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STATE OF NORTH CAROLINA

COUNTY OF WAKE

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

THE TOWNES AT GATEWAY COMMONS

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE TOWNES AT GATEWAY COMMONS (this "Declaration") is made as of the date set forth in the below notary acknowledgment by **MCKEE HOMES LLC**, a Delaware limited liability company (the "Declarant").

WITNESSETH:

A. Declarant is the owner and developer of certain real property in the Town of Wake Forest, Wake County, North Carolina, said real property being more particularly described on Exhibit A attached hereto and incorporated herein by reference (the "Property");

B. Declarant has constructed and/ or intends to construct certain residential townhomes upon the Property, as part of a development to be known as *The Townes at Gateway Commons* (the "Townhome Development"), and wishes to provide for the orderly and uniform governance of said Townhome Development, so as to enhance the aesthetic and market value thereof;

NOW, THEREFORE, the Declarant hereby declares that all of the townhome lots located on the Property (as such townhome lots may be reconfigured from time to time by Declarant pursuant to rights reserved herein), shall be held, sold and conveyed subject to the

following easements, covenants, conditions and restrictions, all of which are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Townhome Development and the Property. All of said easements, covenants, conditions and restrictions shall run with the land and shall be binding upon the Declarant and upon any party acquiring any right, title or interest in and to any portion of the Townhome Development and/ or the Property, and shall inure to the benefit of the Declarant and to any other party acquiring any right, title or interest in and to any portion of the Townhome Development and/or the Property.

ARTICLE I

DEFINITIONS

1.1 “Articles” or “Articles of Incorporation” shall mean those articles, filed with the Secretary of State of North Carolina, incorporating Gateway Commons Townhome Association, Inc. as a North Carolina non-profit corporation, said Articles being attached hereto as Exhibit B.

1.2 “Assessments” means any and all assessments, expense reimbursements, and/or fines levied by the Association upon any Lot Owner as referenced herein.

1.3 “Association” shall mean and refer to Gateway Commons Townhome Association, Inc., which has been incorporated as a North Carolina non-profit corporation, its successors and assigns.

1.4 “Board” or “Board of Directors” shall mean and refer to the Board of Directors of the Association.

1.5 “Bylaws” shall mean the Bylaws of the Association, as the same may be amended from time to time, with the original Bylaws being attached hereto as Exhibit C.

1.6 “Class A Members” shall mean as defined in Section 2.4 below.

1.7 “Class B Members” shall mean as defined in Section 2.4 below.

1.8 “Common Elements” shall mean any areas owned by (or which are intended to be owned by) the Association for the common use and enjoyment of the Owners, or any areas owned by (or which are intended to be owned by) the Association for the purpose of its

maintenance and/ or preservation, as the case may be. Common Elements shall not include the Townhome Lots.

1.9 "Common Expenses" shall mean any and all expenses incurred by the Association to perform its obligations pursuant to this Declaration for the benefit of all Lot Owners;

1.10 "Constituent Documents" shall mean the Declaration, the Bylaws, the Articles of Incorporation, any Rules and Regulations (as hereafter defined), and any other related documents used to create and govern the Townhome Development.

1.11 "Declarant" shall mean and refer to McKee Homes LLC, a Delaware limited liability company, and its successors and assigns.

1.12 "Development Period" means the period commencing on the date on which this Declaration is recorded in the Wake County, NC Registry and terminating on the earlier to occur of (i) when Declarant (or any builder or affiliate) no longer owns a Lot or other acreage in the Townhome Development (or other acreage immediately contiguous thereto, which Declarant desires to annex therein); or (ii) the date that Declarant relinquishes in writing Declarant's right to appoint directors to the Board.

1.13 "Lot" shall mean and refer to any parcel of land designated by number on the Plat upon which a Townhome Unit has been or will be constructed. The terms Lot and Townhome Unit may be used interchangeably. The Declarant reserves the right to unilaterally amend the boundaries of any Lot during the Development Period, as long as any such amendment does not affect the boundaries of Lots that Declarant no longer owns.

1.14 "Member" shall mean and refer to all Owners who are Members of the Association.

1.15 "Owner" shall mean and refer to the record owner, including Declarant, whether one or more persons or entities, of a fee simple title to any Lot located within the Townhome Development.

1.16 "Plat" shall mean and refer to the record plats of the Townhome Development recorded by Declarant, whether one or more, as the same may be amended or supplemented by Declarant from time to time, as well as any and all future plats.

1.17 "Planned Community Act" shall mean and refer to the North Carolina Planned Community Act, currently codified as Chapter 47F of the North Carolina General Statutes, as the same may be amended from time to time.

1.18 "Property" shall mean and refer to that certain real estate described in Exhibit A and all other real estate that may be annexed into this Declaration by the Declarant. The terms Property and Townhome Development may be used interchangeably.

1.20 "Rules and Regulations" shall mean any additional rules and regulations that govern the Townhome Community that are adopted by the Association.

1.21 "Tenant" means any person occupying any Lot pursuant to a written or oral lease agreement with the Owner thereof or with any other person or entity claiming under the Owner.

1.22 "Townhome Unit" or "Unit" shall mean and refer to the individual family townhome unit that has been (or will ultimately be) constructed upon on a Lot. The terms Townhome Unit and Lot may be used interchangeably.

ARTICLE II

MEMBERSHIP IN THE ASSOCIATION;

2.1 Membership in Association. Every Owner of a Lot shall automatically become a Member of the Association. Such Owner and Member shall abide by the Association's Rules and Regulations, shall pay the Assessments provided for in this Declaration when due, and shall comply with decisions of the Association's governing body. Conveyance of fee simple title to a Lot automatically transfers membership in the Association without necessity of further documents. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

2.2 Board of Directors and Officers. The Board of Directors, and such officers as may be elected or appointed in accordance with the Articles or the Bylaws, shall conduct the affairs of the Association. The Board of Directors may also appoint committees and managers or other employees and agents who shall, subject to the general direction of the Board of Directors, be responsible for the day-to-day operation of the Association.

2.3 Rules and Regulations. By a majority vote of the Board of Directors, the Association may from time to time adopt Rules and Regulations with respect to all aspects of the

Association's rights, activities and duties pursuant to this Declaration. The Rules and Regulations may, without limitation, govern the Townhome Development; provided, however, that the Rules and Regulations shall not be inconsistent with this Declaration, the Articles, or the Bylaws of the Association. A copy of the published Rules and Regulations, as they may from time to time be adopted, amended or repealed, shall be maintained by the Board of the Association and shall be available to each Owner upon request.

2.4 Classes of Membership. The Association shall have two (2) classes of Membership:

Class A Members. Every person, group of persons, or entity which is a record Owner of a fee interest in any Lot upon which a Townhome Unit has been erected within the Property, shall automatically be a "Class A" Member of the Association except the Declarant during the Development Period; provided, however, that any such person, group of persons or entity who holds such interest solely as security for the performance of an obligation shall not be a Member. A "Class A" Membership shall be appurtenant to and may not be separated from ownership of any Lot upon which a Townhome Unit has been constructed. "Class A" Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. In the event that more than one person, group of persons or entity is the record Owner of a fee interest in any Lot, then the vote for the membership appurtenant to such Lot portion shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. In the event agreement is not reached, the vote attributable to such Lot shall not be cast.

Class B Members. The "Class B" Member during the Development Period shall be the Declarant. The "Class B" Membership shall cease and be converted to "Class A" membership upon the expiration of the Development Period.

Voting. Each Member shall have one (1) vote with respect to each Lot owned by such Member, but a "Class A" Member shall not be entitled to exercise any vote until the expiration of the Development Period.

2.5 Maintenance Obligations of the Association: Exterior Maintenance and Common Area Maintenance. The Association shall be responsible for the exterior maintenance of the Townhome Units, including but not limited to roof repair and replacement; exterior surface maintenance/ repair/ painting; repair/ replacement of Owners' paved driveways and walkways; fence repair/ replacement; and any plumbing and/or utility line repair/ replacement (but only up to the point where such plumbing and/or utility line intersects the perimeter boundary of any Lot), all as applicable. Further, the cost of such repair, maintenance and replacement shall be a Common Expense added to and become part of the Assessments to which each Lot is subject. The Owners of any Lot shall be responsible for repair and replacement of glass. In the event that

an Owner neglects or otherwise refuses to maintain a Townhome Unit in a state of repair consistent with the beauty and welfare of the remaining area, then, the Association may effect such maintenance, repairs or replacement, and the cost thereof shall be added to and become a part of the Assessment to which such Lot is subject. The Association shall be responsible for the landscaping, beautification, care, and maintenance of the yard and grounds of each Lot and the Common Elements, if any.

The Association shall be responsible for the maintenance, repair, replacement and care of all improvements within the Common Elements of the Townhome Property (or otherwise benefit all Lot Owners within the Townhome Property), unless such maintenance obligations are assumed by a municipal or government agency, including but not limited to all private streets, alleys, parking areas, sidewalks, retaining walls, utilities and storm drainage infrastructure, irrigation, lighting, open space, community gardens and landscaped areas, and all signage. In addition, the Association shall be responsible for the maintenance, repair, replacement and care of all improvements pursuant to any written easement or other instrument, including but not limited to improvements contemplated by that certain Access & Utility Easement Agreement in Book 17416, Page 824, aforesaid Registry.

The Association shall make the determination as to when maintenance, repair, replacement and care shall be done, and its determination shall be binding. Declarant shall have the right to employ a manager to oversee and implement the Association's maintenance and repair obligations, and any such management fees incurred thereby shall be paid by the Association. The Association shall also perform the other duties prescribed by this Declaration or the Association's Rules and Regulations.

The Association shall not have any responsibility for interior moisture and/ or mold-related issues in any Townhome Unit. In addition, the Association shall not have any responsibility for air conditioning/ heating unit maintenance or repair with respect to any Townhome Unit.

The Association shall have the right to enter into a written contract and/ or lease with any utility provider (including but not limited to the Town of Wake Forest), for the benefit of the Townhome Development; and any expense related thereto shall be a Common Expense.

In the event that the Association carries a commercial property insurance policy insuring all Townhome Units, as permitted by Section 5.7, then in the event of a casualty where insurance proceeds are payable from any such policy, then the Association shall control and coordinate the repair and/or rebuilding of the affected portions of the Townhome Development to the extent that such repair and/or rebuilding is required by this Declaration. Otherwise, the Association and the affected Unit Owner(s) shall work together expeditiously and in good faith to coordinate any repair and/or rebuilding of the affected portions of the Townhome Development to the extent that such repair and/or rebuilding is required by this Declaration.

2.6 Maintenance Obligation of the Lot Owners. The responsibilities of each Lot Owner shall include the responsibility:

- a. To clean, maintain, keep in good order, repair and replace at his or her expense all portions of his or her Lot and Townhome Unit, except those portions that are to be

maintained by the Association as provided elsewhere herein. Each Lot Owner shall be responsible for remedying any moisture or mold-related issues in his or her Townhome Unit, if any such issue presents itself. Any repair, replacement and maintenance work to be done by an Owner must comply with any Rules and Regulations of the Association including architectural control and visual harmony;

b. To perform his or her responsibilities in such manner so as not unreasonably to disturb other persons residing within the Townhome Development;

c. Not to paint or otherwise change the appearance of any exterior portion of his or her Townhome Unit, without the written consent of the Association;

d. Not to impair the use of any easement without first obtaining the written consents of the Association and other party or parties for whose benefit such easement exists;

e. Each Lot Owner shall be deemed to agree by acceptance of delivery of a deed to a Lot to repair and/or replace at his or her expense all portions of the Townhome Units or the Common Elements, if any, which may be damaged or destroyed by reason of his or her own intentional or negligent act or omission, or by the intentional or negligent act or omission of any guest, Tenant, family member, or invitee, including, but not limited to any repairs necessary which result from damage incurred by pets or vehicles owned by the Lot Owner, or owned by any guest, Tenant, family member, or invitee of such Lot Owner. To the extent that any Townhome Units or Common Elements are damaged as an insurable loss and the proceeds from the Association's insurance policy are utilized to pay for the loss, the affected Owner shall be responsible for payment of the deductible as an Assessment. The Association reserves the right not to file a claim against the insurance policy maintained by the Association if the Association reasonably believes such claim may negatively impact future premiums or the insurability of the Townhome Development.

f. To maintain, keep in good order, repair and replace at his or her expense, the air conditioning/ heating unit that services his or her Townhome Unit.

g. To maintain, keep in good order, repair and replace at his or her expense, all items which service only his or her Townhome Unit and/ or which are under his or her direct and exclusive control.

2.7 Limitations on Association's Duties.

a. The Association does not warrant in any way or for any purpose, the improvements in the Townhome Development.

b. The Association shall have a reasonable time in which to make any repair or do any other work required of the Association pursuant to this Declaration. Any determination of the reasonableness of the Association's response to any problem, must allow for the fact that the Association is a volunteer organization and that the funds available to the Association are limited.

c. In case of ambiguity or omission, the Board may interpret the Declaration and the other Constituent Documents, and the Board's interpretation shall be final if made without malice or fraud. Notwithstanding the foregoing, the Declarant may overrule any interpretation affecting it, for so long as Declarant (or any of its builder or investors affiliates) owns any Lot or acreage within the Townhome Development; and such interpretation cannot be enforced against the Declarant, its successors or assigns.

ARTICLE III

COVENANT FOR ASSESSMENTS

3.1 Regular Assessments. All Lot Owners shall pay a regular Assessment to the Association. Said regular Assessment is established for the benefit and use of the Association and shall be used in covering all of the Common Expenses of the Townhome Development.

3.2 Working Capital Assessment; Insurance Reimbursement. Upon the sale of an improved Lot by the Declarant, the initial purchaser shall pay a sum equal to \$1,000.00 as an initial contribution to the working capital of the Association; however, such initial contribution may be increased, if reasonably necessary, in the fiduciary discretion of the Association. This sum is not an advance payment of the regular Assessment; rather the sum is allocated to a working capital fund to satisfy the Association's operating expenditures, to meet unforeseen expenditures and/ or future capital needs, and/ or to purchase any additional equipment or services. While the Declarant is in control of the Association, the Declarant cannot use any of the working capital funds to defray its expenses or construction costs. When control of the Association is transferred to the Lot Owners, any unspent portion of the working capital fund shall be transferred to the Association and deposited into a segregated fund. Additionally, at the closing, each purchaser of a Lot is required to pay a pro-rata share of the regular Assessment that may be due for the applicable month or year, as the case may be.

3.3 Assessment for Negligent or Intentional Acts. In the event that the need for maintenance, repair or replacement of any portion of the Townhome Units (in which the Association may be responsible) or Common Elements is caused through the willful or negligent act of any Owner, family member, guest, invitee, or a Tenant, then the cost of such maintenance, repair or replacement shall be paid by such Owner. The Board shall arrange to have the maintenance, repair or replacement performed, and an invoice for the itemized cost thereof shall

be provided to said Owner. Said Owner shall be responsible for paying the invoice within thirty (30) days after receipt thereof.

3.4 Estimated Assessment Payable to Association. It is estimated that the initial Assessment for Common Expenses payable to the Association for each Lot shall be \$129.00 per month, subject to the terms herein. All Lot Owners shall be responsible for payment of said Assessments in a timely manner. The Declarant (and any builders that are building any Townhome Units for sale to third parties) shall have no obligation for payment of any such Assessments on any Lot or any other land within the Townhome Development owned by the Declarant (or such builders). The Board of Directors shall have the right to increase the regular Assessment in its fiduciary discretion. Upon any such increase(s), the Association shall notify all Owners of such increase in writing and shall provide an explanation of the need for any such increase.

The regular Assessment for a Lot Owner shall be determined by the Association based upon the proportion that each Lot bears to the total number of Lots located within the Townhome Development, as such may be expanded, except the total number of Lots within the Townhome Development shall not include any Lots owned by Declarant (or by any builders) (which shall not be assessed in accordance with this Article III). The Association reserves the right to take into account the relative square footage of the Units in determining the Assessment for each Unit.

3.5 Billing. The Association shall inform each Lot Owner of the regular Assessment and when said payment is due.

3.6 Common Surplus. If the Assessments collected in any given year are in excess of the actual Common Expenses for that year, the Board of Directors may in its sole discretion (a) return each Owner's share of the common surplus; (b) credit each Owner's share of the common surplus to each Owner's payment as for the regular Assessments for the following year; or (c) apply the common surplus to a reserve fund.

3.7 Assessment Certificate. The Association shall, upon demand, within a reasonable period of time, furnish to any Owner upon request a certificate in writing signed by an authorized agent of the Association setting forth the payment status of said Assessments. Such certificate shall be conclusive evidence of the payment of any Assessment therein stated to have been paid. A reasonable charge to cover labor may be charged by the Association for each certificate.

3.8 Books and Records of the Association. The Association shall keep a complete and accurate accounting of its financial records. The Association shall make available to all Lot Owners, and the holders of all first mortgages on Lots, a current and complete copy of the books, records and financial statements of the Association, upon reasonable request during normal business hours. All funds collected by the Association shall be held and expended solely for the purposes designated by this Declaration and shall be deemed to be held for the use, benefit and

account of the Association and all of the Lot Owners. All books and records must be kept in accordance with good accounting procedures.

3.9 Non-Payment of Assessment. Any Assessments levied pursuant to this Declaration, which are not paid when due, shall be considered delinquent, and shall, together with such interest and other costs as permitted in this Declaration, thereupon become a continuing lien upon the Lot of any Owner failing to make payment.

If any Assessment is not paid within thirty (30) days after the due date, the Assessment shall bear interest at the rate of one and one-half percent (1.5%) per month, or at such other rate as determined by the Association in its reasonable discretion, but not to exceed the maximum amount allowed by law; and the Association may bring an action at law against the Owner personally obligated to pay the same and/or foreclose the lien against the Lot. In either event, the interest, costs and reasonable attorneys' fees shall be added to the total amount of the delinquent Assessments. No Owner may waive or otherwise escape liability for any Assessment by non-use (or waiver of use) of the Common Elements or by abandonment of his or her Lot.

3.10 Priority of Association Lien. The lien provided for in this Article III shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and liens of mortgagees which have been filed of record before a claim of this lien hereunder has been docketed in the office of the Clerk of Superior Court in Wake County. The lien may be foreclosed in the same manner as a deed of trust on real property under power of sale in an action brought by the Association in accordance with the Planned Community Act. The Association is entitled to recover its reasonable attorneys' fees, court costs, and any other collection-related expenses as part of the lien. In any such foreclosure action, the Association shall be entitled to bid at the foreclosure sale if the Association so chooses.

3.11 Disputes as to Common Expenses; Adjustments. Any Owner who believes that the portion of Common Expenses chargeable to his Lot, for which an assessment lien has been filed by the Association, has been improperly charged against his or her Lot, may file an appropriate legal action.

3.12 Purchaser at Foreclosure Sale Subject to Declaration and Constituent Documents. Any purchaser of a Lot at a foreclosure sale shall automatically become a Member of the Association and shall be subject to all the provisions of this Declaration and the Constituent Documents.

3.13 Non-Liability of Foreclosure Sale Purchaser for Past Due Common Expenses. When the holder of a first deed of trust of record or other purchaser of a Lot acquires title to the Lot as a result of foreclosure of the first deed of trust or by deed in lieu of foreclosure, such acquirer of title, his, her or its successors and assigns, shall not be liable for the share of the

Common Expenses or other Assessments by the Association chargeable to such Lot which became due prior to the acquisition of title to the Lot by such acquirer, other than Assessments for which a claim of lien has been docketed with the Clerk of Superior Court for Wake County prior to the recordation of the lien being foreclosed. Such unpaid share of Common Expenses or Assessments shall be deemed to be a Common Expense collectible from all of the Lots, including that of such acquirer, his, her or its successors or assigns, and the Association shall be authorized to assess all Owners for such additional Common Expense, if such assessment is appropriate in the fiduciary discretion of the Association, without requiring a vote of the Owners. This provision shall not relieve the party acquiring title or any subsequent Owner of the subject Lot from paying future Assessments.

3.14 Late Charge. The Association may impose a charge against any Lot Owner who fails to pay any amount assessed by the Association against his or her Lot within ten (10) days after any such Assessment may be due and payable and who fails to exercise his or her rights under this Declaration or under the laws of the State of North Carolina to successfully contest such Assessment. The amount of the late charge shall be the greater of (a) twenty-five and No/100 dollars (\$25.00); (b) ten percent (10%) of the delinquent amount; or (c) such other amount as may be determined by the Association from time to time and otherwise permitted by the Planned Community Act. Any Owner who fails to pay any amount assessed by the Association against his or her Lot within thirty (30) days after its due date shall additionally be liable for interest on the delinquent amount pursuant to Section 3.9 above.

3.15 Miscellaneous.

a. The Association may further increase the interest rate due on delinquent Assessments (including any late charges), subject to applicable laws, except that the rate cannot be changed more often than once every six (6) months.

b. The Owner has the sole responsibility of keeping the Association informed of the Owner's current address if different from the Lot owned. Otherwise notice sent by Association to the Lot is sufficient for any notice requirement under this Declaration.

c. The lien under this Article III arises automatically, and no notice of lien need be recorded to make the lien effective against the affected Lot Owner; however, a claim of lien must be filed by the Association with the Clerk of Superior Court of Wake County in order to make said lien effective against third parties.

d. The Assessment lien includes all collection costs, including demand letters, preparation of documents, reasonable attorneys' fees, court costs, filing fees, collection

fees, and any other expenses incurred by the Association in enforcing or collecting the Assessment.

e. Any Assessment otherwise payable in installments shall become immediately due and payable in full without notice upon default in the payment of any installment. The acceleration shall be at the discretion of the Board.

ARTICLE IV

EASEMENTS AND ENCUMBRANCES; OPEN SPACE

4.1 Easement for Encroachments. The Townhome Units, all utility lines, and all other improvements and appurtenances as originally constructed by or on behalf of Declarant or its assigns shall have an easement to encroach upon any Lot or upon any Common Elements as a result of the location of the townhome buildings, utility lines and other improvements and appurtenances being located across boundary lines between and along Lots and/or between and along any Common Elements, or as a result of building or improvement movement or alterations or additions from time to time, provided that such alterations or addition All air conditioning and heating units shall have an easement to encroach upon any Lot or upon any Common Elements, based upon their original placement as originally constructed by or on behalf of Declarant or its assigns.

4.2 Utility Easements in Favor of Each Lot. Easements are granted in favor of each Lot Owner to and throughout each Lot (provided that such easements shall not materially and unreasonably interfere with the use of any dwelling located upon any Lot) and any Common Elements, as may be necessary for the installation, maintenance, repair and use of underground (or above-ground, as applicable) water, gas, sewer, power, cable, and other utilities and services including power and communication, now or hereafter existing, including maintaining, repairing and replacing any pipes, wires, ducts, conduits, equipment, fixtures, utility, power or communication lines or equipment, or other components. The foregoing notwithstanding, no Lot Owner (other than Declarant) may exercise the easement rights reserved in this Section 4.2 (if such exercise involves construction-related work) without the prior written approval of the Board and the Declarant (so long as Declarant continues to own a Lot in the Townhome Development).

4.3 Utility Easements. Easements are reserved and/or granted hereby in favor of the Declarant and/or the Association through each Lot (provided that such easements shall not materially and unreasonably interfere with the use of any dwelling located upon any Lot) and any Common Elements, as may be necessary for the installation, maintenance, repair and use of underground (or above-ground, as applicable) water, gas, sewer, power, cable, and other utilities and services, including power and communication, now or hereafter existing, including installing, laying, maintaining, repairing and replacing any pipes, wires, ducts, conduits, equipment, fixtures, utility, power or communication lines or equipment, or other related components. Without limiting any other provision in this Article, it is understood that

Declarant's easement rights reserved herein may be utilized for the benefit of property within or outside of the Townhome Development. In addition, blanket easements are hereby reserved and/or granted hereby in favor of the Town of Wake Forest, the City of Raleigh, and all utility providers across the Townhome Development for the operation and maintenance of all electric, water, and sewer utilities; and the Declarant reserves the authority to execute any additional easement documents, so as to more fully perfect any such easement rights, as requested by the Town of Wake Forest, the City of Raleigh, and/or any such utility provider. It is expressly noted that the Town of Wake Forest, the City of Raleigh, or any such utility provider shall have no responsibility for the maintenance and repair of any private streets and/or other Common Elements where any such utilities may be installed, unless otherwise agreed in writing by the Town of Wake Forest, the City of Raleigh, or any such utility provider.

4.4 General Easements in favor of Declarant and/or Association. An easement is hereby reserved and/or granted in favor of the Declarant and/or the Association in, on, over and through the Lots and/or Townhome Units and any Common Elements for the purposes of maintaining, cleaning, repairing, improving, regulating, operating, policing, replacing, and/or otherwise exercising any right or fulfilling any obligation as provided for, or required, by this Declaration with respect to the Lots, Townhome Units, and/or any Common Elements.

4.5 Access Easement. Appurtenant to each Lot is an easement over and upon the landscaped areas of all other Lots, and any Common Elements, as reasonably necessary, for pedestrian ingress, egress, and regress between any Lot and a public right-of-way, including but not limited to pedestrian access to a public right-of-way for purposes of moving trash container(s) to and from the street for municipal pick-up.

4.6 Use of Easement. Any use of the rights and easements granted and reserved in this Article IV shall be reasonable. If any damage, destruction, or disturbance occurs to a Lot or Common Elements as a result of the use of any easement or right, the Lot or any Common Elements shall be restored by, or at the direction of, the Association promptly in a reasonable manner at the expense of the person or persons making the use of the easement or right that resulted in the damage, destruction or disturbance. Before beginning work, the Association may require all or any part of the expected expense to be prepaid by that person or those persons liable for the expense. All easements reserved hereunder shall be perpetual and non-exclusive.

4.7 Reservation of Construction Easement by Declarant. The Declarant reserves the non-exclusive right and easement to temporarily go upon the Townhome Development in order to complete the development of the Townhome Development and the construction of the improvements to be located therein (including, but not limited to, the build-out of the Townhome Units and all other planned improvements), and to complete the build-out of neighboring land. The easement should be construed broadly in favor of the Declarant, including giving Declarant the right to store temporarily construction materials, equipment or dirt, and to permanently run utilities across the Townhome Development. After the construction of any such initial build-out on neighboring land is finished, Declarant must, at Declarant's cost, repair any damage done to

the Townhome Development including to any landscaping. As soon as reasonably possible after the Declarant has completed any such construction, Declarant must remove all debris, equipment, materials and dirt from the Townhome Development.

4.8 Declarant's Easements: General. The easements and grants reserved for and granted to the Declarant also benefit and bind successors and assigns of Declarant and their respective contractors, employees, agents, guests, invitees or lessees, including, without limitation, assignees of Declarant who do not own property within the Townhome Development.

4.9 Lot Owners' Easements: General. The easements and grants reserved for and granted to the Lot Owners also benefit and bind successors and assigns of said Lot Owners and their respective family members, invitees, Tenants, contractors, and mortgagees.

4.10 Easements to Run with Land. All easements and rights described in this Article IV are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the Declarant, its successors and assigns, and any Owner, purchaser, mortgagee, Tenant, and other person or entity now or hereafter having an interest in the Townhome Development, or any part or portion of it.

4.11 Limitations Upon Required Open Space and Landscape Buffers. Any portion of the Common Elements that are comprised of required open space must remain undeveloped, as may be required by the Town of Wake Forest zoning ordinance, unless developed recreational facilities (to be located therein) have been approved by said Town; however, it is agreed that any such open space may be appropriately landscaped by the Declarant and/ or the Association. Also, any similar landscape buffer requirements must be complied with, and no development may occur within any such landscape buffers, except as approved by said Town; however, it is agreed that any such landscape buffer areas may be appropriately landscaped by the Declarant and/ or the Association.

ARTICLE V

INSURANCE

5.1 Commencing not later than the time of the first conveyance of a Lot to a person other than a Declarant, the Association shall maintain, to the extent reasonably available:

5.1.1 Property Insurance. Property insurance on the Common Elements, if any, insuring against all risks of direct physical loss commonly insured against including fire and extended coverage perils. The total amount of insurance after application of any deductibles shall be not less than the full replacement cost of the insured property 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; and

5.1.2 Liability Insurance. 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 the Common Elements, if any.

5.2 If the insurance described in Section 5.1 is not reasonably available, the Association promptly shall cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all Lot Owners. In such event, the Association may carry any other insurance it deems appropriate to protect the Association or the Lot Owners.

5.3 Insurance policies carried pursuant to Section 5.1 shall provide that:

5.3.1 Each Lot Owner is an insured person under the policy to the extent of the Lot Owner's insurable interest;

5.3.2 The insurer waives its right to subrogation under the policy against any Lot Owner or member of the Lot Owner's household, if such waiver of subrogation is standard;

5.3.3 No act or omission by any Lot Owner, unless acting within the scope of the Owner's authority on behalf of the Association, will preclude recovery under the policy; and

5.3.4 If, at the time of a loss under the policy, there is other insurance in the name of a Lot Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

5.4 Any loss covered by the property policy under Section 5.1.1 shall be adjusted with the Association, but the insurance proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any mortgagee or beneficiary under a deed of trust. The insurance trustee or the Association shall hold any insurance proceeds in trust for Lot Owners and lien holders as their interests may appear. Subject to the provisions of Section 5.6, the proceeds shall be disbursed first for the repair or restoration of the damaged property, and Lot Owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the Townhome Development is terminated.

5.5 An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the Association and, upon written request, to any Lot Owner, mortgagee, or beneficiary under a deed of trust. The insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association.

5.6 Any portion of the Townhome Development for which insurance is required under Section 5.1.1 which is damaged or destroyed shall be repaired or replaced promptly by the Association unless (i) the Townhome Development is terminated (pursuant to the procedures set forth in the Planned Community Act), (ii) repair or replacement would be illegal under any State or local health or safety statute or ordinance, or (iii) the Lot Owners decide not to rebuild by one hundred percent (100%) approval of Owners, as well as the approval of the Declarant if such damage occurs during the Development Period. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If any portion of the Townhome Development is not repaired or replaced, (i) the insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Townhome Development, (ii) the insurance proceeds attributable to limited Common Elements which are not rebuilt shall be distributed to the Owners of the Lots to which those limited common elements were allocated, or to lienholders, as their interests may appear, if any, and (iii) the remainder of the proceeds shall be distributed to all of the Lot Owners or lienholders, as their interest may appear, in a proportion to the Common Expense liabilities of all the Lots. Notwithstanding the provisions of this subsection, the pertinent provision of the Planned Community Act shall govern the distribution of insurance proceeds if the Townhome Development is terminated.

5.7 The Association may elect in its sole discretion to maintain in full force and effect at all times a commercial property insurance policy insuring all Townhome Units for the benefit of Unit Owners (and for the benefit of the Association) and to pay the premium(s) therefore, such policy to provide coverage afforded by the commercial special perils form (the "Master Policy"); if the Association elects to maintain such a Master Policy as allowed herein in its sole discretion, and as long as such coverage remains in effect, then (i) the premium(s) incurred by the Association (if the Association elects in its sole discretion to pay said premium(s)) shall be a Common Expense and the Unit Owners may be assessed therefore; and (ii) the Unit Owners shall have no obligation to carry any individual policy covering their Townhome Units (but the Unit Owners shall remain fully responsible for insuring any personal property or other personal effects located within their Townhome Unit, as well as any "loss of use" coverage). If the Association does not elect in its sole discretion to pay the premium(s) of any such Master Policy, then all Unit Owners shall be required to pay their portion of the premium(s) of the Master Policy so as to insure their Townhome Unit. If the Association does not provide for a Master Policy, then all Unit Owners shall be required to maintain in full force and effect at all times a separate homeowners insurance policy insuring their Townhome Unit, such policy to provide coverage afforded by a "HO-3" policy or better. All Unit Owners shall provide the Declarant or the Association with a declarations page or other certificate evidencing such coverage upon

request, and any insurer providing said coverage may not cancel or refuse to renew said coverage until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association. If the Association becomes aware that a Unit Owner has not insured his or her Townhome Unit as required herein, then the Association shall have the right (but shall not be required) to obtain such insurance policy for his or her benefit, and for the benefit of the larger Townhome Development. Any expenses paid by the Association to obtain any such insurance policy shall be treated as an Assessment with respect to the affected Lot Owner, and the Association shall have lien rights against the affected Townhome Unit to secure repayment of any such Assessment as provided in Article III of this Declaration. It is expressly provided that for purposes of insuring the Townhome Units as provided herein, the definition of an insured "Townhome Unit" shall expressly include party walls; finished walls; finished flooring; finished ceiling; plumbing and utility lines and connectors; all cabinets that are affixed and/or built-in to the walls and/or floors; and all original countertops, appliances, sinks, plumbing and electrical fixtures. Any other personal effects or materials within the Townhome Unit shall not be considered part of the Townhome Unit, and the Unit Owners shall remain fully responsible for insuring all such additional items.

It is expressly provided that each Unit Owner, in his or her discretion, shall be fully responsible at all times for insuring any and all personal property or other items located within his or her Townhome Unit, it being recommended that any such policy provide coverage afforded by a "HO-4" or "HO-6" policy or better. Each Unit Owner shall also be responsible, in his or her discretion, for insuring against the "loss of use" of his or her Townhome Unit in the event of a casualty or other occurrence that may impair his or her ability to reside in his or her Unit for any period of time. Finally, each Unit Owner shall be fully responsible for ensuring in his or her discretion that any such insurance policy carried by each Unit Owner appropriately dovetails and fully compliments any commercial property policy that may be carried by the Association on behalf of all Townhome Units (assuming that the Association elects to carry such coverage for the benefit of all Townhome Units as permitted above), such that there exist no "gaps" in the coverages afforded by the respective insurance policies. In the event of a casualty situation, it is expressly declared that the Association and/or the Declarant shall have no liability for any such "gap" in coverage between any Master Policy and any policy maintained by any Unit Owner. In addition, it is expressly declared that the Association and/or the Declarant shall have no liability for any insufficient or denied coverages with respect to any Master Policy, and each Unit Owner shall be fully responsible for ensuring that his or her interests are adequately insured.

Notwithstanding anything to the contrary herein, if the Association elects in its sole discretion to maintain in full force and effect a Master Policy, the Association reserves the right not to file a claim against such Master Policy if the Association, as the case may be, reasonably believes in its sole discretion that insurance premiums or insurance coverage may be materially affected as a result of any such claim being made; and in such event, the amount of such unfilled claim shall become a Common Expense of the Association.

The purpose of any Master Policy obtained by the Association pursuant to the rights granted hereunder is to ensure that all Townhome Units are equally and consistently insured in the event of a casualty or other claim of loss event.

5.8 Any portion of the Townhome Development for which insurance is required under Section 5.7 which is damaged or destroyed shall be repaired or replaced promptly by the Association and/or the affected Lot Owner unless (i) the Townhome Development is terminated (pursuant to the procedures set forth in the Planned Community Act), (ii) repair or replacement would be illegal under any State or local health or safety statute or ordinance, or (iii) the Lot Owners in the Townhome Development decide not to rebuild by a one hundred percent (100%) vote, along with the approval of the Declarant if such damage occurs during the Development Period. If a Master Policy is maintained by the Association, then the cost of repair or replacement in excess of insurance proceeds shall be a Common Expense; if a Master Policy is not maintained by (or any such premiums are not paid by) the Association, then the cost of repair or replacement in excess of insurance proceeds shall be the responsibility of and an Assessment against the affected Lot Owner(s), subject to the lien rights of the Association, in accordance with Article III. The Association shall have the right (but shall not be required) to incur any additional expense to adequately repair or replace the damaged Townhome Unit(s), if insurance proceeds are not adequate to cover same. If any portion of the Townhome Development is not repaired or replaced in accordance herewith, (i) the insurance proceeds attributable to the damaged areas shall be used to restore the damaged area to a condition compatible with the remainder of the Townhome Development, and (ii) the remainder of the proceeds shall be distributed to the affected Lot Owner or his or her lienholders, as their interests may appear. Notwithstanding the provisions of this section, the pertinent provision of the Planned Community Act shall govern the distribution of insurance proceeds if the Townhome Development is terminated.

ARTICLE VI

PARTY WALLS

6.1 General Rules of Law to Apply. Each wall which is built as part of the original construction of the Townhome Development and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article VI or any other provision in this Declaration, the general rules of law regarding party walls and of liability for property damage due to negligence or willful acts or omissions shall apply thereto.

6.2 Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to use, unless otherwise provided in this Declaration.

6.3 Destruction by Fire or Other Casualty. Except as otherwise may be provided in this Declaration, if a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall shall restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice,

however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts of omission. Notwithstanding the above, if insurance proceeds are available due to any such fire or other casualty to rebuild or repair a party wall, then the provisions of Article II and Article V shall control to the extent their provisions are inconsistent herewith.

6.4 Weatherproofing. Notwithstanding any other provisions of this Article, an Owner who by his or her negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against the elements.

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

ARTICLE VII

HARMONY, ENVIRONMENTAL CONTROLS

7.1 Architectural Control Committee. Except for original construction performed by Declarant or any authorized builder of Declarant, or as otherwise provided in these covenants, no building, fence, electric pet fence, sidewalk, drive, mailbox, satellite dish, or other structure, or improvement or anything attached thereto visible from the outside of the Townhome Units or related improvements (including, without limitation, storm doors, windows, drapes or window coverings) shall be erected, placed, altered, or maintained within the Townhome Development, nor shall any exterior addition to or change (including any change in color) or alteration therein be made until the proposed building plans, specifications, exterior color and finish, plot plans (showing the proposed location of such building or structure, drives and parking areas), general contractor and all subcontractors, and construction schedule shall have been submitted to and approved in writing by the Board of Directors of the Association, or by any architectural control committee appointed by said Board of Directors. Refusal of approval of plans, location or specification by said Board of Directors or architectural control committee may be based upon any reasonable grounds, including, without limitation, lack of harmony of external design, color, location or relation to surrounding structures and topography and purely aesthetic considerations which, in the discretion of said Board of Directors or architectural control committee. After approval by the Board of Directors or architectural control committee is given, no alterations may be made in such approved plans except by and with their prior written consent. One copy of all plans, specifications and related data shall be furnished the Board of Directors or architectural control committee for its records.

ARTICLE VIII

USE RESTRICTIONS

8.1 Use and Occupancy. The Association shall make Rules and Regulations to govern the use and occupancy of the Townhome Development. In addition, the following covenants, conditions, and restrictions, as to use and occupancy shall run with the land and shall be binding upon each Lot Owner, his or her heirs, Tenants, licensees and assigns.

8.2 Purpose of Townhome Development. Each Lot is restricted to residential use only. Except for the construction, sales and management activities (including, without limitation, the right of Declarant to maintain one or more model Townhome Units as a model or sales office), no business, trade, industry, occupation or profession of any kind, whether for profit or not for profit, may be conducted, maintained, or permitted on any part of the Townhome Development property. To the extent permitted by law, an Owner may use a portion of her or her Townhome Unit for an office or studio (other than a music and/or dance studio) provided that the activities conducted therein do not interfere with the quiet enjoyment or comfort of any other Owner or occupant; and provided further that such activities do not increase the normal flow of traffic or individuals in and out of the Townhome Development or in and out of said Owner's Townhome Unit.

8.3 Obstruction of Common Elements; No Storage in Common Elements or Outside Townhome Units. There shall be no storage or parking of any items, including baby carriages or strollers, playpens, bicycles, wagons, toys, vehicles, motorcycles, canoes, kayaks, sports equipment, benches, chairs, or other items (personal items or otherwise) in any part of any Common Elements, except as permitted by the Rules and Regulations. In addition, there shall be no basketball goals, soccer goals, or any other sporting equipment in any part of any Common Areas, except as permitted by the Rules and Regulations. Patios, porches, decks, and yards of Townhome Units may be used only for their intended purposes and may not be used for storage of any of the above items to the extent that said items would be visible from the streets that comprise and/or abut the Townhome Development.

8.4 Parking. No part of the Townhome Development may be used for the parking of any trailer (boat trailer, vehicle trailer, motorcycle trailer or other type of trailer), mobile home, recreational vehicle, camper, boat, or any exclusively-commercial vehicle (collectively, "Special Vehicles"). Operative vehicles, other than Special Vehicles, used by a resident of a Lot as a primary source of transportation may be parked in the Townhome Development; however, the residents of any one Lot may not collectively park more than two (2) operative vehicles outside of such Lot's garage in the Townhome Development, without the express written consent of the Association. Inoperable vehicles may not be parked within the Townhome Development. No automobile or machine-related maintenance and/or repairs may be performed on the Townhome Development. Notwithstanding anything to the contrary in this Section 8.4 or elsewhere in this Declaration, if a Special Vehicle is owned by a relative or guest of a Lot Owner who is visiting from out of town, then such Special Vehicle may be parked in the Townhome Development in a

location designated by the Association, but not to exceed seven (7) consecutive days in any 6-month period.

Each improved Townhome Lot shall have one or more garages. For aesthetic and crime-prevention purposes, the Lot Owners shall keep their garage doors closed at all times, except when vehicles (or personal items) are being moved. In no event shall garage doors be left open overnight. All designated parking spaces within the Townhome Development may be assigned to Lot Owners by the Association, and/ or reserved for visitors and handicapped persons. No overnight parking is permitted along the streets of the Townhome Development, unless the Association provides advance written permission. In addition, no commercial or loading vehicles shall be parked overnight in the Townhome Development.

Vehicles, whether owned by a Lot Owner or not, parked in violation of any part of this Declaration or in violation of any Rules or Regulations, shall be towed away (or immobilized) upon the request of the Association and stored at the Owner's risk and expense. By parking in the Townhome Development, the Owner of the vehicle hereby waives any claim against the Association resulting directly or indirectly out of any such towing.

The Association reserves the right to issue decals for authorized vehicles within the Townhome Development, for security and enforcement purposes; and upon issuance of such decals, all Lot Owners, and their tenants and authorized residents and guests, shall promptly display such decals. The Association shall have the right to charge a reasonable administrative and/ or replacement fee, for all such decals.

8.5 Compliance With Insurance Policies and Waste. Nothing shall be done or kept in any Townhome Unit, on a Lot, or in any Common Elements which will increase the rate of insurance of the Townhome Units, or contents thereof, applicable for residential use, without the prior written consent of the Association. No Lot Owner shall permit anything to be done or kept in his or her Townhome Unit, on a Lot, or in the Common Elements which will result in the cancellation of insurance on the Townhome Units, or contents thereof, or which would be in violation of any law. No waste, vandalism, or destruction shall be committed in any portion of the Townhome Development. All laws and zoning regulations shall be obeyed at all times.

8.6 Exterior Surfaces of Buildings. Lot Owners shall not cause or permit anything to be hung or displayed on the inside or outside of windows (except as provided herein), or hung on the outside of the Townhome Unit doors, or placed on the exterior walls of a building; and no sign (other than those described in Section 8.11 hereof), awning, canopy, flag (except the American flag), shutter, radio or television antenna, or satellite dishes shall be affixed to or placed upon the exterior walls or roof or any part of the building, or the Common Elements, without the prior written consent of the Association. Unless otherwise approved in writing by the Association, Lot Owners shall not cause or permit any window treatments, curtains, shades or other window coverings to be hung inside or outside any windows, doorways, and/or patio doors which will show any color on the outside, other than solid white/ off-white and light beige tones. Notwithstanding anything to the contrary herein, the Association shall have the authority to relax the provisions of this 8.6 by individual variance or pursuant to its Rules and Regulations;

however, the Association shall be charged with keeping the Townhome Development aesthetically pleasing, as a first-rate, high-end residential development.

8.7 Animals and Pets; No Fencing. No animals of any kind shall be raised, bred, or kept on any Lot or in any Townhome Unit or in the Common Elements, except that dogs, cats, and/ or other household pets, up to a combined total of three (3), may be kept in a Townhome Unit, subject to the Rules and Regulations, provided that each pet is sixty (60) pounds or less upon full growth and maturity (however, if a Lot Owner only owns one (1) dog, then such dog may be up to ninety (90) pounds or as may be otherwise approved by the Board upon written request upon full growth and maturity); that they are not kept, bred or maintained for any commercial purpose; and that they are kept subject to the Rules and Regulations of the Association. No dangerous breeds of dogs shall be allowed, which breed are deemed by the Association as potentially dangerous to residents of the Townhome Community. No exotic pets of any kind, regardless of their size, shall be raised, bred, or kept on any Lot or in any Townhome Unit or in the Common Elements. Dogs, cats or other household pets must be kept within the confines of the Owner's Townhome Unit except when being held on hand leash by the pet owner of the animal. No Lot Owner shall install a fence and/or electric fence on any portion of their Lot or in any Common Elements without the prior written consent of the Board. No pet may be staked, housed, tied up or otherwise left on a Lot or in any Common Elements. A Lot Owner shall be responsible for cleaning up after his household pet. Notwithstanding the above, the Association shall have the right to promulgate additional Rules and Regulations pertaining to the size, number and type of such household pets and the right to levy fines and enforcement charges against persons who do not clean up after their pets or who otherwise violate the rules with respect to their pets. Additionally, the right of an occupant to maintain an animal in a Townhome Unit shall be subject to termination if the Board in its full and complete discretion determines that the keeping of any animal constitutes a nuisance or creates a detrimental effect on the Townhome Development or occupants (due to noise, odor, danger to residents, or any other reasonable grounds). No dog house or other structure used or intended for the housing or keeping of animals may be constructed, placed or maintained on any part of the Common Elements.

Notwithstanding anything to the contrary herein, upon special application by any Lot Owner, the Association shall have the right, in its sole and absolute discretion, to deviate from the pet restrictions contained in this Section 8.7, but only on a case-by-case basis, if the Association's Board of Directors unanimously determine in writing that any particular pet, which does not strictly conform to the limitations referenced above, will not undermine the quiet enjoyment of other Owners or residents within the Townhome Development; in addition, during the Development Period, the Declarant, upon special application by any Lot Owner (or prospective buyer), shall have the right, in its sole discretion, to deviate from the pet restrictions contained in this Section 8.7, but only on a case-by-case basis, if the Declarant determines in writing that any particular pet, which does not strictly conform to the limitations referenced above, will not pose a danger or undermine the quiet enjoyment of other Owners or residents within the Townhome Development, such decision to be made in the sole and absolute discretion of Declarant. It is expressly provided that neither the Association nor the Declarant shall have any liability for the behavior or actions of any Lot Owner's pet, whether such liability shall be in

tort or otherwise, regardless of whether the Association or the Declarant may have allowed any deviation from the pet restrictions contained in this Section 8.7. And upon acceptance of any deed for a Townhome Lot within the Townhome Development, every Owner hereby agrees to release and hold harmless the Association and/ or the Declarant from any liability therefore.

8.8 Nuisances. No noxious or offensive activity shall be carried on in any Townhome Unit, in the Common Elements, or on the Lot of an Owner; nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other Lot Owners or occupants.

8.9 Impairment of Structural Integrity of Building. Nothing shall be done in any Townhome Unit, or on any Lot, or on the Common Elements which would impair the structural integrity of, or structurally change, any Townhome Unit, absent the prior written approval of the Board.

8.10 Laundry or Rubbish and Open Fires in Common Elements and Facilities; Only Permitted Grills. No clothes, sheets, blankets, laundry of any kind, or other articles shall be hung out or exposed on any part of the Townhome Development, such that they are visible from the street. All Lots shall be kept free and clear of rubbish, debris and other unsightly materials. No open fires shall be permitted on any part of the Townhome Development. Owners may use approved gas or electric grills on their Lots, and the Association shall have final approval rights with respect to permitted grill models; charcoal grills shall be permitted only in permitted areas, as determined by the Association; and the Association reserves the right to prohibit charcoal grills and any open flame devices for safety reasons, in its reasonable discretion.

8.11 Sign Limitations. With the express exception of the Declarant during the Development Period, a Lot Owner shall not be permitted to place and maintain any sign (other than a standard-sized "for sale" or "for rent" sign) on any Lot or in the window of any Townhome Unit. In addition, no other sign that is visible from the outside of Townhome Units may be placed on any part of the Townhome Development except as expressly permitted by the Board of Directors. Declarant and/or the Board shall have the right to immediately remove and dispose of those items in violation of this Declaration.

8.12 Private Landscaping; In Ground and Community Gardens. A Lot Owner must obtain the prior written consent of the Board prior to installing any private landscaping or planting any flowers, herbs or vegetables in the ground on any Lot or on any other portion of the Townhome Development that is not designated as a community garden area. With respect to any designated community garden areas, all planting and gardening activities shall be subject to the Rules and Regulations that govern such areas

8.13 Rental of Lots; Maximum Rental Threshold. The following requirements must be met with respect to the lease of any Townhome Unit: (i) the entire Townhome Unit must be leased (as opposed to only a portion thereof); (ii) the term may not be less than six (6) months; (iii) a Townhome Unit may not be rented for transient, commercial, or hotel purposes; and (iv) the Maximum Rental Threshold (as defined below) will not be exceeded in the Townhome Development upon consummation of any such lease. All leases of any Townhome Unit shall be in writing. All such leases shall provide that they are subject to all of the provisions of the Declaration, the Bylaws and the Rules and Regulations, and that any failure by any Tenant to comply with any of such provisions, shall constitute a default under the lease. A copy of each such lease shall be given to the Association, and the Association shall keep track of the number of Townhome Units in the Townhome Development that are leased at any given time. The above notwithstanding, in no event shall more than twenty percent (20%) of the Townhome Units in the Townhome Development be leased at any given time (with the exception of Townhome Units that are owned by Declarant or any affiliate of Declarant, which are exempted therefrom) (the "Maximum Rental Threshold").

8.14 Trash Disposal. All Owners shall keep their trash container(s) in areas designated by the Association, so that any such trash containers are not easily visible from the front of the Units. Each Owner may only place their trash container(s) at the street for pick-up no sooner than the evening before any regularly-scheduled day for trash pick-up by any local municipality; and such trash container must be removed from the street by each Lot Owner (and returned to the designated area in the rear of the Owner's Townhome Unit) within twenty-four (24) hours of such scheduled municipal pick-up, so that it is no longer visible from the front of any such Unit. The Board shall have the right to dispose of any trash containers, trash, garbage, or other rubbish of an Owner who violates this Article VIII, and may assess the Lot Owner for the cost of such removal, which amount shall be payable on the date the next installment of the regular Assessment is due. The Lot Owners shall be responsible for the expense of any municipal trash pick-up.

8.15 Private Golf Carts. Private golf carts are permitted within the Townhome Development on the following strict conditions: any such golf cart must (i) be street-ready and licensed with the North Carolina Department of Motor Vehicles; (ii) be parked in the Lot Owner's garage when not in use; (iii) be driven by licensed drivers only; and (iv) properly insured for operation on public streets, with proof of such insurance provided to the Association. In addition, the Declarant and/ or the Association reserve the right to adopt additional rules and restrictions with respect to any such golf carts.

ARTICLE IX

SPECIAL DECLARANT RIGHTS;

9.1 Special Declarant Rights. Declarant reserves the following special Declarant rights for the entire Property during the Development Period:

- a. To use and enjoy the Declarant-owned Lots and any Common Elements during the Development Period, including the right to use same for promotional, sales and similar purposes (for purposes of promoting the Townhome Development);
- b. To construct and maintain any sales office, management office or model on any of the Lots or Common Elements;
- c. To complete any and all improvements within the Townhome Development;
- d. To exercise any development right reserved in this Declaration;
- e. To annex additional land (and additional lots) into the Townhome Development by executing an amendment to the Declaration and recording same in the local Registry;
- f. To alter the size of any Lot, to combine or merge two or more Lots, to further subdivide or recombine Lots, to create or add Common Elements to the Townhome Development, and/ or to withdraw Common Elements from the Townhome Development for development or other purposes (including authorizing the Association to reconvey any such Common Elements to the Declarant for no consideration) (as long as any such withdrawal does not violate any municipal regulations (governing the Townhome Development) or negatively impact vehicular access and/ or parking and/ or storm drainage and/ or utilities infrastructure within the Townhome Development;
- g. To withdraw any portion of the Property from the Townhome Development (other than improved Lots which have been sold to third-party buyers);
- h. To convey easement rights across the Common Elements for the benefit of the any land that is contiguous to the Townhome Development or that is withdrawn from the Townhome Development to allow for its maximum development, including, but not limited to, easements for pedestrian and vehicular ingress and egress (to include construction vehicles), utilities, storm water drainage, signage, and recreational use of amenities (including, but not limited to the community gardens), and temporary construction purposes; however, it is understood and agreed that the beneficiaries of any such easement rights, once conveyed, if any such contiguous development(s) is/ are not annexed into the Townhome Development, shall be required to contribute their prorated share of any maintenance and repair of any such Common Elements that are affected.

i. To convey any acreage that may be adjacent to, or in proximity to, the Townhome Development to the Association to be used for and maintained as Common Elements;

j. To lease any or all Lots owned by the Declarant;

k. To grant easement rights across the Townhome Development in favor of the Town of Wake Forest, the City of Raleigh, or any utility provider for electrical, lighting, water, sewer, and stormwater drainage serving the Townhome Development and/ or any neighboring development; also, to grant any other easement rights across the Townhome Development in favor of the Town of Wake Forest, the City of Raleigh, or any utility provider, as may be reasonably requested;

l. To grant easements to any cable service provider or other utility provider so as to serve the Townhome Development and/ or any neighboring development;

m. To unilaterally amend this Declaration (i) to correct any technical error or legal defect, such that the Declaration shall more fully comply with (a) the Planned Community Act, (b) any applicable VA or HUD regulation; or (c) any federal, state, or local regulation or rule; or (ii) to otherwise amend any terms of this Declaration, as long as such amendment does not expand the Special Declarant Rights set forth in Article IX.

ARTICLE X

ENFORCEMENT

10.1 Enforcement.

a. The Association or any Lot Owner may enforce these covenants, conditions and restrictions. Enforcement of these covenants, conditions and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate (the "Violating Party") any covenant, condition or restriction, either to restrain or enjoin violation or to recover damages, and against the affected Lot to enforce any lien created by these covenants. In addition to all other amounts due on account of said violation or attempted violation, the Violating Party shall be liable to the parties enforcing the covenants and/or restrictions of this Declaration (the "Enforcing Parties") for all reasonable attorney's fees and court costs incurred by the Enforcing Parties. Failure or forbearance by the Association or any Owner to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so at any time in the future. A Townhome Unit Owner may not bring any enforcement or other legal action against the Association or the Declarant to enforce these covenants, conditions and restrictions during the Development Period. Upon the

expiration of the Development Period, neither the Association nor a Townhome Unit Owner may bring any legal action against the Declarant or its successors or assigns without the written approval of ninety-five (95%) of the Townhome Unit Owners.

b. In addition to all other remedies of the Association, the Association shall have the right to assess a maximum fine of \$100.00 per day (or such higher amount as may be allowed by law) per violation against any Owner who violates any provision of this Declaration or the Constituent Documents.

c. In addition to the above rights, the Association may also enter upon a Lot or any land upon which a violation exists to remedy any violation, to perform maintenance, or to make repairs thereon which is the responsibility of a Lot Owner (i) after having given such Lot Owner at least ten (10) days prior notice, or (ii) without giving notice in the event of an emergency.

d. Any action brought by the Association hereunder may be brought in its own name, in the name of its Board or in the name of its managing agent. In any case of flagrant or repeated violation by a Lot Owner, he or she may be required by the Association to give sufficient surety or sureties for his or her future compliance with the covenants, conditions and restrictions contained in this Declaration or the Constituent Documents.

ARTICLE XI

AD VALOREM TAXES ON ANY COMMON ELEMENTS

11.1 Any city and/or county ad valorem taxes on the Common Elements, if any, as well as city and/or county and/or utility assessments for public and private capital improvements on the Common Elements, if any, shall be Common Expenses and shall be the responsibility of and paid by the Association from the Assessments provided for under Article III herein and subject to all provisions of said Article III including those providing for lien rights in favor of the Association.

11.2 Upon default by the Association in the payment of any ad valorem taxes levied against Common Elements, if any, or assessments for public or private capital improvements, which continues for a period of six (6) months, then each Townhome Unit Owner shall become personally obligated to pay the tax or assessment to the assessing governmental authority, with each Townhome Unit Owner's portion of such taxes or assessments to be determined by dividing the total taxes and/or assessments due by the total number of Townhome Units. If not paid by the Owner within thirty (30) days, said sum shall become a continuing lien upon any such Townhome Unit, and the taxing or assessing governmental authority may either bring an action at law against the Owner personally obligated to pay the same, or elect to foreclose the lien.

ARTICLE XII

GATEWAY COMMONS MASTER PLANNED COMMUNITY; TOWNHOME DEVELOPMENT SUBJECT TO MASTER DECLARATION

12.1 Townhome Development Subject to Terms of Master Declaration. It is noted that the Property is located within the Gateway Commons master planned community. The Property is specifically subject to, and benefits from, the terms of that certain master Declaration of Easements, Covenants, Conditions and Restrictions for Gateway Commons as re-recorded in Book 13089, Page 29, as amended by First Amendment in Book 13362, Page 2190, as amended by Supplemental Declaration in Book 15454, Page 1231, as amended by Second Amendment in Book 15592, Page 673, as amended by Third Amendment in Book 16843, Page 2350, as amended by Fourth Amendment in Book 16950, Page 1764, as may be further amended; all aforesaid Registry (together, the "Master Declaration"). The Association shall be responsible for budgeting for all assessments, common area and pond maintenance costs, and other expenses, that are required to be paid pursuant to the terms set forth in the Master Declaration, and such shall be considered Common Expenses of the Townhome Development.

ARTICLE XIII

MISCELLANEOUS

13.1 Restrictions Run With Land. The easements and other rights herein created, and the covenants and restrictions of this Declaration, shall run with and bind the Lots and the land, and shall inure to the benefit of and be enforceable by the Declarant, the Association, or the Owner of any Townhome Unit subject to this Declaration, their respective legal representatives, heirs, successors, and assigns.

13.2 Amendment. The Unit Owners may amend this Declaration at any time, as long as reasonably consistent with the design, scheme and purposes of this Declaration, by the affirmative vote or written agreement of the Owners to whom not less than sixty-seven percent (67%) of all of the votes in the Association are allocated in accordance with Section 2.5 herein. Any amendment must be in writing and recorded in the aforesaid Registry. As long as the Declarant (or any of its builder or investor affiliates) owns any Lot or other acreage within the Townhome Development, then the Declarant must consent in writing to any amendment to this Declaration. Also, any amendment with respect to any rules governing "open space" and/ or "landscape buffer areas", as such may be required by the Town of Wake Forest, must fully conform with the Town of Wake Forest zoning ordinance in order to be valid. Also, the Declarant reserves the right to unilaterally amend this Declaration, pursuant to rights reserved in Section 9.1.m.

13.3 Binding Determination. In the event of any dispute or disagreement with or between any Lots Owners relating to the interpretation or application of the provisions of this Declaration or the Constituent Documents, the determination thereof (i) by Declarant for so long as Declarant (or any of its builder or investor affiliates) continue to own a Lot within the Townhome Development; or (ii) thereafter by the Board of Directors of the Association, shall be final and binding on each and all such Owners; providing that any determination which directly or indirectly affects Declarant shall require Declarant's prior consent before becoming binding upon Declarant.

13.4 Captions and Titles. All captions, titles or headings in this Declaration are for the purpose of reference and convenience only and are not deemed to limit, modify or otherwise affect any of the provisions hereof, or to be used in determining the intent or context thereof.

13.5 Notices. Except as otherwise provided in this Declaration, any notice to any Owner under this Declaration shall be in writing, shall be effective on the earlier of (i) the date when received by such Owner, (ii) the date which is three (3) days after mailing (postage prepaid), or (iii) the date which is one (1) business day after depositing with a reputable overnight courier, to the last address of such Owner set forth in the books of the Association. The address of an Owner shall be at his or her Lot (or any of them if more than one) unless otherwise specified in writing to the Association. The Constituent Documents may specify the permissible manner of giving notice for voting and all other Association matters for which the manner of giving notice is not prescribed in this Declaration.

13.6 Governing Law. This Declaration shall be deemed to be made under, and shall be construed in accordance with and shall be governed by, the laws of the State of North Carolina.

13.7 Severability. Invalidity of any one of these covenants, conditions or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

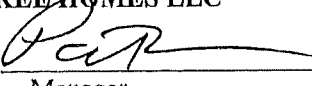
13.8 Conflicting Provisions. If there is a conflict between any provision of this Declaration and the Planned Community Act, then the Planned Community Act shall control.

**[The Remainder of This Page Intentionally Left Blank;
Signature Page Attached Hereto]**

IN WITNESS WHEREOF, the Declarant has executed this Declaration under seal as of the date set forth in the below notary acknowledgment.

DECLARANT:

MCKEE HOMES LLC

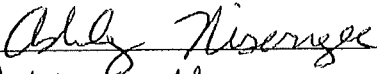
By:  (SEAL)
Manager

STATE OF NORTH CAROLINA

COUNTY OF Cumberland

I certify that the following person personally appeared before me this day, each acknowledging to me that he signed the foregoing document for the purpose stated therein and in the capacity indicated: Patrick McKee, as Manager of McKee Homes LLC, a Delaware limited liability company.

Date: 07/31/2020

Official Signature of Notary: 

Notary's Printed Name: Ashley Nisonger

My commission expires: June 19, 2024 [Affix Notary Seal or Stamp]

ASHLEY NISONGER NOTARY PUBLIC Harnett County North Carolina My Commission Expires June 19, 2024

EXHIBIT A

(Property)

BEING all of the "New Combined Area: 331,600 SF = 7.612 Acres" as shown on plat entitled "Re-Combination Plat for McKee Homes, LLC", said plat having been duly recorded in Map Book 2019, Pages 346-349, Wake County, NC Registry.

EXHIBIT B

(Articles of Incorporation)

[see pages attached hereto]



NORTH CAROLINA

Department of the Secretary of State

To all whom these presents shall come, Greetings:

I, Elaine F. Marshall, Secretary of State of the State of North Carolina, do hereby certify the following and hereto attached to be a true copy of

ARTICLES OF INCORPORATION

OF

GATEWAY COMMONS TOWNHOME ASSOCIATION, INC.

the original of which was filed in this office on the 2nd day of July, 2019.



Scan to verify online.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Raleigh, this 2nd day of July, 2019.

Elaine F. Marshall

Secretary of State

SOSID: 1863122
 Date Filed: 7/2/2019 3:08:00 PM
 Elaine F. Marshall
 North Carolina Secretary of State
 C2019 183 00930

State of North Carolina
 Department of the Secretary of State

ARTICLES OF INCORPORATION
 NONPROFIT CORPORATION

Pursuant to §55A-2-02 of the General Statutes of North Carolina, the undersigned corporation does hereby submit these Articles of Incorporation for the purpose of forming a nonprofit corporation.

1. The name of the nonprofit corporation is: Gateway Commons Townhome Association, Inc.

2. ☐ (Check only if applicable.) The corporation is a charitable or religious corporation as defined in NCGS §55A-1-40(4).

3. The name of the initial registered agent is: Patrick J. McKee

4. The street address and county of the initial registered agent's office of the corporation is:

Number and Street: 109 Hay Street # 301

City: Fayetteville State: NC Zip Code: 28301 County: Cumberland

The mailing address *if different from the street address* of the initial registered agent's office is:

Number and Street or PO Box: _____

City: _____ State: NC Zip Code: _____ County: _____

5. The name and address of each incorporator is as follows:

Name	Address
<u>L. Holden Reaves, Esq.</u>	<u>916-A Arsenal Avenue, Fayetteville, NC 28305</u>
_____	_____
_____	_____

6. (Check either "a" or "b" below.)

a. ☒ The corporation will have members.

b. ☐ The corporation will not have members.

7. Attached are provisions regarding the distribution of the corporation's assets upon its dissolution.

8. Any other provisions which the corporation elects to include are attached.

BUSINESS REGISTRATION DIVISION
 (Revised August, 2017)

P. O. BOX 29622

RALEIGH, NC 27626-0622
 Form N-01

9. The street address and county of the principal office of the corporation is:

Principal Office Telephone Number: (910) 475-7100

Number and Street: 109 Hay Street # 301

City: Fayetteville State: NC Zip Code: 28305 County: Cumberland

The mailing address *if different from the street address* of the principal office is:

Number and Street or PO Box: _____

City: _____ State: _____ Zip Code: _____ County: _____

10. (Optional): Listing of Officers (See instructions for why this is important)

Name	Address	Title

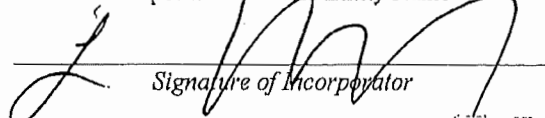
11. (Optional): Please provide a business e-mail address: _____

The Secretary of State's Office will e-mail the business automatically at the address provided at no charge when a document is filed. The e-mail provided will not be viewable on the website. For more information on why this service is being offered, please see the instructions for this document.

12. These articles will be effective upon filing, unless a future time and/or date is specified: _____

This is the 28 day of June, 20 19.

Gateway Commons Townhome Association,
Incorporator Business Entity Name Inc.


Signature of Incorporator

L. Holden Reaves, Esq., Incorporator
Type or print Incorporator's name and title, if any

NOTES:

1. Filing fee is \$60. This document must be filed with the Secretary of State.

BUSINESS REGISTRATION DIVISION
(Revised August, 2017)

P. O. BOX 29622

RALEIGH, NC 27626-0622
Form N-01

Attachment to
Articles of Incorporation of
Gateway Commons Townhome Association, Inc.

Provision for Dissolution

Upon dissolution of the corporation, other than incident to a merger or consolidation, after all liabilities and obligations of the corporation have been paid, or adequate provision made therefore, then (a) assets held upon special condition shall be disposed of in accordance therewith; and (b) other assets shall be distributed in accordance with the corporation's plan of distribution pursuant to Section 55A-14-03 of the North Carolina General Statutes.

IN WITNESS WHEREOF, the Incorporator has executed this Provision for Dissolution this the 28th day of June, 2019.

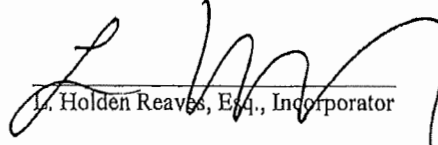

L. Holden Reaves, Esq., Incorporator

EXHIBIT C
BYLAWS
OF
GATEWAY COMMONS TOWNHOME ASSOCIATION, INC.

ARTICLE I.

BUSINESS ADDRESS

The business address of Gateway Commons Townhome Association, Inc. (the "Association") shall be the registered agent address on file with the North Carolina Secretary of State. The business address may be changed by the Board of Directors of the Association, or upon approval of the membership, for any reason.

ARTICLE II.

MEMBERSHIP IN THE ASSOCIATION

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot in any phase of *The Townes at Gateway Commons* (the "Townhome Development"), located in the Town of Wake Forest, Wake County, North Carolina, shall be a member of the Association. Ownership of such interest shall be the sole qualification for membership, and membership shall be appurtenant to and may not be separated from such ownership.

ARTICLE III.

PURPOSES OF THE ASSOCIATION

The purposes and duties of the Association shall be:

- A. To manage the Townhome Development pursuant to the terms and provisions of that certain Declaration of Covenants, Conditions and Restrictions for The Townes at Gateway Commons, to which these Bylaws are attached (as amended, the "Declaration"); these bylaws (the "Bylaws"); any rules and regulations promulgated by the Association or its Board of Directors (the "Rules and Regulations"); and otherwise in general accordance with the North Carolina Planned Community Act as codified in Chapter 47F of the North Carolina General Statutes;
- B. To enforce the provisions of these Bylaws, the Declaration, and any Rules and Regulations promulgated by the Association or its Board of Directors;
- C. To promote and protect the enjoyment and beneficial use and ownership of all of the Lots within the Townhome Development (the "Lots").

No part of the net earnings of the Association shall inure to the benefit of its members, the members of its Board of Directors or its officers, or to any other person, except that the Association shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the above stated purposes.

ARTICLE IV.

ASSESSMENTS

The Association shall make and collect assessments against the Lots as stated in the Declaration and as authorized by Chapter 47F of the North Carolina General Statutes.

ARTICLE V.

MEETINGS OF MEMBERS

Section 1. Place of Meetings. All meetings of members shall be held at such place in North Carolina, as shall be designated on the notice of the meeting or agreed upon by a majority of the members entitled to vote thereat.

Section 2. Annual Meetings. The annual meeting of the members shall be held during the same month every year, as determined by the Board of Directors, for the following purposes:

1. to ratify or reject the summary of the proposed budget submitted by the Board of Directors pursuant to Article VI below;
2. to elect the Board of Directors of the Association (subject to the provisions of the Declaration) for the coming fiscal year; and
3. to transact any other business that may come before the membership, including but not limited to the adoption, modification and/or repeal of any Rules and Regulations governing the Townhome Development.

Section 3. Substitute Annual Meeting. If the annual meeting shall not be held on the day designated by these Bylaws, a substitute annual meeting may be called in accordance with the provisions of Section 4 of this Article V. A meeting so called shall be designated and treated for all purposes as the annual meeting.

Section 4. Special Meetings. Special meetings of the members may be called at any time by the President or the Board of Directors of the Association, or upon the written request of not less than ten percent (10%) of the members.

Section 5. Notice of Meetings. Written notice of the meeting shall be delivered not less than ten (10) nor more than sixty (60) days (unless otherwise provided in the Declaration) before the date of any members' meeting, either personally, by mail, or by electronic mail over the internet, by or at the direction of the President, the Secretary, or other person calling the meeting, to each member of record. The notice shall state the time and place of the meeting and shall also state the items on the agenda, including the general nature of any proposed amendment to the

Declaration or these Bylaws, any budget changes and any proposal to remove an officer/director. If mailed, such shall be deemed to be delivered when deposited in the United States Mail, addressed to the member at his/her address as it appears on the record of members of the Association, with postage thereon prepaid. If sent by electronic mail over the internet, such shall be deemed to be delivered when sent by electronic email to an electronic mailing address designated in writing by the Lot owner. It shall be the responsibility of the individual members to keep the Secretary informed of their current addresses. In the absence of instructions from an individual member as to his/her address, the Secretary shall be entitled to rely on the most recent records of the Wake County Tax Collector to determine the addresses of the owner(s) of a Lot. The notice of meeting must state the time and place of the meeting and all items on the agenda for the meeting.

When a meeting is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. When a meeting is adjourned for less than thirty (30) days in any one adjournment, it is not necessary to give any notice of the adjourned meeting other than by announcement at the meeting at which the adjournment is taken.

Section 6. Voting Rights. On matters of the Association's business submitted to vote of the membership, there shall be one (1) vote per Lot, regardless of the number of owners of a Lot. At any annual meeting, substitute annual meeting, or special meeting of members, twenty percent (20%) of the Lots (represented either in person or by proxy) shall constitute a quorum for the purposes of submitting any matter to a vote. Except as otherwise provided by the Declaration, Chapter 47F of the North Carolina General Statutes, or these Bylaws, all matters submitted to a vote at any meeting held in accordance with these Bylaws shall be decided by a simple majority of the total votes cast. In the event that business cannot be conducted at any meeting because a quorum is not present, the provisions of Chapter 47F-3-109 (or other pertinent provision of the Planned Community Act) shall control with respect to imposing a lesser quorum requirement for the rescheduled meeting after adjournment of the original meeting due to lack of a quorum.

Section 7. Voting by Proxy. Votes may be cast either in person or by one (1) or more agents authorized by a dated, written proxy executed by the member or his/her attorney-in-fact. A proxy terminates one (1) year after its date, unless it specifies a shorter term. Any form of proxy which is sufficient in law may be used, but the form as shown below shall be deemed sufficient:

Sufficient Form of Proxy:

The undersigned hereby irrevocably constitute and appoint _____ their attorney-in-fact and proxy for the sole purpose of casting the vote allocated to Lot __, on all matters submitted to vote at that meeting of ***, to be held on _____, _____. The undersigned hereby ratify and confirm all such votes cast on behalf of said Unit at that meeting, and certify that they are fully authorized to execute this instrument of proxy on behalf of all owners of any fee interest in said Unit.

This the _____ day of _____

Signature of member or his/ her attorney-in-fact

Section 8. Voting List. At least ten (10) days before each meeting of members, the Secretary of the Association shall prepare an alphabetical list of the members entitled to vote at such meeting or any adjournment thereof, with the address of each, which list shall be kept on file with the book of records of the Association. This list shall be produced and kept open at the time and place of the meeting and shall be subject to inspection by any members during the whole time of the meeting.

Section 9. Waiver of Notice. Any member may waive notice of any meeting. The attendance by a member at a meeting shall constitute a waiver of notice of such meeting, except where a member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

ARTICLE VI.

BOARD OF DIRECTORS

Section 1. Purpose, Number and Term of Office. The business and affairs of the Association shall be managed by a Board of Directors of at least three (3) individuals, who shall be entitled to act on behalf of the Association; however, as long as the Townhome Development remains within the Development Period, the Board of Directors may be comprised of one (1) individual, it being agreed that the initial director shall be Patrick J. McKee, until such time as Patrick J. McKee signs a written consent otherwise, which need not be recorded in the local registry. The Board of Directors shall be appointed by McKee Homes LLC (the "Declarant") until such time as the Development Period (as defined in the Declaration) has terminated. At the first meeting of the membership of the Association following the termination of the Development Period, the members of the Board of Directors shall be elected by the membership of the Association and those persons who receive the highest number of votes at a meeting at which a quorum is present shall be elected. Each member of the Board of Directors shall hold office until his/her death, disability, resignation or removal, or until the expiration of his/her term and the election of his/her successor. All Directors elected by the membership of the Association must be Lot Owners (however, during the Development Period, Directors who are appointed by Declarant need not be Lot Owners).

Section 2. Powers and Duties. The Board of Directors shall have the power and the duty to act on behalf of the Association in all instances, except that the Board may not amend the Declaration, terminate the Townhome Development, elect members of the Board (except to fill any vacancy in its membership for the unexpired portion of a term) or determine the qualifications, powers, duties or terms of office of members of the Board. In addition the Board of Directors shall have the following specific powers, duties and responsibilities:

A. The Board will keep a complete record of all of its acts and all affairs of the Association and make the same reasonably available for examination by any member, his/her agents or mortgagees.

B. The Board will adopt a proposed budget for the Association to be approved or rejected by the membership of the Association at its annual meeting. The proposed budget shall be adopted at a meeting of the Board to be held prior to the annual meeting of the membership of

the Association. The proposed budget shall be deemed ratified by the Lot owners unless at the annual meeting more than fifty percent (50%) of the Lot owners vote to reject it. At the annual meeting, there shall be no requirement that a quorum be present for purposes of approving the budget. In the event the proposed budget is rejected, the periodic budget last ratified shall be continued until such time as the membership ratifies a budget subsequently proposed by the Board of Directors.

C. The Board may fine any Lot in accordance with the provisions of the Declaration for any single violation of the Declaration, these Bylaws or any Rules and Regulations promulgated by the Board. In such event, the Board shall provide the Lot owner fined an opportunity to be heard before an adjudicatory panel to be appointed by the Board pursuant to Article X below. Multiple fines may be assessed against any Lot owner for multiple violations. Any such fines shall be deemed assessments against the Lot of such owner, and shall be collectable as provided in the Declaration.

D. The Board may contract a management agent to perform and execute such duties, functions and responsibilities of the Board as the Board may deem appropriate; however, no such contract shall relieve the Board from its fiduciary duty to the Association.

Notwithstanding any other provision herein, the Board of Directors is authorized, on behalf of the Association, to submit any dispute with or claim against the owner(s) of any Lot(s) to voluntary arbitration pursuant to any arbitration program then in effect in the General Court of Justice of Wake County, North Carolina.

Section 3. Removal of Directors. Notwithstanding any provision in the Declaration or in these Bylaws to the contrary, the Lot owners, by a majority vote of all persons present and entitled to vote at any meeting of the Lot owners at which a quorum is present, may remove any member of the Board of Directors with or without cause, other than a member of the Board of Directors appointed by the Declarant.

Section 4. Vacancies. In the event of the death, disability, resignation or removal of a director, his/her successor shall be selected and appointed by the remaining members of the Board of Directors to serve until the next meeting of the membership of the Association; or until a successor is appointed by the Declarant if such vacancy is the result of the death, disability, resignation or removal of an initial director or a director who was appointed by the Declarant.

ARTICLE VII.

MEETINGS OF THE BOARD OF DIRECTORS

Section 1. Called Meetings. Meetings of the Board of Directors may be called by or at the request of the President or any two (2) directors.

Section 2. Notice of Meeting. The person or persons calling a meeting of the Board of Directors shall, at least ten (10) days before the meeting, give notice thereof by any usual means of communication. Such notice need not specify the purpose for which the meeting is called.

Section 3. Waiver of Notice. Any member of the Board of Directors may waive notice of any meeting. The attendance by a member of the Board of Directors at a meeting shall constitute a waiver of notice of such meeting, except where a member of the Board of Directors attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

Section 4. Quorum. Fifty percent (50%) of the number of the members of the Board of Directors fixed by these Bylaws shall constitute a quorum for the transaction of business at any meeting of the members of the Board of Directors.

Section 5. Manner of Acting. Except as otherwise provided in these Bylaws, the act of the majority of the members of the Board of Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 6. Informal Action by Members of the Board of Directors. Action taken by a majority of the members of the Board of Directors without a meeting is nevertheless Board action if written consent to the action in question is signed by all of the members of the Board of Directors and filed in the book of records of the Association, whether done before or after the action so taken.

Section 7. Committees of the Board. The Board of Directors may establish either standing or ad hoc committees of the members to assist it in its work. Such committees shall be chaired by a member of the Board of Directors.

ARTICLE VIII

OFFICERS

Section 1. Designation. The officers of the Association shall consist of a President, a Vice President, a Secretary, and a Treasurer [note: a Treasurer is mandatory, only if the Association is self-managed; see Article VIII, Section 6 below, if property management company is hired], and such other officers as the membership may from time to time elect. The offices of Secretary and Treasurer may be held by the same person; otherwise, no other two (2) offices may be held by the same person.

Section 2. Election and Term. The initial officers of the Association shall be elected by the initial members of the Board of Directors of the Association. Subsequently, the officers of the Association shall be appointed by the Board of Directors. Members of the Board shall be eligible for appointment to serve as officers of the Association. The officers shall be appointed to one-year terms, and each officer shall hold office until his/her death, disability, resignation or removal, or until the expiration of his/her term and the appointment of his/her successor.

Section 3. President. The President shall be the principal executive officer of the Association and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the Association. He/she shall, when present, preside at all meetings of the members. He/she shall sign, with the Secretary, any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the

Board of Directors or by these Bylaws to some other officer or agent of the Association, or shall be required by law to be otherwise signed or executed; and in general he/she shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time. The President shall execute any amendments to the Declaration approved by the membership of the Association.

Section 4. Vice President. In the absence of the President or in the event of his/her death, inability or refusal to act, the Vice President shall perform the duties of the President, and when so acting shall have all the powers of and be subject to all the restrictions upon the President, and shall perform such other duties as from time to time may be assigned to him/her by the President or the Board of Directors.

Section 5. Secretary. The Secretary shall: (a) keep minutes of the meetings of members, of the Board of Directors and of all Executive Committees in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the corporate records and of the seal of the Association (if a stamp seal exists), and see that the seal of the Association is affixed to all documents, the execution of which on behalf of the Association under its seal is duly authorized and mandated; (d) be authorized to certify and oversee the recordation of amendments to the Declaration on behalf of the Association; (e) keep a register of the post office address and/or electronic mail addresses of each member which shall be furnished to the Secretary by such member; and (f) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him/her by the President or by the Board of Directors.

Section 6. Treasurer; Property Management Company. If the Association is self-managed and chooses not to delegate the handling of Association monies to a professional management company, then there shall be elected a Treasurer of the Association. The Treasurer shall be bonded by a reputable insurance or surety company (if the Board of Directors so decides) and shall: (a) have charge and custody of and be responsible for all funds and securities of the Association; (b) receive and give receipts for moneys due and payable to the Association from any source whatsoever, and deposit all such moneys in the name of the Association in such depositories as shall be selected in accordance with the provisions of Section 4 of Article IX of these Bylaws; (c) prepare, execute and deliver certificates of Assessments as may be required by the Declaration or by Chapter 47F of the North Carolina General Statutes; and (d) in general perform all of the duties incident to the office of treasurer and such other duties as from time to time may be assigned to him/her by the President or by the Board of Directors. If the Association delegates the handling of Association monies to a professional management company, such management company shall also be bonded by a reputable insurance or surety company, and shall have the identical responsibilities, as set forth in (a), (b), (c), and (d) herein.

ARTICLE IX.

CONTRACTS, LOANS, CHECKS, AND DEPOSITS

Section 1. Contracts. The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on the behalf of the Association, and such authority may be general or confined to specific instances.

Section 2. Loans. No loans shall be contracted on behalf of the Association and no evidence of indebtedness shall be issued in its name unless authorized by the Board of Directors. Such authority may be general or confined to specific instances.

Section 3. Checks and Drafts. All checks, drafts or other orders for the payment of money, issued in the name of the Association, shall be signed by the President or the Treasurer of the Association, unless the Association is managed by a professional property management company, in which case, such items may be signed by an officer of such property management company.

Section 4. Deposits. All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such depositories as the Board of Directors may select.

ARTICLE X

ADJUDICATORY PANEL

Section 1. Appointment of Adjudicatory Panel. The Board of Directors shall, not less than annually, appoint an Adjudicatory Panel of not less than three (3) individuals, all of whom shall be residents of the Townhome Development (however, during the Development Period, there shall be no such residency requirement). Members of the Board shall be eligible to serve as members of the Adjudicatory Panel. Members of the Adjudicatory Panel shall be appointed to one-year terms, and each member shall sit until his/her death, disability, resignation or removal, or until the expiration of his/her term and the appointment of his/her successor.

Section 2. Hearings. In the event that a fine is assessed against a Lot owner by the Board of Directors pursuant to Subsection 2(C) Article VI above, the Adjudicatory Panel shall provide to the Lot owner so fined notice of the violation and an opportunity to be heard regarding the alleged violation and the assessed fine. If within ten (10) days of receipt of the notice the Lot owner requests in writing a hearing, the Adjudicatory Panel shall hear the matter within twenty (20) days of the date of the written request. A majority of the members of the Adjudicatory Panel shall constitute a quorum for the purpose of conducting a hearing. Following such a hearing, the Adjudicatory Panel shall confirm, deny or modify the fine imposed by the Board and shall notify the Lot owner of its decision. The decision of the Adjudicatory Panel with regard to the fine shall be final.

ARTICLE XI.

INDEMNIFICATION

Any person who at any time serves or has served as an officer, member of the Board of Directors and/or member of the Adjudicatory Panel of the Association will be indemnified by the Association to the fullest extent permitted by law against (a) reasonable expenses, including attorneys' fees, incurred by him/her in connection with any threatened, pending, or completed civil, criminal, administrative, investigative, or arbitrative action, suit, or proceeding (and any appeal therein), whether or not brought by or on behalf of the Association, seeking to hold him/her liable by reason of the fact that he/she is or was acting in such capacity, and (b) reasonable payments made by him/her in satisfaction of any judgment, money decree, fine, penalty or settlement for which he/she may have become liable in any such action, suit or proceeding.

Upon request for payment, the President of the Association shall promptly call a special meeting of the Board of Directors to obtain approval to pay the indemnification required by this bylaw. Such approval may be general or confined to specific instances, and shall not be unreasonably withheld. Upon approval by the Board of Directors, the President shall promptly cause the indemnification to be paid to the requesting party.

Any person who at any time after the adoption of this bylaw serves or has served as an officer, member of the Board of Directors and/or member of the Adjudicatory Panel of the Association shall be deemed to be doing or to have done so in reliance upon, and as consideration for, the right of indemnification provided herein. Such right shall inure to the benefit of the legal representatives of any such person and shall not be exclusive of any other rights to which such person may be entitled apart from the provision of this bylaw.

ARTICLE XII

SECTION 528 STATUS

The Association shall elect and shall be managed in such fashion as to maintain tax-exempt status under Section 528 or other pertinent section of the Internal Revenue Code of 1986. The Association shall not carry on any activities prohibited by an Association electing tax-exempt status under Section 528 or other pertinent section, or any corresponding sections or provisions of any future United States Internal Revenue law.

ARTICLE XIII

AVAILABILITY OF DOCUMENTS

The Association shall keep records of (i) its governing documents; (ii) its actions (board resolutions, minutes of meetings and similar matters); and (iii) its financial condition (receipts and expenditures affecting its finances, operation and administration; budget; financial statements and similar items). Notwithstanding the foregoing, the Association is not required to maintain records in excess of three (3) years, unless otherwise required under applicable law. The Association documents and all books and records kept on behalf of the Association shall be

available for examination and copying by a member or such member's authorized agent during normal business hours and upon reasonable notice to the Association and for a reasonable charge, except for privileged or confidential information.

ARTICLE XIV

GENERAL PROVISIONS

Section 1. Seal. The corporate seal of the Association shall consist of two concentric circles between which is the name of the Association and in the center of which is inscribed SEAL; and such seal, as impressed or drawn on the margin hereof, is hereby adopted as the corporate seal of the Association.

Section 2. Fiscal Year. The fiscal year of the Association shall be January 1 through December 31, unless otherwise determined by the Board of Directors.

Section 3. Amendments. Following the expiration of the Development Period (as defined in the Declaration), the members of the Association may amend these Bylaws by the vote of at least sixty-seven percent (67%) of all existing Lot owners at any meeting of the membership of the Association, in which a quorum is present, properly held and conducted pursuant to Article V above.

Section 4. Conflicts. In the event of any conflict between the terms and provisions of these Bylaws and the terms and provisions of the Declaration, the terms and provisions of the Declaration shall control. In the event of any conflict between the terms and provisions of these Bylaws, the Declaration, and the Planned Community Act (currently codified as Chapter 47F of the North Carolina General Statutes, as the same may be amended from time to time), then the Planned Community Act shall control.

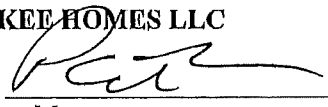
Section 5. References to Statutes. All references herein to any provision of the North Carolina general statutes, or any other applicable laws, shall be construed to include and apply to any subsequent amendments thereto or codified replacements/ substitutions thereof.

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IN TESTIMONY WHEREOF, the foregoing were adopted as the Bylaws of the Association as of the date set forth below.

DECLARANT:

MCKEE HOMES LLC

By: _____

Manager

Date: 7/31/20

[Adopted During Development Period]

CONSENT AND SUBORDINATION OF MORTGAGE ADDENDUM

[Attached to Declaration of Covenants, Conditions and Restrictions for
The Townes at Gateway Commons]

Branch Banking and Trust Company ("BB&T"), executes this Declaration of Covenants, Conditions and Restrictions for The Townes at Gateway Commons (this "Declaration") for the purpose of acknowledging its consent to the recordation of this Declaration. BB&T does hereby subordinate the lien and operation of that certain deed of trust (the "Deed of Trust") recorded in Book 17325, Page 394, as modified in Book 17416, Page 840, Wake County, NC Registry, to the terms, easements and restrictions of the Declaration; and further agrees that from and after this date, the terms, easement and restrictions of the Declaration shall be superior to the lien of such Deed of Trust as if the Declaration had been recorded prior to the Deed of Trust.

Branch Banking and Trust Company

By: [Signature] (SEAL)

Print Name: Michael J. Keenan

Title: SVP

STATE OF North Carolina

COUNTY OF New Hanover

I, Linette R. Chizmar, a Notary Public of said County and State, do hereby certify that Michael J. Keenan personally appeared before me this day and acknowledged that he is the SVP of Branch Banking and Trust Company, and that by authority duly given, and as the act of said banking corporation, said person executed the foregoing instrument on behalf of said corporation.

WITNESS my hand and official seal or stamp, this the 5 day of August, 2020.

[Signature]
Notary Public

My Commission Expires:

10/5/2020

[Affix Notary Seal or Stamp]

