47 minutes 34 seconds East 34.17 feet to a point; thence North 42 degrees 00 minutes 30 seconds West 13.05 feet to a point; thence North 17 degrees 26 minutes 19 seconds East 19.03 feet to a point; thence North 30 degrees 03 minutes 28 seconds West 37.64 feet to a point; thence North 24 degrees 14 minutes 13 seconds East 45.78 feet to a point; thence North 46 degrees 22 minutes 04 seconds West 58.07 feet to a point; thence North 36 degrees 54 minutes 29 seconds East 45.43 feet to a point; thence North 33 degrees 02 minutes 48 seconds West 10.75 feet to a point; thence 77 degrees 47 minutes 16 seconds West 25.05 feet to a point; thence North 24 degrees 13 minutes 40 seconds East 9.07 feet to a point; thence North 49 degrees 09 minutes 41 seconds East 14.54 feet to a point; thence North 08 degrees 52 minutes 52 seconds West 30.70 feet to a point; thence North 10 degrees 21 minutes 24 seconds East 32.22 feet to a point; thence North 46 degrees 43 minutes 11 seconds East 20.87 feet to a point; thence North 26 degrees 57 minutes 22 seconds West 22.32 feet to a point; thence North 04 degrees 11 minutes 48 seconds East 29.99

feet to a point; thence North 42 degrees 26 minutes 01 second East 34.36 feet to a point; thence North 11 degrees 10 minutes 01 second East 8.18 feet to a point; thence North 12 degrees 00 minutes 50 seconds West 13.79 feet to a point; thence North 24 degrees 50 minutes 57 seconds West 22.31 feet to an iron pipe found; thence leaving the centerline of said branch North 89 degrees 31 minutes 48 seconds West 653.77 feet to a rebar found; thence North 04 degrees 15 minutes 00 seconds East 703.82 feet to an iron pipe; thence North 88 degrees 59 minutes 43 seconds West 7.80 feet to a concrete monument; thence South 89 degrees 13 minutes 53 seconds West 395.76 feet to the point and place of beginning and being all of Tract 3 containing 14.249 acres according to a plat of survey by Kenneth Close, Inc. dated March 16, 2006 and entitled "Boundary Survey for Glenn Futrell".

TRACT THREE (Paul Lee Phillips Tract):

BEGINNING in the centerline of a branch, said beginning point being located South 43 degrees 43 minutes 36 seconds West 1,141.25 feet from an iron pipe in the southernmost right of way of Old Maynard Road (S.R. 1632) which iron pipe has N.C. Grid Coordinates N=759,902.743 E=2,038,786.568 and is located North 19 degrees 38 minutes 43 seconds East a grid distance of 3,613.51 feet, a ground distance of 3,613.83 feet from N.C.G.S. "Hurst" NAD 83 having N.C. Grid Coordinates N=756,499.573 E=2,037,571.722; thence from said point of beginning along the centerline of said branch the following bearings and distances: South 70 degrees 43 minutes 30 seconds East 9.73 feet to a point; thence North 27 degrees 25 minutes 19 seconds East 24.32 feet to a point; thence North 63 degrees 12 minutes 50 seconds East 9.87 feet to a point; thence South 73 degrees 28 minutes 37 seconds East 28.59 feet to a point; thence South 49 degrees 00 minutes 39 seconds East 36.11 feet to a point; thence South 37 degrees 08 minutes 49 seconds East 27.98 feet to a point; thence South 05 degrees 58 minutes 52 seconds West 23.49 feet to a point; thence South 70 degrees 50 minutes 36 seconds West 22.33 feet to a point; thence North 87 degrees 52 minutes 52 seconds West 25.75 feet to a point; thence South 40 degrees 28 minutes 05 seconds West 18.79 feet to a point; thence South 29 degrees 42 minutes 13 seconds East 47.87 feet to a point; thence North 75 degrees 22 minutes 51 seconds East 37.86 feet to a point; thence South 51 degrees 02 minutes 43 seconds East 10.20 feet to a point; thence South 05 degrees 56 minutes 32 seconds East 21.31 feet to a point; thence South 51 degrees 56 minutes 40 seconds East 14.17 feet to a point; thence North 62 degrees 25 minutes 52 seconds East 30.30 feet to a point; thence North 54 degrees 05 minutes 10 seconds East 46.46 feet to a point; thence South 72 degrees 48 minutes 08 seconds East 20.17 feet to a point; thence North 69 degrees 34 minutes 28 seconds East 42.97 feet to a point; thence South 70 degrees 23 minutes 50 seconds East 80.28 feet to a point; thence South 19 degrees 55 minutes 05 seconds West 27.38 feet to a point; thence South 38 degrees 20 minutes 43 seconds West 41.89 feet to a point; thence South 55 degrees 10 minutes 41 seconds West 19.26 feet to a point; thence South 34 degrees 53 minutes 44 seconds East 34.20 feet to a point; thence South 10 degrees 33 minutes 20 seconds East 19.34 feet to a point; thence South 63 degrees 34 minutes 45 seconds East 66.47 feet to a point; thence North 41 degrees 17 minutes 28 seconds East 16.44 feet to a point; thence North 32 degrees 09 minutes 25 seconds West 19.45 feet to a point; thence North 17 degrees 24 minutes 12 seconds East 10.70 feet to a point; thence North 68 degrees 57 minutes 15 seconds East 35.31 feet to a point; thence North 87 degrees 43 minutes 08 seconds East 14.68 feet to a point; thence South 74 degrees 04 minutes 52 seconds East 15.28 feet to a point; thence South 17 degrees 54 minutes 22 seconds East 23.20 feet to a point; thence South 09 degrees 39 minutes 02 seconds East 59.90 feet to a point; thence South 28 degrees 22 minutes 55 seconds East 9.84 feet to a point; thence North 71 degrees 14 minutes 10 seconds East 14.04 feet to a point; thence North 16 degrees 32 minutes 02 seconds East 15.51 feet to a point; thence South 50 degrees 12 minutes 23 seconds East 26.69 feet to a point; thence South 12 degrees 24 minutes 56 seconds East 23.95 feet to a point; thence South 21 degrees 59 minutes 29 seconds East 80.66 feet to a point; thence South 25 degrees 04 minutes 23 seconds East 56.06 feet to a point; thence South 01 degree 51 minutes 54 seconds West 11.50 feet to a point; thence South 21 degrees 55 minutes 06 seconds East 30.33 feet to a point; thence South 64 degrees 32 minutes 27 seconds East 18.52 feet to a point; thence South 81 degrees 04 minutes 15 seconds East 15.34 feet to a point; thence South 88 degrees 34 minutes 11 seconds East 81.72 feet to a point; thence North 21 degrees 48 minutes 46 seconds East 12.87 feet to a point; thence North 09 degrees 32 minutes 29 seconds West 20.33 feet to a point; thence North 10 degrees 48 minutes 06 seconds East 23.54 feet to a point; thence North 54 degrees 12 minutes 02 seconds East 22.78 feet to a point; thence North 84 degrees 44 minutes 00 seconds East 43.10 feet to a point; thence South 33 degrees 05 minutes 55 seconds East 13.66 feet to a point; thence South 51 degrees 51 minutes 17 seconds East 21.99

North 26 degrees 57 minutes 22 seconds West 22.32 feet; thence North 04 degrees 11 minutes 48 seconds East 29.99 feet; thence North 42 degrees 26 minutes 01 second East 34.36 feet; thence North 11 degrees 10 minutes 01 second East 8.18 feet; thence North 12 degrees 00 minutes 50 seconds West 13.79 feet; thence North 24 degrees 50 minutes 57 seconds West 22.31 feet; thence South 88 degrees 59 minutes 22 seconds East 115.60 feet to an iron pipe; thence North 02 degrees 01 minute 32 seconds East 259.56 feet to a point; thence North 14 degrees 56 minutes 50 seconds East 78.41 feet to a point in the centerline of the first branch; thence South 89 degrees 20 minutes 22 seconds East 19.82 feet to a point; thence South 35 degrees 10 minutes 27 seconds East 25.78 feet to a point; thence South 84 degrees 43 minutes 17 seconds East 32.05 feet to a point; thence North 68 degrees 51 minutes 15 seconds East 70.84 feet to a point; thence South 57 degrees 15 minutes 37 seconds East 27.48 feet to a point; thence South 70 degrees 43 minutes 30 seconds East 17.50 feet to the point and place of beginning and being all of Tract 6 containing 31.428 acres according to a plat of survey by Kenneth Close, Inc. dated March 16, 2006 and entitled "Boundary Survey for Glenn Futrell".

TRACT FOUR (Sue Phillips Tract):

BEGINNING at an iron pipe having N.C. Grid Coordinates N=757,751.680 E=2,037,820.098 and being located North 11 degrees 13 minutes 12 seconds East a grid distance of 1,276.50 feet, a ground distance of 1,276.62 feet from N.C.G.S. "Hurst" NAD 83 having N.C. Grid Coordinates N=756,499.573 E=2,037,571.722; thence from said point of beginning North 00 degrees 44 minutes 12 seconds East 433.32 feet to an iron pipe; thence North 86 degrees 14 minutes 01 second West 195.02 feet to a point in the centerline of a creek; thence along the centerline of said creek the following bearings and distances: South 33 degrees 11 minutes 08 seconds West 11.98 feet to a point; thence South 63 degrees 28 minutes 09 seconds West 26.27 feet to a point; thence South 29 degrees 59 minutes 02 seconds West 6.78 feet to a point; thence South 21 degrees 43 minutes 06 seconds East 30.29 feet to a point; thence South 15 degrees 55 minutes 24 seconds West 41.48 feet to a point; thence South 28 degrees 32 minutes 51 seconds West 22.90 feet to a point; thence South 49 degrees 31 minutes 10 seconds West 17.40 feet to a point; thence South 25 degrees 26 minutes 05 seconds West 14.26 feet to a point; thence South 21 degrees 55 minutes 32 seconds East 20.25 feet to a point; thence South 52 degrees 00 minutes 27 seconds West 16.90 feet to a point; thence South 10 degrees 12 minutes 56 seconds East 19.48 feet to a point; thence South 65 degrees 50 minutes 55 seconds West 13.55 feet to a point; thence South 30 degrees 52 minutes 16 seconds West 21.05 feet to a point; thence South 33 degrees 58 minutes 11 seconds East 19.57 feet to a point; thence South 27 degrees 42 minutes 54 seconds West 14.41 feet to a point; thence South 02 degrees 19 minutes 28 seconds West 12.08 feet to a point; thence South 28 degrees 49 minutes 31 seconds West 8.13 feet to a point; thence North 79 degrees 38 minutes 58 seconds West 6.45 feet to a point; thence South 00 degrees 21 minutes 00 seconds West 40.57 feet to a point; thence South 50 degrees 55 minutes 00 seconds East 17.88 feet to a point; thence South 11 degrees 08 minutes 19 seconds West 22.09 feet to a point; thence South 05 degrees 54 minutes 58 seconds East 30.42 feet to a point; thence South 21 degrees 29 minutes 53 seconds East 17.26 feet to a point; thence South 29 degrees 16 minutes 55 seconds West 13.76 feet to a point; thence South 32 degrees 57 minutes 02 seconds East 15.95 feet to a point; thence South 18 degrees 02 minutes 26 seconds West 13.48 feet to a point; thence South 26 degrees 37 minutes 32 seconds East 15.78 feet to a point; thence leaving the centerline of said creek South 86 degrees 42 minutes 20 seconds East 261.71 feet to the point and place of beginning and being all of Tract 7 containing 2.562 acres according to a plat of survey by Kenneth Close, Inc. dated March 16, 2006 and entitled "Boundary Survey for Glenn Futrell".

LESS AND EXCEPT THE FOLLOWING CELL TOWER AND EASEMENT AREA DESCRIBED IN THE MEMORANDUM OF LEASE BY AND BETWEEN PAUL LEE PHILLIPS AND WIFE, SUE BRADLEY PHILLIPS AND SPECTRASITE COMMUNICATIONS, INC. RECORDED IN BOOK 8295, PAGE 1569, WAKE COUNTY REGISTRY:

LEASE AREA (CELL TOWER): BEGINNING at the southwest corner of a Lease Area, said corner being located the following calls from NCGS Monument "Tangent", said monument bearing NC Grid Coordinates NAD: 83 of N:230413.329 Meters, E: 620857.732 Meters; thence

from said monument North 26 degrees 14 minutes 37 seconds East a distance of 2011.49 feet to an existing iron pipe, said iron pipe being the southwest corner of the Paul Lee Phillips property recorded in Deed Book 3995, Page 661, and being shown in Book of Maps 1976, Page 6, and said iron pipe being a common corner with the southeast corner of the Sue Bradley Phillips property recorded in Deed Book 3838, Page 881, and being shown in Book of Maps 1985, Page 78; thence leaving said iron pipe, North 41 degrees 59 minutes 35 seconds East a distance of 218.01 feet to the southwest corner of a Lease Area. Thence from the POINT AND PLACE OF BEGINNING, North 31 degrees 47 minutes 35 seconds East a distance of 60.00 feet to a point; thence South 58 degrees 12 minutes 25 seconds East a distance of 60.00 feet to a point; thence South 31 degrees 47 minutes 35 seconds West a distance of 60.00 feet to a point; thence North 58 degrees 12 minutes 25 seconds West a distance of 60.00 feet to the point and place of BEGINNING, said Lease Area containing 3,600.0 sq. ft. (0.083 acres).

ACCESS & UTILITY EASEMENT: BEGINNING at a point set in the northern right-of-way of Good Hope Church Road (NCSR 1633), said point being located the following calls from NCGS Monument "Tangent", said monument bearing NC Grid Coordinates NAD 83 of N: 230413.329 Meters, E: 620857.732 Meters; thence from said monument North 88 degrees 11 minutes 59 seconds East a distance of 1301.61 feet to an existing iron pipe set in the northern right-of-way of Good Hope Church Road (NCSR 1633), said iron being the southeast corner of the John B. Sowter property recorded in Deed Book 2394, Page 266; thence with said right of way with a curve to the left having a radius of 324.94 feet, an arc length of 125.04 feet and being subtended by a chord bearing and distance of North 38 degrees 02 minutes 02 seconds West 124.27 feet; thence with a curve to the left having a radius of 1200.41 feet an arc length of 125.33 feet and being subtended by a chord bearing and distance of North 52 degrees 02 minutes 56 seconds West, 125.27 feet; thence with a curve to the left having a radius of 1200.41 feet an arc length of 11.15 feet and being subtended by a chord bearing of North 55 degrees 18 minutes 21 seconds West 11.15 feet to a point in the center of an existing dirt road; thence North 55 degrees 34 minutes 19 seconds West a distance of 8.93 feet to a point; thence from the POINT AND PLACE OF BEGINNING, leaving said right of way along the western edge of a 20-foot wide Access & Utility Easement the following calls: thence North 29 degrees 28 minutes 21 seconds East a distance of 156.17 feet to a point; thence North 25 degrees 47 minutes 30 seconds East a distance of 391.47 feet to a point; thence with a curve to the left having a radius of 95.19 feet, an arc length of 83.62 feet and being subtended by a chord bearing and distance of North 00 degrees 37 minutes 35 seconds East 80.96 feet to a point; thence North 24 degrees 32 minutes 20 seconds West a distance of 279.38 feet to a point; thence with a curve to the right having a radius of 253.54 feet, an arc length of 86.84 feet and being subtended by a chord bearing and distance of North 14 degrees 43 minutes 38 seconds West 86.41 feet to a point; thence North 04 degrees 54 minutes 55 seconds West a distance of 73.42 feet to a point; thence with a curve to the right having a radius of 210.00 feet, an arc length of 87.89 feet and being subtended by a chord bearing and distance of North 07 degrees 04 minutes 27 Seconds East 87.25 feet to a point; thence North 19 degrees 11 minutes 31 seconds East a distance of 143.80 feet to a point; thence North 10 degrees 08 minutes 05 seconds East a distance of 58.34 feet to a point; thence North 05 degrees 18 minutes 40 seconds East a distance of 166.64 feet to a point; thence North 04 degrees 18 minutes 13 seconds East a distance of 121.72 feet to a point; thence North 03 degrees 20 minutes 20 seconds West a distance of 37.53 feet to a point; thence North 41 degrees 12 minutes 14 seconds West a distance of 58.39 feet to a point; thence North 53 degrees 32 minutes 49 seconds West a distance of 78.79 feet to a point; thence North 58 degrees 12 minutes 25 seconds West a distance of 95.64 feet to a point; thence South 31 degrees 47 minutes 35 seconds West a distance of 20.00 feet to a point; thence North 58 degrees 12 minutes 25 seconds West a distance of 20.00 feet to a point set in the eastern line of a Lease Area, said point being located North 31 degrees 47 minutes 35 seconds East a distance of 19.91 feet from the southeast corner of said Lease Area, thence with said Lease Area, North 31 degrees 47 minutes 35 seconds East a distance of 40.00 feet to a point; thence leaving said Lease Area, South 58 degrees 12 minutes 25 seconds East a distance of 116.46 feet to a point; thence South 53 degrees 32 minutes 49 seconds East a distance of 81.77 feet to a point; thence South 41 degrees 12 minutes 14 seconds East a distance of 67.41 feet to a point; thence South 03 degrees 20 minutes 20 seconds East a distance of 45.73 feet to a point; thence South 04 degrees 18 minutes 13 seconds West a distance of 123.23 feet to a point; thence South 05 degrees 18 minutes 40 seconds West a distance of 167.66 feet to a point; thence South 10 degrees 08 minutes 05 seconds West a distance of 60.77 feet to a point; thence South 19 degrees 11 minutes 31 seconds West a distance of 145.38 feet to a point; thence with a curve to the left having a radius of 190.00 feet, an arc length of 79.49 feet and being subtended by a chord bearing and distance of South 07 degrees 04 minutes 15 seconds

feet to a point; thence South 71 degrees 02 minutes 12 seconds East 28.97 feet to a point; thence South 11 degrees 32 minutes 02 seconds East 25.57 feet to a point; thence South 71 degrees 59 minutes 21 seconds East 27.46 feet to a point; thence South 29 degrees 56 minutes 04 seconds East 23.40 feet to a point; thence South 09 degrees 21 minutes 58 seconds West 50.75 feet to a point; thence South 44 degrees 17 minutes 47 seconds East 20.23 feet to a point; thence South 12 degrees 05 minutes 10 seconds East 11.40 feet to a point; thence South 36 degrees 47 minutes 35 seconds West 10.02 feet to a point; thence South 19 degrees 28 minutes 08 seconds East 19.28 feet to a point; thence South 63 degrees 10 minutes 43 seconds East 19.02 feet to a point; thence South 85 degrees 12 minutes 16 seconds East 14.69 feet to a point; thence South 35 degrees 32 minutes 59 seconds East 7.82 feet to a point; thence South 12 degrees 05 minutes 18 seconds West 22.00 feet to a point; thence South 82 degrees 32 minutes 15 seconds East 19.23 feet to a point; thence South 23 degrees 56 minutes 12 seconds East 19.55 feet to a point; thence South 42 degrees 02 minutes 17 seconds West 19.93 feet to a point; thence South 11 degrees 57 minutes 47 seconds East 7.63 feet to a point; thence South 79 degrees 19 minutes 59 seconds East 30.53 feet to a point; thence South 49 degrees 15 minutes 03 seconds East 5.55 feet to a point; thence South 20 degrees 42 minutes 10 seconds East 31.28 feet to a point; thence North 68 degrees 01 minute 25 seconds East 22.00 feet to a point; thence South 42 degrees 00 minutes 12 seconds East 20.36 feet to a point; thence South 22 degrees 26 minutes 54 seconds East 28.57 feet to a point; thence South 44 degrees 40 minutes 18 seconds East 23.26 feet to a point; thence North 78 degrees 15 minutes 23 seconds East 13.46 feet to a point; thence North 87 degrees 39 minutes 09 seconds East 12.29 feet to a point; thence South 48 degrees 52 minutes 53 seconds East 39.20 feet to a point; thence South 8 degrees 36 minutes 52 seconds East 48.00 feet to a point; thence South 03 degrees 13 minutes 28 seconds East 43.63 feet to a point; thence South 26 degrees 52 minutes 42 seconds West 31.67 feet to a point; thence South 30 degrees 45 minutes 15 seconds East 14.35 feet to a point; thence South 50 degrees 53 minutes 31 seconds East 37.45 feet to a point; thence South 71 degrees 03 minutes 21 seconds East 28.36 feet to a point; thence South 22 degrees 03 minutes 12 seconds East 11.84 feet to a point; thence South 14 degrees 17 minutes 44 seconds West 18.75 feet to a point; thence South 12 degrees 58 minutes 59 seconds East 18.31 feet to a point; thence South 25 degrees 50 minutes 03 seconds West 26.56 feet to a point; thence South 11 degrees 16 minutes 44 seconds West 35.50 feet to a point; thence South 40 degrees 49 minutes 19 seconds West 64.63 feet to a point; thence South 14 degrees 34 minutes 16 seconds West 27.03 feet to a point; thence South 44 degrees 12 minutes 50 seconds East 39.59 feet to a point; thence South 55 degrees 11 minutes 52 seconds East 46.81 feet to a point; thence South 14 degrees 10 minutes 01 second East 52.07 feet to a point; thence South 31 degrees 59 minutes 41 seconds West 51.97 feet to a point; thence South 28 degrees 19 minutes 32 seconds East 39.80 feet to a point; thence South 17 degrees 19 minutes 31 seconds West 22.64 feet to a point; thence South 23 degrees 16 minutes 42 seconds East 16.81 feet to a point; thence South 53 degrees 18 minutes 23 seconds East 9.75 feet to a point; thence North 52 degrees 13 minutes 48 seconds East 20.82 feet to a point; thence South 67 degrees 00 minutes 59 seconds East 11.69 feet to a point; thence South 23 degrees 36 minutes 03 seconds East 16.22 feet to a point; thence leaving the centerline of said branch North 87 degrees 01 minute 44 seconds West 325.81 feet to an iron pipe; thence continuing North 87 degrees 01 minute 44 seconds West 1001.25 feet to an iron pipe having N.C. Grid Coordinates N=757,751.680 E=2,037,820.098; thence North 00 degrees 44 minutes 12 seconds East 433.32 feet to an iron pipe; thence North 86 degrees 14 minutes 01 second West 195.02 feet to a point in the centerline of another branch; thence along the centerline of said branch the following bearing and distances: North 36 degrees 16 minutes 10 seconds East 11.47 feet; thence North 57 degrees 50 minutes 40 seconds East 21.41 feet; thence North 29 degrees 21 minutes 37 seconds East 24.45 feet; thence North 12 degrees 49 minutes 31 seconds West 11.49 feet; thence North 56 degrees 59 minutes 51 seconds East 14.05 feet; thence North 23 degrees 38 minutes 27 seconds West 9.63 feet; thence North 86 degrees 28 minutes 16 seconds West 16.55 feet; thence North 11 degrees 44 minutes 46 seconds West 35.85 feet; thence North 85 degrees 50 minutes 36 seconds East 15.72 feet to a point; thence North 52 degrees 09 minutes 20 seconds East 40.47 feet; thence North 24 degrees 47 minutes 34 seconds East 34.17 feet; thence North 42 degrees 00 minutes 30 seconds West 13.05 feet; thence North 17 degrees 26 minutes 19 seconds East 19.03 feet; thence North 30 degrees 03 minutes 28 seconds West 37.64 feet; thence North 24 degrees 14 minutes 13 seconds East 45.78 feet; thence North 46 degrees 22 minutes 04 seconds West 58.07 feet; thence North 36 degrees 54 minutes 29 seconds East 45.43 feet; thence North 33 degrees 02 minutes 48 seconds West 10.75 feet; thence North 77 degrees 47 minutes 16 seconds West 25.05 feet; thence North 24 degrees 13 minutes 40 seconds East 9.07 feet; thence North 49 degrees 09 minutes 41 seconds East 14.54 feet; thence North 08 degrees 52 minutes 52 seconds West 30.70 feet; thence North 10 degrees 21 minutes 24 seconds East 32.22 feet; thence North 46 degrees 43 minutes 11 seconds East 20.87 feet; thence

West 78.92 feet to a point; thence South 04 degrees 54 minutes 55 seconds East a distance of 73.42 feet to a point; thence with a curve to the left having a radius of 233.54 feet, an arc length of 79.99 feet and being subtended by a chord bearing and distance of South 14 degrees 43 minutes 38 seconds East 79.60 feet; thence South 24 degrees 32 minutes 20 seconds East a distance of 279.38 feet to a point; thence with a curve to the right having a radius of 115.19 feet, an arc length of 101.19 feet and being subtended by a chord bearing and distance of South 00 degrees 37 minutes 35 seconds West 97.96 feet to a point; thence South 25 degrees 47 minutes 30 seconds West a distance of 392.11 feet to a point; thence South 29 degrees 28 minutes 21 seconds West a distance of 158.60 feet to a point set in the northern right-of-way of Good Hope Church Road (NCSR 1633); thence with said right-of-way with a curve to the left having a radius of 1200.41 feet, an arc length of 11.15 feet and being subtended by a chord bearing and distance of North 55 degrees 18 minutes 21 seconds West 11.15 feet to a point; thence North 55 degrees 34 minutes 19 seconds West a distance of 8.93 feet to the point and place of BEGINNING, and being a 20-foot Access & Utility Easement containing 39,522.0 sq. ft. (0.907 acres). Said Easement traversing along the centerline of an existing dirt road from Good Hope Church Road across the property of Robert Pittard, said property being recorded in Deed Book 2394, Page 267, and John B. Sowter, said property being recorded in Deed Book 2394, Page 268 and Paul Lee Phillips, said property being recorded in Deed Book 3995, Page 661.

TRACT FIVE (Kenneth Watkins Tract):

BEGINNING at a point in the southernmost right of way of Old Maynard Road (S. R. 1632) said beginning point having N.C. Grid Coordinates N=759,902.743 E=2,038,786.568 and which beginning point being located North 19 degrees 38 minutes 43 seconds East a grid distance of 3,613.51 feet, a ground distance of 3,613.83 feet from N.C.G.S. "Hurst" having N.C. Grid Coordinates of N=756,499.573 E=2,037,571.722; thence from said point of beginning South 43 degrees 43 minutes 36 seconds West 1,094.86 feet to an iron pipe; thence continuing South 43 degrees 43 minutes 36 seconds West 46.39 feet to a point; thence North 70 degrees 43 minutes 30 seconds West 17.50 feet to a point; thence North 57 degrees 15 minutes 37 seconds West 27.48 feet to a point; thence South 68 degrees 51 minutes 15 seconds West 70.84 feet to a point; thence North 84 degrees 43 minutes 17 seconds West 32.05 feet to a point; thence North 16 degrees 44 minutes 51 seconds East 18.10 feet to an iron pipe; thence continuing North 16 degrees 44 minutes 51 seconds East 379.51 feet to an iron pipe; thence North 89 degrees 05 minutes 31 seconds West 169.99 feet to an iron pipe; thence North 45 degrees 15 minutes 16 seconds East 855.75 feet to an iron pipe found in the southernmost right of way of Old Maynard Road; thence along the curve of the right of way said curve having a radius of 1,505.00 feet, a delta of 07 degrees 27 minutes 38 seconds, a bearing of South 54 degrees 34 minutes 22 seconds East, an arc distance of 195.97 feet and a chord distance of 195.83 feet to a point; thence along another curve with a radius of 320.00 feet, a delta of 39 degrees 00 minutes 50 seconds, a bearing of South 77 degrees 48 minutes 36 seconds East, an arc distance of 217.90 and a chord distance of 213.71 feet to the point and place of beginning and being all of Tract 5 containing 8.433 acres according to a plat of survey by Kenneth Close, Inc. dated March 16, 2006 and entitled "Boundary Survey for Glenn Futrell".

TRACT SIX (Al Phillips Tract):

BEGINNING at a point in the eastern right of way of Durham & Southern Railroad (100 foot right of way), said beginning point being North 21 degrees 52 minutes 16 seconds West a grid distance of 1,917.53 feet, a ground distance of 1,917.70 feet from N.C.G.S. "Hurst" NAD 83, N.C. Grid Coordinates N=756,499.573, E=2,037,571.722 and said beginning point having N.C. Grid Coordinates N=758,279.087, E=2,036,857.406; thence along said right of way South 03 degrees 01 minute 43 seconds East 77.49 feet to an iron pipe set; thence North 86 degrees 01 minute 46 seconds East 11.29 feet to an iron pipe set; thence South 89 degrees 38 minutes 26 seconds East 758.41 feet to a point in the centerline of a branch; thence along the centerline of said branch the following bearings and distances to-wit: North 36 degrees 16 minutes 10 seconds East 11.47 feet; thence North 57 degrees 50 minutes 40 seconds East 21.41 feet; thence North 29 degrees 21 minutes 37 seconds East 24.45 feet; thence North 12 degrees 49 minutes 31 seconds East 11.49 feet; thence North 56 degrees 59 minutes 51 seconds East 14.05 feet; thence North 23 degrees 38 minutes 27 seconds West 9.63 feet; thence North 86 degrees 28 minutes 16 seconds

West 16.55 feet; thence North 11 degrees 44 minutes 46 seconds West 5.83 feet; thence leaving the centerline of said branch North 89 degrees 38 minutes 26 seconds West 798.33 feet to the point and place of BEGINNING and containing 1.405 acres and shown as Tract 2 according to plat of survey dated March 16, 2006 prepared by Kenneth Close, Inc. and entitled "Boundary Map for Glenn Futrell".

TRACT SEVEN (Futrell Tract):

BEGINNING at a point in the eastern right of way of the Durham & Southern Railroad (100-foot right of way), said point being located South 03 degrees 01 minute 43 seconds East 77.49 feet from a point having N.C. Grid Coordinates N=758,279.087, E=2,036,857.406; thence from said point of BEGINNING North 86 degrees 01 minute 46 seconds East 11.29 feet to an iron pipe; thence South 89 degrees 38 minutes 26 seconds East 758.41 feet to a point in the centerline of a creek; thence along the centerline of said creek the following bearings and distances to wit: South 33 degrees 11 minutes 08 seconds West 11.98 feet to a point; thence South 63 degrees 28 minutes 09 seconds West 26.27 feet to a point; thence South 29 degrees 59 minutes 02 seconds West 6.78 feet to a point; thence South 21 degrees 43 minutes 06 seconds East 30.29 feet to a point; thence South 15 degrees 55 minutes 24 seconds West 41.48 feet to a point; thence South 28 degrees 32 minutes 51 seconds West 22.90 feet to a point; thence South 49 degrees 31 minutes 10 seconds West 17.40 feet to a point; thence South 25 degrees 26 minutes 05 seconds West 14.26 feet to a point; thence South 21 degrees 55 minutes 32 seconds East 20.25 feet to a point; thence South 52 degrees 00 minutes 27 seconds West 16.90 feet to a point; thence South 10 degrees 12 minutes 56 seconds East 19.48 feet to a point; thence South 65 degrees 50 minutes 55 seconds West 13.55 feet to a point; thence South 30 degrees 52 minutes 16 seconds West 21.05 feet to a point; thence South 33 degrees 58 minutes 11 seconds East 19.57 feet to a point; thence South 27 degrees 42 minutes 54 seconds West 14.41 feet to a point; thence South 02 degrees 19 minutes 28 seconds West 12.08 feet to a point; thence South 28 degrees 49 minutes 31 seconds West 8.13 feet to a point; thence North 79 degrees 38 minutes 58 seconds West 6.45 feet to a point; thence South 00 degrees 21 minutes 00 seconds West 40.57 feet to a point; thence South 50 degrees 55 minutes 00 seconds East 17.88 feet to a point; thence South 11 degrees 08 minutes 19 seconds West 22.09 feet to a point; thence South 05 degrees 54 minutes 58 seconds East 30.42 feet to a point; thence South 21 degrees 29 minutes 53 seconds East 17.26 feet to a point; thence South 29 degrees 16 minutes 55 seconds West 13.76 feet to a point; thence South 32 degrees 57 minutes 02 seconds East 15.95 feet to a point; thence South 18 degrees 02 minutes 26 seconds West 13.48 feet to a point; thence South 26 degrees 37 minutes 32 seconds East 15.78 feet to a point; thence leaving said centerline of the creek North 86 degrees 42 minutes 20 seconds West 491.00 feet to an iron pipe; thence continuing North 86 degrees 42 minutes 20 seconds West 96.64 feet to an iron pipe; thence South 42 degrees 55 minutes 38 seconds West 483.95 feet to an iron pipe; thence South 85 degrees 36 minutes 57 seconds West 224.71 feet to an iron pipe in the eastern right of way of Durham & Southern Railroad; thence along the eastern margin of said right of way North 03 degrees 01 minutes 43 seconds West 801.85 feet to the point and place of BEGINNING and being all of Tract 1 containing 10.106 acres, according to plat of survey dated March 16, 2006 prepared by Kenneth Close, Inc. entitled "Boundary Map for Glenn Futrell". For further reference, see Book of Maps 1985, Page 78, Wake County Registry.

SAVE AND EXCEPT from the above seven tracts of land, all of that property already subjected to the Declaration of Protective Covenants, Conditions, Restrictions and Easements for Phillips Place as described in the foregoing Exhibit "A."

TOGETHER WITH ALL OTHER TRACTS OR PARCELS OF LAND lying and being in Cedar Fork Township, Town of Cary, Wake County, North Carolina, adjacent to the real property described in the foregoing Exhibit "A" to the Declaration of Protective Covenants, Conditions, Restrictions and Easements for Phillips Place or contiguous to other real property hereafter subjected to the Declaration. Adjacent property shall include property in the immediate vicinity of any property subjected to the Declaration even though separated by, without limitation, a public or private road, stream, pond or other body of water or right-of-way of any kind.

EXHIBIT "C"

BYLAWS
OF
PHILLIPS PLACE HOMEOWNERS ASSOCIATION, INC.

BYLAWS
 OF
 PHILLIPS PLACE HOMEOWNERS ASSOCIATION, INC.

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BYLAWS
OF
PHILLIPS PLACE HOMEOWNERS ASSOCIATION, INC.

Article 1
Name, Membership, Applicability and Definitions

1.1 Name. The name of the corporation shall be Phillips Place Homeowners Association, Inc. (hereinafter sometimes referred to as the "Association").

1.2 Membership. The Association shall have one class of membership, as is more fully set forth in that certain Declaration of Protective Covenants, Conditions, Restrictions and Easements for Phillips Place (such Declaration, as amended, supplemented, renewed, or extended from time to time, is hereinafter sometimes referred to as the "Declaration"), the terms of which pertaining to membership are specifically incorporated by reference herein.

1.3 Definitions. The words used in these Bylaws shall have the same meaning as set forth in the Declaration, unless the context shall prohibit.

Article 2
Association: Meetings, Quorum, Voting, Proxies

2.1 Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the members as may be designated by the Board of Directors, either in the Community or as convenient thereto as possible and practical.

2.2 Annual Meetings. There shall be an annual meeting of the members at such date, place and time as the Board of Directors shall determine to receive the reports of the outgoing Board of Directors, to install directors for the ensuing year and to transact such other business as may come before the meeting.

2.3 Special Meetings. The President or the Board of Directors may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association upon the delivery of a petition signed and dated by members entitled to cast at least ten percent (10%) of the Total Association Vote and describing the purpose or purposes for which it is to be held. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose(s) thereof. No business shall be transacted at a special meeting, except those matters that are within the purpose or purposes described in the notice.

2.4 Record Date. The Board of Directors shall fix in advance a record date for a determination of members entitled to notice of and to vote at any meeting of members or any adjournment thereof, or to make a determination of members for any other purpose, such date to

be not more than seventy (70) days before the date on which the particular action requiring such determination of members is to be taken.

2.5 Notice of Meetings. It shall be the duty of the Secretary to mail or to cause to be delivered to the Lot of each member (as shown in the records of the Association as of the record date) a notice of each annual or special meeting of the Association stating the date, time and place where it is to be held and the items on the agenda, including the general nature of any proposed amendment to the Declaration or Bylaws, any budget changes and any proposal to remove a director or officer and matters that shall be approved by the members under Sections 55A-8-31, 55A-8-55, 55A-10-03, 55A-10-21, 55A-11-04, 55A-12-02, or 55A- 14-02 of the North Carolina Nonprofit Corporation Act and, for a special meeting, the purpose thereof.

If an Owner wishes notice to be given at an address other than at the Lot, the Owner shall designate by notice in writing to the Secretary such other address. The mailing or delivery of a notice of meeting in the manner provided in this Section shall be considered service of notice. Notices shall be served not less than ten (10) (or if the notice is mailed by other than first class, registered or certified mail not less than thirty (30)) nor more than sixty (60) days before a meeting. If any meeting of the members is adjourned to a different date, time or place, notice need not be given of the new date, time or place, if the new date, time or place is announced at the meeting before adjournment. If, however, a new record date is or must be fixed under the North Carolina Nonprofit Corporation Act or other applicable law (the "Governing Law"), notice of the adjourned meeting shall be given to persons who are members of record as of the new record date.

2.6 Waiver of Notice. Waiver of notice of a meeting of the members shall be deemed the equivalent of proper notice. Any member may, in writing, signed by the member, waive notice of any meeting of the members, either before or after such meeting. Attendance at a meeting by a member, whether in person or by proxy, shall be deemed waiver by such member of lack of notice or defective notice, unless such member specifically objects to lack of proper notice at the time the meeting is called to order.

2.7 Adjournment of Meetings. If any meetings of the Association cannot be held because a quorum is not present, a majority of the members who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice unless the meeting is adjourned to a date a more than one hundred twenty (120) days after the date fixed for the original meeting, in which case a new record date must be set in accordance with 55A-7-07 of the North Carolina Nonprofit Corporation Act. Notwithstanding any provision to the contrary in the Declaration or these Bylaws, the quorum requirement at the next meeting shall be one-half (1/2) the quorum requirement applicable to the meeting adjourned for lack of a quorum. This provision shall continue to reduce the quorum by fifty percent (50%) from that required at the previous meeting, as previously reduced, until such time as a quorum is present and business can be conducted.

2.8 Membership List. After the record date for any meeting is established by the Board of Directors, the Secretary shall prepare an alphabetical list of the names and addresses of all of the members who are entitled to notice of the meeting. Beginning at least two (2) business days after notice is given of the meeting for which the list was prepared, the list of members shall be available for inspection by any member or a member's agent or attorney at the Association's principal office or at such other reasonable place as may be specified in the notice. In addition, the list shall be available for inspection at the meeting or any adjournment thereof.

2.9 Voting. The voting rights of the members shall be as set forth in the Articles of Incorporation and the Declaration, and such voting rights are specifically incorporated herein.

2.10 Proxies. At all meetings of members, each member may vote in person or by proxy. All proxy appointment forms shall be in writing, dated, and filed with the person presiding over a meeting before the appointed time of each meeting. A Proxy is void if not dated. Every proxy shall be revocable and shall automatically cease upon: (a) receipt of actual notice by the person presiding over a meeting of the revocation of the proxy or the of the death or judicially declared incompetence of the member; (b) receipt by the person presiding over a meeting of a subsequent appointment form signed by the member; or (c) the expiration of eleven (11) months from the date of the proxy appointment form.

2.11 Quorum. The presence, in person or by proxy, of members entitled to cast at least ten percent (10%) of the votes entitled to be cast at the meeting shall constitute a quorum at all meetings of the Association. The members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.

2.12 Action Without A Formal Meeting. Any action required or permitted to be approved by the members may be approved without a meeting if one (1) or more consents in writing setting forth the action so taken, shall be signed and dated by members (including the Declarant, if the consent of the Declarant is required) holding the voting power required to pass such action at a meeting held on the record date for such action. The record date for such action shall be the date that the first member signs a consent. Such action shall be approved when the Secretary receives a sufficient number of such consents dated within seventy (70) days of the record date for such action. If less than unanimous consent is obtained, the approval shall be effective ten (10) days after the Secretary gives written notice of the approval to all members who did not sign a consent. Each signed consent shall be included in the minutes of meetings of members filed in the permanent records of the Association.

2.13 Action By Written Ballot. Any action that may be taken at any annual, regular or special meeting of members may be taken without a meeting if approved by written ballot as provided herein. The Association shall deliver a written ballot to each member entitled to vote on the matter. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. All solicitations for votes by written ballot shall indicate the number of responses needed to meet the quorum requirements; state the percentage of approvals necessary to approve each matter other than election of directors; and specify the time by which a ballot must be received by the Association in order to be counted. A timely

written ballot received by the Association may not be revoked. Approval by written ballot of an action shall only be valid when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting held to authorize such action and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. The results of each action by written ballot shall be certified by the Secretary and shall be included in the minutes of meetings of members filed in the permanent records of the Association.

Article 3
Board of Directors: Number, Powers, Meetings

3.1 Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors. Directors shall be natural persons who are eighteen (18) years of age or older. Except for directors appointed by the Declarant, each director must reside in the Community and be a member or the spouse of a member; provided, however, no Person may serve on the Board at the same time with such Person's spouse or any co-Owner or Occupant of such Person's Lot.

3.2 Directors Appointed by Declarant. The Declarant shall have the right to appoint or remove any member or members of the Board of Directors or any officer or officers of the Association until such time as the first of the following events shall occur: (a) the expiration of ten (10) years after the date of recording of the Declaration; (b) the date on which all of the Lots planned by Declarant to be a part of the Community shall have been improved with a dwelling and conveyed to an Owner for occupancy as a residence; or (c) the surrender by Declarant in writing of the authority to appoint and remove directors and officers of the Association. The directors appointed by the Declarant need not be Owners or residents in the Community. The total number of Lots planned by Declarant for the Community shall initially be the number of Lots shown on the Declarant's land use plan for the development, as it may be amended from time to time. Inclusion of property on the land use plan shall not obligate the Declarant to subject such property to the Declaration, nor shall exclusion of property from the initial land use plan bar Declarant from subjecting such property to the Declaration. The final total number of Lots planned for the Community shall be the actual number of Lots shown on the recorded subdivision plat(s) for the Community regardless of any different number of Lots shown from time to time on the land use plan.

3.3 Number of Directors. During the period that the Declarant has the right to appoint and remove the officers and/or directors of the Association as provided above, the Board of Directors shall consist of from one (1) to three (3) directors as determined by Declarant in writing from time to time. Thereafter, the Board shall consist of three (3) directors, who shall be elected as provided below.

3.4 Nomination of Directors. Elected directors may be nominated from the floor, if a meeting is held for the election of directors and may also be nominated by a nominating committee, if established by the Board. All candidates shall have a reasonable opportunity to communicate their qualifications to the members and to solicit votes.

3.5 Election and Term of Office. After the Declarant's right to appoint directors or officers terminates, the Association shall call a special meeting (or take action under Section 2.12 or Section 2.13 in lieu of a meeting) and the members shall elect three (3) directors, as determined by the Board, as follows: the initial term of two (2) directors shall be fixed at two (2) years, and thereafter successors shall be elected to a term of two (2) years; the initial term of one (1) director shall be fixed at one (1) year, and thereafter successors shall be elected to a term of two (2) years. At annual meetings thereafter, directors shall be elected as necessary to fill vacant seats on the Board. A quorum must be present at the meeting. All eligible members of the Association shall vote on all directors to be elected, and the candidates receiving the most votes shall be elected. The Association shall publish the names and addresses of the members of the Board of Directors within thirty (30) days of their election.

3.6 Removal of Directors. At any regular or special meeting of the Association duly called at which a quorum is present, any one (1) or more of the members of the Board of Directors, other than a member appointed by the Declarant, may be removed, with or without cause, by a majority of all persons present and entitled to vote at such meeting and a successor may then and there be elected to fill the vacancy thus created. A director whose removal has been proposed by the Owners shall be given at least ten (10) days' notice of the calling of the meeting and the purpose thereof and shall be given an opportunity to be heard at the meeting. Additionally, any director who has three (3) consecutive unexcused absences from Board meetings or who is delinquent in the payment of an assessment for more than twenty (20) days may be removed by a majority vote of the directors at a meeting, a quorum being present. This Section shall not apply to directors appointed by Declarant.

3.7 Vacancies. Vacancies in the Board of Directors caused by any reason, excluding the removal of a director by vote of the Association, shall be filled by a vote of the majority of the remaining directors. Each Person so selected shall serve the unexpired portion of the term.

3.8 Organization Meetings. The first meeting of a newly elected Board of Directors shall be held within ten (10) days after the election at such time and place as the directors may conveniently assemble.

3.9 Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by the Board, provided that, after the right of Declarant to appoint the directors terminates, at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter. Notice of the regular schedule shall constitute sufficient notice of such meetings.

3.10 Special Meetings. Special meetings of the Board of Directors shall be held when requested by the President, Vice President or by any two (2) directors. The notice shall specify the date, time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by one of the following methods: (a) by personal delivery (including commercial delivery service) to such director's home or office; (b) written notice by first class mail, postage prepaid; or (c) by telephone communication (including facsimile), either directly to the director or to the director's home or office. All such notices shall be given or sent to the director's address or telephone number as shown on the records of the

Association. Notices sent by first class mail shall be deposited with the U.S. Postal Service at least four (4) days before the time set for the meeting. Notices given by personal delivery or telephone shall be given at least two (2) days before the day set for the meeting.

3.11 Waiver of Notice. The business transacted at any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice, if a quorum is present at the beginning of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.12 Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present at the beginning of the meeting shall constitute the decision of the Board of Directors.

3.13 Compensation. No director shall receive any compensation from the Association for acting as such.

3.14 Open Meetings. All meetings of the Board shall be open to all members, but members other than directors may not participate in any discussion or deliberation unless expressly so authorized by the Board. At regular intervals, the Board shall provide members an opportunity to speak about their issues or concerns. The Board may place reasonable restrictions on the number of persons who speak on each side of an issue and may place reasonable time restrictions on persons who speak.

3.15 Executive Session. The Board may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

3.16 Action Without A Formal Meeting. Any action required or permitted to be taken at a meeting of the directors may be taken without a meeting if one or more consents, in writing, setting forth the action so taken, shall be signed by a majority of the directors and delivered to the Association for inclusion in the minutes for filing in the corporate records.

3.17 Telephonic Participation. One or more directors may participate in and vote during any meeting of the Board by telephone conference call or any other means of communication by which all directors participating may simultaneously hear each other during the meeting. Any such meeting at which a quorum participates shall constitute a meeting of the Board.

3.18 Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do all acts and things as are not by law, the Declaration, the Articles of Incorporation of the Association, or these Bylaws directed to be done and exercised by the members. In addition to the duties imposed by these Bylaws or by any

resolution of the Association that may hereafter be adopted, the Board of Directors shall have the power to and be responsible for the following, in way of explanation, but not limitation:

- (a) preparing and adopting an annual budget in which there shall be established the contribution of each member to the common expenses;
- (b) making assessments to defray the common expenses and establishing the means and methods of collecting such assessments;
- (c) providing for the operation, care, upkeep, and maintenance of all areas which are the maintenance responsibility of the Association;
- (d) designating, hiring, and dismissing the personnel necessary for the operation of the Association and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel in the performance of their duties;
- (e) collecting the assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association;
- (f) making and amending rules and regulations;
- (g) opening bank accounts on behalf of the Association and designating the signatories required;
- (h) enforcing by legal means the provisions of the Declaration, these Bylaws, and the rules and regulations adopted by it, and bringing any proceedings which may be instituted on behalf of or against the members concerning the Association, which enforcement power shall include, without limitation, the power to levy fines as provided herein and in the Declaration in such amounts as from time to time the Declarant or the Board may deem proper in the circumstances, counting each day a violation continues after notice from the Declarant or the Board, as the case may be, as a separate violation;
- (i) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;
- (j) keeping books with detailed accounts of the receipts and expenditures of the Association and the actions thereof, and specifying the maintenance and repair expenses and any other expenses incurred; and
- (k) authorizing contracts on behalf of the Association.

3.19 Management Agent. The Board of Directors may employ for the Association a professional management agent or agents at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager. The

term of any management agreement shall not exceed one (1) year and shall be subject to termination by either party, without cause and without penalty, upon ninety (90) days' written notice. The Board of Directors shall not delegate any power or authority of the Board to the managing agent or any other Person.

3.20 Borrowing. The Board of Directors shall have the power to borrow money without the approval of the members of the Association; provided, however, except as otherwise provided in the Declaration, the Board shall obtain membership approval in the same manner as for special assessments, in the event that the total amount of such borrowing exceeds or would exceed ten percent (10%) of the annual budget of the Association.

3.21 Fining and Suspension Procedure. Notwithstanding any provision in the Declaration or these Bylaws to the contrary, a fine (a late charge shall not constitute a fine) or suspension of a member's privileges, including, without limitation, the right to vote and the right to use and enjoy the Common Property, or services provided by the Association may not be imposed unless and until the following procedure is followed:

(a) Notice. Written notice shall be delivered to the member by first class or certified mail sent to the address of the member shown on the Association's records, specifying:

(1) the nature of the violation, the fine to be imposed and the date, not less than ten (10) days or, in the event of an unapproved sign, twenty-four (24) hours, from the date of the notice, that the fine will take effect;

(2) that the violator may, within ten (10) days or, in the event of an unapproved sign, twenty four (24) hours, from the date of the notice, request a hearing in writing regarding the fine imposed;

(3) the name, address and telephone number of a person to contact to challenge the fine or suspension;

(4) that any statements, evidence, and witnesses may be produced by the violator at the hearing; and

(5) that all rights to have the fine or suspension reconsidered are waived if a hearing is not requested within ten (10) days or, in the event of an unapproved sign, twenty-four (24) hours, from the date of the notice.

(b) Hearing. If a hearing is requested within the requisite time provided above, it shall be held before the Board of Directors in executive session, and the violator shall be given a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing. No fine in excess of one hundred dollars (\$100.00) (or such greater amount as may be permitted by the Act) per day for each day more than five (5) days after the decision that the violation occurred shall be imposed by the Board of Directors.

Article 4
Officers

4.1 Officers. The officers of the Association shall be a President, Vice President, Secretary, and Treasurer. Any two (2) or more offices may be held by the same Person, excepting the offices of President and Secretary. The President and Treasurer shall also be directors. This provision shall not apply to officers appointed by Declarant.

4.2 Election, Term of Office, and Vacancies. Except during the period in which the Declarant has the right to appoint the officers of the Association, the officers of the Association shall be appointed annually by the Board of Directors at the first meeting of the Board of Directors following the election of directors. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term. The Association shall publish the names and addresses of the officers of the Association within thirty (30) days of their election.

4.3 Additional Officers and Agents. The Board of Directors may appoint such other officers, including vice presidents, assistant secretaries and assistant treasurers, and agents as it shall deem necessary. Such officers and agents shall hold their respective offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board of Directors.

4.4 Salaries. The officers shall receive no compensation.

4.5 Removal. Except for officers appointed by the Declarant, any officer may be removed, with or without cause, by the Board of Directors.

4.6 President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the members and directors. The immediate supervision of the affairs of the Association shall be vested in the President. It shall be the President's duty to attend to the business of the Association and maintain strict supervision over all of its affairs and interests. The President shall have the authority to prepare, execute, certify and record any amendment to the Declaration made on behalf of the Association. The President shall keep the Board of Directors fully advised about the affairs and conditions of the Association, and shall manage and operate the business of the Association pursuant to and in accordance with such policies as may be prescribed from time to time by the Board of Directors.

4.7 Vice President. The Vice President(s), if any, shall act in the President's absence or disability and shall have all powers, duties, and responsibilities provided for the President when so acting, and shall perform such other duties as shall from time to time be imposed upon any Vice President by the Board or delegated to a Vice President by the President.

4.8 Secretary. The Secretary shall keep the minutes of all meetings of the members and of the Board of Directors; notify the members and directors of meetings as provided by these Bylaws and North Carolina law; have custody of the seal of the Association; affix such seal to any instrument requiring the same; attest the signature or certify the incumbency or signature of

any officer of the Association; and perform such other duties as the President, or the Board of Directors may prescribe. The Secretary shall perform the duties of the Treasurer of the Association in the absence or disability of the Treasurer.

4.9 Treasurer. The Treasurer shall keep, or cause to be kept, the financial books and records of the Association, and shall faithfully account for the Association's funds, financial assets, and other assets entrusted to the Treasurer's care and custody. The Treasurer shall make such reports as may be necessary to keep the President and the Board of Directors informed at all times as to the financial condition of the Association, and shall perform such other duties as the President, or the Board of Directors may prescribe. The Treasurer shall maintain the money and other assets of the Association in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. The Treasurer may provide for the investment of the money and other assets of the Association consistent with the needs of the Association to disburse such money and assets in the course of the Association's business. The Treasurer shall perform the duties of the Secretary of the Association in the absence or disability of the Secretary.

4.10 Resignation. Any officer may resign at any time by giving written notice to the Board of Directors. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Article 5
Committees

Advisory committees to perform such tasks and to serve for such periods as may be designated by the Board or as provided in the Declaration are hereby authorized. Each committee shall be composed and shall operate in accordance with the terms of the Declaration or resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors. An advisory committee shall not be authorized to exercise any authority of the Board under the Articles of Incorporation, the Declaration, these Bylaws or the North Carolina Nonprofit Corporation Act.

Article 6
Miscellaneous

6.1 Fiscal Year. The fiscal year of the Association shall be the calendar year unless otherwise determined by resolution of the Board.

6.2 Parliamentary Rules. *Roberts Rules of Order* (current edition) shall govern the conduct of all Association proceedings, when not in conflict with North Carolina law, the Articles of Incorporation, the Declaration or these Bylaws.

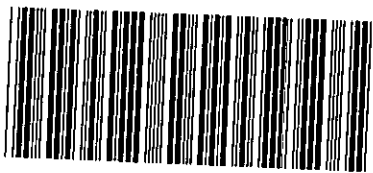
6.3 Conflicts. If there are conflicts or inconsistencies between the provisions of North Carolina law, the Articles of Incorporation, the Declaration and these Bylaws, the provisions of

North Carolina law, the Declaration, the Articles of Incorporation and the Bylaws (in that order) shall prevail.

6.4 Books and Records. The Association shall keep accurate records of all cash receipts and expenditures and all assets and liabilities. The Association shall make an annual income and expense statement and balance sheet available to all Lot Owners at no charge and within seventy-five (75) days after the close of the fiscal year to which the information relates. A more extensive compilation, review, or audit of the Association's books and records for the current or immediately preceding fiscal year may be required by a vote of the majority of the Board or by the affirmative vote of a majority of the Lot Owners present and voting in person or by proxy at any annual or special meeting of the Association duly called for that purpose.

6.5 Amendment. These Bylaws may be amended by the Board of Directors with the consent of the Declarant if such amendment is necessary to: (a) bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (b) enable any title insurance company to issue title insurance coverage with respect to the Lots subject to the Declaration; (c) enable an institutional or governmental lender or purchaser of mortgage loans, including, without limitation, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make or purchase Mortgage loans on the Lots subject to the Declaration; or (d) enable any governmental agency or private insurance company to insure or guarantee Mortgage loans on the Lots subject to the Declaration. In addition, these Bylaws may be amended upon the affirmative vote, written consent or any combination of affirmative vote and written consent of at least two-thirds (2/3) of the Total Association Vote and the consent of Declarant.

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Register of Deeds**

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