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LAURA M RIDDICK
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Type of Instrument: **MASTER DECLARATION FOR SOUTH LAKES**

Prepared By and Hold For: **Kenneth L. Eagle (ROD Box 215)**

MASTER DECLARATION

FOR

SOUTH LAKES

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

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

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

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FOR
SOUTH LAKES

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MASTER DECLARATION
FOR
FOR SOUTH LAKES

THIS **MASTER DECLARATION FOR SOUTH LAKES** is made on the date hereinafter set forth by **IPG SOUTH LAKES LLC**, a North Carolina limited liability company, also referred to herein as "Declarant";

RECITALS

1. Declarant is the owner of the real property in the Town of Fuquay-Varina, Wake County, North Carolina described on **Exhibit A** attached hereto and incorporated by reference, all of which constitutes the "Existing Property".

2. Declarant intends to develop the Existing Property, together with any Additional Property annexed to this Declaration, into a residential development that is part of a mixed-use development known or to be known as "South Lakes" (such residential development portion of South Lakes being referred to herein as the "Community" or the "Subdivision"), which residential development may (but shall not be required to) consist of any one or more of the following: detached single-family residential dwellings; townhouses; condominiums; residential apartments; other types of attached or detached residential dwellings; public or private streets; buffers; greenways; open space; recreational facilities; and other uses consistent with the zoning of the Properties and City approvals for the Subdivision.

3. Declarant desires, among other things, to provide for the maintenance and upkeep of certain Common Areas within the Subdivision, to provide for enforcement of this Declaration and other covenants and restrictions, if any, applicable to the Subdivision, to protect the value and desirability of the Properties, and to provide for maintenance of stormwater drainage systems and facilities within and for the Subdivision, and, to that end, desires to subject the Subdivision to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Subdivision and each owner of any part or all thereof;

4. In furtherance of the foregoing, Declarant also desires to incorporate under the nonprofit corporation laws of the State of North Carolina the SOUTH LAKES MASTER ASSOCIATION, INC., to own, maintain and administer common areas, to administer and enforce covenants and restrictions applicable to the Subdivision, and to collect and disburse the assessments and charges provided for herein;

NOW, THEREFORE, Declarant hereby declares that the Existing Property, together with such Additional Property as may be subjected to the Declaration from time to time pursuant to Article II hereof, is and shall be owned, held, transferred, sold, conveyed, leased, used, occupied, mortgaged and developed subject to the covenants, conditions, restrictions, easements, charges and liens set forth in the Declaration, all of which shall run with such real property and, as provided herein, be binding on and inure to the benefit of all owners of any right, title or interest in said real property or any part thereof, and their heirs, personal representatives, successors and assigns.

DECLARATION

ARTICLE I
DEFINITIONS

The following words and terms, when used in the Declaration or any amendment hereto, or any Supplemental Declaration or Subdivision Declaration or Commercial Declaration, unless amended or unless the context clearly indicates otherwise, are defined as follows (when these and other defined words or terms herein have an initial capital letter or letters, however, it is not required that their use in the Declaration have initial capital letters in order to have the defined meaning). When two different words or groups of words are defined as part of the same definition, those words or groups of words each have that definition where used herein. Terms and words used herein without definition shall have the meanings, if any, specified therefor in the "Definitions" section of the Act or, if not defined in the Act, in the "Definitions" section of the

Nonprofit Corporation Act, or if not defined in either the Act or Nonprofit Corporation Act, any applicable definitions section of the Code, and, in the event of any conflict between the definitions contained herein and the definitions contained in the Act, Nonprofit Corporation Act, or Code, the Act, Nonprofit Corporation Act, or Code, in that order and as appropriate, shall control:

Section 1. "Act" is defined as the North Carolina Planned Community Act, currently contained in Chapter 47F of the North Carolina General Statutes, and including all amendments, supplements and replacements thereof as enacted from time to time.

Section 2. "Additional Property" is defined as all real property annexed or subjected to the Declaration, in one of the ways allowed herein, following the initial recording of the Declaration in the Registry. As the context allows or requires, the term also includes real property that Declarant or any other Person desires to annex or subject to the Declaration, but no such Additional Property shall be subject to the terms of the Declaration until it has been annexed or subjected to the Declaration in one of the ways allowed herein.

Section 3. "Apartment Unit" is defined as a Dwelling Unit in a building located on a Development Parcel that contains one or more other Apartment Units, and which Apartment Units primarily are occupied or intended for occupancy by tenants or sub-tenants of the Owner of the building in which such Apartment Units are located. Provided, however, the foregoing definition shall not preclude the Owner of the Development Parcel on which the Apartment Units are located from living in an Apartment Unit. Typically, when a portion of the Properties is developed into Apartment Units, it will consist of multiple buildings, each containing one or more Apartment Units. A "proposed Apartment Unit" is defined as any portion of the Properties shown on a Subdivision Plan that is intended to be an Apartment Unit, and a proposed Apartment Unit becomes an Apartment Unit when a certificate of occupancy is issued for the building in which it is located. Although Apartment Units are located on a Development Parcel, as certificates of occupancy are issued for them by the City Apartment Units become subject to assessments under the Declaration as Apartment Units rather than as part of the Development Parcel on which they are located.

Section 4. "Approved Plans" is defined as Plans that have been approved by the Architectural Review Committee (or by the Board, on appeal from the Architectural Review Committee).

Section 5. "Architectural Guidelines" is defined as the guidelines and standards from time to time adopted and in effect with respect to Dwellings and other improvements in the Properties.

Section 6. "Articles" is defined as the Articles of Incorporation of the Association, including all duly adopted amendments thereto.

Section 7. "assessment category" is defined as each type of the Properties subject to assessments under the Declaration. At the time of the initial recording of the Declaration, there are three (3) assessment categories as follows: Lots; Development Parcels; and Apartment Units.

Section 8. "assessment percentage" is defined as the percentage of the total annual assessments for a fiscal year that is imposed on each assessment category. The assessment percentage shall be determined by the Board.

Section 9. "Association" is defined as the **SOUTH LAKES MASTER ASSOCIATION, INC.**, a North Carolina nonprofit corporation, its successors and assigns, incorporated or to be incorporated by the Declarant.

Section 10. "Board" is defined as the Board of Directors of the Association, and is the "Executive board" as defined in the Act. The Board is responsible for the management and administration of the Association as provided for herein and in the Act.

Section 11. "Builder" is defined as a Person, other than the Declarant, who regularly is in the business of constructing Dwellings for resale to other Persons, and who purchases or becomes the Owner of one or more Lots or Development Parcels within the Community for the purpose of constructing thereon one or more Dwellings for resale to other Persons. "Builders" refers to all such persons or entities collectively.

Section 12. "Building" is defined as and includes both the main portion of a structure built for permanent use and all projections or extensions thereof, including, but not limited to, garages, outside platforms and docks, carports, canopies, enclosed malls, and porches.

Section 13. "Bylaws" is defined as the Bylaws of the Association as they may now or hereafter exist, including all duly adopted amendments thereto.

Section 14. "City" or "Town" or "governmental entity" is defined as and includes the Town of Fuquay-Varina, North Carolina (also referred to herein separately as the "Town of Fuquay-Varina"), the County of Wake, North Carolina, the State of North Carolina, the United States of America and all other governmental entities and quasi-governmental entities that have jurisdiction over the Properties or any part thereof, whichever governmental entity or entities is/are applicable.

Section 15. "Code" is defined as the Town of Fuquay-Varina ordinances, as they exist from time to time, including all rules, regulations and policies lawfully adopted pursuant thereto, and including all amendments, supplements and replacements thereof as enacted from time to time.

Section 16. "Common Expenses" is defined as any one or more of the following: (i) expenses of maintenance of Common Property and Common Expense Property, including repair, restoration and replacement thereof; (ii) *ad valorem* taxes and public assessments, if any, levied against the Common Property or other assets of the Association (but specifically excluding *ad valorem* taxes on real property on, under or over which the Association has only an easement or other similar right of use, except to the extent, if any, that any improvements in any such easement that are owned or maintained therein by the Association result in additional *ad valorem taxes* on such real property that would not be assessed in the absence of such improvements); (iii) premiums for hazard, liability and other insurance insuring the Common Property, assets of the Association, or the Association, its officers, directors and employees, if any; (iv) fees and expenses of attorneys, accountants, and other persons and entities employed by the Association for Association business; (v) expenses declared to be or described as Common Expenses by the Act or the Code; (vi) expenses declared to be or described as Common Expenses by the provisions of the Governing Documents, including all expenses for implementation, administration, enforcement, and maintenance of Stormwater Control Measures; (vii) utility charges in connection with the Common Property, except to the extent that such charges are paid by users of Common Property or are part of any use fees or charges imposed by the Governing Documents for use of the Common Property (for example, paying a meter box attached to lights that light a tennis court); (viii) expenses required to be paid by the Association pursuant to any Stormwater Agreement, encroachment agreement, or other agreement with the City; (ix) expenses required to be paid by the Association pursuant to any agreement with a utility provider who provides utility services to any part or all of the Properties; (x) expenses determined by the Board or by the Members to be Common Expenses; (xi) reserve funds maintained by the Association pursuant to the Declaration or any Legal Requirement; (xii) expenses incurred by the Association for implementation, administration, and enforcement of the Governing Documents as the Board determines to be in the best interests of the Association or its Members; (xii) all other expenses incurred by the Association in performing its functions and providing services under the Governing Documents, Legal Requirements, and the Association's contractual obligations, including operating, management and

administrative expenses; and (xiv) expenses incurred by the Association for all other purposes required or authorized under the Governing Documents, the Act, the Code, and other Legal Requirements.

Section 17. "Common Property" and "Common Area" are defined as any one or more of the following: (i) all real property and improvements thereon owned in fee or leased or used by the Association for the common use, enjoyment or benefit of the Members of the Association or the Properties; (ii) all personal property owned or leased or used by the Association, or with respect to which the Association has a financial obligation, for the common use, enjoyment or benefit of the Members of the Association or the Properties; and (iii) all rights and easements of the Association in, on, under, over, through and to any real property or personal property not owned in fee or leased by the Association, together with all improvements on such real property that are owned or maintained by the Association, each such easement or right and improvements also being referred to herein as "Common Expense Property". Common Expense Property is included within the definition of Common Property, even though Common Expense Property at times may be referred to herein separately from Common Property. Common Property and Common Expense Property typically will be identified either by plat recorded in the Registry or by an instrument, whether or not recorded in the Registry, conveying real property or granting or reserving an easement or right in real property to or for the Association (including instruments granted to or reserved by or on behalf of the Association or by or on behalf of the Declarant for later transfer or assignment to the Association, for the use, enjoyment or benefit of the Members of the Association or the Properties) and labeled or described thereon or therein as "Common Area", "Common Property", "Open Space", "Common Open Space", "Private Open Space", "Permanently Protected Open Space", "Permanently Protected Undisturbed Open Space", Permanently Preserved Open Space", "Private Street", "Landscape Easement", "Sign Easement", "Greenway", "Greenway Easement", "Street Island", "Median", "Encroachment", "Buffer", "Stormwater Drainage Easement", "Drainage Easement", "Private Drainage Easement", "Stormwater Control Facility", or some other similarly descriptive term. Stormwater Control Measures may be on Common Property or on Common Expense Property. Common Expense Property may include portions of public street rights of way or other property owned by or dedicated to a governmental entity that are subject to an encroachment agreement with such governmental entity, and may include signs, landscaping and other improvements identifying any part or all of the Subdivision and located on a portion of the Properties that is not Common Property or located in a public street right of way in or adjacent to the Properties. This definition of Common Property also includes Limited Common Property, which is a sub-classification of Common Property and is for the use, enjoyment and benefit of Owners of less than all of Lots in the Properties. All Common Property shall be maintained by the Association as provided herein. (Note: This definition of Common Property in the Declaration is broader than the definition of "common elements" in the Act.)

Common Property also includes all other real and personal property and improvements, if any, required to be included as such by the Code or other Legal Requirements, and all other real and personal property and improvements, if any, declared to be Common Property by the Declaration or other Governing Documents.

Section 18. "Community Wide Standard" is defined as the standard of conduct, maintenance, or other activity generally prevailing in the Subdivision, or the minimum standards established pursuant to the Architectural Guidelines, Restrictions and Rules, and Board resolutions, whichever is a highest standard. Declarant initially may establish the Community Wide Standard and it may contain both objective and subjective elements. The Community Wide Standard may change at any time and from time to time as development of the Subdivision progresses and as the needs and desires within the Subdivision change.

Section 19. "Condominium" is defined as a portion of the Properties on which a condominium has been created pursuant to the North Carolina Condominium Act (Chapter 47C of the North Carolina General Statutes, as amended from time to time).

Section 20. "Condominium Unit" or "Condominium Dwelling" is defined as a physical portion of a Condominium designated for separate ownership or occupancy (*See* Section 47C-1-103(25) of the North Carolina General Statutes).

Section 21. "contiguous" or "adjoining" is defined as having any common boundary with the subject property, or separated from a boundary of the subject property by a public or private street right of way or a greenway easement or by property owned by the Town of Fuquay-Varina or other governmental entity.

Section 22. "Declarant" is defined as **IPG SOUTH LAKES LLC.**, a North Carolina limited liability company. The term "Declarant" also includes any Person to whom or which Declarant assigns or delegates any part or all of the rights and/or obligations of Declarant under the Declaration by an assignment of Declarant's rights recorded in the Registry. The term "Declarant" also includes any Person designated by Declarant as its "affiliate".

Section 23. "Declarant Control Period" is defined as the period of time beginning on the date of the recording of the Declaration and ending on the date on which the first of the following occurs:

(a) the date on which more than 75% of the total number of Lots permitted by the Subdivision Plan (i) have Dwellings thereon for which certificates of occupancy have been issued and (ii) are owned by Class A Members other than Builders. Provided, until such time as the Declarant Control Period ends under any other subparagraph of this definition without the possibility of any reinstatement, the Declarant Control Period shall be reinstated automatically from time to time as the Subdivision Plan is revised such that the foregoing requirements for termination of the Declarant Control Period no longer are met; or

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

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

(d) 5:00 p.m. on December 31, 2036.

Section 24. "Declaration" is defined as this "Master Declaration For South Lakes", and including all duly adopted amendments hereto. The words "Declaration" and "Master Declaration" are used interchangeably herein.

Section 25. "Detached Dwelling" or "Detached Dwelling Unit" is defined as one Dwelling Unit on one Lot that is not physically connected or attached to any other Dwelling Unit.

Section 26. "Development Parcel" is defined as any portion of the Properties that is not a Lot, Common Property, Sub-Association Common Property, or Exempt Property that is owned by or granted, conveyed, or dedicated to and accepted by the City or a utility for a public purpose or in connection with the provision of utility services. If there are any Apartment Units in the Properties, they will be located on Development Parcels. The Owner of a Development Parcel, within fifteen (15) days after recording any plat of any portion of a Development Parcel that subdivides it into Lots or otherwise, shall provide a copy of such recorded plat (including plans and plats related to the establishment of a Condominium) to the Association and, during the Development Period, to the Declarant.

Section 27. "Development Period" is defined as the period of time beginning at the time of the recording of the Declaration in the Registry and ending through and including the last of the following occurs:

(a) the last date on which the Declarant owns any Lot or Development Parcel in the Properties.

(b) the date of release of the last bond (or letter of credit or other, similar financial guarantee) posted by Declarant with the City in connection with Declarant's development of any part of the Properties; or

(c) the date on which a certificate of occupancy is issued for initial construction of a Dwelling on the last Lot or Development Parcel for which a certificate of occupancy has not been issued previously.

Provided, however, at any time Declarant may terminate the Development Period by recording a termination instrument in the Registry. The Development Period also shall include any periods of time after the all of the foregoing matters have occurred or been completed during which Declarant is conducting any activity within the Properties that is required by Legal Requirements or for Declarant to fulfill any obligation to the City, the Association, a Builder or any Owner with respect to any portion of the Properties. In the event of an assignment of Declarant rights, with respect to the rights assigned the Development Period shall remain in full force and effect through the applicable periods of time as they relate to the assignee rather than the original Declarant hereunder. Any approvals granted by the Declarant under the Declaration shall be binding upon all successors to Declarant's approval authority. If the Development Period ends at any time because Declarant no longer owns any portion of the Properties, and thereafter Declarant annexes to the Declaration Additional Property owned by Declarant, the Development Period is reinstated and thereafter shall continue until terminated in accordance with the events of termination set out in this definition.

Section 28. "Dwelling" or "Dwelling Unit" is defined as any building or portion thereof within the Properties which is used or occupied, or intended for use or occupancy, as a residence by an individual or by one housekeeping unit, whether by the Owner thereof or by tenants or sub-tenants of the Owner, and includes buildings or portions thereof used or intended for use as a Detached Dwelling, Townhouse Dwelling, Condominium Dwelling, or Apartment Unit. During the Development Period Declarant has the right, by Supplemental Declaration or Subdivision Declaration, to establish types of Dwelling Units under the Declaration in addition to Detached Dwelling Units, Townhouse Units, Condominium Units, and Apartment Units. A utility apartment as defined herein is part of, and not separate from, the Dwelling Unit in which it is located, although it may be occupied by a Person or housekeeping unit different from the Person or housekeeping unit that occupies the main part of the Dwelling.

Section 29. "Exempt Property" is defined as all portions of the Properties included within any of the following categories:

(a) Common Property;

(b) Sub-Association Common Property;

(c) Portions of the Properties owned by, or dedicated, conveyed, or granted to and accepted by, the City or a utility for a public purpose or in connection with the provision of utility services, including property within the right-of-way of publicly-dedicated streets and roads; and

(d) A Lot or Development Parcel owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of North Carolina.

Except as otherwise provided herein, Exempt Property shall not be subject to the assessments under the Declaration. Provided, however: (i) Exempt Property under the foregoing subsections (c) and (d) on which a Dwelling or a building used or intended for use for commercial or office purposes is located is subject to the assessments under the Declaration; (ii) a Lot or Development Parcel owned by an Owner other than the Association or a Sub-Association, but on which Common Expense Property or property owned by a Sub-Association is located, is not exempt from assessments; (iii) a Lot or Development Parcel on which an easement dedicated, granted, or conveyed to the City or a utility is located, is not exempt from assessments; and (iv) any Exempt Property that is required by a Legal Requirement to be subject to any of the assessments under the Declaration is subject to such assessments. The Owner of any Exempt Property that is not subject to assessments shall have no membership or voting rights in the Association associated with the ownership of such Exempt Property.

Unless and until such time, if any, as it loses its Exempt status, except as otherwise provided herein all Exempt Property owned by, or subject to an easement to, the City or a utility provider, including all Exempt Property within publicly-dedicated street rights-of-way, is exempt from all of the provisions of the Declaration, except for provisions of the Declaration requiring Approved Plans for Dwellings and associated improvements.

Exempt Property that loses its status as Exempt (*e.g.*, property within a publicly-dedicated street right-of-way that has been closed as a public street, or property on which a Dwelling is located, or property formerly owned by the City or a tax-exempt charitable or nonprofit organization which has been conveyed to a Person whose status does not qualify for the exemption) shall be classified either as a Lot, Development Parcel, Common Property, or Sub-Association Property as determined in the reasonable discretion of the Declarant, during the Development Period, and thereafter by the Board, and shall be subject to all of the terms and provisions of the Declaration in the same manner and to the same extent as other Lots, Development Parcels, Common Property, and Sub-Association Common Property.

Section 30. "fiscal year" of the Association is defined as the calendar year until such time as the Board establishes a different fiscal year for the Association.

Section 31. "Force Majeure" is defined are as any one or more of the following: acts of God, earthquakes, blizzards, tornadoes, hurricanes, fire, flood, malicious mischief, insurrection, terrorism, riots, strikes, lockouts, boycotts, picketing, labor disturbances, public enemy, war (declared or undeclared), landslides, explosions, epidemics, compliance with any order, ruling, injunction or decree by any court, tribunal or judicial authority of competent jurisdiction, inability to obtain materials or supplies after the exercise of all reasonable efforts, substantial interference in construction activities resulting from construction activities conducted simultaneously on adjacent lands by or under the direction of unrelated parties, and any other similar circumstances beyond the reasonable control of the Person responsible for complying with some provision of the Declaration.

Section 32. "Governing Documents" is defined as and includes the Declaration, the Articles of Incorporation, the Bylaws, Restrictions and Rules, rules and regulations of the Association, Board resolutions, Architectural Guidelines, all applicable Supplemental Declarations, Subdivision Declarations, and Commercial Declarations, all Stormwater Agreements and other agreements with governmental entities, and all duly adopted amendments and revisions to any of the foregoing documents.

Section 33. "Improvement" is defined as any structure and all appurtenances thereto of every kind and type and any other physical change upon, over, across, above or under any part of the Properties (including any clearing or grading), and includes any other improvement of, to, or on any portion of the Properties, including Dwellings and other structures (specifically including exterior materials, colors, size, location and architectural style of same), decks, patios, porches, driveways, motor vehicle and other parking areas, storage areas located outside of a Dwelling, recreational areas, equipment and facilities located outside of a Dwelling, mailboxes, exterior antennae, dishes and other apparatus to receive or transmit radio, television, or microwave or other signals, fences, walls, landscaping (including planted areas, grassed areas, natural areas and the plant and other materials therein), poles, flags, decorative features and items on the exterior of a Dwelling or in the yard, ponds, lakes, clearing, grading and other site preparation, swimming pools, exterior lights, signs located outside of a Dwelling or visible inside a Dwelling from a street or adjoining portion of the Properties, and all other exterior improvements. The definition of Improvements includes both initial improvements and all subsequent alterations, changes and additions to same. The term "initial improvements" is defined as all of the improvements that are constructed or placed on any Lot or Development Parcel in accordance with Approved Plans prior to the issuance of a certificate of occupancy for the Dwelling on the Lot or for the last Dwelling approved for a Development Parcel. The examples of improvements stated for the purposes of this definition do not imply that all such improvements will be allowed in the Properties, and improvements are subject to the architectural approval provisions of the Declaration.

Section 34. "include" or "including" is defined as being inclusive of, but not limited to, the particular matter described, unless otherwise clearly obvious from the context.

Section 35. "Institutional Lender" is defined as a Mortgagee who is a commercial bank, savings bank, savings and loan association, trust company, credit union, industrial loan association, insurance company, pension fund or business trust, including real estate investment trust, any other lender regularly engaged in financing the purchase, construction or improvement of real estate, or any assignee of loans made by such lender, or any combination of any of the foregoing entities and who holds a first lien deed of trust encumbering a Lot or Development Parcel ("first lien" meaning that it has priority over all other security interests in the Lot or Development Parcel). Only for the purposes of the notice and inspection rights contained in the Declaration in the portions hereof dealing specifically with Institutional Lenders, the term "Institutional Lender" also shall include the Federal Housing Administration ("FHA"), the Federal Home Loan Mortgage Corporation ("FHLMC"), the Federal National Mortgage Association ("FNMA"), the Department of Veterans Affairs ("VA"), the Government National Mortgage Association ("GNMA") and any other public or private secondary mortgage market agency participating in purchasing, guaranteeing or insuring mortgages which has notified the Board of such participation in writing (each of whom generically is referred to herein as a "Secondary Mortgage Market Agency"). Where the approval of Institutional Lenders is required, such approval consists of any one or more of the following: (i) written approval; (ii) any written waiver of approval rights; (iii) a letter stating no objection; or (iv) presumptive approval if an Institutional Lender does not respond to a notice from the Association requesting approval by notifying the Association, in the manner required herein for giving notices, within thirty (30) days after the Association gives notice to the Institutional Lender of the request for approval.

Section 36. "landscaping" is defined as and includes any or all of the following: flowers, plants, shrubs, trees, grass, natural areas (for example, areas covered with pine straw, mulch, or naturally growing vegetation), fences, walls, statues, brick pavers or other decorative ground covering of a similar nature, ornamental water features, and any other items that the Board, in the exercise of its reasonable discretion, from time to time determines should be included in the term "landscaping" under the Declaration.

Section 37. "Legal Requirement" is defined as and includes any duly adopted and applicable law, ordinance, regulation or requirement of the United States of America, the State of North Carolina, the Town of Fuquay-Varina, the County of Wake, North Carolina, or any other governmental entity or quasi-governmental entity or agency having jurisdiction over the Properties or any portion thereof, including any branch, department or division of any of the foregoing governmental and quasi-governmental entities.

Section 38. "Limited Common Expenses" is defined as all expenses of the type included within the term Common Expenses, but that are related solely and specifically to Limited Common Property. Limited Common Expenses shall be paid out of assessments against Members who own Lots or Development Parcels in the particular phase or section of the Subdivision for or on which the associated Limited Common Property has been established. All references in the Declaration to Common Expenses in the context of Limited Common Property are deemed to refer to Limited Common Expenses for the applicable Limited Common Property.

Section 39. "Limited Common Property" and "Limited Common Area" are defined as Common Property, if any, that is established by the Declarant or the Association for the benefit of the Owners of less than all of the Lots and Development Parcels in the Properties, and which has been designated as Limited Common Property by the Declarant or the Association. Limited Common Property may include, for example, private alleys or landscaped medians in streets and private alleys adjacent to Lots in particular sections of the Subdivision, and may include Stormwater Control Measures that serve more than one, but less than all, of the Lots and/or Development Parcels in the Properties.

Section 40. "Lot" is defined as any portion of the Properties with delineated boundary lines, whether improved or unimproved, that is intended for independent ownership and either has a Dwelling (other than an Apartment Unit) constructed thereon or is intended for construction of a Dwelling thereon (other than an Apartment Unit), and is shown on a plat recorded in the Registry. A "proposed Lot" is defined as any portion of the Properties with delineated boundary lines, whether improved or unimproved, that is intended for independent ownership and either has a Dwelling (other than an Apartment Unit) constructed thereon or is intended for construction of a Dwelling thereon (other than an Apartment Unit), and is shown on a Subdivision Plan but not on a plat recorded in the Registry. A proposed Lot on which a Detached Dwelling or Townhouse Dwelling is to be constructed becomes a Lot upon the recording in the Registry of a plat showing the Lot, and a proposed Lot on which a Condominium Unit is to be constructed becomes a Lot upon the recording in the Registry of the plat and plans establishing those Condominium Units. In the event that any Lot is increased or decreased in size by recombination or re-subdivision through the recording of a new or revised plat or plat and plans, the newly platted lot thereafter shall constitute a Lot under this definition (although it may be subject to assessment as two Lots in the case of two Lots that are recombined into one Lot). Solely for the purpose of establishing an Owner of a Development Parcel, including the Declarant, as a Member of the Association with respect to Development Parcels, a Development Parcel also is a Lot (under Section 47F-3-101 of the Act, "the membership of the Association shall at all times consist exclusively of the lot owners"); otherwise, Development Parcels constitute portions of the Properties distinct from Lots under the Declaration.

Section 41. "maintain", "maintaining", "maintenance" or any substantially similar term used in the Declaration, is defined as and includes any one or more of the following, as the context requires: acquisition, purchase, construction, re-construction, installation, maintenance, inspection, monitoring, testing, examination, upkeep, cleaning, renewal, alteration, repair, replacement, painting, staining, remodeling, restoration, removal, improvement, administration, operation, use, planting, mowing, cutting, trimming, pruning, fertilizing, watering, and preservation. Maintenance also includes any action necessary for real or personal property to be maintained so that it functions for the purposes for which it is intended and so that it complies with the Community Wide Standard.

Section 42. "Member" is defined as each Person who or which holds membership in the Association.

Section 43. "mortgage" or "deed of trust" are defined as any mortgage, deed of trust or other instrument that creates a security interest in real property, and includes all acts required to create such security interest.

Section 44. "Mortgagee" is defined as the beneficiary or payee under any mortgage or deed of trust.

Section 45. "Nonprofit Corporation Act" is defined as the "North Carolina Nonprofit Corporation Act", currently contained in Chapter 55A of the North Carolina General Statutes, and including all amendments, supplements and replacements thereof as enacted from time to time.

Section 46. "Operating Deficit" is defined as the amount, if any, by which the total amount of expenditures by the Association during a fiscal year for Common Expenses, including funding of reserves, but excluding (i) amounts expended for items paid or to be paid by insurance proceeds or any assessments or charges under the Declaration other than annual assessments and (ii) unusual or extraordinary or unanticipated expenses not included in the budget (for example, a judgment obtained against the Association or a Common Expense obligation caused by the negligence or misconduct of any Owner or any occupant of any part of the Properties), exceeds the total amount of the annual assessments for a fiscal year levied on all Lots, Development Parcels, and Apartment Units. Provided, however, during any fiscal year during the Declarant Control Period in which the Declarant has elected not to pay annual assessments, the annual assessments levied against those Lots, Development Parcels, and Apartment Units owned by the Declarant, shall not be considered in calculating the Operating Deficit. During any fiscal year in which the Declarant is paying annual assessments on Lots, Development Parcels, and Apartment Units owned by the Declarant, and in which the Declarant is allowing Builders to pay annual assessments at a rate less than the annual assessments applicable to Lots, Development Parcels, and Apartment Units owned by Class A Members

other than Builders, any obligation of the Declarant to pay the Operating Deficit is limited to the difference between the total amount of annual assessments that would have been levied against Lots, Development Parcels, and Apartment Units owned by Builders if the Declarant had not allowed Builders to pay annual assessments at a lesser rate, and the amount of annual assessments actually levied against Lots, Development Parcels, and Apartment Units owned by Builders.

Section 47. "Owner" is defined as the current owner of record in the Registry, whether one or more Persons, of fee simple title to any portion of the Properties, including contract sellers and owners of an equity of redemption, but excluding those having a legal or equitable interest as a purchaser under a contract to purchase or option to purchase, or as a trustee or secured party under an instrument securing the performance of an obligation.

Section 48. "Person" is defined as and includes any natural person, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture or other legal or commercial entity.

Section 49. "Plans" is defined as the plans and specifications for a proposed Improvement showing (where applicable) the size, shape, dimensions, materials, exterior finishes and colors, location on the applicable portion of the Properties, driveway, parking areas, provisions for handling stormwater, decorative landscape planting and other decorative landscaping features, floor plans and elevations, and other items specified from time to time in any applicable architectural guidelines or required by the Person from whom approval of the Plans must be obtained in accordance with the Declaration.

Section 50. "Properties" is defined as the Existing Property, together with all Additional Property annexed to the Declaration pursuant to Article II hereof, less and except all real property that is withdrawn from the Declaration as allowed herein. References to the Properties includes any part or all of the Properties in accordance with the context of such reference herein, whether or not the reference specifically states that it is referring to any part or all of the Properties.

Section 51. "Proposed Properties" is defined as all real property shown on any Subdivision Plan which has not been subjected or annexed to the Declaration, but is proposed by Declarant to become part of the Properties at a future time. Provided, however, except as required by Legal Requirements, Declarant is not obligated to subject or annex any Proposed Properties to the Declaration.

Section 52. "property manager" or "management company" is defined as a Person employed by the Association to manage or assist in the management of the business and property of the Association.

Section 53. "Recreational Amenities" is defined as and includes a swimming pool, tennis courts, volleyball courts, tot lots, trails, parks, boat storage areas, and/or other active or passive recreational facilities, including associated parking and other improvements, which have been constructed or placed or reserved for use by the Members of the Association and their family members, tenants and guests as provided herein, and for use by Recreational Amenities Users as provided herein. Recreational Amenities typically will be located on, but not required to be located on, Common Property. The Declaration does not obligate Declarant to construct, or to provide for the construction of, any Recreational Amenities.

Section 54. "Recreational Amenities User" is defined as each natural Person, other than a Member of the Association and such Member's family members, tenants and guests, who, subject to rules, regulations and fees adopted by the Board, has been granted the right to use the Recreational Amenities. A Recreational Amenities User shall have no voting rights in the Association, but a Recreational Amenities User shall be subject to all of the rules and regulations for use of the Recreational Amenities applicable to Owners, as well as any additional rules and regulations adopted from time to time by the Association.

Section 55. "Registry" is defined as the office of the Register of Deeds for Wake County, North Carolina, or any successor office in which deeds, plats, easements, mortgages and deeds of trust are recorded. Any reference herein to a plat or document recorded or to be recorded refers to such plat or document as recorded or to be recorded in the Registry.

Section 56. "residential unit" is defined as and includes any of the following that is used or proposed to be used for residential purposes: Detached Dwelling Unit; Townhouse Unit; Condominium Unit; Apartment Unit; and any other type of Dwelling Unit established as allowed herein. A residential unit typically will be shown as a Lot or proposed Dwelling Unit on a plat recorded in the Registry, on a condominium plat or plans recorded in the Registry, or on a Subdivision Plan.

Section 57. "Restrictions and Rules" is defined and includes rules, regulations, requirements, prohibitions, and/or conditions for any one or more of the following as are adopted, amended, or repealed by the Declarant or the Association from time to time: (i) matters governing use of the Properties or any part thereof, including the Common Property, or (ii) matters governing conduct of Persons while in or on the Properties or any part thereof, including the Common Property, or (iii) providing for the implementation and enforcement of the Governing Documents, or (iv) any other matters that the Declarant or Board, as applicable, determines to adopt as part of the Association's Restrictions and Rules.

In addition to any other provisions of the Declaration authorizing the Association to adopt rules and regulations, the Association, separate and apart from the Restrictions and Rules, may adopt and enforce reasonable rules and regulations for the use and operation of the Common Property and/or for the implementation and enforcement of the Governing Documents, and amend them from time to time.

Section 58. "Special Declarant Rights" is defined as all development and other rights granted to, or reserved by, or established for the benefit of, Declarant in the Declaration and other Governing Documents, whether or not such rights are referred to as Special Declarant Rights in the Declaration or other Governing Documents. As long as a Special Declarant Right exists under the Declaration or other Governing Document, Declarant may exercise it at any time and from time to time, whether or not the right to do so is stated specifically in connection with such Special Declarant Right. Declarant may assign Special Declarant Rights, in whole or in part, temporarily or permanently, at any time and from time to time, subject to such terms and conditions as Declarant specifies in the assignment document. Unless the Declaration or other Governing Documents specify that Special Declarant Rights may be exercised by any Person other than the Declarant or that they become rights exercisable in whole or in part by the Association at any time, any assignment of Special Declarant Rights must be in writing and recorded in the Registry, and the assignment becomes effective only upon the recording of the document in the Registry or any later date specified therein.

Section 59. "Stormwater Agreement" (which term includes any other agreement under Legal Requirements, by whatever name denominated therein, relating to Stormwater Control Measures) is defined as any agreement required by the Code or other Legal Requirement between the City and the Declarant or between the City and the Association, or among the City, Declarant and Association, or between or among any combination of the City and the Declarant, the Association and one or more Owners, relating to maintenance of Stormwater Control Measures.

Section 60. "Stormwater Control Facilities" or "Stormwater Control Measures" is defined as any one or more of the following that serves or benefits any part or all of the Properties or is required by Legal Requirements in connection with any part or all of the Properties, whether located in the Properties or outside of the Properties: (i) "stormwater drainage easements" (also referred to herein as "stormwater easements" or "drainage easements") that are shown on plats of the Properties recorded in the Registry or established by written instruments recorded in the Registry, and which either are located on the Common Property or benefit or serve more than one (1) Lot, except for those stormwater drainage easements that are the maintenance responsibility of a Sub-Association; and (ii) all "stormwater management facilities" for the Properties except for those that are the maintenance responsibility of a Sub-Association, including ponds, man-made or natural areas and/or planted or landscaped areas into which stormwater drains, or in which stormwater is collected, or from which it is discharged,

drains, pipes, conduits, inlets, creeks, streams, channels, dams, ditches, filters, buffers, bio-retention areas, level spreaders, constructed wetlands, and other equipment, facilities and stormwater management measures used for inspecting, monitoring, measuring, testing, collecting, controlling, transporting, conveying, handling, storing, discharging and/or managing stormwater. Except as otherwise provided herein, Stormwater Control Measures are part of the Common Property or Limited Common Property, as applicable, and maintenance of Stormwater Control Measures is a Common Expense or Limited Common Expense, as applicable. References in the Declaration to stormwater management include all applicable Stormwater Control Measures, Stowmwater Agreements and Stormwater Maintenance Manuals.

Section 61. "Stormwater Maintenance Manual" (which term includes any other instrument or document under Legal Requirements, by whatever name denominated therein, addressing the same or similar matters) is defined as the specific requirements for maintenance of Stormwater Control Measures as required by the City.

Section 62. "Sub-Association" is defined as an entity organized as a property owners association for a portion of, but not all of, the Properties, including for the purpose of owning, managing and/or maintaining that Sub-Association's Common Property (including, with regard to a condominium, its common elements). Assessments imposed upon the Members of the Association by the documents establishing or governing a Sub-Association or subjecting an applicable portion of the Properties thereto shall be in addition to, and not in lieu of, assessments imposed upon such Members by the Declaration.

Section 63. "Sub-Association Common Property" and "Sub-Association Common Area" are defined as portions of the Properties owned or maintained by a Sub-Association for the use, enjoyment and/or benefits of its members (for example, private streets in a townhouse development and common elements in a condominium). All private streets and open space owned by, or under the jurisdiction of, a Sub-Association, or for which a Sub-Association has maintenance responsibility, are Sub-Association Common Property. "Sub-Association Limited Common Property" and "Sub-Association Limited Common Area" are defined as Sub-Association Common Property that is established for the benefit of a particular phase, section, subdivision, or portion of that portion of the Properties subject to the jurisdiction of the Sub-Association.

Section 64. "Subdivision Plan" is defined as the most current land use or development plan approved by the City for the Properties or any part thereof, whether the approval is preliminary or final, and regardless of any name other than Subdivision Plan under which it approved by the City (for example, site plan, cluster unit development plan, or master plan for a planned unit development). Declarant reserves the right, in its sole discretion but subject to Legal Requirements, to modify any Subdivision Plan in whole or in part, including the addition or deletion of real property, including re-zoning of any part or all of any real property subject to a Subdivision Plan, and including the reconfiguration of Lots, Development Parcels, and Common Property. The fact that real property is included on the Subdivision Plan does not obligate Declarant to subject it to the Declaration, nor shall Declarant be prohibited from subjecting to the Declaration any real property described on **Exhibit B** or **Exhibit C** that is not included on the Subdivision Plan.

Section 65. "Townhouse Dwelling" or "Townhouse Unit" is defined as one Dwelling Unit on one Lot that physically is attached to at least one other Dwelling Unit (an example is a building containing four Townhouse Dwellings, each of which is located on its own separate Lot, even though each shares a common party wall with at least one other Townhouse Dwelling in that same building). Provided, however, if the applicable Legal Requirement allows a townhouse development to contain detached dwellings, than a townhouse dwelling in any such townhouse development may be a Townhouse Dwelling under this definition even though it is not physically attached to any other Townhouse Dwelling.

Section 66. "utility" or "public utility" is defined as any one or more of the following used in any part or all of the Properties: electricity; telephone; Internet service; water; sanitary sewer; natural gas; television; refuse collection; collection of materials for recycling; and any other service or facility generally recognized as a public utility or determined to be a public

utility by the Declarant (during the Development Period, and thereafter, by the Board); "utility provider" or "public utility provider" is defined as the Person who provides a utility to any part or all of the Properties.

Section 67. "utility apartment" is defined as a portion of a Dwelling that complies with all of the following requirements: (i) it physically is part of the Dwelling or part of a garage attached to or detached from the Dwelling; (ii) it is occupied by a Person or family unit other than the Person or family unit that occupies the rest of the Dwelling; (iii) the Person or family unit that occupies the utility apartment either is related to an Owner of the Dwelling by blood or marriage and within the third degree, or is providing physical care for an Owner of the Dwelling or a family member of an Owner of the Dwelling who is residing in the Dwelling with the Owner; (iv) the utility apartment contains a floor area not in excess of 1/4 of the gross floor area of the Dwelling, exclusive of the utility apartment (for example, if the Dwelling contains 2,000 square feet, the utility apartment may contain a maximum of 500 square feet); and (v) the utility apartment complies with all Legal Requirements and with any Restrictions and Rules applicable thereto.

ARTICLE II
THE PROPERTIES; ANNEXATION; WITHDRAWAL; SUBDIVISION DECLARATION; COMMERCIAL DECLARATION

Section 1. Existing Property. The Existing Property which is and shall be owned, held, transferred, sold, conveyed, leased, used, occupied and mortgaged subject to the Declaration, and which is within the jurisdiction of the Association initially, is described on **Exhibit A** attached hereto, and constitutes the Properties at the time of the recording of the Declaration.

Section 2. Annexation of Additional Property.

(a) Annexation by the Declarant. At any time before the end of the Development Period, Declarant may annex Additional Property to the Declaration by recording a "Supplemental Declaration" extending the operation and effect of the Declaration thereto. In addition to the foregoing, and whether or not the Development Period has ended, Declarant at any time may annex to the Declaration as Additional Property any part or all of the real property described on **Exhibit B** attached hereto and incorporated by reference and/or any part or all of the real property described on **Exhibit C** attached hereto and incorporated by reference. Provided, however, if any Additional Property being annexed by Declarant is not owned by Declarant at the time of annexation, the annexation shall not be effective unless the Supplemental Declaration is executed by the owner of such Additional Property or such owner executes another instrument specifically consenting to such annexation. Except to the extent, if any, required by Legal Requirements, nothing herein shall be deemed to require the Declarant to annex any Additional Property to the Declaration.

(b) Other Annexation. If the Declarant desires to annex Additional Property to the Declaration other than as allowed in the immediately preceding subsection (a), or if a Person other than the Declarant desires at any time to annex Additional Property to the Declaration, such Additional Property may be annexed to the Declaration only by the affirmative vote of sixty-seven percent (67%) or more of the votes cast by the Members present at a meeting of the Association and the recording in the Registry of a Supplemental Declaration signed by the owner of such Additional Property and the appropriate officer of the Association certifying the required meeting and vote. In addition to the foregoing, at any time during the Development Period that a Person other than Declarant desires to annex Additional Property to the Declaration, such annexation may be done only with the consent of Declarant, as evidenced by Declarant's execution of the Supplemental Declaration or another instrument specifically consenting to such annexation.

(c) Approval by Governmental Entities. All annexations of Additional Property to the Declaration also must be approved by the Town of Fuquay-Varina, if such approval is required by the Code at the time of the annexation.

(d) Supplemental Declaration. Each Supplemental Declaration shall be effective to annex Additional Property to the Declaration only upon obtaining all approvals required by the Declaration and upon its recording in the Registry, and the effective date of such annexation shall be the later of the date specified therein, if any, or the date of recording. Each Supplemental Declaration shall describe the Additional Property annexed and indicate that the Additional Property is being subjected or annexed to the Declaration. A Supplemental Declaration need not be in any specific form and need not be titled Supplemental Declaration (for example, language subjecting Additional Property to the Declaration may be contained in a deed from the Declarant conveying the Additional Property being annexed), but it shall indicate clearly the intention to subject or annex such Additional Property to the Declaration. Any Supplemental Declaration may specify such use restrictions and may contain such other terms, covenants, restrictions, easements, affirmative obligations, assessments, charges and liens applicable to such Additional Property, not in conflict or inconsistent with the Declaration, as the Person annexing such Additional Property to the Declaration may determine, and the Declaration shall control over any provision of any Supplemental Declaration that conflicts or is inconsistent with the Declaration.

(e) Votes Allocated to Additional Property. Except as otherwise provided herein or in any Supplemental Declaration annexing Additional Property to the Declaration, votes in the Association shall be allocated to Additional Property in the same manner that votes are allocated to the Properties already subject to the Declaration.

(f) Conveyance of Common Property in Additional Property. Common Property, if any, located within any Additional Property or the applicable phase or portion thereof, shall be conveyed to the Association pursuant to the requirements of the Declaration for conveyance of Common Property to the Association.

Section 3. Order of Development and Annexation. Declarant contemplates that it may develop the portions of the Properties it owns in accordance with applicable Subdivision Plans, as modified from time to time. Provided, however, but subject to Legal Requirements that provide otherwise, no Subdivision Plan shall obligate the Declarant to develop any particular portion of the Properties now or in the future, whether for the purposes shown thereon or for any other purpose, the Declarant shall not be required to follow any particular sequence or order of development of the Properties, and the Declarant may annex or consent to annex additional real property to the Declaration before completing development of all of the Properties previously subjected to the Declaration.

Section 4. Withdrawal of Properties from the Declaration.

(a) Subject to Legal Requirements, at any time and from time to time during the Development Period the Declarant, in its sole discretion, without the approval or joinder of the Association or any Owner or other Person except the Owner (if not Declarant) of the portion of the Properties being withdrawn, may record in the Registry a "withdrawal declaration" to withdraw one or more portions of the Properties from the Declaration. All portions of the Properties withdrawn from the Declaration shall be identified in the withdrawal declaration either by a plat recorded in the Registry or by a metes and bounds description. The withdrawal shall be effective on the date the withdrawal declaration is recorded in the Registry, or on such later date specified therein.

(b) After the end of the Development Period, and subject to Legal Requirements, at any time and from time to time one or more portions of the Properties may be withdrawn from the Declaration upon approval by the Owner of such portion of the Properties and by the affirmative vote of sixty-seven percent (67%) or more of the votes cast by the Members present at a duly-called meeting of the Members for which the notice of the meeting includes notice of the proposal to withdraw such portion of the Properties from the Declaration.

Following approval of any such withdrawal, the Association and the Owner of the portion of the Properties to be withdrawn from the Declaration shall record a withdrawal declaration particularly describing the withdrawn portions of the

Properties by reference to a plat recorded in the Registry or by a metes and bounds description. The withdrawal shall be effective on the date the withdrawal declaration is recorded in the Registry, or on such later date specified therein.

(c) All withdrawals of any portion of the Properties from the Declaration also must be approved by the Town of Fuquay-Varina, if required by the Code at the time of the withdrawal.

(d) NOTE: It is possible that some portions of the Properties subjected to the Declaration now or later may be developed for non-residential uses and withdrawn by Declarant from the Declaration; however, Declarant reserves the right either to withdraw such portions of the Properties from the Declaration or leave them subject to the Declaration as Declarant, in its sole discretion, determines from time to time during the Development Period.

Section 5. Effect of Annexation or Withdrawal. Other than as specifically limited by the Governing Documents or any Legal Requirement, the Declarant shall have full power to add to, subtract from, or make changes in, any Subdivision Plan, and annex real property to and withdraw real property from the Declaration, regardless of the fact that such actions may affect the relative voting strength of any Member or class of membership in the Association or reduce the number of Owners subject to assessment under the Declaration. Any portion of the Properties that is withdrawn from the Declaration may be owned, held, transferred, sold, conveyed, leased, used, occupied, mortgaged and developed in any manner allowed under Legal Requirements, and shall be released from the terms and provisions of the Declaration on the date the withdrawal becomes effective as provided herein, subject to any terms of the withdrawal declaration and except that all easements specifically affecting such withdrawn portions of the Properties, as shown on plats recorded in the Registry or as described in documents recorded in the Registry, shall remain in force and effect unless released or terminated by all Persons having rights to exercise such easements.

Section 6. Subdivision Declaration. Within the Properties there could be two or more separate and distinct phases, sections, or subdivisions. Because such phases, sections or subdivisions may have varying Lot sizes, different types of Dwelling Units, marketing considerations and other differences, it may be necessary or desirable to impose additional and different covenants and restrictions on such phases, sections or subdivisions which are applicable solely to such phase, section or subdivision (the foregoing being referred to herein as a "Subdivision Declaration"). Accordingly, the Declarant or other Person who owns any such phase, section or subdivision of the Properties may subject such phase, section or subdivision to such Subdivision Declarations as the Declarant or other Person, in his, her or its sole discretion, may from time to time determine. Provided, however, during the Development Period no Person other than the Declarant may subject any phase, section or subdivision of the Properties to any Subdivision Declaration unless the Declarant consents in writing thereto. More than one phase, section or subdivision may be subjected to the same Subdivision Declaration. Any Subdivision Declaration may do any one or more of the following: (i) create and regulate the use of and assessments for Limited Common Area; (ii) establish minimum building setback distances and minimum Dwelling square footage requirements for such phase, section or subdivision that are more or less than the minimum building setback distances and minimum Dwelling square footage requirements, if any, that are specified in the Declaration or in any Architectural Guidelines; and (iii) specify such use restrictions and contain such other terms, covenants, restrictions, easements, affirmative obligations, assessments, charges and liens, not in conflict with the Declaration, as the Person subjecting such real property to the Subdivision Declaration may determine. Except for the foregoing matters that may be different in a Subdivision Declaration from the requirements in the Declaration, the Declaration shall control over any provision of any Subdivision Declaration that conflicts with the Declaration.

Section 7. Commercial Declaration. Declarant reserves the right, at any time and from time to time during the Development Period, in its sole discretion, to record one or more "Commercial Declarations" with respect to portions of the Properties that are intended for development for non-residential uses and which Declarant desires to remain subject to the Declaration. Such Commercial Declarations may establish such classes of membership and allocation of votes in the Association, such provisions with respect to payment of assessments to the Association, such provisions with respect to

allowable uses (including, notwithstanding anything to the contrary herein, non-residential uses), and may contain such other provisions, as Declarant in its sole discretion determines, including provisions that exempt or exclude the real property subject to such Commercial Declarations from various provisions of the Declaration. The content of such Commercial Declarations and their relationship to the Declaration is subject to the sole discretion of the Declarant. Declarant may exercise its rights under this Section regardless of the fact that it may affect the relative voting strength of Member or any class of membership in the Association or reduce the number of Owners subject to assessment under the Declaration.

Section 8. Declaration For Exhibit B Property. At the time of the recording of the Declaration, Declarant owns the real property described in **Exhibit A** (the Existing Property) and the real property described in **Exhibit B**, which is referred to herein as the "Exhibit B Property". The Existing Property is physically separated from the Exhibit B Property a "Pond". The Pond, unless otherwise required by Legal Requirements, shall, at such time as determined by Declarant, become part of the Common Property owned by the Association. Declarant, at its option, may annex the Exhibit B Property to the Declaration, or Declarant may elect to subject the Exhibit B Property to a separate declaration, referred to herein as the "Exhibit B Declaration". If Declarant elects to subject the Exhibit B Property to an Exhibit B Declaration, Declarant may provide therein that the owners of the Exhibit B Property subject to the Exhibit B Declaration, and other Persons who derive their rights through such owners shall have the same rights in and to the use and enjoyment of the Pond, and be subject to the same rules and regulations of the Association with respect to use and enjoyment of the Pond, as if they were Owners under this Declaration. The Exhibit B Declaration shall allocate between the Owners of the Existing Property subject to this Declaration and the owners of the Exhibit B Property subject to the Exhibit B Declaration the percentage of the total maintenance expenses for the Pond that each set of Owners is liable for. The amounts to be paid by the owners of the Exhibit B Property subject to the Exhibit B Declaration shall be assessed against such owners by the property owners association organized pursuant to the Exhibit B Declaration as part of the annual assessments under the Exhibit B Declaration, and such association shall collect and pay such assessments to the Association under this Declaration as part of the common expenses for the owners of the Exhibit B Property subject to the Exhibit B Declaration. Provided, however, with respect to each owner of any of the Exhibit B Property subject to the Exhibit B Declaration, the Association under this Declaration shall have the same rights to enforce payment of assessments due from such owner for maintenance of the Pond as the Association has to enforce payment of assessments by Owners under this Declaration, and the Association under this Declaration shall have all of such enforcement rights against the association under the Exhibit B Declaration with respect to all assessments to be collected and paid by such association to the Association for maintenance of the Pond.

ARTICLE III
ASSOCIATION

Section 1. Board Acts for Association. All obligations required or allowed to be performed by the Association shall be performed in accordance with Legal Requirements and applicable provisions of the Governing Documents. Unless reserved by or for the Declarant in the Declaration, other Governing Documents or Legal Requirements, or unless otherwise required by Legal Requirements, all rights, powers, easements, functions, services, obligations and duties of the Association may be exercised, directed, or contracted for by the Board on behalf of the Association. There is no distinction intended in the Declaration between items that may be adopted, enforced, acted upon, or waived by the Board and items that may be adopted, enforced, acted upon, or waived by the Association, except where a vote of the Members of the Association is required therefor. The officers of the Association may act on behalf of the Association as authorized in the Bylaws and/or as directed by the Board.

Section 2. Powers and Obligations. Subject to Legal Requirements and the Governing Documents, the Association has the following powers and obligations (the matters addressed in this Section are do not necessarily constitute a complete list of the powers and obligations of the Association, as other powers and obligations may be addressed in other Sections of the Declaration, other provisions of Governing Documents, and in Legal Requirements):

(a) The Association may acquire, hold, lease (as lessor or lessee), operate and dispose of tangible and intangible personal property and real property.

(b) The Association has the sole and exclusive power and authority to regulate use of the Common Property by Owners and other Persons, including establishment of rules and regulations for use and user fees or charges.

(c) The Association has the power and authority to enter into such Stormwater Agreements, encroachment agreements and other agreements with the City as are reasonably necessary to enable the Association to maintain Common Property, including Common Expense Property, and to perform its obligations under the Declaration. During the Development Period, the Declarant has the power and authority to enter into Stormwater Agreements, encroachment and other agreements with the City, utility providers, and other Persons as Declarant, in its sole discretion, determines, each of which agreements may be binding on the Association and all Owners.

(d) The Association shall accept transfer of ownership from Declarant of any and all Common Property and any and all improvements on Common Expense Property, including any and all associated rights and obligations.

(e) The Association shall accept from Declarant any and all assignments of Declarant rights and obligations under any part or all of the Declaration, any Subdivision Declaration, any Supplemental Declaration, any Stormwater Agreement, any encroachment agreement with the City, or any other agreement with the City, a utility provider, or any other Person, including assumption of all Declarant or Association obligations which are contained in such documents and agreements or which are incident to such assignments, as they relate to any Common Property, Common Expense Property, architectural approvals or other functions or services performed or provided by the Association.

(f) The Association shall accept from Declarant any and all appointments of the Association as the agent of Declarant for administration and enforcement of any of the provisions of the Declaration or any Subdivision Declaration or Supplemental Declaration, and shall assume all obligations which are incident to such appointments as they relate to any Common Property, architectural approvals or other functions or services performed or provided by the Association.

(g) All rights and powers granted to, or reserved for, or established for the benefit of, the Association may be exercised by the Association (or, as the case may be, on behalf of the Association by the Board or a Committee of the Board), at any time and from time to time, whether or not the right to do so is stated specifically in connection with such right or power.

Section 3. Functions and Services. The Association shall or may, as indicated, do, provide, provide for, perform, accept, or be responsible for the following, the expenses for which are Common Expenses, and in carrying out these and other functions and providing services as required or allowed by the Governing Documents, the Association has all of the following described or referenced rights and powers.

(a) The Association shall carry out the Association's obligations and business under the terms of Legal Requirements and the Governing Documents, including legal, financial, accounting and communications services, and shall provide or procure the administrative services necessary in connection therewith.

(b) The Association shall maintain the Common Property, Common Expense Property, and any other property owned or leased by the Association in such manner and to such extent as reasonably determined from time to time by the Board, giving due consideration to the Community Wide Standard and to the level of maintenance, if any, that may be performed by the City or other Person (including Owners - for example, mowing of grass in a stormwater drainage easement on a Lot or in a general utility easement around the boundaries of a Lot typically would be the responsibility of the Owner of the Lot, unless the Association determines it is in the best interest of the Association to provide such maintenance).

(c) The Association shall operate the Architectural Review Committee(s) as and when provided in the Declaration, any Subdivision Declaration, or any Supplemental Declaration.

(d) The Association shall keep records of all its acts and corporate business, and, in particular, the Association shall keep financial records sufficiently detailed to enable the Association to comply with the Act.

(e) The Association shall provide an annual financial report to each Member making written request therefor and paying the reasonable charge for same established from time to time by the Board and, upon either the (i) the affirmative vote of majority of the votes cast by the Members present at a meeting of the Association, or (ii) the written request of the Members possessing twenty-five percent (25%) or more of the total number of votes of all the Members of the Association, shall have such report audited (at the expense of the Association) by an independent certified public accountant, which audited report shall be made available to each Member making written request therefor.

(f) The Association shall make available for inspection by the Members and Mortgagees, upon reasonable request, during normal business hours and upon payment of reasonable copying and administrative costs, current copies of the Governing Documents, and the books, records and financial statements of the Association.

(g) As required by the Governing Documents and Legal Requirements, the Association shall establish a proposed annual operating budget, shall establish the amount of and collect assessments, and shall establish reserve funds.

(h) The Association shall hold meetings and give proper notice thereof, as required by the Governing Documents and Legal Requirements.

(i) The Association shall pay all applicable *ad valorem* property taxes and City assessments, if any, on the Common Property owned by the Association and on other property or assets owned by the Association.

(j) The Association shall obtain and maintain insurance and fidelity bonds as required in the Governing Documents.

(k) The Association shall be responsible for stormwater management and maintenance of Stormwater Control Measures as provided in the Declaration and in any applicable Stormwater Agreement.

(l) The Association shall be responsible for all financial and other obligations of the Association pursuant to any encroachment agreement or other agreement with the City.

(m) The Association may take all actions and do all things its deems necessary or desirable to enforce and implement the provisions of Legal Requirements and the Governing Documents, and to exercise the rights, satisfy the obligations, and perform the functions or services the Association is required or allowed to do by the Governing Documents, and in connection therewith, except as specifically limited by the Declaration the Association shall have all of the rights and powers under the Act.

(n) The Association may grant easements, leases, licenses and concessions through or over the Common Property, as the Board determines from time to time to be in the best interests of the Association.

(o) The Association may enter into contractual agreements or covenants to share costs with any neighboring property owners or association of property owners to contribute funds for, among other things, shared or mutually beneficial property or services and/or a higher level of Common Area maintenance.

(p) The Association may maintain grass, landscaping, decorative paving or other decorative features, and all equipment and facilities associated therewith, within street rights of way and on sidewalks in or adjacent to the Properties, with such frequency and in such manner as determined by the Board. In determining the level of maintenance to be performed by the Association, the Board may give due consideration to the extent to which the City or any other Person is responsible for and performs such maintenance and to the terms of any encroachment agreement between the Declarant or the Association and the City. The Association may enter into encroachment and other agreements with the City with respect to such maintenance.

(q) To the extent that such services are not, in the opinion of the Board, provided adequately by the City, the Association may provide services of a governmental nature for maintenance of portions of the Properties not owned by the Association.

(r) As provided in the Governing Documents, the Association may adopt, amend, and repeal Restrictions and Rules.

(s) The Association may enter into agreements or contracts with utility companies with respect to utility installation, consumption and service matters relating to the Common Property.

(t) The Association may provide, or provide for, services and facilities for Owners and their Lots and Dwellings (as distinguished from services and facilities relating to Common Property), and shall be authorized to enter into and terminate contracts or agreements with other entities, including Declarant, to provide such services and facilities. The Board may charge use or service fees for any such services and facilities provided to or for an Owner, or may include the costs thereof in the Association's budget as a Common Expense and assess it as part of the annual assessment if provided to all Owners. By way of example, such services and facilities might include landscape maintenance, insect and pest control service, cable television service, security, caretaker, transportation, fire protection, utilities, and similar services and facilities. Provided, however, prior to providing any such service to all Owners that will be paid for as part of the annual assessment, the Association first shall obtain a vote or consent of the Members that is equal to or greater than sixty-seven percent (67%) of the total number of votes in the Association (such vote is not required in connection with services that the Association is required to provide by the Governing Documents or Legal Requirements), and (ii) prior to the end of the Development Period, upon obtaining the written consent of Declarant. In addition, the Association shall accept assignment of all such contracts entered into by the Declarant when the Declarant is the owner of all of the Properties, or entered into at any time by all of the Owners (the execution of the contract by any one of multiple owners of a Lot being sufficient with respect to that Lot).

Nothing in this subsection shall be construed as a representation, promise, warranty, or guaranty by Declarant or the Association as to what, if any, of such services will be provided.

(u) The Association may borrow funds to pay costs of operation of the Association, which borrowing may be secured by assignment or pledge of Association rights to receive and collect assessments or by liens on other Association assets, as determined by the Board, subject to the Governing Documents and Legal Requirements.

(v) The Association may enter into contracts to maintain one or more bank accounts.

(w) The Association may sue or defend in any court of law on behalf of the Association, and may employ attorneys and other necessary professionals in connection therewith.

(x) The Association may adjust the amount, collect, and use insurance proceeds to repair damage to or replace Common Property, and if proceeds are insufficient to repair damage to or replace same, levy special assessments (in the manner provided herein) to cover the deficiency.

(y) The Association may employ a property manager and may employ or contract with independent contractors or other Persons as the Board deems necessary.

(z) The Association may retain the services of legal and accounting firms and such other professionals and/or tradesmen as it deems necessary and appropriate.

(aa) The Association may contract with Declarant or any other Person for performance of services provided by the Association, such contracts to be at competitive rates and upon such terms and for such consideration as the Board deems proper, advisable and in the best interests of the Association.

(bb) The Association may establish from time to time the nonprofit corporation tax status of the Association for federal and State of North Carolina income tax purposes, as determined by the Board to be in the best interests of the Association.

(cc) The Association may contract with other nonprofit corporations or associations which exist for purposes substantially similar to those for which the Association exists, with respect to the maintenance of property owned by such corporation or association.

(dd) The Association may impose reasonable charges for late payment of assessments and, subject to any applicable notice and hearing requirements of the Act, may suspend privileges or services provided by the Association (except rights of access to Lots and rights of access to easements in Common Property that provide stormwater drainage or public utility services to Lots) during any period that assessments or other amounts due and owing to the Association remain unpaid for a period of thirty (30) days or longer.

(ee) Subject to any applicable notice and hearing requirements of the Act, the Association may impose reasonable fines or suspend privileges or services provided by the Association (except rights of access to Lots and rights of access to easements in Common Property that provide stormwater drainage or public utility services to Lots) for reasonable periods for violations of the Declaration or other Governing Documents.

(ff) In addition to the insurance coverages required by the Declaration, the Association may obtain and maintain such other insurance coverage as the Board determines to be in the best interests of the Association, and may adjust the amount, collect, and use the proceeds of such insurance as the Board determines from time to time.

(gg) As a Common Expense, the Association may provide educational and training opportunities within the Subdivision, including providing funding and permitting facilities use for such purposes. As examples, the Association may provide education and training activities as a tool for fostering Owner and resident awareness of the Subdivision and the facilities and services provided by the Association, as well as governance and operation of the Association. Other appropriate educational topics include dispute or conflict resolution, issues involving the Governing Documents, and benefitting from and contributing to the Subdivision. The Association also is authorized to fund and support the education and training required for officers, directors, and committee members.

Section 4. Stormwater Management. Except for maintenance responsibilities (i) placed on Owners by the Declaration or Legal Requirements, or (ii) assumed or undertaken by other Persons (for example, the City), the Association shall maintain the Stormwater Control Measures as part of the Common Expenses. As used in the immediately preceding sentence, the word "maintain" includes provision for maintenance of, which may include financial contributions toward maintenance of Stormwater Control Measures located on and/or shared with other properties not subject to the Declaration. Provided, however, such maintenance obligations shall cease and terminate, or be reduced proportionally, temporarily or permanently as applicable, at such time as the City, through a department of public works or some other agency or division,

accepts responsibility to maintain, in whole or in part, the Stormwater Control Measures for the Properties, or some other Person is providing the necessary maintenance therefor (for example, pursuant to an agreement which requires monetary payments by the Association to the Person who is performing the maintenance). Following any such assumption of maintenance by the City or other Person, the Association may, without obligation, continue to provide maintenance to the extent that the City or other Person fails to provide adequate maintenance, in the opinion of the Board, and shall continue to provide maintenance for those portions of the Stormwater Control Measures with respect to which the City or such other Person has not assumed maintenance responsibility, or following termination of the City's or such Person's maintenance responsibility. The Owner of any Lot on, over or through which any Stormwater Control Measures or portion thereof is located shall be responsible for the following with respect thereto: (i) mowing of grass with reasonable frequency, where applicable, unless the Association assumes such responsibility; and (ii) removal of debris and other materials to the best of the Owner's ability, where such debris or materials has impeded or threatens to impede the free flow of stormwater on, over or through the Stormwater Control Measures located on the Lot. Such Owner's responsibility shall include notification of the Association of any defects in any fencing surrounding or within any such Stormwater Control Measures, any debris or other matter which the Owner reasonably believes is beyond the Owner's ability to remove, and any excessive erosion within any such Stormwater Control Measures. The Owner of a Lot on which a Stormwater Control Measure is located shall not obstruct it or interfere with its normal and intended operation. Notwithstanding anything to the contrary herein, each Owner of a Lot, and not the Association, shall be responsible for maintenance of all stormwater drainage easements and stormwater management facilities located on and used exclusively in connection with such Owner's Lot or the improvements thereon, including guttering, and pipes and drains for transportation of stormwater from such Lot into any other Stormwater Control Measures. All issues as to whether a stormwater drainage easement or stormwater management facility is part of the Stormwater Control Measures for which the Association is responsible or whether it is the responsibility of an Owner shall be determined by the Declarant during the Development Period (unless Declarant assigns such right to the Board), and thereafter by the Board.

Declarant, during the Development Period, and thereafter, the Association, subject to any approval required by the City, may grant, relocate, abandon and/or release one or more stormwater drainage easements in the Properties, subject to the following: (i) the grant of any such stormwater drainage easement also shall be consented to in writing by the Owners of all portions of the Properties on which such stormwater drainage easement is located, unless the stormwater drainage easement is shown on a previously recorded plat of such portions of the Properties, in which event the consent of the Owners is not required and the Declarant or the Association, as applicable, may grant the stormwater drainage easement by written instrument; (ii) no such relocation, abandonment or release shall materially adversely affect the portions of the Properties on which the stormwater drainage easement then is located or the portions of the Properties served thereby, or if it does have such material adverse effect it is consented to in writing by the Owners of all portion of the Properties on which such stormwater drainage easement is located and which are served thereby; and (iii) no such grant, relocation, abandonment or release shall materially adversely affect the Stormwater Control Measures for the Properties. The provisions of this paragraph also are applicable to any access easement over any portion of the Properties that provides pedestrian or vehicular access from a public street right of way or other public easement or facility to and from any Stormwater Control Measures.

With respect to its obligations under this Section, the Association shall pay, post, provide for or comply with all bonds and other financial obligations under Legal Requirements, Stormwater Agreements, and/or other agreements related to Stormwater Control Measures that are executed by the Association (or, during the Development Period, by the Declarant on behalf of the Association or for later assignment to the Association), and the Association (and, during the Development Period, the Declarant on behalf of the Association) may enter Stormwater Agreements and/or other agreements and amend, add to, or supplement existing Stormwater Agreements and other agreements (and when Stormwater Agreements or other agreements are referred to in the Declaration, the reference includes amendments, additions, and supplements thereto), with the City, another association that exists for purposes similar to those of the Association, or any other Person with respect to inspecting, monitoring, measuring, testing, collecting, controlling, transporting, conveying, handling, storing, discharging, operating and managing any part or all of the stormwater on, to, or from the Properties and/or any or all of the Stormwater

Control Measures for the Properties, whether such Stormwater Control Measures are located within or outside of the Properties. Such Stormwater Agreements and other agreements shall be binding on all Owners (or, with respect to Limited Common Property, all Owners to whose portion of the Properties such Limited Common Property is allocated), and may require payments from the Association or the Owners whose Lots are served by the applicable Stormwater Control Measures for the services provided by the City, such other association or such other Person in inspecting, monitoring, measuring, testing, collecting, controlling, transporting, conveying, handling, storing, discharging, operating or managing any part or all of such stormwater and/or Stormwater Control Measures, and such Stormwater Agreements and other agreements may include all other terms and obligations required by Legal Requirements. In connection with the foregoing purposes expressed in this paragraph, the Association (and, during the Development Period, the Declarant on behalf of the Association) may grant rights over, in, under, upon and through any and all stormwater drainage easements in the Properties, and may grant rights over, in, under, upon and through all easements in the Properties that provide pedestrian and/or vehicular access from a publicly dedicated street right of way to and from stormwater drainage easements and/or Stormwater Control Measures. Provided, however, during the Development Period no such Stormwater Agreement or other agreement shall be valid unless the same shall have been consented to in writing by the Declarant.

In recognition of the fact that different Stormwater Control Measures may be necessary or desirable for different portions of the Properties or phases of the Subdivision (for example, because of the topography of the Properties it may be desirable for a portion of the Properties to have Stormwater Control Measures separate from and/or in addition to, other Stormwater Control Measures in or serving the Properties and it may be desirable for other portions of the Properties to utilize Stormwater Control Measures located outside of the Properties), and in further recognition of the desire of the Declarant for the provisions of the Declaration to be as flexible as reasonably necessary in order to maximize the benefit to the Properties of having or using one or more Stormwater Control Measures in accordance with sound engineering practices and approvals by the City, in fulfilling its obligations under the Declaration the Association (or, during the Development Period, the Declarant on behalf of the Association or for later assignment to the Association) may enter into different Stormwater Agreements and other agreements for different portions of the Properties, and/or may amend, add to, or supplement existing Stormwater Agreements, subject to all of the other terms of the Declaration. It further is recognized and contemplated by the Declaration that if such multiple Stormwater Control Measures and/or Stormwater Agreements or other agreements are determined to be necessary or desirable: (i) the costs of maintaining such Stormwater Control Measures and/or funding such Stormwater Agreements or other agreements may be different for different portions of the Properties and annual assessments and/or stormwater assessments (as defined herein) may be different for Lots in different portions of the Properties (for example, there may be different portions of the Subdivision that have different Stormwater Control Measures or different portions of the Subdivision that share some of the same Stormwater Control Measures but also have one or more separate Stormwater Control Measures); and (ii) some Stormwater Control Measures may be classified as Limited Common Property (and during the Development Period Declarant has the right to designate Stormwater Control Measures as Limited Common Property, including existing and new Stormwater Control Measures in the Properties as well as existing and new Stormwater Control Measures associated with Additional Property).

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

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

Section 5. Dedication, Conveyance or Exchange of Common Property. The Association, (i) upon obtaining the minimum required voting percentage under applicable provisions of the Act for conveyance of Common Property (at the time of recording of the Declaration Section 47F-3-112 of the Act requires the affirmative vote of eighty percent (80%) or more of the total number of votes in the Association), and (ii) prior to the end of the Development Period, upon obtaining the written consent of Declarant, may dedicate portions of the Common Property to public use and/or convey or exchange portions of the Common Property with the Declarant or any other Person, for any purpose approved by such Members, including any one or more of the following purposes: (i) to eliminate unintentional encroachments of improvements or easements; (ii) to correct any building or other setback violations; (iii) to adjust boundary lines of portions of the Properties; (iv) to facilitate the orderly subdivision and development of the Properties; or (v) to conform the configuration of the Properties to any applicable Subdivision Plan. All conveyances and exchanges of Common Property are subject to the following: (i) no such conveyance or exchange (either alone, or in conjunction with other conveyances or exchanges) shall result in a reduction of the portion of the Common Property that constitutes "open space" below the minimum amount of "open space", if any, required by the City; (ii) if required by Legal Requirements, the City must approve any exchange or boundary line adjustment; (iii) any boundary line adjustment must be approved by the Owners of all portions of the Properties affected by the adjustment; (iv) properties received by the Association in an exchange must be of like value and utility to the Common Property of the Association that was part of the exchange transaction; (v) each Lot contiguous to Common Property prior to the conveyance shall remain contiguous to Common Property after the conveyance, unless otherwise approved by the Owner of the Lot that no longer will be contiguous; (vi) the conveyance shall not materially conflict with any applicable Subdivision Plan; (vii) no conveyance of Common Property shall deprive any Lot of its rights of access and support; and (viii) any conveyance of real property to the Association must be free and clear of all encumbrances except for the Declaration and any applicable Supplemental Declaration, Stormwater Agreements and other agreements executed as allowed by the Declaration, Legal Requirements, street rights of way or access easements, greenway easements, easements for utilities, and stormwater drainage easements.

All real property acquired by the Association is part of the Common Property and, without further act of the Association or its Members, is released from all provisions of the Declaration (and any applicable Supplemental Declaration) except those applicable to the Common Property, but it remains subject to the easements and other matters listed in numbered item (viii) of the immediately preceding paragraph of the Declaration. Any Common Property dedicated to public use, conveyed or exchanged by the Association, without further act of the Association or its Members, ceases to be Common Property and shall be subject to those provisions of the Declaration (and any applicable Supplemental Declaration) that would have been applicable to such real property had it not been Common Property, except that, if required by the City or a utility provider, such portion of the Common Property may be conveyed by the Association to the City or utility provider, as the case may be, free and clear of all of the terms of the Declaration and any applicable Supplemental Declaration. Further provided, with respect to any Common Property conveyed by the Association, including any Common Property exchanged by the Association for other real property, that is not going to be part of the Subdivision following such conveyance or exchange (for example, Common Property conveyed to an owner of real property adjoining, but not part of, the Subdivision to settle a boundary issue), it shall be released from the provisions of the Declaration upon the recording in the Registry of the deed or other instrument used for the conveyance or exchange.

Section 6. Mortgage and Pledge of Common Property. The Association, (i) upon complying with the minimum required voting percentage under applicable provisions of the Act for conveyance or dedication of Common Property (at the time of recording of the Declaration Section 47F-3-112 of the Act requires the affirmative vote of eighty percent (80%) or more of the total number of votes in the Association), and (ii) prior to the end of the Development Period upon obtaining the written consent of Declarant, shall have the power and authority to mortgage the Common Property and to pledge its assets as security for loans made to the Association, which loans shall be used by the Association in performing its functions and providing services under the Declaration. Declarant may, but shall not be required to, make loans to the Association, subject to the foregoing and further subject to approval by the Declarant of the use of such loan proceeds and the terms pursuant to which such loans will be repaid. Notwithstanding anything in the Declaration to the contrary, at any time that there is any unpaid amount owed to Declarant under any loan made by it to the Association, without Declarant's written consent the annual assessments shall not be reduced below the amounts in effect at the time such loan first was made.

Section 7. Liability Limitations. Except as required by Legal Requirements or the Declaration, or agreed to by any of the following Persons otherwise excluded from liability by the provisions of this sentence, neither Declarant, nor any Builder, nor any current or former Member of the Association, nor the Board, nor any director on the Board, nor any officer of the Association, nor any member of the Architectural Review Committee or any other committee appointed by the Board, nor any shareholder, director, officer, partner, member, manager, agent or employee of any of the foregoing, shall be personally liable for debts contracted or incurred by the Association or for a tort of another current or former Member, whether or not such other current or former Member was acting on behalf of the Association, unless such Person specifically agrees in writing to be obligated for any such debt of the Association (but the foregoing shall not relieve such Person from that Person's obligation, if any, under the Declaration, to pay assessments to the Association). Neither Declarant, nor the Association, nor the Board, nor any director on the Board, nor any officer of the Association, nor any member of the Architectural Review Committee or any other committee appointed by the Board, nor any shareholder, director, officer, partner, member, manager, agent or employee of any of the foregoing, acting in those official capacities, shall be liable for any incidental or consequential damages for failure to inspect any Owner's Lot or improvements thereon, or for failure to maintain the same (provided, however, and notwithstanding the foregoing, as required herein Declarant shall maintain all portions of the Properties it owns, and, except as otherwise specifically provided herein, directors on the Board and officers of the Association and members of the Architectural Review Committee shall have all of the other obligations and liabilities of an Owner under the Declaration with respect to portions of the Properties owned by such Persons). The Association shall indemnify all Association directors and officers, and members of the Architectural Review Committee and other committees of the Board, as required by the Articles, Bylaws, and other Governing Documents.

Neither the Board or any director of the Board, the Association or any of its officers, the Declarant or any of its shareholders, directors, officers, partners, members, managers, agents or employees, nor any current or former Member of the Association, shall be considered as a bailee of any personal property stored or placed on the Common Property (including vehicles parked on the Common Property), whether or not exclusive possession of the particular area is given to the Person who owns such personal property, nor shall any of the foregoing Persons (other than the Person who owns the personal property) be responsible for the security of such personal property or for any loss or damage thereto. With the exception of liability for gross negligence, the Association shall not be liable for any personal injury or damage to property arising out of or resulting from any of the following: (i) failure of or interruption to any service to be obtained by the Association or paid for as a Common Expense; (ii) weather or other natural events or events of Force Majeure; (iii) the acts or omissions of any Owner or any other Person; or (iv) electricity, water, snow or ice which may leak or flow from or over any portion of the Properties or from any pipe, drain, conduit, appliance or equipment, or any secondary or consequential damages of any type resulting from the foregoing. No diminution, offset or abatement of any assessment or other charge shall be claimed or allowed for inconvenience or discomfort arising from maintenance of the Common Property or from any action taken by the Association to comply with any Legal Requirement. This Section is not intended, nor shall it be construed, to relieve any insurer of its contractual obligations under any policy benefitting the Association or any Owner.

Section 8. Merger or Consolidation. Upon a merger or consolidation of the Association with another association in accordance with all Legal Requirements, the properties, rights and obligations of the Association, by operation of law, may be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association, by operation of law, may be added to the properties, rights and obligations of the Association as the surviving corporation pursuant to a merger or consolidation. The surviving or consolidated association shall be considered the Association under the Declaration and may administer the terms and provisions of the Declaration and any applicable Supplemental Declaration or Subdivision Declaration, together with the terms and provisions of any declarations, covenants and restrictions applicable to other property under the jurisdiction of the surviving or consolidated Association, as a common plan. Other than as specifically stated in the plan of merger or consolidation approved pursuant to all Legal Requirements, no merger or consolidation shall effect any revocation of the provisions of the Declaration with respect to the Properties, including the limits on any assessment or any other matter substantially affecting the interests of the members of the Association. In addition to obtaining the minimum required voting percentage under applicable provisions of the Act for merger or consolidation with another association, during the Development Period such merger or consolidation must have the written consent of Declarant.

Section 9. Agreements With Sub-Associations. Subject to such terms and conditions as the Board determines, the Association may enter into agreements with one or more Sub-Associations that provide for a Sub-Association to bill and collect from the Members of the Association who also are members of the Sub-Association the assessments that are due and payable from such Members to the Association and to pay such assessments to the Association. Provided, however, no such agreement shall waive or unduly restrict the rights of the Association under the Declaration to collect assessments from any Member of the Association, including the filing of liens against those portions of the Properties whose Owners do not pay assessments to the Association as required herein (or when the Sub-Association responsible for collecting assessments from such Owners do not pay assessments to the Association as required by the applicable agreement). It shall not be a defense to any action of the Association to collect any assessment from a Member of the Association or to enforce any lien or other right against any Member of the Association, that such Member paid the applicable assessment to the applicable Sub-Association and the applicable Sub-Association failed to pay the assessment to the Association or failed to pay the assessment to the Association in a timely manner as required by the Declaration and/or the applicable agreement between the Association and the Sub-Association.

As a separate right of the Declarant with respect to the matters described in the immediately preceding paragraph of this Section, during the Development Period the Declarant, on behalf of the Association, may enter into such agreements with one or more Sub-Associations and/or the Declarant may provide, by Supplemental Declaration, Subdivision Declaration, or amendment to the Declaration, for any or all of the matters contained in the immediately preceding paragraph of this Section.

ARTICLE IV
RIGHTS IN AND TO COMMON PROPERTY

Section 1. Owners' Easements of Enjoyment and Access. Except as limited by the provisions of this Section, or by other provisions of the Declaration or any other Governing Document, every Owner shall have a non-exclusive right and easement of enjoyment in, use of and access to, from, and over the Common Property, which right and easement shall be appurtenant to and shall pass with title to every Lot, subject to the following:

(a) restrictions, easements, and other matters applicable to any real property conveyed to the Association existing at the time of the conveyance and/or contained in the deed conveying the real property to the Association.

(b) subject to the provisions of the Code and the Governing Documents, the right of the Association to charge reasonable admission and other fees for the use of any Common Area and to regulate the use thereof by Owners and other Persons.

(c) the right of the Association to regulate or limit use and access by Owners to Common Expense Property to only such use or access as is reasonably necessary to the full use and enjoyment of the portion of the Properties owned by such Owner. In this regard, it is contemplated that there may be some Common Expense Property to which no Owners, or only a limited number of Owners, will have any right of use or access.

(d) limitation of use of Limited Common Property to those Lots and Owners to whom such Limited Common Property is allocated or with whom it is associated.

(e) subject to any applicable notice and hearing requirements of the Act and maximum fine limitations of the Act, the right of the Association to fine an Owner and/or suspend the voting rights of an Owner and/or suspend other rights and easements of enjoyment in and to the Common Property of an Owner and such Owner's family members, tenants, contracts purchasers, guests, or other Persons to whom the Owner has delegated such rights, for any period during which any assessment or other amount owed by the Owner to the Association remains unpaid, and for a reasonable period of time for any violation or infraction of the Governing Documents by an Owner or such Owner's family members, tenants, contract purchasers, guests, or other Persons to whom the Owner has delegated such rights or who are asserting any rights through such Owner. Provided, however, no such suspension shall constitute a waiver or discharge of the Owner's obligation to pay any assessment or other charge under the Declaration. Further provided, the Association shall not suspend the right of any Owner to use any portion of the Common Property over which there is a private street or easement that provides access for ingress and egress from a public street to and from such Owner's Lot, or over which a stormwater drainage easement or sanitary sewer, water or other utility easement is located that provides such drainage or utility services to such Owner's Lot, or on which there are any Stormwater Control Facilities that serve the Owner's Lot, but such Owner shall remain subject to the rules and regulations, if any, established by the Association for use of such portion of the Common Property.

(f) the right of the Association to dedicate, sell, transfer or exchange all or any part of the Common Property, subject to the applicable voting requirements for such actions.

(g) the right of the Declarant, during the Development Period, and the right of the Association, to grant easements over, across, in, on, under, and through the Common Property to any public agency, authority or utility for the installation and maintenance therein of water and sanitary sewer, natural gas, electric, telephone, cable television and other utilities, and Stormwater Control Measures.

(h) the right of the Association to borrow money and, subject to the applicable voting requirements for such actions, to mortgage, pledge, deed in trust, or hypothecate any or all of the Common Property or its other assets as security for such indebtedness. Provided, however, that the rights of any such lender or mortgagee shall be subordinate to the property rights of the Members and the Association as provided in the Declaration.

(i) the right of the Association, as provided by and consistent with the provisions of the Code, the Act and the Declaration, to exchange all or part of the Common Property for other property or consideration.

(j) the right of the Association to close or limit the use of Common Property for maintenance of improvements thereon or to close or limit use of Common Property temporarily in order to prevent or defeat any claims of adverse possession or unintentional dedication to public use.

(k) the right of the Association to adopt and enforce rules and regulations governing the use of the Common Property.

(l) the rights of the Declarant reserved in the Declaration.

Section 2. Delegation of Use.

(a) Family. Subject to all provisions of the Governing Documents for use of the Common Property applicable to Owners, members of the Owner's immediate family who occupy the Dwelling of the Owner within the Properties as their principal residence may use the Common Property in the same manner and to the same extent as the Owner. Provided, however, any use of the Common Property by occupants of a utility apartment is subject to such rules and user fees as the Board, in the exercise of its discretion, adopts or imposes.

(b) Tenants. Subject to all provisions of the Governing Documents applicable to Owners and tenants, tenants to whom an Owner has delegated the Owner's right to use the Common Property may use the Common Property in the same manner and to the same extent as the Owner.

(c) Guests. Subject to all applicable provisions of the Governing Documents, guests of Owners and guest of tenants to whom an Owner has delegated the Owner's right to use the Common Property, may use the Common Property in the same manner and to the same extent as the Owner.

(d) The Board has the authority to resolve any issue as to whether a Person is a family member, occupant of a utility apartment, tenant, or guest of any Owner under this Section.

(e) Suspension of Use Privilege. All uses of the Common Property by an Owner's family members, tenants, and guest constitute a privilege and not a right. The privilege of any Person under this Section to use the Common Property may be suspended for violation of the Governing Documents and as otherwise provided in the Governing Documents, and such privilege shall be suspended during any period of time that the rights of the Owner through whom the Person derives his or her privilege to use the Common Property are suspended.

Section 3. Conveyance of Title to the Association. Declarant covenants, for itself, its successors and assigns, that it will convey Common Property to the Association as required by Legal Requirements or the Declaration. Provided, however, specific performance shall be the only remedy available for any failure of Declarant to do so, and the Association shall accept conveyance of Common Property from the Declarant at any time. During the Development Period Declarant reserves an easement in, over, across, under and through the Common Property for the purpose of constructing any improvements on the Common Property or for the benefit of the Subdivision as it deems necessary or advisable, provided that any such improvements must comply with Legal Requirements. Except as otherwise stated herein, all conveyances by Declarant to the Association of real property may be by special warranty deed and shall be free and clear of all encumbrances and liens, except for all Legal Requirements, rights of the Declarant provided for in the Declaration or other Governing Documents, applicable rights of way and easements in instruments or plats recorded in the Registry, agreements affecting the Common Property that have been executed as allowed by the Declaration, applicable ad valorem property taxes for years subsequent to the year in which the conveyance occurs, the Declaration, conservation easements granted to any Person or governmental entity, and other exceptions to title that existed prior to the time Declarant acquired title to such Common Property.

Any improvements constructed or placed on, in, under, or over the Common Property by Declarant and intended for the common use and enjoyment of some or all of the Owners, shall become the property of the Association upon the conveyance of such Common Property to the Association or, as determined by the Declarant, upon the later completion of such improvements. Provided, however, and notwithstanding the foregoing sentence, the following types of improvements constructed or placed on, in, under, or over the Common Property shall not become the property of the Association upon conveyance of the Common Property to the Association: (i) improvements (for example, pipes for transmission of water or

sanitary sewer) owned by any Governmental Entity or with respect to which dedication to public use is accepted by any Governmental Entity, regardless of when such ownership or dedication occurs, or (ii) improvements (for example, pipes, wires, and other facilities for transmission of electricity, telephone, natural gas, cable television, or internet service) owned by a utility provider, regardless of when such ownership occurs, or (iii) improvements (for example, a storm water drainage pipe) that are located in any easement reserved by Declarant or allowed to be established by Declarant under the Declaration and which serve or benefit other real property that is not part of the Properties and which improvements either are owned by a property owners association other than the Association or such property owners association has maintenance obligations with respect thereto.

All conveyances of Common Property to the Association are subject to the right and easement of Declarant and its successors and assigns to construct, install, and maintain such improvements on, in, over, or under such Common Property as Declarant determines are necessary or desirable for the development of the Properties or in the exercise of any other rights or easements of the Declarant provided for in the Declaration or other Governing Documents. Declarant may convey or transfer to the Association real property, personal property and rights and easements in Common Property by written instrument, without warranty, and in an "as is, where is" condition, or may convey or transfer the same to the Association in any other manner determined by Declarant.

Section 4. Rights and Responsibilities as to Common Expense Property.

(a) Owners. Each Owner of a Lot upon which a Common Expense Property lies shall pay all *ad valorem* property taxes and assessments levied against such Lot, including that portion of such tax or assessment as is attributable to such Common Expense Property, and shall maintain the portion of such Owner's Lot subject to the Common Expense Property in the same manner as the Owner is required to maintain the remainder of the Lot under the Declaration, except that the Association shall maintain those improvements in the Common Expense Property constructed or installed by or on behalf of the Association for use in connection with the Common Expense Property, and the Association shall reimburse the Owner for any additional *ad valorem* property taxes assessed against the Lot specifically for the improvements associated with the Common Expense Property. Notwithstanding any other provision of the Declaration, no Owner or other Person shall, without the prior written consent of the Association (or, during the Development Period, the prior written consent of the Declarant): (i) remove any trees or other vegetation or improvements located within a Common Expense Property; (ii) maintain gates, fences, or other improvements in or on a Common Expense Property; (iii) place any garbage receptacles in or on a Common Expense Property; (iv) fill or excavate a Common Expense Property or any part thereof; or (v) plant trees or other vegetation in, or otherwise restrict or interfere with, the maintenance of a Common Expense Property.

(b) Declarant and Association. The Declarant and Association, and their respective employees, agents, contractors and subcontractors, have a nonexclusive right and easement at all times to enter upon any Common Expense Property for any or all of the following purposes: (i) maintaining entrance signs, monuments and decorative features, and other signs, all of which shall have been approved by the City if such approval is required under Legal Requirements; (ii) maintaining landscaping, Stormwater Control Measures, and other improvements to or in the Common Expense Property that have been constructed or installed by the Declarant or the Association; and (iii) maintaining the Common Expense Property in its natural or improved state, including, without limitation, removal of fallen trees and other debris and, in general, keeping the Common Expense Property free from obstructions and impediments to its use.

Section 5. Ingress and Egress; Utilities. Notwithstanding anything to the contrary appearing in the Declaration, (i) if ingress and egress from a public street to and from any Lot is over any part of the Common Property as shown on any plat or described in any instrument recorded in the Registry, or (ii) Stormwater Control Facilities, stormwater drainage, sanitary sewer, water or other utility services are provided to a Lot over or through an easement located on the Common Property as shown on any plat or described in any instrument recorded in the Registry, any conveyance or encumbrance of the affected portion of the Common Property shall be subject to those easements for ingress and egress and/or

utilities, and no suspension of the rights of the Owner of said Lot in and to the use and enjoyment of the Common Property as allowed herein shall include suspension of any such rights of such Owner to ingress and egress or utilities.

ARTICLE V
MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Each and every Owner of a Lot and each and every Owner of a Development Parcel, including the Declarant, is a Member of the Association (and Declarant is the Class B Member of the Association as provided herein) and, by execution of the Declaration or by acceptance of a deed conveying to such Owner title to any Lot or Development Parcel, each Owner consents to be a Member of the Association, subject to the terms of the Governing Documents. Membership shall be appurtenant to and may not be separated from ownership of the Lot or Development Parcel owned by such Owner. An Owner's membership in the Association automatically terminates whenever such Person ceases to be an Owner of such Lot or Development Parcel (except that the Declarant's Class B Membership shall terminate only as provided herein), but such termination shall not release or relieve any such Owner from any liability or obligation incurred under the Declaration during the period of such Owner's ownership, nor impair any rights or remedies which the Association or any other Owner has with respect to such former Owner.

Section 2. Classes of Voting Members. The Association shall have two (2) classes of voting Members, with votes in the Association, as follows:

(a) **Class A**. Class A Members are all Owners of Lots, Development Parcels, and Apartment Units, except for the Declarant. Class A Members shall have the following votes:

(1) one (1) vote for each Lot owned by the Class A Member, but only one (1) Class A Member vote is allocated to each Lot, regardless of the number of Owners thereof.

(2) one (1) vote for each acre of a Development Parcel owned by the Class A Member, but only one (1) Class A Member vote is allocated to each acre of a Development Parcel, regardless of the number of Owners thereof. Provided, however: (i) as portions of a Development Parcel become Lots for purposes of assessments under the Declaration, votes for those portions shall be determined in accordance with the number of Lots; (ii) as portions of a Development Parcel become Apartment Units for purposes of assessments under this Declaration, votes for those portions shall be determined in accordance with the number of Apartment Units; and (iii) once a Development Parcel has been fully developed as Lots or Apartment Units in accordance with the applicable Subdivision Plan, no votes will be allocated to any remaining acreage in that Development Parcel. The determination of the time when such full development has occurred shall be in the reasonable discretion of the Declarant, during the Development Period, and thereafter in the reasonable discretion of the Board. In determining the number of votes for a Development Parcel, a partial acre equal to 0.5 acre or more shall be rounded up to the nearest whole acre, and a partial acre less than 0.5 acre shall be rounded down to the nearest whole acre, except that where the acreage is less than one (1) acre, the Development Parcel shall be allocated one (1) vote.

(3) one-fourth (1/4) vote for each Apartment Unit owned by the Class A Member; but only one-fourth (1/4) Class A Member vote is allocated to each Apartment Unit, regardless of the number of Owners thereof.

(b) **Class B**. The Class B Member is the Declarant. The number of Class B votes for portions of the Properties and Proposed Properties owned by the Class B Member shall be determined as follows: (i) for all portions of the Properties and Proposed Properties for which there are recorded plats, the Class B Member shall have ten (10) votes for each residential unit shown on the plats; (ii) for all portions of the Properties and Proposed Properties for which there are not recorded plats but for which there are one or more Subdivision Plans, the Class B Member shall have ten (10) votes for each residential unit

approved under the applicable Subdivision Plans; (iii) for all portions of the Properties and Proposed Properties subject to any Subdivision Plan for which no residential units are approved, the Class B Member shall have ten (10) votes for each acre thereof; and (iv) for all portions of the Properties and Proposed Properties for which there are neither recorded plats nor Subdivision Plans, there shall be no Class B votes until a recorded plat or Subdivision Plan applicable thereto exists and, at that time, votes shall be determined in the same manner as provided in immediately preceding (i), (ii), or (iii) as applicable. When votes are allocated for acreage, a partial acre equal to 0.5 acre or more shall be rounded up to the nearest whole acre, and a partial acre less than 0.5 acre shall be rounded down to the nearest whole acre, except that where the total acreage is less than one (1) acre, it shall be allocated ten (10) votes. With respect to any portions of the Properties and Proposed Properties owned by Declarant and withdrawn from the Declaration, the number of Class B Member votes shall be reduced by the number of Class B Member votes that were allocated to the withdrawn portion of the Properties or Proposed Properties immediately prior to its withdrawal from the Declaration.

Provided, however, and notwithstanding anything to the contrary in the Declaration or any other Governing Document, with respect to the dedication, conveyance, or exchange of Common Property as described in the Declaration, at all times during the Development Period the then existing number of Class B votes shall be deemed to constitute one more vote than the minimum percentage of votes in the Association required by the Declaration or the Act or any other Legal Requirement to effect any such dedication, conveyance, or exchange of Common Property.

The Class B Membership shall terminate at the end of the Development Period, subject to reinstatement from time to time as provided in the definition of Development Period.

Section 3. Exercise of Voting Rights. The exercise of voting rights shall be governed by the Bylaws of the Association. Provided, however, when more than one Person owns an interest (other than a leasehold or security interest) in any Lot or Development Parcel or Apartment Unit, all such Persons shall be Members and the voting rights appurtenant to their Lot or Development Parcel or Apartment Unit shall be exercised as they, among themselves, determine, but fractional voting of the votes allocated to such Lot or Development Parcel or Apartment Unit (meaning that the 1/5 vote per Apartment Unit shall not be split or divided in any way) shall not be allowed.

ARTICLE VI
ASSESSMENTS AND OTHER CHARGES

Section 1. Creation of the Lien and Personal Obligation for Assessments. Each Owner, by execution of the Declaration or by acceptance of a deed or other instrument conveying title to a Lot or Development Parcel, whether or not it shall be so expressed therein, is deemed to consent and agree to pay to the Association (or to any Person who may be designated by the Association to collect such monies on behalf of the Association) all assessments and other charges as required by the Declaration, including the following: (i) annual assessments; (ii) working capital assessment; (iii) stormwater assessments; (iv) special assessments for capital improvements or other matters as set forth herein; (v) special individual assessments levied against an Owner to reimburse the Association for maintenance expenses resulting from the failure of such Owner to maintain adequately that Owner's Lot or Development Parcel, or for damages to Common Property, or for such other purposes as stated herein; (vi) architectural review fees and costs as specified herein; (vii) fines for violations of Restrictions and Rules or Association rules and regulations with respect to use of the Common Property; (viii) late payment penalties and interest on unpaid assessments; and (ix) other charges imposed under authority contained in the Governing Documents (architectural review fees, fines, penalties, interest and other charges all being referred to herein collectively as "other charges"), and, in addition to such assessments and other charges, to pay all costs, fees and expenses, including reasonable attorneys' fees, incurred by the Association in enforcing or collecting any of the foregoing assessments or other charges against the obligated Owner. All assessments and other charges shall be established and collected as hereinafter provided. All assessments and other charges remaining unpaid for a period of thirty (30) days or longer, together with the

costs of collection thereof, including reasonable attorneys' fees, shall constitute a lien on the Lot or Development Parcel against which they are assessed or charged from the time of the filing of a lien in the office of the Clerk of Superior Court of Wake County, North Carolina, and shall be the personal and continuing obligation of the Person who was the Owner of such Lot or Development Parcel at the time when the assessment or other charge first became due and payable. An Owner's personal obligation for payment of such assessments and other charges shall not become the personal obligation of a subsequent Owner unless expressly assumed by the subsequent Owner, although the lien shall continue against the Lot or Development Parcel until the amounts due are paid. No Owner shall be exempt from liability for any assessment provided for herein by reason of non-use of the Common Property or such Owner's Lot or Development Parcel, or abandonment of a Lot or Development Parcel, or temporary unavailability of the use or enjoyment of the Common Property. If necessary to establish the right to collect reasonable attorneys' fees under the Declaration, any obligation of an Owner to pay assessments or other charges or monetary obligations under the Declaration shall constitute evidence of indebtedness for the purpose of establishing under Section 6-21.2 of the North Carolina General Statutes (or any successor statute) the right to collect reasonable attorneys' fees in any action or proceeding to enforce or collect payment of such obligation. Provided, however, the foregoing sentence specifically is intended to supplement, and not to interfere, limit, invalidate or be in conflict with, any provisions of the Act with respect to reasonable attorneys' fees.

Section 2. Liability for Assessments After Change in Membership Status.

No Owner shall be relieved of, or released from, the obligation to pay assessments and other charges under the Declaration because of any resignation or attempted resignation by such Owner of membership in the Association while such Owner owns a Lot or Development Parcel, or because of any suspension of such Owner's membership or membership rights in the Association as allowed under the Governing Documents.

Section 3. Nature, Purpose and Use of Assessments. The assessments shall be used by the Association to pay the Common Expenses. The annual assessment primarily is for the purpose of funding the Common Expenses of the Association, including monies set aside for reserves, for the fiscal year to which it applies and in accordance with the annual operating budget adopted by the Association, although such assessments may be used for payment of any Common Expenses as determined by the Board.

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

Section 4. Commencement of Assessments.

(a) Each Lot becomes subject to all assessments under the Declaration applicable to Lots from and after the date on which it becomes a Lot. Each Development Parcel becomes subject to all assessments under the Declaration applicable to Development Parcels from and after the date on which it becomes a Development Parcel. Each Apartment Unit becomes subject to all assessments under the Declaration applicable to Apartment Units from and after the date on which a certificate of occupancy has been issued for it.

(b) With respect to any Lot, Development Parcel, or Apartment Unit that is not a Lot, Development Parcel, or Apartment Unit on the first day of a fiscal year and first becomes a Lot, Development Parcel, or Apartment Unit during that fiscal year, the annual assessment due and payable for that assessment category for that fiscal year is determined by

multiplying the applicable annual assessment amount by a fraction whose numerator is the number of days remaining in that fiscal year from and after the day on which it becomes a Lot, Development Parcel, or Apartment Unit and whose denominator is the total number of days in that fiscal year. Such annual assessment is due and payable by the Owner of such Lot, Development Parcel, or Apartment Unit on or before the 30th day following the date on which it becomes a Lot or Apartment Unit. The annual assessment for that fiscal year applicable to a Development Parcel that included a Lot or Apartment Unit that first became a Lot or Apartment Unit during the fiscal year remains applicable to that Development Parcel, regardless of the number of Lots or Apartment Units that come out of that Development Parcel during that fiscal year.

(c) With respect to any Lot, Development Parcel, or Apartment Unit that is conveyed by Declarant to any Owner who is not a Declarant during a fiscal year for which Declarant has elected to fund the Operating Deficit instead of paying annual assessments, for that fiscal year the annual assessment for such Lot, Development Parcel, or Apartment due and payable by such Owner is determined by multiplying the applicable annual assessment amount by a fraction whose numerator is the number of days remaining in that fiscal year from and after the day on which the conveyance occurs and whose denominator is the total number of days in that fiscal year. Such annual assessment is due and payable on or before the 30th day following the date on which the instrument of conveyance is recorded in the Registry.

Section 5. Annual Operating Budget and Annual Assessments.

(a) The annual assessments for fiscal year 2007 are as follows:

(1) $480.00 per Lot; and

(2) $500.00 per acre for Development Parcels.

(b) The annual assessment for each Apartment Unit for 2007 and all subsequent fiscal years shall be 1/4 of the amount of the annual assessment for a Lot. Except as may be otherwise required by Legal Requirements, or except with respect to any assessments for Limited Common Property applicable solely to Apartment Units, all other assessments for Apartment Units shall be 1/4 of the assessments for Lots.

(c) Declarant, as the sole owner of the Properties at the time of the recording of the Declaration, has adopted an annual operating budget for fiscal year 2007. For the fiscal year that starts on January 1, 2008, and for subsequent fiscal years, the Board shall adopt for each fiscal year a proposed annual operating budget, also referred to herein as the "budget", containing an estimate of the total amount believed to be necessary to pay the Common Expenses for that fiscal year, including such reasonable amounts as the Board deems necessary to pay for: (i) maintenance of Stormwater Control Measures; (ii) payment of any amounts the Association is required to pay by a Stormwater Agreement; (iii) maintenance of Common Areas other than Stormwater Control Measures; (iv) working capital (available for day-to-day operating expenses of the Association and otherwise uncommitted for specific expenses); (v) reserves for contingencies; and (vi) reserves for replacement of Common Property, and the budget shall contain separate line items for each of the foregoing (but no budget shall be invalid if any one or more of such items are not shown separately). In adopting a budget and annual assessment, the Board may consider any assessment income expected to be generated from any additional Lots, Development Parcels, and Apartment Units reasonably anticipated to become subject to assessment during the applicable fiscal year. The budget shall state the amounts of the annual assessments proposed by the Board as necessary to pay for the budgeted Common Expenses, which are the annual assessments that will be assessed upon ratification of the budget. The "maximum annual assessment" for each fiscal year shall be the amount that is equal to 150% of the applicable annual assessment resulting from budget ratification. At any time during a fiscal year, the Board may assess and collect from the Owners one or more additional annual assessments determined by the Board to be necessary to cover actual Common Expenses that exceed the budgeted amount therefor and new or unexpected additional Common Expenses incurred during that fiscal year; provided, however, the total amount of the annual assessment during any fiscal year shall not exceed the maximum annual assessment . The total

amount of the annual assessment actually assessed against each Lot, Development Parcel, or Apartment Unit during a fiscal year is referred to herein as the "actual annual assessment" (for example, if the applicable annual assessment resulting from budget ratification is $100.00 per Lot and an additional $25.00 per Lot is assessed during the fiscal year, the actual annual assessment for that fiscal year is $125.00).

Within thirty (30) days after adoption of a proposed budget, the Board shall provide a copy or summary thereof to all Members (a copy or summary provided to any one (1) of multiple Owners of a Lot, Development Parcel, or Apartment Unit is deemed to be provided to all of such Owners), together with a notice of the annual or special meeting of the Association at which ratification of such proposed budget will be considered, including a statement that the proposed budget may be ratified without a quorum for the meeting. The annual or special meeting at which ratification of the proposed budget is to be considered shall be held not less than ten (10) days nor more than sixty (60) days after mailing of the summary and notice. There shall be no requirement that a quorum be present at the meeting at which ratification of the proposed budget is to be considered (although if other matters are to be considered at such meeting applicable quorum requirements are in effect with respect to those other matters). The budget is ratified unless rejected at that meeting as follows: (i) if the proposed annual assessment does not exceed the actual annual assessment for the immediately preceding fiscal year by more than 50% (for example, if the actual annual assessment for the immediately preceding fiscal year was $100.00 per Lot, then does not exceed $150.00 per Lot), the budget is ratified unless Members possessing ninety percent (90%) or more of the total number of votes in the Association reject it; (ii) if the proposed annual assessment exceeds the actual annual assessment for the immediately preceding fiscal year by more than 50%, the budget is ratified unless Members possessing sixty-seven percent (67%) or more of the total number of votes in the Association reject it. In the event that the proposed budget is rejected, the budget last ratified by the Members shall be continued until such time as the Members ratify a subsequent budget proposed by the Board.

(d) Beginning with the annual assessment for fiscal year 2008, the Association shall send written notice of each annual assessment to the Members of the Association (for purposes of notice of all assessments under the Declaration, notice sent to any one (1) of multiple Owners of a Lot, Development Parcel, or Apartment Unit is deemed to be notice sent to all of such Owners) not less than thirty (30) days in advance of the payment due date specified in the notice (which shall not be earlier than the first day of the applicable fiscal year), which written notice may be in the form of an invoice for the annual assessment. The failure of the Board to establish the amount of any annual assessment or send timely notice as required herein shall not constitute a violation, waiver or modification of the provisions of the Declaration, or a waiver of the Board's right to establish and collect the annual assessment at any time during the fiscal year to which it is applicable, or a release of any Member from the obligation to pay the assessment or any installment thereof for that or any subsequent fiscal year. Until the Board has established an annual assessment for a fiscal year, the actual annual assessment for the immediately preceding fiscal year shall continue in effect, but when the new annual assessment is established, it shall be retroactive to the first day of the applicable fiscal year, and notice of same shall be sent to the Members not less than thirty (30) days in advance of the payment due date specified in the notice. If the annual assessment for any fiscal year has not been established by last day of the immediately preceding fiscal year, the Board may send a notice of assessment to the Members for the amount of the immediately preceding fiscal year's annual assessment, together with notice that a new assessment may be established for that fiscal year that may require an additional payment. Once the new annual assessment is established, any additional amount owed is due and payable by the payment due date specified in a supplemental notice to the Members sent not less than thirty (30) days in advance of the payment due date specified in the supplemental notice.

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

(f) Except as otherwise provided in the Declaration, or in any Supplemental Declaration or Subdivision Declaration not in conflict with the Declaration, or by Legal Requirements (for example, additional or different assessments for Limited Common Property and stormwater assessments), the total amount of each annual assessment assessed against an assessment category shall be assessed equally against each portion of the Properties that is part of that assessment category - for example, if there are 100 Lots subject to an annual assessment, each Lot is assessed an amount equal to 1/100th of the total amount of that annual assessment assessed against Lots.

Section 6. Declarant's Obligation to Pay Annual Assessments.

(a) During the Declarant Control Period, Declarant may satisfy its obligation for payment of annual assessments on portions of the Properties which it owns either by paying annual assessments in the amount per Lot, Development Parcel, and Apartment Unit assessed for that fiscal year or by paying the Operating Deficit. Unless Declarant otherwise notifies the Board prior to the Board's adoption of a proposed annual operating budget for the next fiscal year, Declarant shall be deemed to have elected to continue paying on the same basis as during the current fiscal year. Declarant has elected to pay the Operating Deficit for fiscal year 2007. Payment of the Operating Deficit may be enforced against the Declarant and collected by the Association in the same manner as enforcement and collection of assessments applicable to other Owners. At Declarant's option, the Operating Deficit for any fiscal year may not be assessed against Declarant unless the maximum annual assessment for that fiscal year has been assessed.

Declarant's obligations with respect to payment of annual assessments or payment of the Operating Deficit may be satisfied by Declarant by any combination of the provision of services or materials toward satisfaction of Common Expenses, including (i) payment for such services or materials directly to the providers thereof, or (ii) payment of money to the Association, or (iii) providing, directly or indirectly, to or for the Association, services or materials related to Common Expenses (the value of which shall be determined by the Board in its reasonable discretion, giving due consideration to what the fair market value of such services or materials would be if they had been furnished by a Person other than Declarant). Beginning with the first fiscal year after the end of the Declarant Control Period, Declarant shall pay annual assessments on its Lots in the same manner as any other Owner.

(b) Following the end of the Declarant Control Period, the Declarant, at its sole option, will receive an "assessment credit" toward payment of annual assessments applicable thereafter to Lots owned by Declarant, in an amount equal to the following: the total amount paid or provided by Declarant to fund the deficit less the total amount of annual assessments that Declarant would have been obligated to pay the Association in those fiscal years in which Declarant elected to fund the deficit rather than paying annual assessments on Lots owned by Declarant. As determined by Declarant, the assessment credit may be applied to payment of all annual assessments due from Declarant beginning with the first fiscal year after the end of the Declarant Control Period until it has been applied in full against all annual assessments otherwise due and payable by Declarant.

Section 7. Reduced Annual Assessments for Builders. Provided, however, and notwithstanding anything to the contrary herein, at any time during the Development Period the Declarant may provide that annual assessments for portions of the Properties owned by Builders be assessed in an amount that is less than the annual assessments for Lots, Development Parcels, and Apartment Units owned by Class A Members other than Builders. By the recording of the Declaration, the Declarant is providing for a reduced annual assessment for Builders as follows: the annual assessment for a Lot or Development Parcel owned by a Builder on which there is not a Dwelling for which a certificate of occupancy has been issued shall be 50% of the amount of the applicable annual assessment, until such time as the first of the following occurs: (i) the date of the sale of such Lot or Development Parcel to an Owner other than the Builder; or (ii) the date on which a certificate of occupancy has been issued for the Dwelling on such Lot or Development Parcel; or (iii) the date that is one year from the date on which the Builder became the Owner of such Lot or Development Parcel. Provided, however, that each Apartment Unit shall be assessed at the full amount of the annual assessment then applicable to Apartment Units from and

after the date on which it first becomes an Apartment Unit. It shall be the obligation of each Builder to notify the Association of the applicable date on which the full annual assessment becomes applicable to any Lot, Development Parcel, or Apartment Unit owned or sold by the Builder. During any fiscal year in which the reduced annual assessment applicable to a Lot or Development Parcel owned by a Builder ends or in which an Apartment Unit owned by a Builder first becomes an Apartment Unit, the annual assessment for such Lot, Development Parcel, or Apartment Unit for the remainder of that fiscal year shall be due and payable based on 100% of that fiscal year's applicable annual assessment, and the Association shall bill and collect the additional amount accordingly. The additional amount of annual assessment owed shall be determined by multiplying the amount of the applicable annual assessment by a fraction whose numerator is the number of days in the fiscal year from and after the day on which reduced annual assessment ends or the Apartment Unit becomes an Apartment Unit, and whose denominator is the total number of days in that fiscal year.

The Declarant may eliminate or change the reduced annual assessment applicable to Builders by recording in the Registry an instrument describing same. The elimination or change shall be effective beginning with the fiscal year immediately following the date on which such instrument is recorded in the Registry, or on such later date as specified therein.

Section 8. Special Assessments. In addition to the annual assessments authorized herein, except for matters related to stormwater management by the Association (a stormwater assessment being established in another Section of the Declaration) and subject to the other requirements of the Declaration, at any time and from time to time the Association may levy a special assessment for the purpose of defraying, in whole or in part, the costs or expenses of any one or more of the following:

(a) Maintenance of a capital improvement in or on the Common Property, including fixtures and personal property related thereto.

(b) Additions to the Common Property.

(c) The necessary facilities and equipment to enable the Association to perform the functions and offer the services required or authorized herein.

(d) The Common Expenses of the Association, to the extent that such Common Expenses are not covered by annual assessments and applicable reserve funds.

(e) Repayment of any loan made to the Association to enable it to pay the Common Expenses or to perform the other functions and provide the other services required or authorized herein.

Each special assessment imposed under this Section first shall be approved by the affirmative vote by sixty-seven percent (67%) or more of the votes cast by the Members present at a meeting of the Association and, during the Development Period, the written consent of the Declarant. Notices for all meetings of the Association at which there is to be a vote on a special assessment shall include notice of the purpose and amount of the proposed special assessment. A special assessment is effective on the later of the date it is approved by the Members or Declarant (if such approval is required), or such later date adopted by the Members in the vote approving the special assessment, and is due and payable as established by the vote of the Members approving the special assessment, or, if not established by such vote of the Members, as established by the Board. Except as otherwise provided in the Declaration, a Supplemental Declaration, a Subdivision Declaration, a Commercial Declaration, or Legal Requirements (for example, additional or different assessments for Limited Common Property and stormwater assessments), special assessments (i) shall be assessed against all assessment categories, (ii) shall be allocated among the various assessment categories in the same proportion as the assessment percentage for that assessment category for the fiscal year in which the special assessment is assessed (for example, if the assessment percentage for Lots is 75%, then 75% of the special assessment shall be assessed against Lots), and (iii) the total amount of each special

assessment assessed against an assessment category shall be assessed equally against each portion of the Properties that is part of that assessment category - for example, if there are 100 Lots subject to a special assessment, each Lot is assessed an amount equal to 1/100th of the total amount of that special assessment assessed against Lots.

Section 9. Special Individual Assessment. In addition to all other assessments, the Board (without any vote of the Members as required for other types of special assessments) may levy a special individual assessment against any Owner for (i) the repair of any damage to any portion of the Properties, including, without limitation, Common Areas and public road rights of way (other than normal wear and tear), caused by the Owner or any such Owner's family members, tenants, contractors, subcontractors, agents, or guests, or (ii) maintenance expenses resulting from the failure of such Owner to maintain adequately that Owner's Lot or Development Parcel, or (iii) for any other purposes for which a special individual assessment may be assessed under the Declaration. The notice of such special individual assessment shall describe the nature of the damage and the necessary repairs or maintenance, or any other purpose for the special individual assessment, and any such special individual assessment shall be due and payable to the Association on or before the tenth (10th) day following such the giving of the notice by the Association. The Board may, in its discretion, levy any such special individual assessment prior to the commencement of the repairs or maintenance for which such special individual assessment is levied; provided that upon the Association's receipt of payment of such special individual assessment the Board promptly shall undertake to have such repairs or maintenance performed and shall refund to such Owner any excess of the amount assessed and paid over the cost of such repairs or maintenance. In the event that the cost of such repairs exceeds the amount assessed and paid, the Board may assess such Owner for the excess costs.

Section 10. Stormwater Assessment. Notwithstanding anything to the contrary in the Declaration, and in keeping with the obligation of the Association under Section 47F-3-107(a) of the Act to be "responsible for causing the common elements to be maintained, repaired, and replaced when necessary and to assess the lot owners as necessary to recover the costs of such maintenance, repair, or replacement", (i) if the Board determines that the amount required in any fiscal year to pay for the Common Expenses, including the Association's obligation for stormwater management, maintenance of Stormwater Control Measures and payment of sums due from the Association under any Stormwater Agreement for any part or all of the Properties, would cause the Association's total expenses for that fiscal year to exceed the amount that would be due and payable to the Association if all assessment categories were assessed in the amount of the maximum annual assessment for that fiscal year (such excess amount of total expenses for that fiscal year being referred to in this Section as "excess expenses"), and (ii) the Board determines that there are not sufficient reserve funds available both to pay the excess expenses and continue to have adequate reserve funds, and (iii) the maximum annual assessment has been assessed against each assessment category for that fiscal year, and (iv) during the Declarant Control Period, Declarant either has paid to the Association the maximum annual assessments on all portions of the Properties owned by Declarant or has paid the Operating Deficit for that fiscal year in an amount not less than the maximum annual assessment on all portions of the Properties owned by Declarant, then the Board may assess, as an additional assessment for that fiscal year, a "stormwater assessment" in an amount sufficient to pay for the excess expenses. Except as otherwise provided in the Declaration, a Supplemental Declaration, a Subdivision Declaration, a Commercial Declaration, or Legal Requirements (for example, additional or different assessments for Limited Common Property and stormwater assessments), stormwater assessments (i) shall be assessed against all assessment categories, (ii) shall be allocated among the various assessment categories in the same proportion as the assessment percentage for that assessment category for the fiscal year in which the stormwater assessment is assessed (for example, if the assessment percentage for Lots is 75%, then 75% of the stormwater assessment shall be assessed against Lots), and (iii) the total amount of each stormwater assessment assessed against an assessment category shall be assessed equally against each portion of the Properties that is part of that assessment category - for example, if there are 100 Lots subject to a stormwater assessment, each Lot is assessed an amount equal to 1/100th of the total amount of that stormwater assessment assessed against Lots. The payment due dates for such stormwater assessment shall be as determined by the Board and shall be enforceable against Owners and their portions of the Properties in the same manner as annual assessments. Provided, however, during the Development Period no such stormwater assessment shall be valid unless the

same shall have been consented to in writing by the Declarant. Any stormwater assessment for excess expenses is in addition to all other assessments provided for herein.

Section 11. Collection of Assessments; Penalties for Late Payment.

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

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

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

Section 12. Certification of Assessments Paid. The Association, or any property manager or agent authorized by the Association, upon written request and payment of a reasonable charge or fee established or approved by the Board, shall furnish to any Owner or such Owner's authorized agent, or to any holder of a first lien deed of trust on a Lot or Development Parcel, or to an attorney who represents the Owner or a prospective purchaser of such Lot or Development Parcel, or to any other Person approved by the Board, a certificate signed by an officer of the Association or other Person authorized by the Board to give such certificate setting forth whether or not the assessments and other charges owed by such Owner have been paid. The certificate shall be furnished within ten (10) business days after receipt of the request therefor and, except in the event of any willful misstatement made by the issuer of the certificate, it shall be binding on the Association, the Board and every Owner. If requested by the requesting party, the certificate also shall indicate whether or not the Association has knowledge of any uncured default in, or violation of, any provision of the Declaration and other Governing Documents with respect to the Lot or Development Parcel and the then Owners thereof and, if there is any uncured default or violation, the action required to cure it.

Section 13. Assessment Lien and Foreclosure. The assessments and other charges provided for herein shall be the personal and individual debt of each Person who, at the time of the assessment or other charge, is an Owner of the Lot or Development Parcel against which they are assessed or charged. Any assessment or other charge not paid on or before the payment due date and remaining unpaid for a period of thirty (30) days or longer, together with the fines, penalty and interest charges as provided in the Declaration, plus the costs of collection (including reasonable attorneys' fees), shall be a charge and continuing lien on the Lot or Development Parcel (and all Improvements thereon) against which they are assessed or charged from and after the date on which a claim of lien is filed by the Association in the office of the Wake County Clerk of Court. Except as otherwise provided in the Declaration or by Legal Requirements, such lien shall be superior to all other liens and charges against the Lot or Development Parcel and Improvements thereon. The Board shall have the power, in its sole discretion, to subordinate the lien to any other lien. The claim of lien shall set forth the name and address of the Association, the name of the record Owner of the Lot or Development Parcel at the time the claim of lien is filed, a

description of the Lot or Development Parcel, and the amount of the lien claimed. In addition to the claim of lien, the Association may execute, issue or record such other evidence of the lien as the Board deems necessary. The Association may foreclose the claim of lien in like manner as a mortgage on real estate under a power of sale or in any other manner allowed or required by Legal Requirements, and/or the Association may institute suit against the Owner personally obligated to pay the assessment or charge, and/or the Association may seek any other available remedy or relief. In any foreclosure proceeding, the Association shall have the right to appoint a trustee or commissioner (or other appropriately named Person) to implement the foreclosure, and the defaulting Owner shall be required to pay the costs, expenses, trustee's (or commissioner or other) fees, and reasonable attorneys' fees incurred by the Association. The Association shall have the power to bid on and purchase the Lot or Development Parcel at foreclosure and to acquire, hold, lease, mortgage, convey or otherwise deal therewith. The remedies against a defaulting Owner and such Owner's Lot or Development Parcel are cumulative and not mutually exclusive, and the Association may seek none, or any one or more of such remedies, separately or simultaneously, as deemed appropriate by the Board.

Section 14. Lien Priority. The lien for unpaid assessments and other charges provided for herein is prior to all liens and encumbrances on a Lot or Development Parcel except (i) liens and encumbrances (specifically including a first lien mortgage or deed of trust on a Lot or Development Parcel) recorded before the docketing of the claim of lien in the office of the Wake County Clerk, and (ii) liens for real estate taxes and other governmental entity assessments and charges against the Lot or Development Parcel. Provided, however, this Section does not affect the priority of mechanic's or materialmen's liens. A lien for unpaid assessments and other charges is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the docketing of the claim of lien in the office of the Wake County Clerk of Court. Where the holder of a first mortgage or first deed of trust of record, or other purchaser of a Lot or Development Parcel obtains title to the Lot or Development Parcel as a result of foreclosure of a first mortgage or first deed of trust or deed or other proceeding in lieu of foreclosure, such purchaser and its heirs, successors, and assigns, shall not be liable for the assessments against such Lot or Development Parcel which became due prior to the acquisition of title to such Lot or Development Parcel by such purchaser. Such unpaid assessments shall be deemed to be Common Expenses collectible from all the Owners, including such purchaser, its heirs, successors, and assigns in the event that the Association is unable to collect, or chooses not to pursue collection, from the Person who was the Owner of the Lot or Development Parcel during the time the assessments were assessed against the Lot or Development Parcel.

Section 15. Exempt Property. All Exempt Property is exempt from the assessments, charges and liens established pursuant to the Declaration.

Section 16. Reserve Funds. From the annual assessments and working capital assessments the Board, in the exercise of its reasonable discretion, shall establish and maintain reserve funds for working capital, contingencies, and acquisition and replacements of Common Property and other financial obligations of the Association. Reserve funds are subject to the following:

(a) Extraordinary expenditures not originally included in the annual operating budget shall be paid for out of appropriate reserves, including (i) major rehabilitation or repair of the Common Property, (ii) emergency or other repairs required as a result of storm, fire, natural disaster or other casualty loss, and (iii) as determined by the Board, the initial costs of any new service to be performed by the Association. Except for expenses of normal and routine maintenance included in the annual operating budget, all expenses for repair or replacement of the Common Property first shall be charged against appropriate reserves in such amount as determined by the Board.

(b) If reserve funds become excessive, as determined by the Board, the Board may adjust the reserve funds by reallocation to other annual operating budget items or by applying excess amounts as credits against annual assessments, or by refunding the excess amount to the then Owners.

Section 17. Working Capital Assessment. Except in those instances in which a working capital assessment for the Lot has been paid previously, at the closing of the sale by Declarant of a Lot on which a Dwelling exists, or at the closing of the sale of a Lot by the Declarant to any Person other than a Builder or a successor or assignee Declarant, or at the closing of the sale of a Lot by a Builder to any Person, whether or not there is a Dwelling on the Lot, the purchaser of the Lot or the Lot and Dwelling shall pay to the Association at the time of the closing of the purchase a "working capital assessment" in the amount of $200.00, to be applied to payment of Common Expenses as determined by the Board. The working capital assessment shall be paid only once with respect to each Lot, and is in addition to all other assessments. All working capital assessments may be enforced and collected in the same manner as all other assessments.

Section 18. Assessments for Limited Common Property.

(a) With respect to any portion of the Properties owned by Declarant (and, with the written consent of the Owner thereof, with respect to any portion of the Properties not owned by Declarant), the Declarant reserves the right, by recording Supplemental Declarations or Subdivision Declarations or Commercial Declarations or other documents, to subject such portions of the Properties located in one or more phases, sections or subdivisions in the Properties to provisions requiring the Owners thereof to pay additional assessments to the Association for the maintenance of, and addition to, Limited Common Property, including any one or more of the following: (i) private streets; (ii) private alleys; (iii) landscaping, signs and decorative features; (iv) Common Expense Property associated specifically with the Lots or Development Parcels to which the Limited Common Property is allocated; (v) Stormwater Control Measures; and (vi) anything else with respect to such Limited Common Property that would be a Common Expense for Common Property.

All of the provisions of the Declaration relating to annual assessments, special assessments and stormwater assessments shall apply to the additional assessments for Limited Common Property, with the following exceptions: (i) the additional assessments with respect to any particular Limited Common Property are assessed only against those Owners of the Lots or Development Parcels to which such Limited Common Property is allocated; (ii) the initial additional maximum annual assessment and additional annual assessment for each Limited Common Property may be established in the Supplemental Declaration, Subdivision Declaration, Commercial Declaration, or other document that creates or establishes that Limited Common Property; (iii) the additional may vary with respect to different groups of Lots and/or Development Parcels or from phase to phase, section to section, or subdivision to subdivision within the Properties; and (iv) the additional assessments for portions of the Properties with respect to any particular group of Lots and/or Development Parcels or in any particular phase, section or subdivision of the Properties shall be used exclusively in connection with the Limited Common Property associated with such group of Lots and/or Development Parcels or phase, section or subdivision.

Section 19. 1/4 Apartment Unit Assessment. No amendment to the Declaration that increases the amount of the annual assessment or any special assessment or stormwater assessment applicable to an Apartment Unit to an amount greater than 1/4 of the corresponding assessment applicable to a Lot, shall be valid without the written consent of the Owner of the Development Parcel on which the affected Apartment Units are located. Provided, however, the foregoing limitation does not apply to any Limited Common Property applicable to a Development Parcel on which Apartment Units are located or applicable to such Apartment Units, as Limited Common Property assessments may cause the total amount of an annual assessment or the total amount of assessments assessed in any fiscal year against an Apartment Unit to exceed 1/4 of the total amount of assessments assessed in that fiscal year against a Lot.

Section 20. New Assessment Categories. In connection with the exercise of the rights reserved by Declarant to create new classes of membership in the Association, Declarant also reserves the right to create new or different assessment categories and assessments applicable thereto that differ from the existing assessment categories and assessments applicable thereto as described in the Declaration.

Section 21. Private Vehicular Access.

There are portions of the Properties with respect to which Declarant vehicular access to publicly dedicated streets may be over property identified as private streets, alleys, private access easements, or otherwise on plats recorded in the Registry (all of the foregoing means of private access being referred to collectively in the Declaration as "Private Vehicular Access"). Such areas of Private Vehicular Access may or may not be located on Common Property or Limited Common Property owned by the Association (for example, part or all of the vehicular access from a portion of the Properties to and from a publicly dedicated street may be over Sub-Association Common Property or may be located in a Common Expense Property).

It is the purpose of this Section to reserve the right of Declarant to classify all of such areas of Private Vehicular Access as Limited Common Property, to establish that there may be a Limited Common Property annual assessment applicable to the portions of the Properties associated with such Private Vehicular Access (which is in addition to the annual assessment applicable to such portions of the Properties, and to establish the procedures for expending funds collected by the Association for such Private Vehicular Access, as follows:

(a) Declarant will identify the various areas of Private Vehicular Access and the portions of the Properties associated therewith from time to time by Supplemental Declarations or other written instruments recorded in the Registry.

(b) There shall be a Limited Common Property annual assessment for portions of the Properties associated with Private Vehicular Access as follows (this Limited Common Property annual assessment being in addition to the annual assessment applicable to such portions of the Properties):

(1) The annual assessment for Private Vehicular Access shall commence on the date of the recording of the Supplemental Declaration or other document, or on such later date as specified therein, respect to those portions of the Properties described therein.

(2) The beginning amount of the maximum annual assessment and the annual assessment for the portions of the Properties described in any such Supplemental Declaration or other document shall be stated therein, and the determination of the amount of the annual assessment from year to year shall be subject to the same provisions in the Declaration applicable to determining the amount of annual assessments for Common Expenses.

(c) The Association shall be responsible for maintenance of all Private Vehicular Access areas on all Common Property and for all Private Vehicular Access areas located in any Common Expense Property which has such Private Vehicular Access as one of its purposes, which responsibility may include entering into one or more agreements with Sub-Associations or other Persons for such maintenance with a financial contribution from the Association. During the Development Period the Declarant may enter into such agreements on behalf of the Association, which agreements shall be binding on the Association. With respect to Private Vehicular Access areas that are located on real property not owned by the Association, during the Development Period the Declarant shall have the right and authority to determine the amount, if any, and/or the procedure for determining the amount, if any, that the Association will pay for the maintenance thereof, or to determine the maintenance responsibility of the Association for such Private Vehicular Access areas and the amounts to be contributed to the Association by Sub-Associations or other Persons in connection with such maintenance. Declarant's determination of such matters may be contained in a Supplemental Declaration or other written instrument, whether or not the same is recorded in the Registry. Following the end of the Development Period, such matters shall be determined by the Board with respect to any such Private Vehicular Access for which Declarant has not made the determination previously.

(d) For purposes of collecting the assessments for such Private Vehicular Access areas and paying the Limited Common Expenses therefor, all of such Private Vehicular Access areas for which the Association has maintenance

responsibility or for which the Association contributes funds for maintenance by a Sub-Association or other Person, may, at the option of Declarant as determined during the Development Period, be treated as one Private Vehicular Access and, if Declarant so elects, funds shall be expended as needed for maintenance of the various portions thereof, without regard to the particular section or phase of the Properties in which it is located or with which portions of the Properties it is associated. This shall be the procedure with respect to special assessments as well. As there may be more than one area of Private Vehicular Access throughout the Properties, this procedure may being used in order to simplify the Association's accounting of assessments collected and disbursed for maintenance of the various Private Vehicular Access areas, and this procedure constitutes an exception to any provisions of the Declaration to the contrary. Whichever method is elected by the Declarant, following the end of the Development Period that method may be changed only by the affirmative vote at a meeting of the Association of a majority of the votes of those Owners whose portions of the Properties are subject to the assessments for Private Vehicular Access. The notice of any meeting of the Association at which such vote is to be taken shall include notice that there will be a vote on the method of applying assessments for Private Vehicular Access areas.

Section 22. No Default Under Insured Mortgage. Nothing contained in the Declaration shall be construed as stating or implying that any failure of an Owner to pay assessments constitutes a default under any mortgage on such Owner's Lot that is insured by the FHA or VA, FNMA, FHLMC, or other Secondary Mortgage Market Agency, or any mortgage program administered by any of said agencies.

ARTICLE VII
INSURANCE

Section 1. General Provisions.

(a) The Board shall have the power on behalf of the Association to: (i) purchase insurance policies relating to the Common Property and the activities of the Association; (ii) adjust all claims arising under such policies; and (iii) sign and deliver releases upon payment of claims. The cost of all insurance policies purchased by the Board as allowed or required by the Declaration is a Common Expense. Neither the Board, nor a property manager, nor Declarant, shall be liable for failure to obtain any insurance required by this Article, or for any loss or damage that could have been paid by such insurance, if such insurance is not reasonably available. With respect to insurance required by Legal Requirements, either by hand delivery, or United States Mail, postage prepaid, or by other method allowed by the Declaration or Legal Requirements, the Association promptly shall notify the Owners if such insurance is not reasonably available, or if there is any material adverse modification, lapse, or cancellation of, such insurance that is not being replaced by other insurance.

(b) To the extent such policy provision is reasonably available, no policy obtained by the Association shall be canceled, invalidated or suspended due to the conduct of any Owner, or such Owner's tenant or such Owner's (or tenant's) household members, guests, employees or agents, or of any director, officer or employee of the Board, or the property manager, without a prior demand in writing that the Association or the property manager cure the defect and a period of not less than thirty (30) days within which to cure such defect.

(c) To the extent reasonably possible, the Association shall require that an insurer who has issued an insurance policy to the Association for property insurance on the Common Property or for liability insurance issue certificates or memoranda of insurance to the Association and, upon written request, to any Owner or mortgagee. If such agreement is reasonably available from the insurer, the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association and each Owner and mortgagee to whom certificates or memoranda of insurance have been issued, to their respective last known addresses.

(d) All policies of insurance obtained by the Association shall be written by reputable companies licensed or qualified to do business in North Carolina.

(e) The deductible or retained limit (if any) on any insurance policy obtained by the Association shall be a Common Expense.

(f) The Association may procure such fidelity bonds as the Board determines from time to time are reasonable or necessary, including such bonds as may be necessary to comply with Legal Requirements and to satisfy the requirements of FHA, VA, FNMA, Office of Interstate Land Sales Registration of the Department of Housing and Urban Development ("OILSR") or other governmental agency or Secondary Mortgage Market Agency.

Section 2. Property Insurance.

(a) The Association, to the extent that it is reasonably available, shall obtain and maintain property insurance on all improvements on all real property owned by the Association and on all improvements owned by the Association and located on real property not owned by the Association, insuring against all risks of direct physical loss commonly insured against, including fire damage and extended coverage perils. The total amount of such insurance after application of any deductibles shall be not less than eighty percent (80%) of the replacement cost of the improvements at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies. The foregoing property insurance shall be obtained by the Association as it becomes the owner of the improvements to be insured, but in any event with respect to such improvements not later than the first conveyance of a Lot on which a Dwelling Unit is located to a Class A Member of the Association who is not a Builder. As and when determined to be necessary by the Board, the Association also may obtain and maintain appropriate coverage on any other personal property owned by the Association.

(b) To the extent that such provisions are reasonably available, each such property policy also shall provide that:

(1) each Owner is an insured person under the policy to the extent of such Owner's insurable interest;

(2) the insurer waives its right to subrogation under the policy against any Owner or member of that Owner's household;

(3) no act or omission by any Owner, unless acting within the scope of such Owner's authority on behalf of the Association, will preclude recovery under the policy; and

(4) if, at the time of a loss under the policy, there is other insurance in the name of an Owner of a Lot or Development Parcel covering the same risk covered by the Association's policy, the Association's policy provides primary insurance coverage.

(c) To the extent reasonably possible, the Association shall require the insurer to deliver to each Institutional Lender who requests the same in writing certificates of property insurance on the Common Property, all renewals thereof, and any subpolicies or certificates and endorsements issued thereunder, together with proof of payment of premiums.

Section 3. Liability Insurance. The Association, to the extent that it is reasonably available, shall obtain and maintain liability insurance in reasonable amounts, 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 all real property owned by the Association and of all improvements owned by the Association and located on real property not owned by the Association. The foregoing liability insurance shall be obtained by the Association as it becomes the owner of the real

property or becomes the owner of improvements, as the case may be, but in any event not later than the first conveyance of a Lot on which a Dwelling Unit is located to a Class A Member of the Association who is not a Builder. "Umbrella" liability insurance in excess of the primary limits may be obtained in reasonable amounts as determined by the Board in its sole discretion.

Section 4. Other Insurance or Bonds. The Association may obtain and maintain other insurance or bonds as follows:

(a) adequate fidelity coverage to protect against dishonest acts on the part of directors, officers, trustees, agents and employees of the Association and all others who handle or are responsible for handling funds of the Association, including any property manager and volunteers. If the Association has delegated some or all of the responsibility for handling funds to a property manager, such property manager shall be covered by its own fidelity insurance in such amounts as required by the Board; however, the Association may purchase additional fidelity coverage for the property manager as well. Such fidelity insurance (except for fidelity insurance obtained by the property manager for its own personnel) shall: (i) name the Association as an obligee; (ii) be written in an amount not less than one-fourth of the total annual assessment for Common Expenses or the amount required by the Institutional Lenders, the FNMA or the FHLMC, whichever is greatest; and (iii) contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

(b) if required by a majority of the Institutional Lenders or any applicable Legal Requirement, flood insurance on the real property owned by the Association in accordance with the then applicable regulations for such coverage.

(c) workers' compensation insurance if and to the extent necessary to meet the requirements of law (including a voluntary employees endorsement and an "all states" endorsement).

(d) directors and officers liability insurance.

(e) such other insurance or bonds as the Board may determine from time to time in the exercise of its reasonable discretion, or as may be requested from time to time by the affirmative vote of a majority of the Members present at a meeting of the Association.

Section 5. Owners' Insurance. In addition to any insurance policy issued to the Association, each Owner shall have the right to acquire and maintain insurance on Common Property for such Owner's benefit, at such Owner's expense. Provided, however, no Owner shall acquire or maintain insurance coverage on the Common Property so as to: (i) decrease the amount which the Association may realize under any insurance policy maintained by the Association; or (ii) cause any insurance coverage maintained by the Association to be brought into contribution with insurance coverage acquired or maintained by an Owner.

ARTICLE VIII
REPAIR AND RESTORATION OF THE PROPERTIES

Section 1. When Required.

(a) Common Property. If all or any part of the Common Property for which property insurance required under the Declaration or Legal Requirements is damaged or destroyed, the Association promptly shall repair or replace same unless (i) the Declaration is terminated, (ii) repair or replacement would be illegal under any Legal Requirement, or (iii) the Members decide not to repair, restore or replace by a vote of eighty percent (80%) or more of the votes cast by the Members

present at a meeting of the Association (which vote, with respect to any Limited Common Property, must have the approval of one hundred percent (100%) of the Members to which such Limited Common Property is allocated). The cost of repair or replacement in excess of insurance proceeds and applicable reserves is a Common Expense, for which there may be a special assessment against the applicable Members.

If the damage is not repaired or replaced, then (i) the Association, first using the insurance proceeds attributable to the damaged property, shall remove all remnants of the damaged improvements and restore the damaged area to a condition compatible with the remainder of the Properties, (ii) the insurance proceeds attributable to Limited Common Property which are not repaired or replaced shall be distributed to the Members to whom such Limited Common Property was allocated, or to lienholders, as their interests may appear, and (iii) the remainder of the insurance proceeds shall be distributed to all of the Members or lienholders, as their interests may appear, in proportion to the Common Expense liabilities of all of the Lots and Development Parcels (and Apartment Units on Development Parcels). Provided, however, and notwithstanding the foregoing, if the Declaration is terminated, the distribution of insurance proceeds shall be in compliance with the applicable requirements of the Act.

(b) Lots and Development Parcels. If a Dwelling or other improvement located upon a Lot or Development Parcel is damaged or destroyed, the Owner thereof shall restore the site either: (i) by repairing or replacing such Dwelling or other improvement; or (ii) by clearing away the debris and restoring the Lot or Development Parcel to a condition compatible with the remainder of the Properties as determined by the Architectural Review Committee. Unless the Architectural Review Committee permits a longer time period, such work must be commenced within six months and substantially completed within twelve months after the occurrence of the damage or destruction. Any repair or replacement that differs in any material respect from the previously Approved Plans for the Dwelling or other improvement that was damaged or destroyed first must be approved by the Architectural Review Committee in the manner required herein.

Section 2. Eminent Domain.

(a) Definitions. For the purposes of this Section, "Taking" means an acquisition of all or any part of the affected portion of the Properties or of any interest therein or right accruing thereto as a result of, in lieu of, or in anticipation of, the exercise of the right of condemnation or eminent domain, or a change of grade caused by the action of the City affecting the value of the applicable portion of the Properties or any part thereof so severely as to amount to condemnation.

(b) Taking of Lot or Development Parcel. If there is a Taking of all of a Lot or Development Parcel, or a Taking of part of a Lot or Development Parcel leaving the Owner with a remnant which practically or lawfully may not be used for any purpose permitted under the Declaration, the award shall compensate the Owner for the Lot or Development Parcel and the Owner's interest in the Common Property. Upon such Taking, there shall be no votes in the Association allocated to such Lot or Development Parcel, or remnant thereof, nor shall such Lot or Development Parcel or remnant thereof, be subject to any further assessments under the Declaration, the Lot's or Development Parcel's "allocated interests" (as defined in the Act) automatically are to be reallocated as provided in the Act, and the remnant remaining following a partial Taking shall be Common Property.

If there is a Taking of part of a Lot or Development Parcel that leaves the Owner with a remnant which practically and lawfully may be used for any purpose permitted under the Declaration: (i) the award shall compensate the Owner for the reduction in value of the Lot or Development Parcel; and (ii) with respect to determining the award and the allocated interests of the Lot or Development Parcel in the Association following the Taking, there shall be no reduction in the vote allocated to that Lot or Development Parcel nor in the assessments assessed against such Lot or Development Parcel (or Apartment Units on the Development Parcel).

(c) Taking of Common Property. If there is a Taking of all or any part of the Common Property, then the Association shall notify the Owners, but the Board shall act on behalf of the Association in connection with the Taking and no Owner shall have any right to participate in the proceedings incident thereto as an Owner. The award made for such Taking shall be payable to the Association. If the Taking involves a portion of the Common Property on which improvements have been constructed, then the Association, to the extent reasonably practicable and in accordance with plans reasonably adopted by the Board, shall restore or replace such Common Property improvements, unless a contrary determination is made by Declarant, during the Declarant Control Period, or, following the end of the Declarant Control Period, by the affirmative vote of sixty-seven percent (67%) or more of the votes cast by the Members present at a meeting of the Association.

If any portion of any award for a Taking of the Common Property is attributable to any Limited Common Property, such portion of the award shall be apportioned equally among the Owners of the Lots or Development Parcel to which the Limited Common Property was allocated at the time of the Taking.

ARTICLE IX
USE OF THE PROPERTIES

Section 1. Use of the Properties. No portion of the Properties shall be used for other than residential purposes, streets, utilities, greenways, recreational purposes, or other purposes substantially related to residential use which are allowed under applicable City zoning ordinances for such portions of the Properties (unless such substantially related purposes are prohibited by other provisions of the Declaration), or any other uses allowed under applicable City zoning ordinances for such portions of the Properties and approved by the Declarant during the Development Period or thereafter, by the Board. Provided, however, and notwithstanding the foregoing sentence, until such time as construction of initial improvements has been completed on all Lots and Development Parcels subject to the Declaration, and subject to Legal Requirements: (i) Declarant, and any Builder or other Person with Declarant's consent, may maintain model homes, sales offices and temporary construction trailers and other facilities within the Properties for the purpose of conducting business related to the development, improvement, and/or sale or marketing of any part or all of the Properties; and (ii) Declarant, and any Builder or other Person with Declarant's consent, may conduct such business and other activities within the Properties as may be necessary or desirable in connection with the development, improvement, and/or sale or marketing of any part or all of the Properties.

Section 2. Animals. No animals of any kind (including livestock, reptiles or poultry) shall be kept on any portion of the Properties or in any Dwelling except for dogs, cats or other household pets which are not used for breeding or other commercial purposes, and provided that they do not create a nuisance (in the judgment of the Board), by number or type of animals, noise, odor, damage or destruction of property, animal waste, or any other reason, and further provided that they are kept in compliance with all Legal Requirements and such Restrictions and Rules and other rules and regulations pertaining thereto as the Association may adopt from time to time, which rules and regulations may include requirements that animals be kept on a leash or otherwise restrained whenever they are anywhere on the Properties other than on the Owner's Lot or Development Parcel or other areas specifically designated for animals not on leashes, and which may prohibit the keeping of animals on the Properties that are excluded from coverage or subject to reduced coverage under liability insurance policies generally available for the Properties. The Board may require any Owner to furnish the Board with evidence that a particular animal is not excluded or subject to reduced coverage under the liability insurance policy maintained by such Owner for that Owner's portion of the Properties, and the Owner shall furnish the Board with the required evidence (in the form of a copy of the applicable policy or such other evidence reasonably satisfactory to the Board) within 10 days following the date on which the Board gives a notice that it is requiring same. Provided, however, no Board member shall have any liability for any failure of the Board to adopt a Restriction or Rule or other rule or regulation that prohibits the keeping of a particular type or breed of animal. The Owner responsible for an animal being on the Properties promptly shall clean up or remove from any portion of the Properties not owned by such Owner all solid bodily wastes from that animal.

Each Owner who keeps any animal on any portion of the Properties shall be deemed to have indemnified and agreed to hold harmless the Association, Declarant and all other Owners, from and against any loss, claim for damages to person or property, cause of action, or liability of any kind, including all costs of defending against same (including reasonable attorneys' fees), arising out of or resulting from such animal, including any actions of the animal. An easement over and upon the Properties hereby is reserved for the City to exercise and enforce all Legal Requirements relating to animal control.

Section 3. Harmful Discharges. There shall be no emissions of dust, sweepings, dirt, cinders, odors, gases or other substances from any portion of the Properties into the atmosphere (other than those resulting from cleaning or normal, residential chimney or outdoor grill emissions), there shall be no production, storage or discharge of hazardous wastes from or on any portion of the Properties, and there shall be no discharges of liquid or solid wastes or other harmful matter into the ground, sewer or any body of water within the Properties, if such emission, production, storage or discharge may adversely affect the use of any portion of the Properties, or may adversely affect the health, safety or comfort of the occupants of the Properties. Provided, however, the foregoing prohibitions shall not prevent or interfere with the reasonable development or maintenance of any portion of the Properties or improvements thereon by Declarant, any Builder or any other Person in accordance with Legal Requirements, nor shall they prevent, as incident to the residential use of the Properties, the reasonable use, handling, storage and disposal of medically related hazardous substances and wastes in compliance with all Legal Requirements.

Section 4. Home Businesses. An Owner may maintain an office or home business on such Owner's Dwelling or other improvement in the Properties only if: (i) such office or home business is operated by the Owner or a member of the Owner's household residing in the Dwelling, or by Owner's residential tenant residing in the Dwelling; (ii) there are no displays or signs indicating that the Dwelling or improvement or portion of the Properties on which it is located is being used other than as a residence; (iii) such office or business does not generate significant traffic or parking usage by the business itself or by clients, customers or other Persons, it being in the discretion of the Board to determine compliance with this requirement; (iv) no vehicles, equipment or other items related to the office or business are stored, parked or otherwise kept on the streets in the Subdivision or on the portion of the Properties on which such Dwelling is located outside of the Dwelling or other enclosure approved by the Architectural Review Committee; (v) such Owner has obtained from the City, and maintains in effect, all required approvals for such use; (vi) the activity is consistent with the residential nature of the Properties and complies with all Legal Requirements and other provisions of the Declaration; (vii) no person is employed in such office or home business except for the Owner or the members of the Owner's household residing in the Dwelling or the Owner's tenant residing in the Dwelling; and (viii) the Owner has obtained prior written approval from the Board before commencing such business or office use and thereafter registers annually with the Association and obtains annual re-approval of such business or office use by the Board as long as the operation of the home business continues. As a condition to such use, the Association may require the Owner to pay any increase in the rate of insurance, trash removal, utilities or other costs for the Association or other Owners which result or reasonably may be anticipated to result from such use. Garage sales, yard sales and similar activities shall be conducted only in accordance with all Legal Requirements and the rules and regulations, if any, adopted by the Association. Provided, however, the provisions of this Section shall not prohibit the Owner of a Development Parcel on which Apartment Units are located from maintaining a rental office in an Apartment Unit or other building on that Development Parcel, provided that such Owner at all times complies with all Legal Requirements and further provided that all signs on the Development Parcel advertising Apartment Units for rent have been approved by the Architectural Committee in the exercise of its reasonable discretion, it being the intention of the Declaration not to prohibit the reasonable advertising by the Owner of such Development Parcel of Apartment Units for rent.

Section 5. Hunting; Discharge of Firearms. Hunting and trapping of wild animals, fowl and game and the discharge of firearms and/or bows and arrows and/or other weapons within the Properties is prohibited, unless required for safety or personal protection reasons.

Section 6. Leases. Every lease for any Dwelling or other portion of the Properties shall provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration and other Governing Documents, and that each lessee shall comply with the terms of such documents. Provided, however, the Declaration and other Governing Documents apply to all such leases, whether or not so stated therein.

Section 7. Legal Requirements. Nothing herein contained shall be deemed to constitute a waiver of any Legal Requirement applicable to any portion of the Properties, and all Legal Requirements relative to the construction of improvements on, and/or use and utilization of, any portion of the Properties shall be complied with by the Owners and occupants of such portions of the Properties, whether or not the Approved Plans for same are in compliance with such Legal Requirements. Provided, that in any instance in which the provisions of the Declaration contain a provision that requires something more than or in addition to, or prohibits something otherwise allowed under, a Legal Requirement (for example, prohibition of a use allowed under a Legal Requirement or requirement of a greater distance or size than required under a Legal Requirement), the provisions of the Declaration shall control, unless prohibited by a Legal Requirement.

Section 8. Motorized Vehicles; On-Street Parking. All motorized vehicles operating within the Properties, including automobiles, motorcycles, trucks, lawn mowers, and golf carts, must have proper and adequate mufflers. Each Owner shall provide for adequate parking space on such Owner's Lot or Development Parcel for all of the following "vehicles" that are regularly used in connection with the Lot or Development Parcel by any Person or are used or kept on the Lot or Development Parcel by any Person: motorized vehicles; bicycles; and other apparatus moved by use of wheels or otherwise designed or used for movement over and upon streets or highways (whether motorized or whether or not self-propelled), including trailers and carts. Except as reasonably necessary for maintenance of improvements or as otherwise allowed by Declarant during the Development Period (and thereafter, by the Board), no vehicles of any kind shall be parked or left in the Common Property (except in areas, if any, designated for parking) or regularly parked on the streets within or adjoining the Properties, and trucks with tonnage in excess of one (1) ton shall not be permitted to park overnight on the streets, driveways or otherwise within the Properties. Provided, however, and notwithstanding the foregoing, and subject to Legal Requirements, until such time as construction of initial Improvements have been completed on all Lots and Development Parcels subject to the Declaration (and thereafter, as allowed by the Board) vehicles may be parked temporarily on streets and driveways within the Properties as reasonably necessary in connection with construction of improvements within the Properties. In addition to and supplemental to, but not inconsistent with, the foregoing, the Association may adopt and enforce Restrictions and Rules relating to the parking of vehicles on the streets within or adjoining the Properties, including allowing temporary on street parking for special events related to the Subdivision. In addition to and supplemental to, but not inconsistent with, the foregoing, the Association also may adopt and enforce Restrictions and Rules relating to the parking of vehicles on Lots or Development Parcels or any other portion of the Properties outside of garages or screened areas approved for such parking by the Architectural Control Committee.

Section 9. New Construction. Construction of new Dwellings only shall be permitted on Lots and Development Parcels, it being the intent of this Section to prohibit the moving of any existing building or structure onto any Lot or Development Parcel and remodeling or converting same into a Dwelling. Provided, however, the foregoing shall not be construed as prohibiting maintenance of, remodeling of, or construction of additions to, existing Dwellings that previously have been constructed in compliance with the Declaration, provided that such maintenance, remodeling or addition is performed in accordance with the Approved Plans therefor (or Architectural Guidelines not requiring Approved Plans) and other requirements of the Declaration.

The Architectural Control Committee has the right (but is not required) to implement and enforce requirements for the location and screening of construction materials, the use, type and location of fencing, the use, location and screening of portable toilets, the use, location and screening of receptacles for the collection of construction debris and excess materials, and the use, location and screening of other materials and devises used in connection with construction or maintenance of improvements on Lots and Development Parcels.

Section 10. Noises. No Person shall cause any unreasonably loud noise anywhere on the Properties, except for security devices used in the manner intended therefor, nor shall any Person permit or engage in any activity, practice or behavior resulting in substantial and unjustified annoyance, discomfort or disturbance to any Person lawfully present on any portion of the Properties. Provided, however, the prohibition against noises contained in this Section shall not preclude or limit activities in the Properties conducted in accordance with the applicable Restrictions and Rules or other rules and regulations of the Association, including recreational events and social events. Further provided, the foregoing prohibitions shall not prevent or interfere with the reasonable development, construction, use, or maintenance of any portion of the Properties or improvements thereon by the Association, Declarant, a Builder or any other Person in accordance with Legal Requirements or the Governing Documents.

Section 11. Nuisance and Other Matters. No noxious or offensive activity shall be conducted upon any portion of the Properties, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the Community or any part thereof, or to any person lawfully residing in the Subdivision. Provided, however, the usual, customary or reasonable use and maintenance of a Lot, a Development Parcel, a Dwelling, or any Common Property shall not constitute a nuisance. Further provided, the development of the Properties by Declarant and Builders, and the usual, customary or reasonable construction and maintenance of Dwellings and other improvements in the Properties shall not constitute a nuisance. Further provided, the operation and use of the Common Property in the manner required or allowed by the provisions of the Declaration shall not constitute a nuisance.

No trade materials or inventories (other than materials used for construction of Dwellings or other approved structures or improvements) shall be stored upon any portion of the Properties and no tractors, inoperable motor vehicles, rubbish, trash, or unsightly materials of any kind shall be stored, regularly placed, or allowed to remain on any portion of the Properties unless adequately screened or contained as approved by the Architectural Review Committee, except that trash, leaves, tree limbs, materials for trash or recycling pick-up and similar items may be kept or placed temporarily and only for such time as is reasonably necessary to enable the City or appropriate private entity to remove same, and inoperable motor vehicles may be stored only if the same are kept entirely in an enclosed garage or other building. Provided, however, as approved by Declarant during the Development Period, trucks and/or other construction vehicles, materials and equipment may be allowed to remain on the Properties temporarily during construction of roads, utilities, Dwellings and other improvements in the Properties, and such vehicles, materials and equipment also may be allowed to remain on the Properties during construction or maintenance on the Properties of Dwellings and/or other improvements which have been approved by the Architectural Review Committee. Notwithstanding the foregoing, no vehicle of any type or size which transports inflammatory or explosive cargo or which stores or transports materials or substances defined as hazardous or toxic by any Legal Requirements shall be kept or stored or allowed to remain in or on the Properties at any time, except as may be required to effectuate transportation or removal of such prohibited materials and substances through or from the Properties, or, with respect to explosive materials, as may be reasonably required in connection with the construction or maintenance of streets, utilities or other improvements in the Properties, or as may be allowed by Declarant, during the Development Period, and thereafter, the Board, when reasonably required for the construction or maintenance of other improvements within the Properties.

Section 12. Obstructions, etc. No Owner shall obstruct any of the Common Property, City greenways or greenway easements or any pedestrian access easements providing access to Common Property or City greenways or greenway easements, nor shall anything be kept, stored, altered, constructed or planted in or on the Common Property or removed therefrom (except as necessary to prevent injury to person or property), without the prior consent of Declarant, during the Development Period, and, thereafter, the Board, or except in the exercise of any valid easement over any portion of the Common Property. Provided, however, the Association, and, during the Development Period Declarant and Builders (with Declarant's consent), shall have the right to maintain signs in and on the Common Property, and to maintain in the Common Property such materials, equipment and other apparatus, as may be reasonably necessary to enable the Association to perform its functions and provide the services under the Declaration, or to enable Declarant or such Builders to market, develop, and sell the Properties. Following the end of the Development Period each Builder shall have the right, subject to the reasonable

review and approval of the Board (or Architectural Control Committee if directed by the Board), to maintain signs in the Common Property as such Builder determines is reasonably necessary or desirable for marketing and selling all portions of the Properties owned by such Builder. The rights of use and enjoyment of the Common Property conferred upon Owners by the Declaration do not include the right to interfere with use or maintenance of the Common Property by Declarant, any Builder, or the Association.

Section 13. Owner Liability. If any Owner or such Owner's family members, tenants, guest, employees, contractors, subcontractors, or agents is legally responsible for damage inflicted on any Common Property, the Association may direct such Owner to repair such damage, or the Association itself may cause the repairs to be made and recover damages from the responsible Owner, including costs incurred in seeking and enforcing such recovery or other applicable legal remedies, including reasonable attorneys' fees. In addition to or as an alternative to the foregoing, the Association may impose a special individual assessment against any such Owner.

Section 14. Prohibition on Use for Streets. Without the written consent of Declarant during the Development Period (and, thereafter, by the Board), which consent may be given or denied in the sole discretion of the party having the right to give the consent, and which consent may be given and evidenced only by the execution by the consenting party of a plat or document recorded in the Registry, no Lot or portion thereof may be used, established or dedicated as a public street right of way or a private street right of way or driveway, where one of the purposes therefor or results thereof is to provide pedestrian or vehicular access to any property that is not part of the Properties, except for such vehicular and/or pedestrian access easements as are described or shown in documents or on plats of the Properties recorded in the Registry and are established to provide access to Common Property or to City greenways or greenway easements. Such public or private street rights of way may be used, established or dedicated within Development Parcels as required by Legal Requirements or Subdivision Plans or as allowed by the Declarant during the Development Period, and thereafter as allowed by the Board.

Section 15. Recreational Areas, Equipment, and Facilities. The Association may adopt and enforce reasonable Restrictions and Rules and regulations relating to the location and use of recreational areas, equipment and facilities on Lots, Development Parcels and other portions of the Properties.

Section 16. Restricted Actions by Owners. No Owner shall do or permit anything to be done or kept within the Properties or on the Common Property which will result in the cancellation of or increase in the cost of any insurance carried by the Association, or which would be in violation of any Legal Requirement or any rule or regulation established by the Association. No waste shall be committed on the Common Property, except as may be necessary to enable Declarant, a Builder, the Association, an Owner, or the holder of an easement to construct or maintain improvements (in accordance with Approved Plans or Architectural Guidelines, when applicable) or to exercise any rights reserved to them hereunder or provided in an applicable easement, or except as may be necessary to enable the Association to perform its functions and provide services under the Declaration. Each Owner shall comply with all Legal Requirements applicable to any part or all of the Properties, including applicable zoning ordinances and building codes.

Section 17. Restrictions on Leasing of Dwellings. It is contemplated by the Declaration that all Dwellings other than Apartment Units generally are intended for use and occupancy by the Owner of the Dwelling. Accordingly, and notwithstanding anything to the contrary herein, unless otherwise authorized by the Declarant, during the Development Period, and thereafter by the Board, the leasing of Dwellings other than Apartment Units is prohibited in any one or more of the following instances:

(a) by an Owner who has not regularly occupied the Dwelling as the Owner's primary residence and has no future intent to do so;

(b) by an Owner who has not regularly occupied the Dwelling as the Owner's primary residence and who enters into a lease with a tenant that gives the tenant the option to purchase the Dwelling during, or at the end of, the term of the lease; or

(c) by an Owner where the primary purpose of the ownership of the Dwelling is for commercial purposes in that the Dwelling is intended primarily for lease to tenants and not for occupancy by the Owner as the Owner's primary residence.

Provided, however, and notwithstanding the foregoing restrictions on leasing of Dwellings, any model home may be leased to or by a Builder.

Section 18. Soil Erosion Control. During all periods of construction on any portion of the Properties, the Owner thereof, or the Person exercising easement rights thereon, shall maintain proper and adequate soil erosion control to protect other portions of the Properties from accumulated silt and other soil erosion.

Section 19. Temporary Structures Prohibited. No structure of a temporary character shall be used on any portion of the Properties at any time as a Dwelling.

Section 20. Wetlands; Buffers. Portions of the Properties may have been determined to meet Legal Requirements for designation as a regulatory wetland. Notwithstanding anything to the contrary that may appear herein or in any other restrictive covenants applicable to such portions of the Properties, and whether or not the Approved Plans for any improvements on the portion of the Properties on which such wetlands are located are in compliance with applicable wetlands rules, any subsequent fill or alteration of any portion of the Properties that has been determined to be a regulatory wetland under Legal Requirements shall conform to the requirements thereof in force at the time of the proposed alteration. The intent of this Section is to prevent additional wetland fill or alteration except as allowed under Legal Requirements, so the Owner of any such portion of the Properties should not assume that any application for fill or alteration of a wetland will be approved. The Owner of any portion of the Properties subject to any such future application shall report the name of the Subdivision, together with the name of the particular phase, section or subdivision within the Properties, if any, in any application pertaining to wetland rules. The provisions of this Section are intended to ensure continued compliance with wetland rules under Legal Requirements and this Section may be enforced by the United States, State of North Carolina or any other governmental entity having jurisdiction over the subject wetlands.

Portions of the Properties also may be subject to river basin or stream buffers designated by the State of North Carolina or other applicable governmental entity. Owners of all portions of the Properties subject to such buffer requirements shall at all times comply with same, whether or not the Approved Plans for any improvements are in compliance therewith.

The provisions of this Section shall run with the Properties and be binding on all Owners of any part or all of the Properties and all persons claiming under them.

Section 21. Exclusion for Declarant. Notwithstanding any other provision of the Declaration or any other Governing Documents, Declarant, during the Development Period (and thereafter, the Board) has the right, permanently or temporarily (as determined in the discretion of Declarant or the Board, as applicable) to waive any one or more of the provisions of this Article with respect to construction or maintenance of any improvements in the Properties, except that there shall be no waivers with respect to soil erosion controls and Legal Requirements. Any such waiver granted by the Declarant to a Builder or other Person during the Development Period shall be binding on the Board after the Development Period has ended.

ARTICLE X
RESTRICTIONS AND RULES

Section 1. Framework for Regulation. As part of the general plan of development for the Properties, the Governing Documents establish a framework of affirmative and negative covenants, easements, and restrictions. Within that framework, the Declarant, Board, and Members need the ability and flexibility to supplement the Declaration with additional Restrictions and Rules and to respond to unforeseen problems and changes in circumstances, conditions, needs, desires, trends, and technology. Therefore, this Article discusses Restrictions and Rules and procedures with respect to Restrictions and Rules. This Article does not apply to rules and regulations relating to use and operation of the Common Area adopted by the Board, unless the Board in its discretion chooses to submit to such procedures. This Article does not apply to administrative policies which the Board adopts to interpret, define or implement the Restrictions and Rules or other Governing Documents, nor does it apply to Architectural Guidelines.

Section 2. Restrictions and Rules. All Owners and occupants of all portions of the Properties and their guests and invitees shall abide by the Restrictions and Rules. The Declarant and the Association shall have the power to enforce compliance with the Restrictions and Rules in the same manner and to the same extent that the Declaration provides for enforcement of the Declaration, and any Person determined by judicial action to have violated the Restrictions and Rules shall be liable to the Declarant or Association for all damages and fines, including all costs incurred in seeking and enforcing applicable legal remedies, including reasonable attorneys' fees.

Section 3. Rule Making Authority.

(a) Subject to the terms of this Article and the Board's duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Board may adopt, amend, modify, cancel, limit, create exceptions to, or expand the Restrictions and Rules. The Board shall give notice to each Owner concerning any such proposed action at least five business days prior to the Board meeting at which such action is to be considered. Owners shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken. During the Development Period, no action taken by the Board shall be effective unless approved in writing by the Declarant.

Prior to any such action taken by the Board becoming effective, the Board shall send a copy of the new rule or explanation of any changes to the Restrictions and Rules to each Owner, which notice shall state the effective date of the action, which shall be not less than 30 days following the date on which the notice is given by the Board. The Association shall provide to any requesting Owner (but not to more than one Owner of a Lot or Development Parcel), without cost, one copy of the Restrictions and Rules then in effect, together with the action taken by the Board. Additional copies may be provided by the Association upon payment of a reasonable charge as established by the Board. The action taken by the Board action shall become effective on the later of the 31st day after the Board gives the notice of the action to the Owners or such effective date specified in the notice, unless, prior to the effective date, Members representing more than 50% of the total number of votes in the Association disapprove such action at a meeting or in writing to the Board. The Board shall have no obligation to call a meeting of the Members to consider disapproval except upon receipt, prior to the effective date of the action taken by the Board, of a petition of the Members as required by the Governing Documents for special meetings of the Association or a written request from the Declarant. Upon such petition of the Members or written request from the Declarant prior to the effective date of any Board action under this Section, the proposed action shall not become effective until after such meeting is held, and then subject to the outcome of such meeting.

(b) Alternatively, Class A Members representing more than 50% of the total number of votes in the Association, at an Association meeting called for such purpose, may vote to adopt rules that modify, cancel, limit, create exceptions to, or

expand the Restrictions and Rules then in effect. Provided, however, during the Development Period no such action shall be effective without the written approval of the Declarant.

(c) No action taken by the Board or Class A Members under this Article shall have the effect of modifying, repealing or expanding the Architectural Guidelines or any provision of the Declaration or other Governing Documents. Prior to the end of the Development Period, no such action shall be effective unless approved in writing by the Declarant. In the event of a conflict between the Architectural Guidelines and the Restrictions and Rules, the Architectural Guidelines shall control.

(d) Notwithstanding the foregoing procedures for amending the Restrictions and Rules, and notwithstanding anything to the contrary elsewhere in this Article or the Declaration, during the Development Period the Declarant, in its sole discretion and without any prior notice to any Person, may adopt, amend, modify, cancel, limit, create exceptions to, or expand the Restrictions and Rules. Prior to any action taken by the Declarant under becoming effective, the Declarant, or the Board at the direction of the Declarant, shall send a copy of the new rule or explanation of any changes to the Restrictions and Rules to each Owner, which notice shall state action taken and the effective date of the action, which date may be any time on or after the date on which the notice is given to the Owners.

Section 4. Owners' Acknowledgment and Notice to Purchasers. All Owners are given notice that use of their Lots, Development Parcels, Dwellings is subject to the Restrictions and Rules as modified from time to time. By acceptance of a deed, each Owner acknowledges and agrees that the use and enjoyment and marketability of such Owner's Lot and Dwelling can be affected by this provision and that the Restrictions and Rules may change from time to time. All purchasers of Lots, Development Parcels, and Dwellings are notified that, as provided for herein, the Declarant or the Board may adopt Restrictions and Rules or changes to any Restrictions and Rules in effect at any particular time.

Section 5. Protection of Owners and Others. Except as may be set forth in the Governing Documents, all Restrictions and Rules shall comply with the following provisions:

(a) Similar Treatment. Similarly situated Owners shall be treated similarly, the determination of which Owners are similarly situated being in the reasonable judgment of the Declarant or Board or Members, as applicable.

(b) Displays. The rights of Owners to display religious and holiday signs (the word "sign" or "display" as used in the Declaration includes signs, banners, flags (including a flag of the United States of America, an American flag, a United States flag, or a North Carolina flag), symbols, decorations, and other displays) inside Dwellings shall not be abridged, except that there may be rules regulating the number, size, time, and place and manner of posting or displaying such signs that are located outside of or visible from outside of the Dwelling, including regulation or specification of design criteria (for example, color, style, materials).

No rules shall regulate the content of political signs; however, rules may regulate the number, size, time, and place and manner of posting or displaying, such political signs that are located outside of or visible from outside of the Dwelling, including regulation or specification of design criteria (for example, color, style, materials).

Signs required by Legal Requirements to be posted or displayed, and signs prohibited by Legal Requirements from being excluded or prohibited shall be allowed (for example, a street number sign for a Dwelling required by the City). However, to the extent that it would not violate the Legal Requirement, rules may regulate the number, size, time, and place and manner of posting or displaying, such signs, including regulation or specification of design criteria (for example, color, style, materials).

(c) Household Composition. No rule shall interfere with the Owners' freedom to determine the composition of their households, except that rules may require that all occupants be members of a single housekeeping unit and may limit

the total number of occupants permitted in each Dwelling on the basis of the size and facilities of the Dwelling and its fair use of the Common Area.

(d) Activities Within Dwellings. No rule shall interfere with the activities carried on within the confines of Dwellings, except that rules may prohibit activities not normally associated with property restricted to residential use, and may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Dwellings, that generate excessive noise or traffic, that create unsightly conditions visible outside the Dwelling, that create an unreasonable source of annoyance, or that would violate any of the Governing Documents or any Legal Requirement.

(e) Allocation of Burdens and Benefits. No rule shall alter the allocation of financial burdens among the various portions of the Properties or rights to use the Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Area available, from adopting generally applicable rules for use of Common Area, or from denying use privileges to those who are delinquent in paying assessments, abuse the Common Area, or violate the Governing Documents. This provision does not affect the right to increase the amount of assessments as provided herein.

(f) Alienation. No rule shall prohibit leasing or transfer of any Dwelling, or require consent of the Association or Board for leasing or transfer of any Dwelling; provided, rules may require a minimum lease term not to exceed 12 months and the use of lease forms approved by the Board, but shall not impose any fee on the lease or transfer of any Dwelling greater than an amount reasonably based on the costs to the Association of administering that lease or transfer.

(g) Abridging Existing Rights. No rule shall require an Owner to dispose of personal property that was in a Dwelling or on a Lot prior to the adoption of such rule if such personal property was in compliance with all rules previously in force. This exemption shall apply only during the period of such Owner's ownership of the Lot and shall not apply to subsequent Owners who take title to the Lot after adoption of the rule.

(h) Declarant Rights. Without the written consent of Declarant, no rule or action by the Board or Members shall restrict, impair, prohibit, exclude, impede, interfere with, or in any way adversely affect any Special Declarant Right.

The limitations in subsections (a) through (g) of this Section shall only limit the rule making authority exercised under this Section; they shall not apply to other Sections and provisions of the Declaration.

ARTICLE XI
ARCHITECTURAL APPROVAL

Section 1. Architectural Review Committee - Jurisdiction and Purpose. Except for ordinary and routine maintenance to an existing Dwelling or other improvement on a Lot or Development Parcel (changes in exterior colors, architectural style, or materials being examples of items that are not ordinary and routine), and excluding planting and maintenance of flowers, bushes, grass and trees that do not result in any material change in the landscaping for a Lot or Development Parcel approved as part of the Approved Plans ("material" being as determined from time to time by the Architectural Review Committee) or allowed by Architectural Guidelines, and except as otherwise provided herein: no site preparation of a Lot or Development Parcel, no change in grade or slope, no construction of, alteration of, additions to, or changes to any improvement on a Lot or Development Parcel (including a Dwelling or other building or improvement on a Lot or Development Parcel, and including any conversion of a garage or carport into living space) shall be commenced, nor shall any of the same be placed, altered or allowed to remain, until the "Architectural Review Committee" has approved in writing the Plans therefor or the Architectural Guidelines allow the improvement without obtaining Approved Plans. The

Architectural Review Committee is established to assure that, insofar as is reasonable and practicable, improvements are constructed and maintained in a manner that provides for harmony of external design and location in relation to other Dwellings and improvements in the Properties and to natural features and topography, that avoids improvements deleterious to the aesthetic or property values of any portion of the Properties, and that promotes the general welfare of the Owners. Notwithstanding anything to the contrary expressed or implied herein: (i) all Plans and other architectural approvals given by the Declarant during the Development Period, all improvements constructed or maintained by Declarant or the Association within the Properties, all portions of the Properties owned by Declarant or the Association, all Common Property and improvements therein maintained by the Association, and all portions of the Properties owned by or subject to easements in favor of the City or public utility providers (except for any such portions of the Properties that contain or are proposed to contain Dwellings or other buildings and associated improvements), are specifically excluded from the requirements of this Article; and (ii) during the Development Period (x) the Declarant has the right to exercise all rights of the Architectural Review Committee and the Board that are described in this Article, including whether to utilize an Architectural Review Committee or to serve as the Architectural Review Committee itself, or any combination thereof, (y) the Declarant determines the matters, if any, to be reviewed by the Architectural Review Committee, and (z) any decision of the Declarant made during the Development Period with respect to any matter subject to this Article controls over any contrary decision of the Architectural Review Committee or the Board. Declarant, in its sole discretion, may require applicants for approvals being considered by Declarant to follow the procedural requirements of this Article, or may impose procedural requirements that are different from those contained in this Article.

Section 2. Composition and Duration. During the Development Period, the Architectural Review Committee, if utilized by Declarant, may consist of such number of Persons as determined by Declarant. Declarant, in its sole discretion, has the right to remove and replace the Persons appointed by it to the Architectural Review Committee. Following the end of the Development Period, the Architectural Review Committee shall consist of not less than three (3) Persons, who shall be appointed by, and shall be subject to removal with or without cause by, the Board. Persons who serve on the Architectural Review Committee are not required to be Members of the Association.

Section 3. Procedure.

(a) Unless otherwise permitted by the Architectural Review Committee in its sole discretion, prior to the commencement of any construction, alteration, addition, or placement of any improvement requiring approval by the Architectural Review Committee, Plans for the proposed improvement shall be submitted to the Architectural Review Committee, in such format and in such numbers or sets (not to exceed three) as the Architectural Review Committee may require. The Architectural Review Committee shall have the right to refuse to approve any Plans for improvements which are not, in its sole discretion, suitable or desirable for the Properties, including for any of the following reasons: (i) lack of harmony of external design with surrounding structures and environment; and (ii) aesthetic reasons. Each Owner acknowledges that determinations as to such matters may be subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements. Unless a written response is given by the Architectural Review Committee within sixty (60) days following its receipt of the required number of complete sets of Plans and payment by the applicant of any applicable processing fee and consulting fees due and payable at the time request for approval of Plans is submitted by the applicant, the Plans shall be deemed approved. At any time that the Architectural Review Committee consists of more than one individual, decisions of the Architectural Review Committee shall be by majority vote of its members present (in person or by proxy) at a meeting thereof (or by the written consent of a majority of all the members of the Architectural Review Committee). The written response of the Architectural Review Committee may be an approval, a denial of approval, a conditional approval, or a request for additional information. A request for additional information shall be deemed a determination that the information submitted was incomplete or inadequate, and the sixty (60) day time period for further Architectural Review Committee response shall commence only upon receipt of the requested additional information. If conditional approval is granted, and construction, alteration, addition or placement of the improvement thereafter commences, the conditions imposed shall become fully a part of the Approved Plans. Any material modification or change in the

Approved Plans must again be submitted to the Architectural Review Committee for its review in accordance with the foregoing requirements or such other procedures as adopted by the Architectural Review Committee. If the Plans are approved, or conditional approval is given, at least one set of Approved Plans shall be retained by the Association and at least one set of Approved Plans shall be returned to the applicant. The Architectural Review Committee shall keep such other records of its activities as it is instructed to keep by either the Declarant or the Board, whichever is applicable.

(b) The Declarant or the Board, as applicable, may from time to time adopt procedures for the Architectural Review Committee to conduct the architectural reviews and its other duties, provided that such procedures do not conflict with the specific requirements of the Declaration. Subject to the rights of Declarant with respect to architectural review and approval, as determined by the Board in its sole discretion the Board may adopt a procedure for architectural review that utilizes the Architectural Review Committee as a committee to review requests for architectural approval and to recommend to the Board whether a request for architectural approval should be approved, denied, or approved subject to conditions, with the Board determining whether or not the request for architectural is approved, denied, or approved subject to conditions. If the Board adopts such a procedure, then the provisions herein for appeal of an Architectural Review Committee decision to the Board are not applicable, as the Architectural Review Committee would only be giving recommendations and not making decisions regarding approval, denial, or approval with conditions. Such procedures may include reasonable fees for processing requests for approval, and also may include fees for the services of an architect or other consultant to assist the Architectural Review Committee in its review of any Plans, the costs of all such fees being the responsibility of the applicant. Processing fees shall be due and payable to the Association at the time the Plans are submitted to the Architectural Review Committee, and the fees of the architect or consultant shall be due and payable to the Association either at the time the Plans are submitted to it or immediately upon its receipt of an invoice therefor, as determined by the Architectural Review Committee from time to time. Prior to incurring any architect or consultant fees not due and payable at the time Plans are submitted, the Architectural Review Committee shall afford the applicant a reasonable opportunity either to agree to pay such fees or to withdraw the request for approval. The sixty (60) day time period within which the Architectural Review Committee is required to respond to a request for approval does not commence until all processing fees and architect or consultant fees due and payable at the time of submission of the request for approval have been paid. Notwithstanding anything to the contrary in this Article, in no event shall approval of Plans by the Architectural Review Committee be deemed to have been given until all such processing fees and architect or consultant fees have been paid by the applicant. The payment of such fees and costs, as well as other expenses of the Architectural Review Committee required to be paid, whether or not the applicant's Plans are approved, is deemed to be a special individual assessment, enforceable against any applicant in the same manner provided herein for enforcement of other assessments.

(c) The Declarant, during the Development Period and, thereafter, the Board, and the Architectural Review Committee as authorized by the Declarant or the Board, as applicable, may establish, amend, revise and/or delete Architectural Guidelines for one or more types of improvements to be constructed or maintained on any portion of the Properties, which Architectural Guidelines shall not conflict with the specific terms of the Declaration or any applicable Supplemental Declaration or Subdivision Declaration, shall be fair and reasonable, and shall carry forward the spirit and intention of the Declaration. Architectural Guidelines may be enforced in the same manner and to the same extent as the provisions of the Declaration may be enforced. If there is any conflict between Approved Plans and Architectural Guidelines, the Approved Plans control, it being within the discretion of the Architectural Review Committee to approve Plans that differ in one or more respects from the then existing Architectural Guidelines. Compliance with Architectural Guidelines does not guarantee approval by the Architectural Review Committee of Plans for improvements that must be submitted for approval. With respect to improvements other than initial construction of a Dwelling, the Architectural Guidelines may, but shall not be required to, allow construction or maintenance of one or more types of improvements in accordance with the Architectural Guidelines without submitting the Plans therefor to the Architectural Review Committee and going through the formal approval process provided for herein, and subject to such conditions and requirements as specified in the Architectural Guidelines. Provided, however, this shall not prohibit any the Declarant, Board, or Architectural Review Committee from taking action against any Owner with respect to an improvement on that Owner's Lot or Development Parcel that does not

comply with the applicable Architectural Guidelines. Architectural Guidelines may include any or all of the following: types of improvements allowed; types of materials allowed; permitted colors; architectural styles; minimum and/or maximum square footage for Dwellings, garages, and other buildings or structures; minimum distances that Dwellings and other improvements must be located from Lot boundary lines; landscaping requirements; and screening requirements.

(d) The Declarant or the Board, as applicable, in its sole discretion, may appoint more than one Architectural Review Committee, with the specific division of authority between or among such Architectural Review Committees to be as specified by the Declarant or Board, as applicable. Each such Architectural Review Committee separately shall be subject to and shall comply with the provisions of the Declaration applicable to the Architectural Review Committee, including the appointment, removal and replacement of its members and the review of Plans by the Architectural Review Committee. The members of each Architectural Review Committee may consist of one or more of the same Persons.

(e) Approval by the Architectural Review Committee of any Plans shall not relieve the any Owner from any obligation to obtain all required City approvals and permits with respect to such improvements, and shall not relieve any Owner of the obligation and responsibility to comply with all Legal Requirements with respect to such improvements.

(f) Approval of any particular Plans does not waive the right of the Architectural Review Committee to disapprove the same or substantially similar Plans subsequently submitted, nor does such approval relieve an applicant of the requirement to resubmit such Plans for approval in connection with any portion of the Properties other than the portion for which the Plans were approved. Each Owner acknowledges that the Persons reviewing Plans, as well as compliance with Approved Plans and Architectural Guidelines, will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Architectural Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features until work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the Architectural Review Committee may refuse to approve similar proposals in the future and may revise Architectural Guidelines with respect to such improvements.

(g) Notwithstanding anything to the contrary herein, architectural approvals given prior to the end of the Development Period by the Declarant or by an Architectural Review Committee appointed by the Declarant shall remain in effect following the end of the Development Period, but subject to expiration if the construction or installation of the approved improvements is not completed within any applicable time limits required by any Governing Documents or the Approved Plans. Approved Plans may not be revoked or withdrawn by the Architectural Review Committee without the written consent of the Person who owns the portion of the Properties to which the Approved Plans are applicable.

(h) The Architectural Review Committee shall have the right, but not the obligation, to inspect improvements that are being constructed or maintained on any portion of the Properties to monitor compliance with the provisions of this Article, with the Approved Plans for such improvements, and with the Architectural Guidelines, such right to include entry onto such portion of the Properties at reasonable times to inspect the improvements. Provided, however, without the consent of an Owner or occupant of the Dwelling, no member of the Architectural Review Committee shall have the right to enter an occupied Dwelling, or a Dwelling for which a certificate of occupancy has been issued, or a Dwelling in which doors and windows capable of being locked have been installed and are locked. With respect to such improvements, the Architectural Review Committee has the right and authority to require the Owner on whose portion of the Properties the improvements are being constructed or maintained to take such actions as may be required, in the sole discretion of the Architectural Approval Committee, to comply with this Article, the Approved Plans, or the Architectural Guidelines, as applicable.

(i) An applicant Owner who disagrees with a decision of the Architectural Review Committee may appeal the decision to the Board by giving written notice of appeal within fifteen (15) days following receipt of notice of disapproval or of approval with conditions not agreeable to the applicant Owner. Additionally, the Board may allow a decision of the Architectural Review Committee to be appealed to the Board when the decision is not unanimous by the members of the

Architectural Review Committee who have voted on the decision. The Board then shall review the Plans and any additional information requested by the Board, and shall give the applicant Owner and the Architectural Review Committee a reasonable opportunity, at one or more meetings of the Board, to present evidence and arguments as to why the decision should be affirmed or overruled. Following the last such meeting the Board, by majority vote, either shall affirm or overrule, in whole or in part, the decision of the Architectural Review Committee, and shall notify the Architectural Review Committee and the applicant Owner of its decision within thirty (30) days following its decision. The decision of the Board is final, subject to the rights of Declarant during the Development Period to overrule any such decision of the Board.

Section 4. Landscaping; Utility Lines. No fence, wall, sign, tree, hedge, shrub, other vegetation, or other improvement which obstructs sight lines for vehicular traffic on public or private streets in the Properties shall be placed or permitted to remain on any portion of the Properties. Pavement, fences, walls, signs, trees, hedges, shrubs, and other vegetation shall not be placed or permitted to remain on any portion of the Properties: (i) if such materials may damage or unreasonably interfere with any easement for the installation or maintenance of utilities; or (ii) in violation of the requirements of such easements; or (iii) unless in conformity with applicable standards of the holder of the easement; or (iv) if such materials may unreasonably change, obstruct or retard direction or flow of any stormwater drainage. Otherwise, the installation and maintenance of such materials within utility easements shall be permitted as allowed by Approved Plans or Architectural Guidelines. Except for hoses, gauges and controls for well pumps, temporary lines and other equipment reasonably necessary in connection with construction or maintenance activities or normal landscape or yard maintenance, no water pipe, sewer pipe, gas pipe, stormwater drainage pipe, television or telephone cable, electric line or other, similar transmission line shall be installed or maintained on any Lot above the surface of the ground, except for those located in easements maintained by the City or applicable public utility provider or otherwise required by the City or applicable public utility provider, or as necessary for such pipes, lines and other facilities to function properly, or as approved by Approved Plans or allowed by Architectural Guidelines.

Section 5. Tree Cutting. Architectural Guidelines also may address the cutting or removal of trees and other vegetation. The initial Architectural Guidelines include the following: no live trees with a diameter in excess of six (6) inches, measured at ground level, nor "flowering trees" (such as dogwood or redbud) or broad leaf evergreens (such as holly, laurel or rhododendron) trees in excess of two (2) inches in diameter, similarly measured, no live vegetation on slopes of greater than twenty percent (20%) gradient or marked "no cut" areas on Approved Plans, may be cut or removed from the Properties without the prior written approval of the Architectural Review Committee, unless necessary to construct improvements based on Approved Plans (when required), or to prevent injury to Persons or property, or to remove dead or diseased trees, or to promote the continued growth of other trees near to the tree(s) being cut or removed. No trees planted by the Declarant to comply with Legal Requirements shall be cut without the prior written approval of the Declarant, during the Development Period, and thereafter, only with approval of the Architectural Review Committee.

Section 6. Commencement and Completion of Construction. Unless the time period is extended by the Architectural Review Committee, Approved Plans for a Dwelling or other improvement expire unless construction or installation of the Dwelling or other improvement commences within twenty-four (24) months after the date of the approval. Construction or installation of all such improvements shall be completed not later than twelve (12) months immediately after construction or installation is commenced, or shall commence and be completed by such later dates as specified in the Approved Plans. For the purposes of this Section, construction or installation is "commenced" when a building permit has been issued by the City (or if no building permit is required, when work commences or materials for the improvement are delivered to the applicable portion of the Properties), and construction or installation is "completed" when the City has issued a certificate of occupancy or completion for the improvement (or if no certificate of occupancy is required, when the improvement has been substantially completed as determined by the Architectural Review Committee. The Architectural Review Committee, in its sole discretion, may grant waivers or extensions of the foregoing time period for completion of construction or installation of improvements, and, when requested and upon reasonable evidence of the existence thereof, shall grant reasonable waivers or extensions for events of Force Majeure that delay or prevent a Person from completing

construction or installation within the foregoing time periods. Each Owner is responsible for providing that maintenance of improvements not addressed in the foregoing provisions of this Section (for example, repainting of a Dwelling) is diligently pursued until completion.

Section 7. Compensation. No member of the Architectural Review Committee shall be compensated for service on the Architectural Review Committee. However, the Association may reimburse members of the Architectural Review Committee for reasonable out-of-pocket expenses incurred in serving on the Architectural Review Committee.

Section 8. Limitation of Liability. Neither the Architectural Review Committee nor the members thereof, nor Declarant, nor the Association, nor any shareholders, directors, officers, partners, members, managers, agents or employees of Declarant or the Association, shall be liable in damages or otherwise to any Person by reason of: (i) mistake of judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval of Plans, or the failure to approve or disapprove any Plans, except where the foregoing results from gross negligence or willful misconduct; or (ii) any failure of Approved Plans to comply with any Legal Requirements, including zoning and building codes; or (iii) any defect in, or lack of structural soundness or integrity of, any improvements constructed on any portion of the Properties.

Section 9. Violation; Enforcement. Each failure of an Owner or any other Person to construct or maintain any improvement in accordance with the Approved Plans or applicable Architectural Guidelines shall be a violation of the Declaration. Declarant, each Owner and the Association each shall have the right, but not the obligation, to enforce the provisions of this Article against an Owner or any other Person who violates or attempts to violate same, either to restrain the violation, recover damages, or seek other available legal or equitable remedies. Any failure to enforce this Article of the Declaration or seek any applicable remedy with respect to any specific violation hereof shall not constitute a waiver of the right to do so thereafter, nor shall it constitute a waiver of the right to enforce this Article of the Declaration at any other time with respect to the same or substantially similar matter. All such rights, remedies and privileges granted in this Section are cumulative, and the exercise of any one or more of such rights, remedies or privileges shall not constitute an election of remedies or preclude subsequent exercise of other rights, remedies and privileges.

ARTICLE XII
EASEMENTS

Section 1. Easements Reserved by Declarant. Each easement described in this Article includes the following rights as reasonably necessary for the full exercise of the easement: access to and from the easement area (the "easement area" being defined as the portion of the Properties subject to the easement); the right to maintain equipment, structures, facilities and soil and water impoundments therein; the right to remove any obstruction within the easement area that constitutes interference with the use of the easement or with the maintenance of any equipment or structures or facilities or soil or water impoundments located therein; and the right to use as temporary work space such portions of the Properties immediately adjacent to and outside of the easement areas as may be reasonably necessary for the full exercise of such easements. Provided, with respect to any portion of the Properties outside of the applicable easement area damaged as a result of the exercise of such temporary work space rights, the Person who exercises the temporary work space rights, as soon as practicable after completion of the work (and during the performance of the work if such restoration is necessary to prevent injury or death to any Person or damage to any other property), shall restore all such portions of the Properties to substantially the same condition as they were in immediately prior to the occurrence of the damage.

Section 2. Easements Reserved by Declarant. Declarant, for itself, and its successors and assigns (which may include the Association, the City and public utility providers), reserves the following easements and rights in, over, under, across and through the Properties, which may be exercised by Declarant or its successors or assigns in its sole discretion, at any time and from time to time, in whole or in part, without any obligation to exercise any of same. These

easements specifically include the right to connect to and use and maintain new and existing wires, poles, lines, pipes, conduits, meters, equipment, structures, facilities, and soil and water impoundments and other Stormwater Control Measures in the easement areas, without payment of any charge or fee to the Association or any Owner of any part or all of the Properties, and during the Development Period the right (without obligation) to exercise all of the easements reserved for the Association in this Article:

(a) Perpetual, non-exclusive and alienable easements for commencement and completion of development of any portion of the Properties or any real property described on **Exhibit B or Exhibit C**, and for the exercise of any Special Declarant Right or other right granted to or reserved by Declarant under any Governing Documents. Such easement rights include the right to maintain streets (both publicly dedicated and private streets), water, sanitary sewer and other utilities and related appurtenances and equipment, and soil and water impoundments and other Stormwater Control Measures, including wires, poles, lines, pipes, conduits, meters, equipment, structures, and facilities related thereto, in, over, under, across, and through all of the following: (i) easement areas that have been identified as easements on plats or in documents that have been executed by the Declarant or other Owner of such portions of the Properties and recorded in the Registry; (ii) all streets in the Properties, including both publicly dedicated and private streets; (iii) an area on each Lot and Development Parcel that is five (5) feet in width and adjacent to each side boundary line thereof (and ten (10) feet in width adjacent to each side boundary line of a Lot or Development Parcel that does not adjoin another Lot or Development Parcel or Common Property) and an area on each Lot and Development Parcel that is ten (10) feet in width adjacent to each front and rear boundary line thereof; (iv) any other portion of a Lot or Development Parcel, subject to the written approval of an Owner of the Lot, which approval shall not be unreasonably withheld, delayed, or conditioned; and (v) the Common Property, including Common Expense Property. Provided, however, neither the foregoing reservation of easement rights nor any similar reservation of easement rights contained in the Declaration shall create or impose any obligation upon Declarant, or its successors and assigns, to provide or maintain any such street, wire, pole, line, pipe, conduit, meter, equipment, structure, facilities, or soil and water impoundment or other Stormwater Control Measure. Declarant's rights under this Section include the right to assign its rights under the easements and/or to grant easements to other Persons in, over, under, across and through those portions of the Properties described in items nos. (i), (ii), (iii), (iv) and (v) in this sub-section.

(b) The non-exclusive right and power, with respect to any portion of the Properties, to grant and record in the Registry such specific easements as may be necessary, in Declarant's sole discretion, for the complete and orderly development of the Properties or any real property described on **Exhibit B** or **Exhibit C**. The Owner of any portion of the Properties to be burdened by any such easement granted by Declarant shall be given written notice in advance of the grant. The location of any such easement on the Lot or Development Parcel, except for those portions along the boundaries thereof as described in the immediately preceding subsection (a), shall be subject to the written approval of the Owner of the Lot or Development Parcel to be burdened by the easement (written consent of any one of multiple Owners of the Lot or Development being deemed sufficient), which approval shall not be unreasonably withheld, delayed, or conditioned.

(c) The right to subject the Properties to a contract with Progress Energy (or other, appropriate utility provider) for the installation and maintenance of above ground or underground electric cables and lines and/or the installation and maintenance of street lighting (including poles and light fixtures), either or both of which may require an initial payment and/or a continuing monthly payment by each Owner or by the Association as part of the Common Expenses. The Association shall accept assignment from Declarant of contracts entered into by the Declarant with Progress Energy or other appropriate utility provider for such electrical and/or lighting services.

(d) A perpetual, non-exclusive, and alienable easement to maintain all vegetation required or allowed under any planting, landscaping, or replanting plan required or approved for the Subdivision pursuant to Subdivision Plan or Legal Requirement

Section 3. Agreements With Other Persons. In connection with its exercise of any easements or rights reserved in this Article, Declarant reserves the additional right, which may be exercised by Declarant or its successors or assigns in its sole discretion, at any time and from time to time, in whole or in part, without any obligation to exercise such right, to enter into agreements on behalf of and binding on the Association with other Persons (including other associations of property owners) for any one or more of the following: (i) use and maintenance of any easements and associated improvements and facilities therein located on the Properties or on the properties owned or used by such other Persons, which agreements may provide for financial and/or management responsibilities for the Association and/or for such Persons; and (ii) use and maintenance of Stormwater Control Facilities in the Properties and/or on the properties owned or used by such Persons.

Section 4. Easements Reserved for the Association. Easements are reserved for the Association as follows, which may be exercised by the Association in its sole discretion, without any obligation to exercise any of same:

(a) A perpetual, non-exclusive and alienable easement in, over, under, across and through all portions of the Properties to enable the Association to perform its functions and provide the services under the Declaration. Provided, however that any such entry by the Association upon any portion of the Properties shall be made with as minimum inconvenience to the Owner of such portion of the Properties as reasonably practicable, and any damage caused by or resulting from the gross negligence or willful misconduct of the Association's employees, contractors or agents shall be repaired by the Association at the expense of the Association.

(b) In addition to the foregoing, and in order to implement effective and adequate soil erosion controls and/or stormwater management, a perpetual, non-exclusive easement to enter upon any portion of the Properties, before and after improvements have been constructed or placed thereon, to maintain or cause to be maintained soil erosion control and/or stormwater management; provided, however, the Association shall not at any time be required to exercise this easement, and no exercise of the easement shall interfere unreasonably with any permanent improvements constructed on any such portion of the Properties (which improvements have been approved by the Architectural Review Committee as required herein). If the need for stormwater management or soil erosion controls results from the construction of improvements on any portion of the Properties or any excavation, grading, removal, reduction, addition or clearing of any portion of the Properties, the cost of any such work performed by the Association for the purpose of implementing effective and adequate stormwater management or soil erosion control shall be assessed against the Owner of such the portion of the Properties on which such work has been performed, and shall be a lien and be enforceable in the same manner as assessments. Provided, however, if the Association determines that appropriate corrective action is necessary on any portion of the Properties, prior to exercising this easement the Association shall give the Owner of such portion of the Properties written notice of the proposed corrective action and a reasonable opportunity to take the corrective action specified in such notice. If such Owner fails to complete the corrective action by the date specified in the notice, the Association then may exercise this easement.

(c) A perpetual, non-exclusive, and alienable easement to maintain all vegetation required or allowed under any planting, landscaping, or replanting plan required or approved for the Subdivision pursuant to any Subdivision Plan or Legal Requirement.

(d) The Association has the right to assign its rights under its easements as it deems reasonable in the best interests of the Subdivision.

Section 5. Easement Reserved for the City and Public Utilities. Perpetual, non-exclusive and alienable easements are hereby reserved and established over all portions of the Properties for the City and for all public utility providers serving the Properties, and their agents, employees and contractors, for the purposes, as applicable to the City or utility provider, of setting, removing and reading utility meters, maintaining Stormwater Control Measures, maintaining utility equipment, facilities and connections, and acting for other purposes consistent with the public safety and welfare, including garbage removal, police protection, fire protection (including access to any and all fire hydrants located outside of public

street rights of way or easements dedicated to the City) and delivery of mail. Except in an emergency, these easements shall be exercised in a reasonable manner and at reasonable times. Any pedestrian access easement established by Declarant or the Association over any portion of the Properties for the purpose of providing pedestrian access to and from City greenways or City greenway easements are established for the benefit of the applicable governmental entity, its employees and the public in general, and the Association has the responsibility with respect to such pedestrian access easements that Legal Requirements impose on owners of properties over which such pedestrian access easements are located and on property owner associations that serve properties over which such pedestrian access easements are located.

Section 6. Easements Shown On Recorded Plats. Declarant, for itself and its successors and assigns (which may include the City and public utility providers), and in addition to all other easements reserved in the Declaration, hereby reserves perpetual, non-exclusive and alienable easements in the locations and for the purposes shown and indicated on all plats of the Properties recorded in the Registry. The Persons who have the foregoing easement rights shall have no obligation to exercise any part or all of same.

Section 7. Easement for Encroachments. If, in accordance with Approved Plans, any Dwelling is closer than five (5) feet to any boundary line of the Lot or Development Parcel on which that Dwelling is located (for the purposes of this Section, the "subject Lot"), then the Owner of the Dwelling, and such Owner's tenants and contractors, shall have a perpetual, non-exclusive access easement over the adjoining portion of the Properties as reasonably necessary from time to time to facilitate maintenance of the Dwelling on the subject Lot. All such maintenance shall be done expeditiously and the exercise of this easement shall in all respects be reasonable and, upon completion of the maintenance, as reasonably practicable the Owner of the subject Lot shall restore the other portion of the Properties on which the easement has been exercised to substantially the same or better condition as it was in prior to the maintenance. When the foregoing easement exists, except in accordance with Approved Plans no fence, wall, storage shed, or similar structure or any other kind of obstruction to the exercise of the easement shall be permitted on the adjoining portion of the Properties (as a guideline, the area on the adjoining portion of the Properties within five (5) feet of the common boundary line of the adjoining portion of the Properties and the subject Lot shall be left free of all such obstructions). Provided, however, the easement established by this Section shall not restrict or impair any other easements established herein in favor of the Declarant, the Association, the City, an Owner or any public utility provider.

Section 8. Restriction on Entry. Notwithstanding anything to the contrary contained in this Article, no right or easement granted, reserved or established in the Declaration shall be construed to give Declarant, the Association, an Owner, the City or any other Person the right to enter any Dwelling or other building located on any portion of the Properties, except as otherwise specifically stated in the provision of the Declaration relating to the particular right or easement or as reasonably and necessarily implied in order for the right or easement to be exercised (for example, maintenance of a party wall), or as allowed by the Owner of the applicable portion of the Properties. Provided, however, each Owner hereby is given notice that Legal Requirements may allow such entry by the City or other Persons, even though the particular easement granted, reserved or established in the Declaration does not allow such entry.

ARTICLE XIII
OWNER MAINTENANCE RESPONSIBILITIES

Section 1. Duty to Maintain. Except for those items for which the Association has maintenance responsibility under the Governing Documents, or except as otherwise provided in the Governing Documents, each Owner, at such Owner's sole cost and expense, shall maintain such Owner's portion of the Properties, including all improvements thereon, in a safe, clean and attractive condition at all times, subject to and in a manner consistent with the Governing Documents and Community Wide Standard, including all of the following:

(a) Prompt removal of all litter, trash, refuse and wastes.

(b) Lawn mowing and maintenance on a regular basis, including, subject to any Legal Requirements, any portions of a publicly dedicated street right of way or private street right of way adjacent to any boundary of such portion of the Properties and not maintained by the Association or the City.

(c) Tree and shrub pruning and removal of dead or diseased trees, shrubs and other plant material.

(d) Maintenance of flower and plant gardens.

(e) Maintenance of exterior lighting and mechanical facilities.

(f) Maintenance of parking areas and driveways.

(g) Complying with all Legal Requirements.

(h) Soil erosion control as required by the Declaration.

(i) Maintenance of stormwater drainage easements as required by the Declaration.

The foregoing responsibilities shall be performed in a manner that does not unreasonably disturb or interfere with the reasonable enjoyment of the Properties by Persons entitled thereto. Provided, however, and notwithstanding anything to the contrary appearing herein, Declarant is exempt from the provisions of this Section with respect to all portions of the Properties it owns, except for any of same on which Dwellings are located.

Section 2. Enforcement. If any Owner fails to perform any of the foregoing maintenance responsibilities, then the Association may give such Owner written notice of the failure and such Owner must, within ten (10) days after such notice is given by the Association, perform the required maintenance. If any such Owner fails to perform the required maintenance within the allotted time period, then the Association, acting through its authorized agent or agents, shall have the right and power, but not the obligation, to enter such Owner's portion of the Properties and perform such maintenance without any liability for damages for wrongful entry or trespass. Such Owner shall be liable to the Association for the expenses incurred by the Association in performing the required maintenance, and shall reimburse the Association for such expenses within thirty (30) days after the Association mails or delivers to such Person an invoice therefor. If any Owner fails to reimburse the Association as required, the Association shall have the same rights and remedies against such Owner and such Owner's portion of the Properties, as the Association has with respect to the enforcement and collection of assessments.

Section 3. Unimproved Portions of the Properties. Notwithstanding the foregoing provisions of this Article, but subject to the other applicable provisions of the Declaration, Owners of unimproved portions of the Properties shall be required to maintain same only in accordance with such maintenance standards, if any, as are established by the Declarant, during the Development Period, and thereafter, in accordance with such reasonable maintenance standards established by the Board.

ARTICLE XIV
INSTITUTIONAL LENDERS; MORTGAGEES

Section 1. Notice to Board. Upon request from the Board, any Owner who mortgages such Owner's portion of the Properties shall notify the Association of the name and address of the Mortgagee. No Institutional Lender shall be entitled

to any rights under the Declaration unless it has notified the Association as required in this Article and has requested Institutional Lender rights under the Declaration.

Section 2. Requirements of Institutional Lender. Whenever any Institutional Lender desires to avail itself of the rights afforded Institutional Lenders under the Governing Documents, it shall furnish written notice thereof to the Association by certified or registered mail, or by overnight delivery service, identifying the portion of the Properties upon which such Institutional Lender holds a first lien mortgage or deed of trust, specifying which rights it wishes to exercise, specifying notices or other information it wishes to receive, and designating the name of the person and mailing address to which notices, reports or information are to be sent by the Association. The Institutional Lender shall be responsible for updating the information required by this Section, and the Association is obligated to give the required notices only to the most current name and address it has received from the Institutional Lender. Such notice shall be deemed to have been received by the Association only upon actual delivery thereof, as evidenced by the return registry receipt or records of the overnight delivery service.

Upon assignment or other transfer, or payment in full, of the indebtedness secured by the lien of the mortgage subject to the notice given to the Association by the Institutional Lender, the Institutional Lender promptly shall notify the Association that it no longer wishes to exercise the rights requested in the previously given written notice, such new notice to be given in the same manner as the previously given notice. To avail itself of the rights of Institutional Lenders under the Governing Documents, any such assignee or transferee must first notify the Association in the manner provided for in this Article of the Declaration.

Section 3. Obligation of Association to Institutional Lenders. Any Institutional Lender who has notified the Association as required in the immediately preceding Section of this Article, shall have each of the following rights that are specifically requested in the notice to the Association, until the earlier of such time as the indebtedness secured by the lien of the mortgage subject to the notice given to the Association has been paid in full or the Institutional Lender has transferred or assigned ownership thereof to another Person.

(a) To inspect and receive copies of Governing Documents and other Association documents and records on the same terms as the Members of the Association. The Association has the right to charge a reasonable amount to Members and Institutional Lenders for production and delivery of copies of such Governing Documents and other Association documents and records.

(b) To receive a financial statement of the Association for the immediately preceding fiscal year of the Association.

(c) To be notified of any proposed amendments to the Declaration and any meetings of the Association at which such proposed amendments are to be voted on.

(d) To be notified of any proposed action of the Association that requires the consent of a specified percentage of Institutional Lenders.

(e) To be notified of any condemnation or casualty loss affecting either a material portion of the Properties or the Lot securing its Mortgage.

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

(g) With respect to the Lot that secures its mortgage, to be notified of any delinquency in the payment of any assessment or charge (which delinquency remains uncured for a period of sixty (60) days), and to be notified of any other

default of the provisions of the Declaration by the Owner of such Lot. Provided, however, any failure of the Association to notify the Institutional Lender of the delinquency or default shall not affect the validity of any Association lien, or any other Association rights and remedies, against the defaulting Owner or such Owner's Lot.

(h) To be notified of any other matters for which applicable Institutional Lender rules and regulations or other governmental entity rules or regulations require the Association to give notice to Institutional Lenders, and the Institutional Lender desiring to be notified of such matters shall described the matters and applicable rules and regulations in the notice it gives to the Association.

Section 4. Institutional Lenders Not Obligated to Collect Assessments. No Institutional Lender shall have any obligation to collect any assessment under the Declaration.

ARTICLE XV
AMENDMENT OF DECLARATION

Section 1. Amendment by Declarant. In addition to specific amendment rights, if any, granted elsewhere in the Declaration, during the Declarant Control Period Declarant may unilaterally, and in its sole discretion, without the consent, approval, or joinder of any Owner, the Association, or any other Person (except to the extent that Legal Requirements may require the joinder of a governmental entity), and without any meeting of the Association, amend the Declaration for any purpose that is not prohibited by the Act or other Legal Requirement. Declarant may record any such amendment or may record an amended and restated version of the Declaration that incorporates any such amendment. Following the end of the Declarant Control Period, during the existence of the Development Period Declarant shall continue to have the right, without the consent, approval, or joinder of any Owner, the Association, or any other Person (except to the extent that Legal Requirements may require the joinder of a governmental entity), amend any provision of the Declaration to: (i) make clarifying or corrective changes not materially affecting any Owner's rights or obligations hereunder; or (ii) satisfy the requirements of FHA, VA, FNMA, OILSR or other governmental agency, Secondary Mortgage Market Agency or Institutional Lender; or (iii) establish or maintain the tax exempt status of the Association under the laws of the United States or the State of North Carolina, or (iv) amend the Declaration as may be necessary to prevent it from being declared invalid under any Legal Requirement or by any court of competent jurisdiction, or to add or delete provisions to or from the Declaration as may be necessary to prevent it from being declared invalid under any Legal Requirement or by any court of competent jurisdiction. Any amendment of the Declaration by the Declarant shall be effective upon the later of the date of its recording in the Registry or the effective date specified therein.

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

(a) Unless a higher percentage or different voting requirement is specified herein or by Legal Requirements, the Declaration may be amended only by (i) the written agreement or consent of those Members, or the affirmative vote at a meeting of the Association of those Members, to whom are allocated sixty-seven percent (67%) or more of the total number of votes in the Association, and (ii) during the Development Period, with the written consent of Declarant. Provided, however, any amendment of the Declaration with respect to Recreational Amenities requires (i) the affirmative vote at a meeting of the Association of those Members, to whom are allocated eighty percent (80%) or more of the total number of votes in the Association, and (ii) during the Development Period, the written consent of Declarant.

(b) Written notice of an annual or special meeting of the Association at which any proposed amendment to the Declaration is to be voted on, together with at least a summary description of the proposed amendment, shall be given to all Members not less than ten (10) days nor more than sixty (60) days in advance of the date of such meeting.

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

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

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

Section 4. Prohibited Effects of Amendment. No amendment to the Declaration shall do or result in any of the following:

(a) increase the financial obligations of an Owner in a discriminatory manner as compared with similarly situated Owners.

(b) further restrict development on any portion of the Properties in a discriminatory manner.

(c) diminish or impair or in any way adversely affect the rights of Declarant without the written consent of Declarant.

(d) impose additional obligations upon Declarant without the written consent of Declarant.

(e) diminish or impair the express rights of Institutional Lenders under the Declaration without the prior written approval of a majority of the Institutional Lenders who have requested the exercise of such rights as provided herein.

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

(g) without the consent of the City, terminate, reduce, amend, revise, or alter any obligation of the Association or the Members of the Association under the Code or under any Stormwater Agreement, encroachment agreement, or other agreement entered into with the City by the Association or, as allowed by the Declaration, by the Declarant on behalf of the Association.

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

ARTICLE XVI
DURATION OF DECLARATION; DISSOLUTION OF ASSOCIATION

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

The Declaration shall be deemed incorporated in all deeds and conveyances hereinafter made by Declarant or any other Owner. Every Person, including a Mortgagee, acquiring or holding any interest or estate in any portion of the Properties shall take or hold such interest or estate, or the security interest with respect thereto, with notice of the terms and provisions of this Declaration; and in accepting such interest or estate in, or a security interest with respect to, any portion of the Properties, such Person shall be deemed to have assented to this Declaration and all of the terms and provisions hereof.

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

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

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

ARTICLE XVII
RECREATIONAL AMENITIES

Section 1. Provision of Recreational Amenities. During the Development Period Declarant reserves the right, without obligation, to provide one or more Recreational Amenities in the Properties.

Section 2. Use of Recreational Amenities. Subject to the rights of Declarant and Builders to use the Recreational Amenities reserved in the Declaration, use of the Recreational Amenities shall be subject to the rules and regulations established by the Association, and any use of the Recreational Amenities in violation of those rules and regulations shall be deemed a trespass and shall subject the Person who violates same to all of the penalties for violation established by the Association or the Declaration. The Board, upon determining that is in the best interests of the Association or the Members of the Association, may establish memberships or other use rights for Recreational Amenities Users in the Recreational Amenities, such membership or other use rights to be upon such terms, and for payment of such fees or charges, as the Board, in the exercise of its reasonable discretion, may determine.

During the Development Period, Declarant, for itself and, as allowed by Declarant, for Builders, reserves the right to use the Recreational Amenities at reasonable times, without any charge or payment therefor, for any one or more of the following purposes: (i) the club house, if any, for meetings with Owners, prospective Owners, and Builders in connection with the development or sale of portions of the Properties and for meetings of the Association, the Board and Association committees; provided, however, the club house shall not be used by any Builder who is not the Declarant as an administrative or sales office; (ii) to the extent that it does not unreasonably interfere with use of the Recreation Amenities by Class A

Members, the Recreational Amenities may be used from time to time by Declarant or Builders for promotional functions in connection with the marketing or sale of any part of the Properties. The foregoing rights include the right to use a reasonable number of parking spaces on the Recreational Amenities and any other Common Property parking areas.

Section 3. Management. The Association shall have the right and authority, at any time and from time to time, to employ a management company or other Person to manage and operate the Recreational Amenities for the Association.

Section 4. Risks Associated With Use. Developer hereby informs all Owners, and their family members, guests and invitees, together with all Recreational Amenities Users and any other Persons who from time to time use the Recreational Facility (whether such use is or is not authorized by the Declaration), that there exist certain hazards or risks associated with use of the Recreational Amenities, particularly with use of a swimming pool, whether or not a lifeguard is on duty during times when the swimming pool is open for use. The Association may, but shall not be required to, employ or provide for the services of one or more lifeguards during times that the swimming pool is open for use, it being within the sole discretion of the Board whether or not to employ or provide for the services of lifeguards. Each Owner, by acceptance of a deed to such Owner's portion of the Properties, and each Person who at any time or from time to time uses any part or all of the Recreational Amenities, specifically acknowledges the existence and acceptance of the foregoing risks, and agrees to comply with the rules and regulations established by the Association for use of the Recreational Amenities.

Section 5. Limitation of Liability. Neither the Developer nor any Builder, nor any of their respective partners, shareholders, officers, directors, members, managers, employees, agents, affiliates, subsidiaries, predecessors or successors (for the purposes of this Section, referred to as a "Named Person") shall be responsible or liable in any way to any Owner or to any other Person for any claims, causes of action, damages, judgments, liens, losses, injuries, demands, interference, liabilities, or obligations whatsoever, that may result from property damage or personal injury in connection with such Owner or other Person's use of any Recreational Amenities, unless the same arises out of or results from the gross negligence or intentional act or omission of such Named Person, or unless the same arises out of or results from the act or omission of any such Named Person while actually using the Recreational Amenities.

Section 6. Boat Storage Area. The Association may (but has no obligation to) create one or more boat storage areas in the Properties and/or may provide for one or more boat storage areas outside of the Properties. The Association may charge a separate fee to Members of the Association who use any boat storage area, which fee is in addition to all assessments under the Declaration.

ARTICLE XVIII
DISCLOSURES AND WAIVERS

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

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

shareholders, directors, officers, partners, members, managers, agents and employees shall not be liable but, rather, shall be held harmless for any and all losses, damages (compensatory, consequential, punitive, or otherwise), injuries, or deaths arising from or relating to the aforesaid activities; (iv) that any purchase or use of any portion of the Properties has been and will be made with full knowledge of the foregoing; and (v) this acknowledgment and agreement is a material inducement to Declarant to sell, convey, lease, and/or allow the use of the Properties.

Section 2. Conveyance of Common Property. Declarant may convey or transfer all Common Property, including all improvements thereon, to the Association in an "AS IS, WHERE IS" condition. Declarant hereby disclaims and makes no representations, warranties or other agreements, express or implied, by law or fact, with respect to the Common Property and improvements thereon, including, without limitation, representations or warranties of merchantability regarding the condition, construction, accuracy, completeness, design, adequacy of size or capacity thereof in relation to the utilization, date of completion, or the future economic performance or operations of, or the materials, furniture, or equipment used therein. Neither the Association nor any Owner or any other Person shall make any claim against Declarant, its successors and assigns, relating to the condition, operation, use, accuracy or completeness of the Common Property, or for incidental or consequential damages arising therefrom.

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

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

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

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

No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to the Subdivision, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner

acknowledges, understands, and shall be responsible for informing such Owner's tenants and all occupants of its Dwelling that the Association, its Board and committees, and Declarant are not insurers or guarantors of security or safety and that each Person within Subdivision assumes all risks of personal injury and loss or damage to property, including Dwellings and the contents of Dwellings, resulting from acts of third parties.

Section 6. View Impairment. Neither Declarant nor the Association guarantee or represent that any view from, over, or across any portion of the Properties will be preserved without change or impairment. Neither Declarant nor the Association shall be obligated to relocate, prune, or thin trees or other landscaping except as otherwise required under a separate covenant or agreement, if any. The Association (with respect to the Common Property) has the right to add or remove trees and other landscaping to and from the Common Property, subject to Legal Requirements. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

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

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

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

Owners and other Persons who use any portions of the Properties shall not alter, modify, expand, or fill any lakes, ponds, or wetlands located in the Properties without the prior written approval of the local permitting authority, the City, the Association, the Declarant, the U.S. Army Corps of Engineers (to the extent it has authority), and such other governmental entities as may have relevant jurisdiction over such matters.

ARTICLE XIX
ALTERNATIVE DISPUTE RESOLUTION

Section 1. Agreement to Encourage Resolution of Disputes Without Litigation.

(a) Declarant, the Association and its officers, directors, and committee members, all Persons subject to the Declaration, and any Person not otherwise subject to the Declaration who agrees to submit to this Article (collectively, "Bound Parties"), agree or are deemed to agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Community without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in subsection (b), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in this Article in a good faith effort to resolve such Claim.

(b) As used in this Article, the term "Claim" shall refer to any claim, grievance, or dispute arising out of or relating to any of the following:

(1) the interpretation, application, or enforcement of the Governing Documents;

(2) the rights, obligations, and duties of any Bound Party under the Governing Documents; or

(3) the design or construction of improvements within the Community, other than matters of aesthetic judgment, which shall not be subject to review.

(c) Provided, however, that the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in this Article (the word "action" includes any legal action or procedure filed in any court, as well as any other procedure):

(1) any action by the Association to collect assessments or other amounts due from any Owner;

(2) any action by the Association to obtain a temporary restraining order or other emergency equitable relief and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions the Declaration relating to creation and maintenance of the Community Wide Standard;

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

(4) any action in which any indispensable party is not a Bound Party; and

(5) any action as to which any applicable statute of limitations or statute of repose would expire within 180 days of date of the filing of the action, unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

Section 2. Dispute Resolution Procedures.

(a) Notice. The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice (the "Notice") to each Respondent and to the Board stating plainly and concisely:

(1) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim;

(2) the legal basis of the Claim (*i.e.*, the specific authority out of which the Claim arises);

(3) the Claimant's proposed resolution or remedy; and

(4) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

Within 30 days of receipt of the Notice, the Respondent, subject to all of the foregoing requirements for the giving of the Notice, shall give the Claimant a Notice of any Claim the Respondent has against the Claimant.

(b) Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing by either the Claimant or the Respondent, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) Mediation. If the Bound Parties have not resolved the Claim through negotiation within 30 days of the date of the Notice, or within such other period as the Bound Parties may agree upon, either of the Bound Parties shall have 30 additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the Wake County, North Carolina area.

If the Claim is not submitted to mediation within such time, or if the Bound Party who submitted the Claim to mediation does not appear for the mediation when scheduled, that Bound Party shall be deemed to have waived the Claim, and the other Bound Party shall be relieved of any and all liability to the Bound Party who submitted the Claim to mediation (but not third parties) on account of such Claim.

If the Bound Parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. Either the Claimant or Respondent thereafter shall be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

Each Bound Party shall bear its own costs of the mediation, including attorneys' fees, and each Bound Party shall share equally all fees charged by the mediator.

(d) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the Claimant and Respondent. If either of such Bound Parties thereafter fails to abide by the terms of such agreement, then the other Bound Party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the Bound Party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying Bound Party (or if more than one non-complying Bound Party, from all such Bound Parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

ARTICLE XX
GENERAL PROVISIONS

Section 1. Enforcement. Subject to applicable alternative dispute resolution provisions of the Declaration, and subject to any rights of enforcement provided for any governmental entity by the Declaration or any Legal Requirement, (i) the Declarant and the Association shall have the right, but not the obligation, to enforce the provisions of the Declaration

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

Section 2. Assignment. Declarant specifically reserves the right, in Declarant's sole discretion, to assign temporarily or permanently any or all of its rights, privileges, powers and/or obligations under the Declaration or under any Supplemental Declaration or Subdivision Declaration, including assignment of any or all of same as security for any obligation of Declarant to one or more Persons. Except as otherwise provided in this Section, no such assignment shall be effective unless (i) it is in writing, (ii) it is executed by the assignee, (iii) it is recorded in the Registry or other governmental entity office required under Legal Requirements, with the date of recording or such later effective date stated in the assignment being the effective date thereof (and the terms of the recorded assignment shall be conclusive and binding as to the matters assigned), and (iv) if it purports to assign any obligations of the Declarant to complete initial capital improvements within the Subdivision required by a Subdivision Plan or other Legal Requirements, it describes the specific obligations assigned.

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

Notwithstanding anything to the contrary in this Section, with respect to Common Property, Stormwater Control Measures and utilities in the Subdivision, Declarant may assign to the Association, and the Association shall accept assignment of and execute the assignment document with respect to, any or all of the following in whole or in part, including the costs thereof: all rights, duties, liabilities, obligations and indemnities of the Declarant under all permits issued by the City or any provider of utilities to any part or all of the Subdivision, and/or under all agreements between the Declarant and the City or any provider of utilities to any part or all of the Subdivision, with respect to maintenance of Common Property, Stormwater Control Measures and/or utilities in the Subdivision. Provided, however, and notwithstanding the foregoing, Declarant may not assign to the Association any of its obligations or liabilities or indemnities directly related to the improvements for the initial installation of Common Property, Stormwater Control Measures and/or utilities and/or publicly dedicated street in the Subdivision as required by the City or a utility provider for development of the Properties in accordance with a Subdivision Plan, including warranties for construction of such improvements, if any, required by any governmental entity or utility provider prior to its acceptance of maintenance responsibility, if any, for such improvements (it being

recognized that one or more of such improvements may not be of a type that are accepted for maintenance by a governmental entity or utility provider). Declarant shall have the authority to resolve any dispute as to what rights, duties, liabilities, obligations and/or indemnities can be assigned to the Association pursuant to this paragraph.

Section 3. Association Contracts and Leases During Declarant Control Period. All Association contracts and leases which affect or relate to the Properties or any part thereof and which (i) are entered into prior to the time that the first Board whose majority of directors is elected by the Members takes office, and (ii) are not bona fide or were unconscionable to the Owners at the time entered into under the circumstances then prevailing, may be terminated without penalty by the Association at any time after such first Board whose majority of directors is elected by the Members takes office, upon not less than ninety (90) days written notice to the other parties to the contract or lease (or any different minimum time period provided for in the Act), and all such contracts and leases are terminable as provided in this Section, whether or not the right of the Association to terminate is stated therein.

Section 4. Conflicts. Whenever there exists a conflict among the Governing Documents of the Association, the provisions of the Declaration and thereafter, any applicable Supplemental Declaration or Subdivision Declaration shall control, except as to matters of compliance with the Nonprofit Corporation Act, in which event the Articles shall control. Whenever there is a conflict between the provisions of the Articles and Bylaws, the provisions of the Articles shall control. The provisions of the Bylaws shall control over any conflicting provision of any Restrictions and Rules, Board resolutions, or Architectural Guidelines. With respect to the foregoing, specific provisions shall control general provisions, except that a construction consistent with the Act, the Nonprofit Corporation Act and the Code shall in all cases control over any construction inconsistent therewith.

The provisions of the Code control over any conflicting provisions of the Declaration and any other Governing Documents. As applicable provisions of the Code are amended, modified, revised, deleted, or moved to different sections, the Declaration is deemed to be amended so as to conform to the provisions of the Code as they exist from time to time and are applicable to the Properties or any part thereof.

Whenever the Act, the Nonprofit Corporation Act, or the Code provides for limitations on any amount of assessments, fines, late payment fees, charges, or attorney fees that may be assessed, fined, charged, imposed, or collected by the Association, and the amount of any such assessment, fine, late payment fee, charge, or attorney fee allowed or authorized by the Declaration or other Governing Documents (including any assessment, fine, late payment fee, charge, or attorney fee amount established by the Board as allowed by the Declaration or other Governing Documents) exceeds the applicable limitation of the Act, the Nonprofit Corporation Act, or the Code, unless the applicable limitation specified by the Act, the Nonprofit Corporation Act, or the Code is a mandatory limitation that cannot be exceeded by provisions in the Declaration or other Governing Documents allowing or providing for the possibility of a greater amount than the applicable limitation otherwise allows, the provisions of the Declaration or other Governing Documents control and are deemed to constitute an express provision contrary to the limitation contained in the Act, the Nonprofit Corporation Act, or the Code. The provisions of the Act and Nonprofit Corporation Act shall in all cases control over any conflicting provisions of the Code. The Governing Documents shall be construed together with the construction that avoids, insofar as possible, conflicts among them.

For the purposes of this Article and any other references in the Declaration to similar conflicts, a 'conflict' is a situation in which the provisions in question cannot be reconciled or where enforcement of one provision necessarily would prohibit enforcement of another provision - for example, where one provision allows a certain action and the other provision prohibits the same action. Two provisions that are different, but not mutually exclusive or prohibitive of each other do not constitute a conflict for the purposes of this Article - for example, where Legal Requirements or the Declaration requires a certain minimum Dwelling setback distance and the Subdivision Declaration requires a greater distance for the same Dwelling setback distance. In this different Dwelling setback distance example, there is no conflict and the Subdivision Declaration would control.

Section 5. Consent. Except as otherwise may be specifically required by the Governing Documents or Legal Requirements, where the consent of an Owner, and the applicable portion of the Properties is owned by more than one Owner, the consent of any one of such Owners is sufficient.

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

Section 6. Costs and Reasonable Attorneys' Fees. In any action to enforce the provisions of any Governing Documents, the court may award reasonable attorneys' fees to the prevailing party, even if such action is settled prior to any trial, judgment or appeal. It also is the specific intent of this Section that it constitute the allowance of the award of reasonable attorneys' fees as required under Section 47F-3-120 of the Act.

Section 7. Determination of Type of Property. If at any time during the Development Period there is a question or dispute as to what type of property or assessment category any portion of the Properties constitutes - for example, whether it is a Lot or Development Parcel, or whether or not a Dwelling is a Detached Dwelling Unit, Condominium Unit, Townhouse Unit, Apartment Unit, or some other type of Dwelling Unit, the Declarant has the right and authority to resolve such question or dispute. Following the end of the Development Period, the Board has the right to resolve any such question or dispute.

Section 8. Exclusive Rights to Use Name of Subdivision. During the Development Period, no Person shall use the name "South Lakes" or any derivative of such name in any logo or depiction in any printed or promotional material without Declarant's prior written consent. However, Owners may use the name "South Lakes" in printed or promotional matter where such term is used solely to specify that a particular Lot is located within the Subdivision and the Association shall be entitled to use the words "South Lakes" in its name and for other purposes related to the functions of the Association under the Declaration.

Section 9. Legal Actions Against Declarant. The affirmative vote vote or consent of the Members that is equal to or greater than sixty-seven percent (67%) of the total number of votes in the Association first shall be required prior to the Association doing any or all of the following with respect to the Declarant or any successor Declarant, regardless of whether such Person is the Declarant at the time the Association takes the action or obtains the necessary vote or consent required to take such action: (i) file a complaint, on account of any act or omission of Declarant, with any governmental entity which has regulatory or judicial authority over the Properties or any part thereof; or (ii) assert a claim against Declarant or sue Declarant or request legal or equitable relief against Declarant.

Section 10. Legal Requirements. All Governing Documents shall be subject to and construed in accordance with all Legal Requirements, including all applicable provisions of the Code. It shall be the responsibility of each Owner to comply with all Legal Requirements, whether or not any approval, disapproval, waiver or variance of the terms of any Governing Documents has been given by Declarant, the Association or the Architectural Review Committee. It is the express intention of the Governing Documents to comply with the Act, and any provisions of the Governing Documents that are not in compliance with the Act shall be deemed reformed from time to time to comply therewith. Provided, however, it also is the intention of the Governing Documents that, unless its provisions violate the Act, such provisions shall control, and, insofar as reasonably possible, the provisions of the Governing Documents shall be construed in such manner as to be consistent with, and not in violation of, the Act.

Section 11. Marketable Title Act. It is the intention of the Declarant that the Declaration exist and continue until terminated as provided herein, and that it constitute an exception to any automatic termination or expiration provision

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

Section 12. No Exemption. No Owner may become exempt from any obligations imposed hereby by non-use or abandonment of the Common Property or any portion of the Properties owned by such Owner.

Section 13. No Timesharing. No Dwelling shall be used for operation of a timesharing, fraction-sharing, or similar program whereby the right to use or occupancy of the Dwelling rotates among participants in the program on a fixed or floating time schedule over any period of time.

Section 14. Notice. Except as otherwise provided herein, whenever written notice to any Person is required hereunder, such notice may be hand delivered to such Person, or given by first class United States mail, postage prepaid, or given in such other manner specifically allowed or required by Legal Requirements, or given in such other manner determined by the Board to be proper and which does not violate any Legal Requirements, addressed to the address of such Person appearing on the records of the Association or to the address for such Person appearing in the records of the Wake County Revenue Department. Properly addressed notice shall be deemed to have been given by the Association as follows: (i) in the absence of any delays in delivery by the United States Postal Service resulting from acts of war or terrorism, on the third day following the date the notice was deposited in the United States mail, first class postage prepaid; or (ii) on the date of personal delivery to the Person or an adult residing with the Person, as evidenced by a receipt signed by the Person or such other Person; or (iii) on the delivery date indicated on a return certified or registered mail receipt, or (iv) on the date indicated by the records of a national, regional or local same day or overnight courier service, or (v) on the date acknowledged in writing by the recipient Person or other adult residing with such Person, or (vi) upon execution of a written waiver of such notice by the Person. Notice to the Association may be given and shall be deemed to have been given in the same manner as notice to a Person, when addressed to the principal business office of the Association or the property manager employed by the Association. It shall be the duty of each Owner and other Person entitled to receive a notice from the Association to keep the Association informed of such Owner's or other Person's current mailing address and telephone number. If an Owner or other Person has not provided the Association with such current mailing address the Association may use as the mailing address the street address of the portion of the Properties owned by such Owner or other Person or the address for such Owner or other Person in the records of the Wake County Revenue Department. If no address for an Owner other Person or is reasonably available to the Association, the Association shall not be required to give notice to that Owner or other Person. Notice given to any one of multiple Owners of any portion of the Properties shall be deemed to have been given to all of such Owners.

Section 15. Number and Gender. Whenever the context of the Declaration requires, the singular shall include the plural and one gender shall include all.

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

All rights of Declarant and the Association under the Declaration, unless otherwise specifically provided or limited, may be exercised at any time and from time to time.

Section 17. Rule Against Perpetuities. As provided in Section 47F-2-103(b) of the Act, the rule against perpetuities may not be applied to defeat any provision of the Declaration, or the Bylaws, rules, or regulations adopted pursuant to Section 47F-3-102(1) of the Act. In the event of the absence of the protection of Section 47F-2-103(b) of the Act, if the Declaration or any provision thereof violates any applicable Rule Against Perpetuities, the Declaration or such provisions shall be deemed reformed to continue in effect for the maximum period of time that the Declaration or such provision could exist without violating such applicable Rule Against Perpetuities.

Section 18. Severability of Provisions. If any paragraph, section, sentence, clause or phrase of the Declaration shall be or become illegal, null or void for any reason or shall be held by any court of competent and final jurisdiction to be illegal, null or void, the remaining paragraphs, sections, sentences, clauses and phrases of the Declaration shall continue in full force and effect and shall not be affected thereby. To the extent that any provision of the Governing Documents is determined to be overly broad or unenforceable and a narrower or partially enforceable construction may be given to such provision without destroying its intent, then the narrower or partially enforceable provision shall be applied and, to the extent lawful, shall be enforced. It is hereby declared that said remaining paragraphs, sections, sentences, clauses and phrases would have been and are imposed irrespective of the fact that any one or more other paragraphs, sections, sentences, clauses or phrases shall become or be illegal, null or void.

Section 19. Subdivision, Combination of Lots; Plat Re-recording. Any portion of the Properties may be subdivided, and the boundaries of any portion of the Properties may be altered, only with the written consent of the Owner thereof and the Declarant, during the Development Period (and, thereafter, the Board), and with any prior approval required of the City. Provided, however, and notwithstanding the foregoing sentence, such written consent of the Declarant is not required for leases, deeds of correction, deeds to resolve boundary line disputes or similar corrective instruments, or deeds or other instruments granting any easement, right-of-way or license to Declarant, the Association, the City or a public utility provider, provided that the number of then existing Lots and Development Parcels in the Properties is not changed by any such action.

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

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

Section 20. Surplusage. With respect to the Subdivision as actually developed, certain provisions of the Declaration may be unnecessary - for example, if the only type of Dwelling in the Subdivision is attached single-family Dwellings, then the definitions of Apartment Unit, Condominium Unit, and Townhouse Unit will not apply to any of the Properties. The Declaration is written to provide discretion and flexibility to Declarant with respect to development of the Subdivision; accordingly, any provisions of the Declaration that are not applicable to the Properties as actually developed shall be considered as surplusage and not as inconsistencies or contradictions.

Section 21. Titles. The titles, headings and captions which have been used throughout the Declaration are for convenience only and are not to be used in construing the Declaration or any part thereof, except as necessary with respect to any cross-referencing of any provisions of the Declaration.

Section 22. Joinder of Trustee and Beneficiary. At the time of the execution of the Declaration, the Properties are subject to a "Deed of Trust" from Declarant to David S. Morris and Kenneth L. Eagle, Trustee, referred to herein as "Trustee", and South Lakes Investors LLC and Reedy Creek Investments LLC, referred to herein as "Beneficiary", recorded in the Registry in Book 12409, Page 1078. Beneficiary and Trustee join in the execution of the Declaration to acknowledge and agree that the Deed of Trust shall be subordinate to the Declaration for the following purpose only and for no other purpose: upon any foreclosure or conveyance of deed in lieu of foreclosure of the Deed of Trust, or upon any default by Declarant under the Deed of Trust or the promissory notes or other documents executed by Declarant in connection with the Deed of Trust and pursuit of any legal or other proceedings or remedies against Declarant for such default, the Declaration shall survive such foreclosure, proceeding or remedy in its entirety and not be extinguished in whole or in part by such foreclosure, proceeding or remedy. Provided, however, Beneficiary and Trustee do not subordinate the Deed of Trust to the Declaration for any other purpose, and Beneficiary and Trustee specifically reserve the lien priority of the Deed of Trust over any lien for unpaid assessments and other charges created or provided for by the Declaration or the Act.

(execution page follows)

IN WITNESS WHEREOF, Declarant has caused the Declaration to be executed in legal and binding form in its name by its authorized Manager and such Manager has caused the Declaration to be executed in legal and binding form by its authorized official, and Beneficiary and Trustee each has caused the Declaration to be executed in legal and binding form, and, if applicable, by its duly authorized official, on the date indicated in the acknowledgment of such signature.

IPG SOUTH LAKES LLC
a North Carolina Limited Liability Company

By: Impact Design-Build, Inc., Manager

By: _____
President

Wake County, North Carolina

I certify that the following person personally appeared before me this day and acknowledged to me that he signed the foregoing document: Colen E Davidson Jr.

Date: 3-1-07

DEBORAH NEWMAN
NOTARY PUBLIC
WAKE COUNTY, N.C.
My Commission Expires 12-15-2008

Deborah Newman
Printed/Typed Name: Deborah Newman
Notary Public
My commission expires: 12-15-2008

(f:\keagle\south lakes\dec1)

South Lakes Investors LLC

By: Donald R Parker
Manager

Wake County, North Carolina

I certify that the following person personally appeared before me this day and acknowledged to me that he signed the foregoing document: Donald R. Parker.

Date: 2·28·07

Michele M. Craig
Printed/Typed Name: Michele M. Craig
Notary Public
My commission expires: 3·30·09

MICHELE M. CRAIG NOTARY PUBLIC WAKE COUNTY, N.C.

Reedy Creek Investments LLC

By: Donald R Parker
Manager

Wake County, North Carolina

I certify that the following person personally appeared before me this day and acknowledged to me that he signed the foregoing document: Donald R. Parker.

Date: 2·28·07

Michele M. Craig
Printed/Typed Name: Michele M. Craig
Notary Public
My commission expires: 3·30·09

MICHELE M. CRAIG NOTARY PUBLIC WAKE COUNTY, N.C.

(f:\keagle\south lakes\dec1)

David S. Morris
Trustee

Kenneth L. Eagle
Trustee

Wake County, North Carolina

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he signed the foregoing document: David S. Morris; Kenneth L. Eagle.

Date: February 28, 2007

Printed/Typed Name: Barbara E. Elles
Notary Public
My commission expires: 7-11-11

BARBARA E ELLES
NOTARY PUBLIC
WAKE COUNTY, NC
My Commission Expires 7-11-2011

EXHIBIT A
EXISTING PROPERTY

LYING AND BEING in or the Town of Fuquay-Varina, Middle Creek Township, Wake County, North Carolina, and being more particularly described as follows:

1. Lots 145 through 173, inclusive, Common Open Space Lot containing 4.37 acres, more or less, and street rights of way for Jones Lake Road, Apalachia Lake Drive, Glenville Lake Drive, Hyco Lake Court, and Eastern Parkway, as shown on a plat entitled "SOUTH LAKES PARCEL SF-3C, LOTS 145-173" recorded in the Wake County, North Carolina Registry in Book of Maps 2007, Pages 453 through 455, said plat being incorporated by reference as if fully set out herein.

2. Lots 2 through 55, inclusive, Lot 231, Common Open Space Lot containing 2.32 acres, more or less, and street rights of way for Highrock Lake Road, Apalachia Lake Drive, Lake Artesia Lane, Lake Gaston Drive, Jones Lake Road, and additional right of way dedication for South NC 55 Highway, as shown on a plat entitled "SOUTH LAKES PARCEL SF-1A/2A: LOTS 2-55 & 231" recorded in the Wake County, North Carolina Registry in Book of Maps 2007, Pages 456 through 458, said plat being incorporated by reference as if fully set out herein.

EXHIBIT B
REAL PROPERTY
THAT DECLARANT MAY ANNEX AT ANY TIME

ALL of the real property described in this **Exhibit B** except for those portions thereof described in **Exhibit A**.

LYING AND BEING in the Town of Fuquay-Varina, Middle Creek Township, Wake County, North Carolina, and being more particularly described as follows (all recording references are to the Wake County, North Carolina Registry):

TRACT 1:

Adjoining the eastern margin of the right of way of NC Highway 55, and being more particularly described by metes and bounds as follows:

BEGINNING at a nail found in the centerline of the right of way of NC Highway 55, being the northwest corner of the Property herein described, and having North Carolina grid coordinates (NAD 83) of N=665,415.156 and E=2,072,473.128, said nail being located South 29 degrees 17 minutes 16 seconds West 39,540.26 feet grid (39,544.76 feet ground) from N.C.G.S Monument "Gentry", said Monument having North Carolina Grid Coordinates (NAD 83) of N=699,906.661 and E=2,091,806.207; thence with the southern boundary line of property owned now or formerly by John Deere Turf Cary, Inc., (see deed recorded in Book 7059, Page 903 and plat recorded in Book of Maps 1996, Page 998), the following two (2) lines:

(1) South 65 degrees 55 minutes 06 seconds East a total distance of 753.6 feet to an iron pipe set; and

(2) South 89 degrees 28 minutes 41 seconds East 564.62 feet to an iron pipe found at the northwestern corner of property owned now or formerly by the Town of Fuquay-Varina (see deed recorded in Book 7346, Page 464, and plat recorded in Book of Maps 1997, Page 327);

thence with the boundary lines of the property owned now or formerly by Town of Fuquay-Varina, the following two(2) lines:

(1) with the western boundary line, South 01 degree 15 minutes 48 seconds West 470.73 feet to an iron pipe found; and

(2) with the southern boundary line, South 73 degrees 03 minutes 42 seconds East 155.71 feet to an iron pipe found at the northwest corner of property owned now or formerly by William D. Powell, et al., (see deed recorded in Book 4837, Page 291);

thence along the western boundary line of the property owned now or formerly by Powell, South 00 degrees 04 minutes 56 seconds East 2,419.89 feet to light wood stake found at the northeastern corner of property owned now or formerly by Garland E. McLamb (see deed recorded in Book 3842, Page 126); thence along the northern boundary line of the property owned now or formerly by McLamb the following four (4) lines:

(1) North 89 degrees 21 minutes 32 seconds West 738.42 feet to an iron pipe set;
(2) North 86 degrees 50 minutes 29 seconds West 139.52 feet to an iron pipe set;
(3) North 02 degrees 57 minutes 34 seconds West 105.00 feet to an iron pipe found; and
(4) North 88 degrees 50 minutes 07 seconds West a total distance of 242.36 feet to a spike set in the centerline of NC Highway 55;

thence along the centerline of NC Highway 55 the following four (4) lines:

(1) North 04 degrees 45 minutes 48 seconds West 100.44 feet to a point;
(2) North 05 degrees 06 minutes 01 seconds West 202.25 feet to a point;
(3) North 05 degrees 12 minutes 24 seconds West 483.74 feet to a point; and
(4) North 05 degrees 05 minutes 15 seconds West 157.91 feet to a spike set in the centerline of NC Highway 55 in the southern boundary line of property owned now or formerly by Susan L. Loder (see deed recorded in Book 4910, Page 877);

thence with the boundary lines of the property owned now or formerly by Loder, the following five (5) lines:

(1) with the southern boundary line, North 87 degrees 11 minutes 27 seconds East 30.02 feet to an iron pipe set;
(2) with the southern boundary line, North 86 degrees 44 minutes 54 seconds East 2.97 feet to an iron pipe found;
(3) with the eastern boundary line, North 02 degrees 12 minutes 54 seconds East 215.35 feet to an iron pipe found; and
(4) with the northern boundary line, South 83 degrees 18 minutes 40 seconds West 29.84 feet to an iron pipe set; and
(5) with the northern boundary line, South 83 degrees 26 minutes 13 seconds West 30.01 feet to a spike set in the centerline of NC Highway 55;

thence along the centerline of NC Highway 55 the following seventeen (17) lines:

(1) North 05 degrees 05 minutes 39 seconds West 55.08 feet to a point;
(2) North 04 degrees 59 minutes 25 seconds West 100.83 feet to a point;
(3) North 04 degrees 44 minutes 48 seconds West 100.34 feet to a point;
(4) North 05 degrees 00 minutes 53 seconds West 100.01 feet to a point;
(5) North 04 degrees 52 minutes 04 seconds West 100.42 feet to a point;
(6) North 04 degrees 29 minutes 30 seconds West 101.06 feet to a point;
(7) North 04 degrees 49 minutes 28 seconds West 100.52 feet to a point;
(8) North 04 degrees 32 minutes 43 seconds West 100.52 feet to a point;
(9) North 04 degrees 51 minutes 50 seconds West 100.69 feet to a point;
(10) North 04 degrees 56 minutes 54 seconds West 100.62 feet to a point;
(11) North 04 degrees 48 minutes 18 seconds West 201.40 feet to a point;
(12) North 04 degrees 46 minutes 02 seconds West 201.84 feet to a point;
(13) North 04 degrees 51 minutes 07 seconds West 201.88 feet to a point;
(14) North 05 degrees 07 minutes 46 seconds West 101.63 feet to a point;
(15) North 04 degrees 41 minutes 47 seconds West 100.76 feet to a point;
(16) North 04 degrees 51 minutes 20 seconds West 100.89 feet to a point;
(17) North 04 degrees 54 minutes 00 seconds West 110.84 feet to a nail found at the point of Beginning,

and containing a total of 83.428 acres, more or less, including 2.008 acres in the right of way of NC Highway 55 (81.420 acres, more or less, outside of the right of way of NC Highway 55), and being shown as "Release Area 1" on a survey by Michael D. Goodfred, Professional Land Surveyor, of Kenneth Close, Inc. entitled "Release Map Of South Lakes", dated November 29, 2004

Provided, however, the following real property is excepted and excluded from the foregoing described real property, as Grantor does not own and the following real property: "TRACT TWO", consisting of a "30' INGRESS & EGRESS ESMT." containing 0.906 acre, as shown on a plat recorded in the Wake County, North Carolina Registry in Book of Maps 1997, Page 327, said plat being incorporated by reference as if fully set out herein.

TRACT 2:

BEGINNING at an iron pipe found on the northwest corner of the Property herein described, said iron pipe being the following five (5) lines from a point in the center of NC Highway 55 having North Carolina Grid Coordinates (NAD 83) of N=665,415.156 and E=2,072,473.128 (said point in the center of NC Highway 55 being located South 29 degrees 17 minutes 16 seconds West 39,540.26 feet grid (39,544.76 feet ground) from N.C.G.S Monument "Gentry", said Monument having North Carolina Grid Coordinates (NAD 83) of N=699,906.661 and E=2,091,806.207):

(1) South 65 degrees 55 minutes 06 seconds East 34.30 feet;
(2) South 65 degrees 55 minutes 06 seconds East 719.30 feet;
(3) South 89 degrees 28 minutes 41 seconds East 564.62 feet;

(4) South 01 degree 15 minutes 48 seconds West 470.73 feet;

(5) South 73 degrees 03 minutes 42 seconds East 155.71 feet to the point of Beginning, being a common corner with property owned now or formerly by John Deere Turf Care, Inc. (see deed recorded in Book 7246, Page 892, and plat recorded in Book of Maps 1996, Page 1697); thence running along the southern boundary line of the property owned now or formerly by John Deere the following four (4) lines:

(1) South 71 degrees 40 minutes 07 seconds East 722.49 feet to an iron pipe found;
(2) South 84 degrees 22 minutes 11 seconds East 296.02 feet to an iron pipe found;
(3) South 83 degrees 40 minutes 44 seconds East 291.62 feet to an iron spike found; and
(4) South 83 degrees 57 minutes 52 seconds East 548.66 feet to an iron stake found on the boundary line of property owned now or formerly by Powell Farm Limited Partnership (see deed recorded in Book 7273, Page 205), the following two (2) lines:

(1) South 00 degrees 13 minutes 39 seconds East 1,442.30 feet to a rebar found; and
(2) South 00 degrees 05 minutes 32 seconds East 681.17 feet to an iron pipe found in the northern boundary line of property owned now or formerly by Connie Horton, et al. (see deed recorded in Book 9758, Page 2444 and plat recorded in Book of Maps 1967, Page 264); thence along the northern and then western boundary lines of the property owned now or formerly by Horton the following two (2) lines:

(1) North 89 degrees 33 minutes 54 seconds West 508.15 feet to an iron pipe set; and
(2) South 00 degrees 53 minutes 39 seconds East 847.70 feet to a rebar found at the northwestern corner of property owned now or formerly by the Heirs of the Estate of Rex Austin Dean (see deed recorded in Book 1797, Page 473 and plat recorded in Book of Maps 1967, Page 264); thence with the western boundary line of the property owned now or formerly by Rex Austin Dean Heirs, South 00 degrees 25 minutes 25 seconds East 174.22 feet to an iron spike found along the northern boundary line of property owned now or formerly by Clayton Rd Inc. (see deed recorded in Book 10664, Page 286); thence along the northern boundary line of the property owned now or formerly by Clayton Rd. Inc, the following three (3) lines:

(1) North 54 degrees 56 minutes 46 seconds West 411.82 feet to an iron pipe found;
(2) North 54 degrees 31 minutes 56 seconds West 713.25 feet to an iron stake found; and
(3) North 65 degrees 45 minutes 53 seconds West 442.80 feet to an iron pipe found in the eastern boundary line of property owned now or formerly by Garland E. McLamb (see deed recorded in Book 3842, Page 126); thence with the eastern boundary line of said property owned now or formerly by McLamb, North 01 degrees 51 minutes 19 seconds East 235.57 feet to a light wood stake found at the northeastern corner of the property owned now or formerly by McLamb, also being a common corner with the southeast corner of property owned now or formerly by Cary D. Powell, Jr. (see deed recorded in Book 9378, Page 1118, and plat recorded in Book of Maps 1996, Page 998); thence with the eastern boundary line of said property owned now of formerly by Powell, North 00 degrees 04 minutes 56 degrees West 2,419.89 feet to the point of Beginning, and containing a total of 110.461 acres, more or less, and being shown as "Release Area 2" on a survey by Michael D. Goodfred, Professional Land Surveyor, of Kenneth Close, Inc. entitled "Release Map Of South Lakes", dated November 29, 2004.

TRACT 3: TRACT 3 consists of 3 tracts that are described herein as "Tract 3A", "Tract 3B", and "Tract 3C":

Tract 3A:

BEGINNING at a point in the centerline of the right of way of Old Honeycutt Road, being the northwest corner of the Property herein described and being at or near the northeast corner of property owned now or formerly by Calvin Bryant Jones (see deed recorded in Book 2611, Page 32 and plat recorded in Book of Maps 1978, Page 244), thence along the centerline of the right of way of Old Honeycutt Road the following sixteen (16) lines:

(1) South 69 degrees 47 minutes 48 seconds East 50.26 feet to a point;

(2) South 69 degrees 27 minutes 27 seconds East 101.25 feet to a point;
(3) South 69 degrees 41 minutes 12 seconds East 50.40 feet to a point;
(4) South 69 degrees 24 minutes 16 seconds East 150.47 feet to a point;
(5) South 69 degrees 03 minutes 33 seconds East 100.91 feet to a point;
(6) South 68 degrees 38 minutes 26 seconds East 151.73 feet to a point;
(7) South 68 degrees 34 minutes 02 seconds East 201.66 feet to a point;
(8) South 68 degrees 24 minutes 58 seconds East 252.62 feet to a point;
(9) South 68 degrees 17 minutes 50 seconds East 50.37 feet to a point;
(10) South 68 degrees 43 minutes 24 seconds East 101.66 feet to a point;
(11) South 68 degrees 43 minutes 43 seconds East 252.54 feet to a point;
(12) South 68 degrees 29 minutes 35 seconds East 151.84 feet to a point;
(13) South 68 degrees 10 minutes 41 seconds East 50.69 feet to a point;
(14) South 68 degrees 03 minutes 40 seconds East 50.42 feet to a point;
(15) South 68 degrees 49 minutes 29 seconds East 50.42 feet to a point; and
(16) South 68 degrees 33 minutes 19 seconds East 68.09 feet to a spike set in the center of Old Honeycutt Road at the northwest corner of property owned now or formerly by Bruce A. Kitto (see deed recorded in Book 6631, Page 340);

thence leaving the centerline of Old Honeycutt Road and running with the boundary lines of the property owned now or formerly by Kitto, the following seven (7) lines:
(1) with the western boundary, South 04 degrees 01 minutes 49 seconds West 31.44 feet to an iron pipe found on the southern margin of the right of way of way of Old Honeycutt Road;
(2) with the western boundary, South 04 degrees 01 minutes 49 seconds West 315.88 feet to an iron pipe found;
(3) with the western boundary, South 45 degrees 01 minutes 09 seconds East 65.08 feet to an iron pipe found;
(4) with the western boundary, South 04 degrees 11 minutes 35 seconds West 265.04 feet to an iron pipe found at the southwest corner of Kitto;
(5) with the southern boundary, South 61 degrees 10 minutes 16 seconds East 205.14 feet to an iron spike found at the southeast corner of Kitto;
(6) with the eastern boundary, North 05 degrees 06 minutes 59 seconds East 639.58 feet to a point on the southern margin of Old Honeycutt Road; and
(7) with the eastern boundary, North 05 degrees 06 minutes 59 seconds East 30.64 feet to a spike set in the centerline of Old Honeycutt Road;

thence continuing along the centerline of Old Honeycutt Road the following fourteen (14) lines:
(1) South 73 degrees 11 minutes 38 seconds East 28.86 feet to a point;
(2) South 74 degrees 09 minutes 27 seconds East 50.76 feet to a point;
(3) South 75 degrees 50 minutes 53 seconds East 50.83 feet to a point;
(4) South 77 degrees 41 minutes 34 seconds East 50.63 feet to a point;
(5) South 78 degrees 58 minutes 15 seconds East 50.57 feet to a point;
(6) South 80 degrees 13 minutes 03 seconds East 50.45 feet to a point;
(7) South 81 degrees 44 minutes 35 seconds East 50.43 feet to a point;
(8) South 83 degrees 22 minutes 04 seconds East 50.32 feet to a point;
(9) South 84 degrees 57 minutes 54 seconds East 50.88 feet to a point;
(10) South 86 degrees 47 minutes 11 seconds East 50.71 feet to a point;
(11) South 87 degrees 49 minutes 00 seconds East 50.62 feet to a point;
(12) South 88 degrees 15 minutes 47 seconds East 50.47 feet to a point;
(13) South 88 degrees 47 minutes 51 seconds East 203.34 feet to a point; and
(14) South 88 degrees 36 minutes 37 seconds East 425.13 feet to a nail found in the centerline of the intersection of the rights of way of Old Honeycutt Road and Kennebec Road;

thence with the centerline of Kennebec Road, the following eighteen (18) lines:

(1) South 07 degrees 16 minutes 05 seconds West 50.95 feet to a point;
(2) South 06 degrees 30 minutes 18 seconds West 101.54 feet to a point;
(3) South 05 degrees 58 minutes 51 seconds West 102.03 feet to a point;
(4) South 05 degrees 26 minutes 47 seconds West 50.37 feet to a point;
(5) South 04 degrees 36 minutes 02 seconds West 50.22 feet to a point;
(6) South 03 degrees 54 minutes 26 seconds West 50.01 feet to a point;
(7) South 02 degrees 48 minutes 28 seconds West 50.68 feet to a point;
(8) South 02 degrees 10 minutes 44 seconds West 101.07 feet to a point;
(9) South 02 degrees 17 minutes 43 seconds West 151.97 feet to a point;
(10) South 02 degrees 10 minutes 31 seconds West 405.56 feet to a point;
(11) South 01 degrees 42 minutes 41 seconds West 101.20 feet to a point;
(12) South 01 degrees 15 minutes 45 seconds West 50.56 feet to a point;
(13) South 00 degrees 29 minutes 01 seconds West 50.34 feet to a point;
(14) South 00 degrees 00 minutes 24 seconds East 252.91 feet to a point;
(15) South 00 degrees 20 minutes 17 seconds West 151.49 feet to a point;
(16) South 00 degrees 46 minutes 47 seconds West 152.05 feet to a point;
(17) South 00 degrees 10 minutes 11 seconds West 202.60 feet to a point; and
(18) South 00 degrees 31 minutes 17 seconds West 116.54 feet to a spike set in the centerline of the right of way of Kennebec Road, at or near the northeast corner of property owned now or formerly by Edith Vaughan Austin (see deed recorded in Book 2026, Page 313, deed recorded in Book 3043, Page 463, and plat recorded in Book of Maps 1982, Page 646);

thence leaving the centerline of the right of way of Kennebec Road and running with boundary lines of the property owned now or formerly by Austin, the following four (4) lines:

(1) with the northern boundary line, North 89 degrees 30 minutes 09 seconds West a total distance of 410.51 to a rebar found;
(2) with the western boundary line, South 35 degrees 27 minutes 05 seconds West 80.15 feet to a rebar found;
(3) with the western boundary line, South 51 degrees 23 minutes 06 seconds East 173.59 feet to a rebar found; and
(4) with the western boundary line, South 01 degrees 12 minutes 48 seconds West 72.30 feet to a rebar found on at the northwest corner of property owned now or formerly by Katherine A. Dean (see deed recorded in Book 10643, Page 1032 and plat recorded in Book of Maps 1992, Page 64);

thence with the western boundary of the property owned now or formerly by Katherine A. Dean, South 01 degrees 12 minutes 48 seconds West 173.81 feet to a rebar found at the southwest corner of the property owned now or formerly by Katherine A. Dean in the northern boundary line of property owned now or formerly by Thomas Ray Dean (see deed recorded in Book 7830, Page 438 and plat recorded in Book of Maps 1969, Page 275 - the Pond Tract);

thence the following fifteen (15) lines along the boundary lines of the property owned now or formerly by Thomas Ray Dean, the first ten (10) lines along the northern boundary and the next five (5) lines along the western boundary:

(1) South 76 degrees 45 minutes 49 seconds West 125.71 feet to a sycamore tree;
(2) South 82 degrees 21 minutes 44 seconds West 249.00 feet to a rebar found;
(3) South 70 degrees 12 minutes 08 seconds West 179.95 feet to a rebar found;
(4) South 55 degrees 27 minutes 38 seconds West 165.07 feet to a rebar found;
(5) South 85 degrees 39 minutes 38 seconds West 159.03 feet to a rebar found;
(6) North 80 degrees 27 minutes 36 seconds West 235.05 feet to a rebar found;
(7) North 70 degrees 57 minutes 54 seconds West 185.91 feet to a rebar found;
(8) North 53 degrees 36 minutes 16 seconds West 117.97 feet to a an iron pipe found;
(9) North 33 degrees 22 minutes 02 seconds West 176.82 feet to an iron spike found;
(10) South 80 degrees 19 minutes 08 seconds West 329.00 feet to an iron pipe set;

(11) South 33 degrees 26 minutes 34 seconds West 267.76 feet to an iron pipe found;
(12) South 00 degrees 22 minutes 15 seconds West 128.36 feet to a rebar found;
(13) South 11 degrees 08 minutes 22 seconds East 99.90 feet to an iron pipe found;
(14) South 48 degrees 47 minutes 07 seconds East 369.96 feet to an iron pipe found; and
(15) South 00 degrees 29 minutes 07 seconds East 170.50 feet to an iron pipe found at the northeast corner of property owned now or formerly by Connie Horton, et al. (see deed recorded in Book 9758, Page 2444, and plat recorded in Book of Maps 1967, Page 264);

thence along the northern property line of the property owned now or formerly by Horton, North 89 degrees 33 minutes 54 seconds West 1,169.59 feet to an iron pipe found at the southeast corner of property owned now or formerly by William D. Powell, et al. (see deed recorded in Book 5469, Page 351, and plat recorded in Book of Maps 1967, Page 264); thence along the eastern boundary line of the property owned now or formerly by Powell the following two (2) lines:
(1) North 00 degrees 05 minutes 32 seconds West 681.17 feet to a rebar found; and
(2) North 00 degrees 13 minutes 39 seconds West 1,442.30 feet to an iron stake found at the southeast corner of property owned now or formerly by John Deere Turf Care, Inc. (see deed recorded in Book 7246, Page 892, and plat recorded in Book of Maps 1996, Page 1697);

thence with the eastern boundary line of the property owned now or formerly by John Deere Turf Care, Inc., North 00 degrees 13 minutes 39 seconds East 306.59 feet to a light wood stake found at the southeastern corner of property owned now or formerly by Calvin Bryant Jones (see deed recorded in Book 2611, Page 32, and plat recorded in Book of Maps 1978, Page 244); thence along the eastern property line of the property owned now or formerly by Jones North 00 degrees 31 minutes 36 seconds East 1,820.37 feet to a rebar found on the southern margin of the right of way of Old Honeycutt Road; thence North 00 degrees 31 minutes 36 seconds East 31.86 feet to a spike set in the centerline of the right of way of Old Honeycutt Road, the place of Beginning,

and containing a total of 223.987 acres, more or less, including 3.609 acres in the rights of way of Old Honeycutt Road and Kennebec Road, according to a survey by Michael D. Goodfred, Professional Land Surveyor, of Kenneth Close, Inc. entitled "Release Map Of South Lakes", dated November 29, 2004.

(Note: The Beginning point of Tract 3A is at the northeast corner of property owned now or formerly by Calvin Bryant Jones, not at the northwest corner of said Tract as described in the deed recorded in Book 11663, Page 405.)

Tract 3B:

Tract 1, containing 72.740 acres, more or less, and "Area In R/W" containing 1.447 acres, more or less, in the right of way of Old Honeycutt Road (North Carolina State Road 2765), all as shown on a plat recorded in the Wake County, North Carolina Registry in Book of Maps 2005, Pages 844 through 846, the foregoing property specifically being shown on Page 844, said plat being incorporated by reference as if fully set out herein.

Tract 3C:

Tract 2, containing 47.945 acres, more or less, and "Area In R/W" containing 0.034 acres, more or less, in the right of way of Kennebec Road (North Carolina State Road 2754), all as shown on a plat recorded in the Wake County, North Carolina Registry in Book of Maps 2005, Pages 844 through 846, the foregoing property specifically being shown on Page 845, said plat being incorporated by reference as if fully set out herein.

EXHIBIT C
OTHER REAL PROPERTY
THAT DECLARANT MAY ANNEX AT ANY TIME

LYING AND BEING in the Town of Fuquay-Varina, Wake County, North Carolina, and being more particularly described as follows:

Any property that adjoins, is contiguous to, or is located within 1,000 feet of, any boundary of the Properties or Proposed Properties.

BOOK:012431 PAGE:01680 - 01775

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

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

This Customer Group
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This Document
_____ New Time Stamp
96 # of Pages

22.004-1/20/06

WAKE COUNTY, NC 436
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
04/25/2007 AT 13:55:48

BOOK:012513 PAGE:01598 - 01603

Type of Instrument: **Supplemental Declaration (Master Declaration For South Lakes)**
Prepared By and Mail To: Kenneth L. Eagle, 14600 Weston Parkway, Suite 300, Cary, NC 27513

NORTH CAROLINA
WAKE COUNTY

SUPPLEMENTAL DECLARATION
(Master Declaration For South Lakes)

THIS **SUPPLEMENTAL DECLARATION (Master Declaration For South Lakes)**, also referred to herein as the "Supplemental Declaration", is made and entered into this 25th day of April, 2007, by IPG South Lakes LLC, a North Carolina limited liability company, (hereinafter referred to as the "Declarant");

W I T N E S S E T H:

WHEREAS, South Lakes is located in the Town of Fuquay-Varina, Wake County, North Carolina;

AND WHEREAS, Declarant is the owner of that certain real property described on **Exhibit A** attached hereto and incorporated by reference (hereinafter referred to as the "Property");

AND WHEREAS Declarant desires to subject the Property to the "Master Declaration For South Lakes", recorded in the Wake County, North Carolina Registry in Book 12431, Page 1680, (hereinafter referred to as the "Declaration";

AND WHEREAS, the "Development Period", as defined in the Declaration, has not ended;

AND WHEREAS, the Property is described on Exhibit B to the Declaration;

NOW, THEREFORE, Declarant, pursuant to Article II of the Declaration, hereby declares that the Property hereafter shall be held, sold, conveyed, occupied and used subject to all of the terms contained in the Declaration.

South Lakes Investors LLC and Reedy Creek Investments LLC, each a North Carolina limited liability company, individually and together referred to herein as "Beneficiary", and Kenneth L. Eagle and David S. Morris, individually and together referred to herein as "Trustee", join in the execution of this Supplemental Declaration for the sole purpose of acknowledging and agreeing that the Deed of Trust recorded in the Wake County, North Carolina Registry in Book 12409, Page 1078 (hereinafter being referred to as the "Deed of Trust", shall be

subordinate to this Supplemental Declaration to the extent (and only to the extent) that, upon any foreclosure of the Deed of Trust or conveyance or deed or other proceeding or remedy in lieu of foreclosure, the Property shall remain subject to the Declaration and the Declaration as it affects the Property shall survive such foreclosure, conveyance, deed, proceeding or remedy in its entirety and not be extinguished in whole or in part by such foreclosure, conveyance, deed, proceeding or remedy. Provided, however, the Deed of Trust is not subordinated to this Supplemental Declaration or the Declaration for any other purpose, and each of South Lakes Investors LLC and Reedy Creek Investments LLC, as the Beneficiary under the Deed of Trust and current holder of the indebtedness and other obligations secured by the liens of the Deed of Trust, specifically reserves the priority of the Deed of Trust over any lien for unpaid assessments and other charges under the Declaration, and specifically reserves all of its rights under the Deed of Trust, including the right to become the Declarant under the Declaration in the event it is the purchaser of the portion of the Property sold at any foreclosure or conveyed or transferred to South Lakes Investors LLC or Reedy Creek Investments LLC by deed or other instrument, proceeding, or remedy in lieu of foreclosure.

IN WITNESS WHEREOF, Declarant, Beneficiary and Trustee have each caused this Supplemental Declaration to be executed in legal and binding form, all on the dates indicated in the respective acknowledgments of such executions.

IPG SOUTH LAKES LLC
a North Carolina Limited Liability Company

By: Impact Design-Build, Inc., Manager

By: _____
Colen E. Davidson, Jr., President

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 signed the foregoing document: Colen E. Davidson, Jr.

Date: 4-25-07

Debrah Newman
Notary Public
Printed/Typed Name: Deborah Newman
My Commission Expires: 12-15-2008

(affix stamp or seal)

DEBORAH NEWMAN
NOTARY PUBLIC
WAKE COUNTY, N.C.
My Commission Expires 12-15-2008

(keagle\south lakes\suppdec master1)

SOUTH LAKES INVESTORS LLC,
a North Carolina limited liability company

By: Donald R Parker
Donald R. Parker, 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 signed the foregoing document: Donald R. Parker

Date: 4.24.2007

Michele M. Craig
Notary Public
Printed/Typed Name: Michele M. Craig
My Commission Expires: 3-30-09

(affix stamp or seal here)

MICHELE M. CRAIG
NOTARY
PUBLIC
WAKE COUNTY, N.C.

REEDY CREEK INVESTMENTS LLC,
a North Carolina limited liability company

By: Donald R Parker
Donald R. Parker, 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 signed the foregoing document: Donald R. Parker

Date: 4.24-2007

Michele M. Craig
Notary Public
Printed/Typed Name: Michele M. Craig
My Commission Expires: 3-30-09

(affix stamp or seal here)

MICHELE M. CRAIG
NOTARY
PUBLIC
WAKE COUNTY, N.C.

(keagle\south lakes\suppdec master1)

Kenneth L. Eagle, Trustee

David S. Morris, Trustee

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 signed the foregoing document: Kenneth L. Eagle

Date: April 24, 2007

Notary Public
Printed/Typed Name: Barbara E. Elles
My Commission Expires: 7-11-11

(affix stamp or seal here)

BARBARA E ELLES
NOTARY PUBLIC
WAKE COUNTY, NC
My Commission Expires 7-11-2011

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 signed the foregoing document: David S. Morris

Date: April 24, 2007

Notary Public
Printed/Typed Name: Barbara E. Elles
My Commission Expires: 7-11-11

(affix stamp or seal here)

BARBARA E ELLES
NOTARY PUBLIC
WAKE COUNTY, NC
My Commission Expires 7-11-2011

EXHIBIT A
TO
SUPPLEMENTAL DECLARATION

DESCRIPTION OF PROPERTY

LYING AND BEING in or the Town of Fuquay-Varina, Middle Creek Township, Wake County, North Carolina, and being more particularly described as follows:

Lots 56 through 115, inclusive, and 217 through 230, inclusive, and street rights of way for Highrock Lake Road, Lake Artesia Lane, Ashe Lake Way, Shoals Lake Drive, and Lake James Drive, as shown on a plat entitled "SOUTH LAKES, PARCEL SF-2, Phase 2B", recorded in the Wake County, North Carolina Registry in Book of Maps 2007, Pages 845 and 846, said plat being incorporated by reference as if fully set out herein.

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

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

This Customer Group
_____ # of Time Stamps Needed

This Document
✓ New Time Stamp
6 # of Pages

22.004-1/20/06