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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

CAROLINA GARDENS BY DEL WEBB

BY

PULTE HOME COMPANY, LLC

THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF THE FLAG OF THE UNITED STATES OF AMERICA OR STATE OF NORTH CAROLINA, AND THE DISPLAY OF POLITICAL SIGNS, AS FOLLOWS:

(I) "NO RELIGIOUS, PATRIOTIC AND HOLIDAY SIGNS, SYMBOLS, AND DECORATIONS OF ANY KIND MAY BE DISPLAYED TO THE PUBLIC VIEW ON ANY LOT WITHOUT PRIOR WRITTEN APPROVAL OF THE ARCHITECTURAL REVIEW COMMITTEE, EXCEPT FOR THOSE SIGNS PERMITTED BY SECTION 10.2 HEREOF AND/OR THE DESIGN GUIDELINES." (SEE SECTION 10.2)

(II) "NO LOT SHALL BE ALLOWED TO HAVE A FREE STANDING FLAGPOLE OF ANY TYPE. FLAGS ON LOTS MUST BE FLOWN ONLY ON POLES MOUNTED TO THE SIDE OF THE RESIDENCE BY A BRACKET. NOTWITHSTANDING THE FOREGOING, ONE PORTABLE, REMOVABLE UNITED STATES FLAG MAY BE DISPLAYED IN A RESPECTFUL MANNER AND CONSISTENT WITH 36 U.S.C. SECTIONS 171-178, AS AMENDED, ON EACH LOT." (SEE SECTION 10.25)

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Submitted electronically by Hervey & Hervey, P.A. in compliance with North Carolina statutes governing recordable documents and the terms of the submitter agreement with the Wake County Register of Deeds.

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR CAROLINA GARDENS BY DEL WEBB

Town of Fuquay-Varina, Wake County, North Carolina

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EXHIBITS

Exhibit A – Description of Properties Initially Subjected to Declaration.

Exhibit B – Description of Expansion Property.

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR DEL WEBB AT TRADITIONS

Wake County, North Carolina

This Declaration of Covenants, Conditions, and Restrictions for Carolina Gardens by Del Webb (**"Declaration"**) is made this ___ day of _____, 2020, by **PULTE HOME COMPANY**, a Michigan limited liability company, doing business through and under its "Del Webb" brand (**"Del Webb"**).

Del Webb owns all of the Properties (as defined below), which are described in Exhibit "A" attached hereto and incorporated herein by reference. This Declaration imposes upon the Properties mutually beneficial restrictions under a general plan of development and improvement for the benefit of the owners of any portion of the Properties and establishes a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Properties. In furtherance thereof, Del Webb has incorporated Carolina Gardens by Del Webb Homeowners Association, Inc., a North Carolina non-profit corporation, to own, operate and maintain the Common Area (as defined below), and to administer and enforce the provisions of the Governing Documents (as defined below).

Del Webb hereby declares that the Properties, together with such additional property subjected to this Declaration pursuant to **Section 7.2** below, shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants, and conditions, which shall run with the land and title to the real property subjected to this Declaration. This Declaration shall be binding upon all parties having any right, title, or interest in any portion of the Properties, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner of any portion of the Properties. Further, each contract or deed conveying those portions of the Properties will conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions and restrictions, regardless of whether or not the same are set out in full or by reference in said contract or deed.

ARTICLE I.
DEFINITIONS

The terms in this Declaration and the exhibits to this Declaration shall generally be given their natural, commonly accepted definitions except as otherwise specified. Unless otherwise defined in this Declaration, terms with their initial letter capitalized shall be defined as set forth below.

1.1 Activity Card(s). Those certain cards which are issued by the Association in accordance with the terms and conditions set forth in **Section 2.2** and which confer upon the holder rights of access to and use of recreational facilities and other Common Areas within the Properties. This right may be suspended by the Association for failure to pay assessments, special assessments, fines, levies or for any other reason as determined by the Board.

1.2 Age-Qualified Occupant. Any individual: (i) 50 years of age or older who owns and occupies a Lot and was the original purchaser of the Lot from the Declarant; or (ii) 55 years of age or older who occupies a Lot. The terms "occupy," "occupies," or "occupancy" shall mean staying overnight in a particular Lot for at least ninety (90) days in any consecutive twelve (12) month period.

1.3 Architectural Review Committee. The party entitled to exercise architectural review authority pursuant to the terms and provisions of **Article IX**. As set forth more fully in **Article IX**, until

expiration or termination of the Development Period, Declarant or its designee shall act as the Architectural Review Committee.

1.4 Area of Common Responsibility. The Common Area and such other areas, if any, for which the Association has or assumes responsibility for maintenance pursuant to the terms of this Declaration, any Supplemental Declaration or other applicable covenants, contract, or agreement.

1.5 Articles of Incorporation or Articles. The Articles of Incorporation of Carolina Gardens by Del Webb Homeowners Association, Inc., as filed with the Secretary of State of the State of North Carolina, as amended from time to time.

1.6 Association. Carolina Gardens by Del Webb Homeowners Association, Inc., a North Carolina not-for-profit corporation, its successors or assigns.

1.7 Base Assessment. Assessments levied on all Lots subject to assessment under **Article VIII** to fund Common Expenses for the general benefit of all Lots.

1.8 Benefitted Assessment. Assessments levied in accordance with **Section 8.4**.

1.9 Board of Directors or Board. The body responsible for administration of the Association, selected in accordance with the terms of this Declaration and the Bylaws, and serving the same role as a board of directors under a North Carolina not-for-profit corporation.

1.10 Builder. Any Person which purchases one or more parcels of land within the Properties for the construction of homes and/or resale in the ordinary course of such Person's business other than for personal residential use.

1.11 Bulk Contract. One or more contracts which are entered into by the Association (hereinafter defined) or assigned to the Association by Declarant for the provision of utility services or other services of any kind or nature to the Lots. The services provided under Bulk Contracts may include, without limitation, cable television services, telecommunications services, internet access services, "broadband" services, security services, trash pick-up services, propane service, natural gas service, lawn maintenance services, snow removal, management services, and any other services of any kind or nature which Declarant or the Association deems to be appropriate or beneficial.

1.12 Bylaws. The Bylaws of Carolina Gardens by Del Webb Homeowners Association, Inc., as amended from time to time.

1.13 Charges. The Base Assessment, Benefitted Assessments, Special Assessment and/or Fines and Damage Assessments levied by the Association and/or any other charges or amounts which an Owner is required to pay or for which an Owner is liable under this Declaration or the Bylaws.

1.14 Common Area. Any property and facilities that the Association owns or in which it otherwise holds rights or obligations including, but not limited to any property that the Association holds under a lease, license, or easement in favor of the Association, or any property shown and designated on a recorded map of any portion of the Properties as "Common Area", "Open Space", "OS Area", "Common Open Space", "HOA Area" or similarly described property or area, whether owned by the Association or not. Some Common Area will be solely for the common use and enjoyment of the Owners, while other portions of the Common Area may be for the use and enjoyment of the Owners and members of the public. The Common Area shall generally include community wide recreational facilities, open space, detention areas, wetlands and green areas. The Common Area shall not include any streets,

streetlights, water mains or sanitary sewers or other improvements which have been dedicated to the municipality or other governmental agency. Common Area may be on a separate subdivided parcel or may be part of a Lot.

1.15 Common Expenses. The expenses of administration, operation, maintenance, repair, replacement, landscaping and snow removal of the Common Area; the cost of insurance, water, electricity, telephone, gas and other necessary utility expenses for the Common Area; the cost of general and special real estate taxes and assessments levied or assessed against any portion of the Common Area owned by the Association; the cost of, and the expenses incurred for, the maintenance, repair and replacement of personal property acquired and used by the Association in connection with the operation of the Common Area; the cost of maintenance of the landscaping of the rights-of-way and medians of streets, roads or highways, within or adjoining the Properties; if not specifically charged to the Owners, the cost of waste removal and scavenger services to the Properties; the cost of any landscaping and any other maintenance service the Association provides to and for the Lots or the homes thereon, and any other expenses lawfully incurred by the Association for the common benefit of all of the Owners (including, without limitation, costs incurred for management, administrative, legal or other professional services).

1.16 Community. The "age-restricted" residential community being developed on the Properties by Declarant.

1.17 Community Plan. The conceptual land use plan for the development of the Community, as it may be amended from time to time, which plan shall include the Properties and may also include other real estate. **DECLARANT EXPRESSLY RESERVES THE RIGHT TO MODIFY, AMEND AND REVISE THE COMMUNITY PLAN AT ANY TIME DURING THE DEVELOPMENT PERIOD IN ANY AND ALL RESPECTS AS IT, IN ITS SOLE DISCRETION, DEEMS APPROPRIATE**. Inclusion of real estate on the Community Plan shall not, under any circumstances, obligate Declarant to subject such real estate to this Declaration as part of the Properties, nor shall the exclusion of real estate from the Community Plan bar its later inclusion therein.

1.18 Community-Wide Standard. The standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standards may be defined in the Design Guidelines or rules and regulations of the Board. Such standards may be specifically determined, and modified, by the Declarant at any time during the Development Period and thereafter by the Board and/or the Architectural Review Committee.

1.19 Covenant to Share Costs. Any declaration or agreement executed by Declarant and recorded in the Public Records, which grants rights or creates easements for the benefit of the Association and the present and future owners of the real estate subject thereto and which obligates the Association and such owners to share the costs related to or incurred in connection with real estate described therein.

1.20 Declarant. Pulte Home Company, a Michigan limited liability company, doing business through and under its "Del Webb" brand, or any successor, successor-in-title, or assign who has or takes title to any portion of the Properties for the purpose of development and/or sale and who is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant.

1.21 Design Guidelines. Any written design and construction guidelines and application and review procedures applicable to the Properties promulgated and administered pursuant to **Article IX**, as modified from time to time.

1.22 Development Period. The period of time commencing on the date this Declaration is recorded in the Public Records (as defined below) and ending on the date on which 100% of the Lots developed or to be developed as part of the Community (including all present and future phases) pursuant to the Community Plan have been improved with Dwelling Units (as defined below) and conveyed to Persons other than Declarant. Declarant may relinquish its right to appoint and remove one or more directors and officers of the Association prior to the expiration of the Development Period and such action shall not terminate the Development Period or other rights reserved by and to the Declarant under the Governing Documents.

1.23 Dwelling Unit. An individual single-family detached residential dwelling constructed upon and as part of a Lot.

1.24 Exempt Property. All portions of the Properties other than Lots (unless the Lot is owned by Declarant or the Association), which are exempt from the payment of assessments as provided in **Section 8.9**.

1.25 Expansion Property. All of that certain real property described in Exhibit "B", attached hereto and incorporated herein by reference, which Declarant may, subject to this Declaration, make a portion of the Properties when Declarant acquires the Expansion Property or any portion thereof.

1.26 Fines and Damages Assessments. Assessments levied in accordance with **Section 8.5**.

1.27 Governing Documents. A collective term including the Declaration, any applicable Supplemental Declaration, the Bylaws, the Articles, the Design Guidelines, and rules, regulations, or actions adopted by the Board, as any such documents may be amended from time to time.

1.28 Governmental Authorities. The Town of Fuquay-Varina, Wake County, the State of North Carolina, any municipal utility district or similar district, and any municipality or body politic that may be lawfully granted or lawfully obtains governmental authority or jurisdiction over the Properties or any part thereof in the future.

1.29 Initial Contribution. As defined in **Section 8.11**.

1.30 Local Area Association. As defined in **Section 15.1**.

1.31 Lot. Any portion of the Properties designated by the Declarant or shown on a Plat as a subdivided lot approved for the construction of a single Dwelling Unit thereon.

1.32 Member. A Person entitled to membership in the Association pursuant to **Section 3.2**.

1.33 Mortgage. A mortgage, a deed of trust, a deed to secure debt, or any other form of residential loan security instrument affecting title to any Lot. A "Mortgagee" shall refer to a beneficiary or holder of a Mortgage.

1.34 Owner. One (1) or more Persons, which may include the Declarant or a Builder, who holds the record title to a Lot, but excluding in all cases any party holding an interest merely as security for the performance of an obligation.

1.35 Person. A natural person, corporation, partnership, limited liability company, trustee, or any other legal entity.

1.36 Plat. A plat of subdivision for a portion of the Properties which is recorded in the Public Records. **DECLARANT EXPRESSLY RESERVES THE RIGHT TO REVISE, MODIFY, RECONFIGURE OR WITHDRAW ANY RECORDED PLAT AT ANY TIME DURING THE DEVELOPMENT PERIOD AS IT, IN ITS SOLE DISCRETION, DEEMS APPROPRIATE.**

1.37 Properties. All of that certain real property described in Exhibit "A", attached hereto and incorporated herein by reference, subject to such additions thereto and deletions therefrom as may be made pursuant to **Section 7.2** and **Section 7.3** of this Declaration.

1.38 Public Records. The Office of the Register of Deeds of Wake County, North Carolina.

1.39 Resident or Qualified Resident. Any of the following Persons occupying a Lot:

(a) any Age-Qualified Occupant;

(b) any Person 19 years of age or older occupying a Lot with an Age-Qualified Occupant; and

(c) any Person 19 years of age or older who occupied a Lot with an Age-Qualified Occupant and who continues, without interruption, to occupy the same Lot after termination of the Age-Qualified Occupant's occupancy thereof.

The term "occupy" or "occupancy" shall have the same meaning as set forth in **Section 1.2**. An individual who occupies a Lot but does not satisfy the criteria of (a), (b) or (c) above shall not be deemed to be a Resident and shall not be entitled to any rights or privileges granted to a Resident hereunder.

1.40 Shared Drainage. "Shared Drainage" shall mean all storm drainage pipes installed by Declarant or the Association which are located (i) entirely on Common Area, (ii) on two or more Lots, (iii) on Common Area and one or more Lots, or (iv) entirely on one Lot, and the drainage pipe is 12 inches (12") or greater in diameter.

1.41 Shared Walls. "Shared Wall" or "Shared Walls" means one or more retaining walls originally installed by Declarant or the Association for the purpose of providing additional structural support for improvements within the Community, which are located (i) entirely on Common Area, (ii) on two or more Lots, (iii) on Common Area and one or more Lots, or (iv) located entirely on one Lot and (a) has at least one exposed face (i.e., one above-ground surface) exceeding one-hundred and fifty (150) square feet in area, and (b) has an above-ground height of (X) at least four (4) feet for a continuous span of fifteen (15) feet or (Y) in excess of 10 feet at any point.

By way of example, any of the following would constitute a Shared Wall: (X) a wall on a single Lot having an above-ground height of four (4) feet for a length of thirty-eight (38) feet, or (Y) a wall on a single Lot that has a ten (10) foot long section with an above-ground height of four (4) feet, a twenty-five (25) foot long section with an above-ground height of three and one-half (3.5) feet, and a six (6) foot long section with an above-ground height of four (4) feet, or (Z) a wall on a single Lot that has a eighteen (18) foot long section with an above-ground height of ten (10) feet.

1.42 Special Assessment. Assessments levied in accordance with **Section 8.3**.

1.43 Special Declarant Rights. As defined in **Article XIII**.

1.44 Special Services. As defined in **Section 5.3**.

1.45 Supplemental Declaration. A written instrument, executed by the Declarant and recorded in the Public Records as provided in **Section 7.1**, which (i) subjects to this Declaration, (a) any portion of the Expansion Property, or (b) any other additional real property contiguous to the Properties or contiguous with a public or private street adjacent to the Properties, and/or (ii) imposes upon such portion or portions of the Properties described therein covenants, restrictions, conditions, limitations and/or easements which are in addition to those set forth herein.

1.46 Voting Member. As defined in **Section 3.3**.

ARTICLE II.
PROPERTY RIGHTS

2.1 Right to Use and Enjoy Common Area. Each Resident shall have the non-exclusive right and easement to use and enjoy the Common Area assigned to such Resident's Lot, in common with the Owners of other Lots to which such Common Area is assigned. Such rights and easements shall run with the land, shall be appurtenant to and pass with title to every Lot, and shall be subject to and governed by the following:

(a) This Declaration and any applicable Supplemental Declaration, amendments thereto, the Bylaws, and all other Governing Documents;

(b) Any covenants, commitments, provisions, restrictions or limitations contained in any deed conveying Common Area to the Association;

(c) Rules and regulations adopted as more fully provided in **Section 4.3**;

(d) The right of the Board to impose fines and to suspend the rights, services and privileges of an Owner or Resident including, without limitation, the right to use recreational facilities pursuant to **Section 4.3**;

(e) The right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area;

(f) The right of the Board to impose reasonable membership requirements and charge reasonable admission fees or other fees for the use of any recreational facility situated upon the Common Area;

(g) The right of the Board to permit use of any Common Area by Persons other than Members upon payment of use fees established by the Board;

(h) The right of the Board to create, enter agreements with, and grant easements to tax-exempt organizations under **Section 4.14**;

(i) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for Association obligations;

(j) The right of the Association to rent, lease, or make available, with or without charge, for any purpose, any portion of any clubhouse and other recreational facilities within the Common Area to any Person approved by the Board for such uses as may be approved by the Board, including, without limitation, the leases referred to in **Section 2.6** and in **Article IV**;

(k) The requirement that access to and use of recreational facilities within the Properties shall be subject to the presentation of an Activity Card issued by the Association for such purpose; and

(l) The rights of the Declarant hereunder.

2.2 Activity Cards.

(a) Issuance by the Board. One (1) Activity Card shall be allocated to each Qualified Resident of a Lot, up to a maximum of two (2) Activity Cards per Lot. No Activity Cards shall be allocated to any Lot which is not occupied by a Qualified Resident. The Board shall determine entitlement to Activity Cards on an annual basis. Activity Cards shall be automatically renewed without charge, provided the Lot continues to be occupied by a Qualified Resident and all applicable assessments and other charges pertaining to the Lot have been paid. The Board may establish policies, limits, and charges with regard to the issuance of additional or duplicate cards and guest privilege cards. The Board may issue Activity Cards to Persons who have signed binding contracts to purchase a Lot, subject to such policies as the Board may determine from time to time. An Owner is not entitled to any refund of assessments for any delays associated with the issuance of the Activity Cards.

(b) Assignment of Rights. The right to an Activity Card is based upon occupancy of a Lot. Any Owner who leases or otherwise transfers occupancy of his or her Lot shall be deemed to have assigned his or her rights to an Activity Card to the Qualified Resident(s) of such Lot. Any Owner who leases or otherwise transfers the right to occupy his or her Lot shall provide the Association with immediate written notice thereof and shall surrender to the Association his or her previously issued Activity Card. Activity Cards shall be surrendered by any holder who ceases to occupy a Lot, or at any time upon written notification from the Association that the holder no longer is entitled to hold an Activity Card.

(c) Vacation Getaways. Each Vacation Getaway, as described in **Section 13.7**, located within the Properties shall be allocated two (2) Activity Cards for use by the temporary occupants of the Vacation Getaway. Vacation Getaways located adjacent to the Properties, if any, may be issued Activity Cards based on the arrangements set forth in the applicable contract or Covenant to Share Costs between the Association and the owner of such Vacation Getaways. Additional Activity Cards shall be issued to the Declarant upon request without payment of the then current charge for additional Activity Cards.

(d) Issuance to the Declarant. During the Development Period, the Association shall provide the Declarant, free of charge, with as many Activity Cards as the Declarant, in its sole discretion, deems necessary for the purpose of marketing the Properties or for use by its employees. The Declarant may transfer the Activity Cards to prospective purchasers of Lots subject to such terms and conditions as it, in its sole discretion, may determine. Activity Cards provided to the Declarant shall entitle the bearer to use all Common Area subject to the payment of admission fees or other use fees charged to Qualified Residents holding Activity Cards.

2.3 No Partition. Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action for partition of the whole or any part thereof. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property or from acquiring and disposing of real estate which may or may not be subject to this Declaration.

2.4 Condemnation. In the case of a taking or condemnation by competent authority of any part of the Common Area, the proceeds awarded in such condemnation shall be paid first to satisfy any indebtedness secured by a mortgage or other lien encumbering such portion of the Common Area and the balance to the Association. The proceeds, if any, paid to the Association, together with any reserve being held for such part of the Common Area shall be used first to restore or replace any improvements taken or condemned, and the balance, if any, shall, in the discretion of the Board, either (i) be distributed to the Owners who have the right to use such Common Area and their respective Mortgagees, as their interests may appear, in equal shares, or (ii) be used for the mutual benefit of such Owners, as determined by the Board in its reasonable discretion; provided, that, during the Development Period, any such action shall be consented to by the Declarant.

2.5 Age Restriction Affecting Occupancy.

(a) Age Restriction. The Community is intended to provide housing primarily for Persons 55 years of age or older, subject to the rights reserved to Declarant in **Section 13.9**. The Properties shall be operated as an age restricted community in compliance with all applicable state and federal laws. No Person under 19 years of age shall stay overnight in any Lot for more than ninety (90) days in any consecutive twelve (12) month period. Subject to **Section 13.9**, each Lot, if occupied, shall be occupied by at least one (1) individual 55 years of age or older; provided, however, that once a Lot is occupied by an Age-Qualified Occupant, other Qualified Residents of that Lot may continue to occupy the Lot, regardless of the termination of the Age-Qualified Occupant's occupancy. Notwithstanding the above, at all times, at least eighty percent (80%) of the improved and occupied Lots within the Properties shall be occupied by at least one (1) individual 55 years of age or older. The Board shall establish policies and procedures from time to time as necessary to verify the names and ages of all occupants and Owners of the Lots and to monitor and maintain its status as an age restricted community under state and federal law. The Association may levy monetary fines against the Owner and the Owner's Lot for each day the Owner fails to provide information requested by the Association and/or the Board. The Association shall provide, or contract for the provision of those facilities and services designed to meet the physical and social needs of older Persons as may be required under such laws. The provisions of this Section may be enforced by the Association administratively under **Section 4.3** and/or by an action in law or in equity, including, without limitation, an injunction requiring specific performance hereunder.

(b) Leasing/Sale of Lot. Nothing in this **Section 2.5** shall restrict the ownership of or transfer of title to any Lot; provided no Owner under the age of 55 may occupy a Lot, except in compliance with this **Section 2.5**, nor shall any Owner permit occupancy of a Lot in violation of this **Section 2.5**. No Owner shall enter into a lease or any other occupancy agreement unless such lease or occupancy agreement expressly requires there to be least one (1) Age Qualified Resident occupying the Dwelling Unit on the Lot pursuant to such agreement. Any Owner who proposes to enter into a lease or other occupancy agreement or agreement of sale relating to the Owner's Lot shall: (i) assure that any such agreement is in writing, (ii) include in such agreement a statement in conspicuous type that the Lots within The Community are intended for residency by persons 55 years of age or older, as set forth in this **Section 2.5**, (iii) clearly disclose the age-restricted purpose to any tenant, purchaser, or other potential occupant of the Lot, and (iv) include in such agreement a provision stating that any violation of **Section 2.5** of this Declaration by the tenant or purchaser under the agreement shall constitute a default of the agreement.

(c) Exceptions. Any Owner may request in writing that the Board make an exception to the requirements of this Section with respect to his or her Lot, based on a hardship that is substantiated by documentation supplied with the written request. The Board may, but shall not be obligated to, grant exceptions to this Section in its sole discretion, provided that all of the requirements of the state and federal laws under which the Properties may be developed and operated as an age-restricted community are met in any event.

(d) Notification of Change in Occupancy. In the event of any change in occupancy of any Lot, as a result of a transfer of title, a lease or sublease, a birth or death, change in marital status, vacancy, or otherwise, the Owner of the Lot shall immediately notify the Board in writing and provide to the Board the names and ages of all current occupants of the Lot and such other information as the Board may reasonably require to verify the age of each occupant required to comply with the state and federal laws under which the Properties may be developed and operated as an age-restricted community. In the event that an Owner fails to notify the Board and provide all required information within ten (10) days after a change in occupancy occurs, the Association may levy monetary fines against the Owner and the Lot for each day after the change in occupancy occurs until the Association receives the required notice and information, regardless of whether the occupants continue to meet the requirements of this Section, in addition to all other remedies available to the Association under this Declaration and North Carolina law.

(e) Records. The Association shall be responsible for maintaining records to support and demonstrate compliance with the Fair Housing Act as amended. The Board shall adopt policies, procedures, and rules to monitor and maintain compliance with this **Section 2.5**, including policies regarding visitors, updating of age records, the granting of exemptions to compliance, and enforcement. The Association shall periodically distribute such policies, procedures, and rules to the Owners and make copies available to owners, or tenants and mortgagees upon reasonable request.

(f) Enforcement. The Association, acting through the Board, may enforce this **Section 2.5** in any legal or equitable manner available, as the Board deems appropriate, including, without limitation, conducting a census of the occupants of Lots, requiring that copies of birth certificates or other proof of age for one new Age-Qualified Occupant per Lot be provided to the Board on a periodic basis, and in the Board's sole discretion, taking action to evict the occupants of any Lot which does not comply with the requirements and restrictions of this **Section 2.5**. Association's records regarding individual members shall be maintained on a confidential basis and shall not be disclosed except as legally required and then only to the Governmental Authorities having jurisdiction and seeking to enforce state and federal laws. Each Owner shall fully and truthfully respond to any request from the Association or Board for information regarding the occupancy of his or her Lot which, in the Board's judgment, is reasonably necessary to monitor compliance with this **Section 2.5**. **Each Owner hereby appoints the Association, which may act through the Board, as its attorney-in-fact for the purpose of taking legal or equitable action to dispossess, evict, or otherwise remove the occupants of his or her Lot as necessary to enforce compliance with this Section 2.5.**

(g) Compliance. Each Owner shall be responsible for ensuring compliance with the requirements and restrictions of this Section and the Association rules adopted hereunder, by itself and by its tenants and any other occupants of his or her Lot(s). **Each Owner, by acceptance of title to a Lot, agrees to indemnify, defend, and hold Declarant, any affiliate of Declarant, and**

the Association harmless from any and all claims, losses, damages, and causes of action which may arise from failure of such Owner to uphold the obligation set forth in the foregoing sentence. Such defense costs shall include, but not be limited to, attorney fees and costs.

Each Owner acknowledges that the Association and/or the Declarant (until the expiration of the Development Period) are required to conduct a survey every year to verify the ages of the occupants of a Dwelling Unit, all in accordance with the Housing for Older Persons Act. Each Owner agrees to cooperate with the Association and/or Declarant to verify the names and ages of all occupants and Owners of the Lots and provide such other information as may be requested by the Association and/or Declarant.

2.6 Easements, Leases, Licenses and Concessions and Rights. The Board shall have the right and power from time to time: (i) to lease or grant easements, licenses, concessions or other rights with regard to any portions or all of the Common Area for such uses and purposes as the Board deems to be in the best interests of the Owners including, without limitation, the right to grant easements relating to installation and operation of utilities, communication systems, satellite or cable television systems, and similar and related purposes; and/or (ii) with the agreement of the beneficiary or grantee of the easement, and any Owner whose Lot is benefitted thereby, cancel, alter or modify any easement which affects any Common Area, as the Board in its discretion shall determine. Any and all proceeds from leases, easements, licenses, concessions or other rights received by the Association with respect to the Common Area shall be used to pay the Common Expenses. Each Person, by acceptance of a deed, Mortgage, other evidence of obligation, or other instrument relating to a Lot, shall be deemed to grant a power coupled with an interest to the Board, as attorney-in-fact, to exercise the powers as provided for in this Section. Any instrument executed pursuant to the power granted herein shall be executed by the President and attested to by the Secretary of the Association (or other appropriate officer) and duly recorded in the Public Records.

ARTICLE III.
MEMBERSHIP AND VOTING RIGHTS

3.1 Function of Association. The Association shall be the entity responsible for management, maintenance, operation and control of the Area of Common Responsibility and the primary entity responsible for compliance with and enforcement of the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and the laws of the State of North Carolina.

3.2 Membership. Every Owner shall be a "Member" of the Association and shall hold one (1) membership for each Lot owned. If a Lot is owned by more than one (1) Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation, such reasonable fees as may be established in **Section 2.1**, and the restrictions on voting set forth in **Section 3.3** and in the Bylaws. All such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner, manager or trustee, or by any other individual having apparent authority or designated from time to time by the Owner in a written instrument provided to the Secretary of the Association. The Declarant shall be a member of the Association during the Development Period.

3.3 Voting.

(a) Voting Members. Except as otherwise provided in this Declaration, all of the voting rights at any meeting of the Members of the Association or otherwise exercised or cast as by law allowed shall be vested in the Voting Members and each Voting Member shall have one (1) vote for each Lot which the Voting Member represents. One (1) individual shall be designated by each Owner to be the "Voting Member" with respect to each Lot owned by the Owner. If no designation is made and more than one (1) Person seeks to be the Voting Member for a Lot, the Board may either recognize one (1) individual as the Voting Member or suspend the vote for the Lot (which shall still be counted for purposes of determining whether a quorum is present) until the issue has been resolved. Any action may be taken by the Voting Members at any meeting at which a quorum is present (as provided in the Bylaws) upon an affirmative vote of a majority of the votes represented at the meeting by the Voting Members present at such meeting, except as otherwise provided herein or in the Bylaws. Voting Members may vote directly or by proxy as provided in the Bylaws. The Board shall determine from time to time whether votes shall be cast in person, by mail, or by other means permitted by law. In the event of the re-subdivision of any Lot into two or more Lots: (i) the number of votes to which such Lot is entitled will be increased as necessary to retain the ratio of one (1) vote for each Lot resulting from such re-subdivision, e.g., each Lot resulting from the re-subdivision will be entitled to one (1) vote. In the event of the consolidation of two (2) or more Lots for purposes of construction of a single residence thereon, voting rights will continue to be determined according to the number of original Lots contained in such consolidated Lot. Nothing in this Declaration will be construed as authorization for any re-subdivision or consolidation of Lots.

(b) Declarant – Additional Votes. During the Development Period, in addition to the votes held by Declarant as Owner of one or more Lots, for every one (1) vote outstanding in favor of any other Person, Declarant will have four (4) additional votes. **ADDITIONALLY, AND NOTWITHSTANDING ANY PROVISION TO THE CONTRARY IN THIS DECLARATION, UNTIL THE EXPIRATION OF THE DEVELOPMENT PERIOD, DECLARANT WILL BE ENTITLED TO APPOINT AND REMOVE ALL MEMBERS OF THE BOARD**. Declarant may terminate its right as to the appointment and removal of one or all the Board members by the recordation of a termination notice executed by Declarant and recorded in the Public Records. In the event Declarant terminates its right to appoint and remove less than all of the Board members, the Board positions to which the termination applies will be elected by the Voting Members. Each Board member elected by the Voting Members in accordance with the foregoing sentence will be elected for a term of one (1) year. Further, Declarant shall be entitled to take any and all action it deems appropriate to encourage participation and Member involvement in governance of the Association. Such action may include, without limitation, the establishment of one or more advisory committees, or the appointment of one or more Voting Members to serve as advisory, non-voting members of the Board.

(c) Special Declarant Rights. Certain Special Declarant Rights, including the right to approve, or withhold approval of, certain actions proposed under this Declaration, the Bylaws and the Articles during the Development Period, and the right and power, during the Development Period, to appoint all members of the Board are specified in the relevant sections of this Declaration, the Bylaws and the Articles. To the extent those rights conflict or are inconsistent with any provision of this section, those rights shall control.

ARTICLE IV.
RIGHTS AND OBLIGATIONS OF THE ASSOCIATION, VARIOUS DISCLOSURES AND DISCLAIMERS

4.1 Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall manage and control the Common Area and all improvements thereon (including, without limitation, furnishings, equipment, and other personal property of the Association used in connection with the Common Area), and shall keep the Common Area in good, clean, attractive, and sanitary condition, order, and repair, pursuant to this Declaration and the Bylaws and consistent with the Community-Wide Standard including (but not limited to) any vacant unimproved Common Area regardless of whether such Common Area has been conveyed to the Association or not. The Board is specifically authorized, but not obligated, to retain or employ professional management to assist in carrying out the Association's responsibilities under this Declaration. Nothing in this paragraph shall require the Board to clean up after geese or other wildlife.

4.2 Personal Property and Real Property for Common Use. The Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Declarant and its designees may convey to the Association improved or unimproved real estate, or interests in real estate, personal property and leasehold and other property interests to be part of Common Area, regardless of whether such real estate is specifically or formally designated as Common Area. Such property shall be automatically accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of its Members, subject to any restrictions of record or as set forth in the deed or other instrument transferring such property to the Association. Upon written request of Declarant, the Association shall reconvey to Declarant, any unimproved portions of the Properties originally conveyed to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines.

4.3 Rulemaking and Administrative Enforcement of Governing Documents.

(a) Rulemaking. The Association, through the Board, may make, modify, amend, cancel, limit, create exceptions to and enforce reasonable rules and regulations governing the use of the Properties, consistent with the rights and duties established by the Governing Documents, including, without limitation, rules limiting the use of the Common Area by visitors, including visiting children. Such rules shall be binding upon all Owners, Residents, guests, invitees, and licensees, if any, until and unless overruled, cancelled, or modified by the Board of Directors. Rules established by the Board shall be deemed part of the Governing Documents.

(b) Enforcement. The Board may impose sanctions for violations of the Governing Documents (including failure to pay charges due and owing to the Association), after notice and a hearing to the extent required by applicable law. The Board shall establish a schedule and/or a range of penalties for violations of the Governing Documents. Any range or schedule established by the Board may be changed, modified or adjusted as the Board, in its sole discretion, deems appropriate; provided, however, that changes, modification and adjustments may be applied or imposed prospectively only. Such sanctions may include, without limitation:

(i) imposing a graduated range of reasonable monetary fines as a Fines and Damages Assessment in accordance with the provisions of **Section 8.5**. In the event that any Resident, guest or invitee of a Lot violates the Governing Documents and a fine is imposed, the fine

shall be assessed against and be the obligation of the Resident, guest or invitee and the Owner, jointly and severally, and enforceable as a Benefitted Assessment;

(ii) suspending an Owner's right to vote;

(iii) suspending any Person's right to use any recreational facilities within the Common Area; provided, however, nothing herein shall authorize the Board to limit ingress, egress or access to or from a Lot;

(iv) suspending any rights, services, or privileges provided by the Association to an Owner or the Owner's Lot; and

(v) levying Benefitted Assessments to cover costs incurred in bringing a Lot into compliance in accordance with **Section 8.4(b)**.

The above rights and remedies are cumulative and supplement all other rights of enforcement under applicable law. In addition, and by way of illustration and not limitation, the Board may elect to enforce any provision of the Governing Documents by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations in accordance with any applicable ordinance or requiring immediate abatement of violating activity) or by suit at law or in equity to enjoin any violation or to recover monetary damages, or both, without the necessity of compliance with the procedures set forth in the Bylaws. In any action or proceeding to enforce the provisions of the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorney's fees and court costs, reasonably incurred in connection with or in the course of such action.

The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

(i) the Association's position is not strong enough to justify taking any or further action;

(ii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(iii) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed as a waiver of the Association's right to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule.

The Association, by contract or other agreement, may enforce applicable state and local laws and ordinances and governmental bodies may enforce their respective laws and ordinances within the Properties for the benefit of the Association and its Members.

4.4 Implied Rights; Board Authority. The Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary

to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

4.5 Governmental, Educational, and Religious Interests. During the Development Period, the Declarant may designate sites within the Properties, including portions of the Common Area, for government, education or religious activities and interests, including without limitation, fire, police, and utility facilities, schools and educational facilities, houses of worship, parks and other public facilities. In the event of such a designation, the Association shall take whatever action is required with respect to such site to permit such use, including dedication or conveyance of the site, if so directed by Declarant.

4.6 Indemnification. The Association shall indemnify every officer, director, and committee member and the Association's managing agent and its employees and agents against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which it, he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section and/or North Carolina law.

The officers, directors, committee members and managing agent shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association. The Association shall indemnify and hold each such officer, director, committee member and managing agent harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, committee member and managing agent may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is available at a reasonable cost. Decisions whether to institute litigation are no different from other decisions directors make. There is no independent legal obligation to bring a civil action against another party, and no provision of the Governing Documents shall be construed to impose a duty upon the Board to sue under any circumstances.

4.7 Dedication of Common Area. Subject to the prior written approval of Declarant, the Association may dedicate portions of the Common Area to any local, state, or federal governmental or quasi-governmental entity.

4.8 Security. It is the goal of all Owners, including Declarant, to have a safe and healthy environment. However, no written or oral representations regarding the safe and secure nature of the Properties shall be construed in whole or in part as guarantees thereof, it being recognized that circumstances which are beyond the control of the Declarant, the Association, or the managing agent may arise. The Association may maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be; provided, however, that the Association shall not be obligated to maintain or support such activities nor shall any action taken by the Association in this regard be deemed or construed to create or give rise to any duty or obligation beyond any that exists under the law independent of the Association's action.

The Association, the managing agent, or the Declarant shall not in any way be considered insurers or guarantors of security within the Properties. None of the foregoing shall be held liable

for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any fire protection system, entry gate, patrol, alarm system or other security system or measures, including any mechanism or system for limiting or monitoring access to the Properties, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended.

Each Owner acknowledges, understands and covenants to inform all Residents, tenants, guests, and invitees of the Owner's Lot(s) that the Association, its Board and committees, the Declarant, and the managing agent are not insurers or guarantors of security within the Properties. Each Owner and all Residents, tenants, guests, and invitees of the Owner's Lot assume all risks for injury, loss or damage to persons, to Lots, Dwelling Units and to the contents of Lots and Dwelling Units and further acknowledge that the Association, its Board and committees, the managing agent, and the Declarant have made no representations or warranties, nor has any Owner, or any Resident, tenant, guest, or invitee of any Lot relied upon any representations or warranties, expressed or implied, relative to any entry gate, patrolling of the Properties, any fire protection system, burglar alarm system, or other security systems recommended or installed or any security measures undertaken within the Properties.

4.9 Bulk Contracts. The Association will have the power to enter into Bulk Contracts at any time and from time to time. The Association may enter into Bulk Contracts with any service providers chosen by the Board (including Declarant, and/or any entities in which Declarant, or the owners or partners of Declarant are owners or participants, directly or indirectly). The Bulk Contracts may be entered into on such terms and provisions as the Board may determine in its sole and absolute discretion. The Association may, at its option and election add the charges payable by such Owner under such Bulk Contract to the assessments against such Owner's Lot. In this regard, it is agreed and understood that, if any Owner fails to pay any charges due by such Owner under the terms of any Bulk Contract, then the Association will be entitled to collect such charges by exercising the same rights and remedies it would be entitled to exercise under this Declaration with respect to the failure by such Owner to pay Base Assessments, including without limitation the right to foreclose the lien against such Owner's Lot which is reserved under the terms and provisions of this Declaration. In addition, in the event of nonpayment by any Owner of any charges due under any Bulk Contract and after the lapse of at least twelve (12) days since such charges were due, the Association may, upon five (5) days' prior written notice to such Owner (which may run concurrently with such twelve (12) day period), in addition to all other rights and remedies available at law, equity or otherwise, terminate, in such manner as the Board deems appropriate, any utility service or other service provided at the cost of the Association and not paid directly to the applicable service or utility provider by such Owner (or the Resident of such Owner's Lot). Such notice will consist of a separate mailing or hand delivery at least five (5) days prior to a stated date of termination, with the title "termination notice" or similar language prominently displayed on the notice. The notice will include the office or street address where the Owner (or the Resident of such Owner's Lot) can make arrangements for payment of the bill and for re-connection or re-institution of service.

4.10 Assumption of Risk. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to promote the health, safety and welfare of the Owners and Residents. Notwithstanding anything contained in the Governing Documents or any other document binding the Association, none of the Association, the Board, the managing agent, or the Declarant shall be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Owner or Resident of any Lot or any tenant, guest or invitee of any Owner or Resident

or for any property of any such Persons. Each Owner and Resident of a Lot and each tenant, guest and invitee of any Owner or Resident shall assume all risks associated with the use and enjoyment of the Properties, including all recreational facilities.

The Association, the Board, the managing agent, and the Declarant shall not be liable or responsible for any personal injury, illness or any other loss or damage caused by the presence or malfunction of utility lines, facilities or equipment on, adjacent to, near, over, or on the Properties. Each Owner and Resident of a Lot and each tenant, guest, and invitee of any Owner or Resident shall assume all risk of personal injury, illness, or other loss or damage arising from the presence of utility lines, facilities or equipment and further acknowledges that the Association, the Board, the managing agent, the Declarant has made no representations or warranties, nor has any Owner or Resident, or any tenant, guest, or invitee of any Owner or Resident relied upon any representations or warranties, expressed or implied, relative to the condition or impact of utility lines, facilities or equipment.

No provision of the Governing Documents shall be interpreted as creating any duty or obligation of the Association, the Board, the managing agent, or the Declarant to protect or further the health, safety or welfare of any individuals, even if the funds of the Association are used for any such purpose.

Each Owner (by virtue of his or her acceptance of title to his or her Lot) and each other Person having an interest in or lien upon, or making any use of, any portion of the Properties (by virtue of accepting such interest or lien or making such use) shall be bound by this Section and shall be deemed to have waived any and all rights, claims, demands and causes of action against the Association, the managing agent, the Declarant, and their directors, officers, committee members, employees, agents, contractors, subcontractors, successors and assigns arising from or connected with any matter for which the liability has been disclaimed.

Each Owner and Resident agrees that neither the Association, the Board, nor the Declarant shall be liable or responsible for any interruption, delay, shortage, or temporary cessation of any services provided by the Association or Declarant, and no Owner and/or Resident will be entitled to a refund or reduction in assessments as a result of same including, but not limited to an interruption, delay, shortage, or cessation of services caused by strikes, war, shortages of labor, fuel or materials, an epidemic or pandemic, the weather, insurrection, acts of terrorism, acts of God, fire or other casualty, or other event or cause reasonably beyond the control of Declarant and/or the Association.

4.11 Change of Use of Common Area. The Declarant, during the Development Period, and the Board thereafter, without the approval or consent of the Members, shall have the power and right to change the use and/or configuration of portions of the Common Area.

4.12 View Impairment. Neither the Declarant nor the Association guarantees or represents that any view from any Lot will be preserved without impairment. Neither the Declarant nor the Association shall have the obligation to replace, relocate, prune, or thin trees or other landscaping except as set forth in **Article V**. **Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.**

4.13 Relationship with Tax-Exempt Organizations. The Association may create, enter into agreements or contracts with, or grant exclusive and/or non-exclusive easements over the Common Area to non-profit, tax-exempt organizations for the benefit of the Properties, the Association, its Members and Residents. The Association may contribute money, real or personal property or services to any such

entity. Any such contribution shall be a Common Expense of the Association and included as a line item in the Association's annual budget.

For the purposes of this Section, a "tax-exempt organization" shall mean an entity which is exempt from federal income taxes under the Internal Revenue Code ("**Code**"), such as, but not limited to, entities which are exempt from federal income taxes under Sections 501(c)(3) or 501(c)(4), as the Code may be amended from time to time.

4.14 Recycling Programs. The Board may establish a recycling program and recycling center within the Properties, and in such event, all Residents shall support such program by recycling, to the extent reasonably practical, all materials which the Association's recycling program or center is designed to accommodate. The Association may, but shall have no obligation to, purchase recyclable materials in order to encourage participation, and any income received by the Association as a result of such recycling efforts shall be used to reduce Common Expenses.

4.15 Wildlife Control. Declarant and the Association reserve the right to but have no duty to undertake such measures as may be appropriate to control wildlife within the Properties including, but not limited to, the taking of alligators, deer, turkeys, beaver, snakes and large birds so long as such measures are consistent with all applicable legal requirements. Without limiting the foregoing, Declarant or the Association may, in their discretion, establish regular control programs such as, for example, the use of dogs to prevent non-migratory geese and other species from nesting within and/or causing damage to the Properties or otherwise becoming a nuisance and may limit, control or prohibit the placement or distribution of food or other items consumed by or attractive to wildlife.

4.16 Sales Center. Any Lot(s) on which a sales center is located and operated by Declarant (the "**Sales Center Property**"), shall be owned and maintained by the Declarant solely for the benefit of the Declarant, and are not part of the amenity offering for the Community. Declarant reserves all rights with respect to the sales center and the Sales Center Property after Declarant no longer requires the sales center for sales and marketing purposes. Without limiting the foregoing, Declarant may construct a Dwelling Unit upon each Lot comprising the Sales Center Property, and sell such Lots and Dwelling Units to third parties, or sell the Lots to the Association or to a third party for any use permitted under applicable law. The Association shall maintain any and all landscaping along the road frontage of the Sales Center Property consistent with the landscaping of the Common Areas and other Lots that abut road frontage.

ARTICLE V.
MAINTENANCE

5.1 Association's Responsibility. The Association shall maintain and keep in good repair the Area of Common Responsibility, which shall include, but need not be limited to:

(a) all Common Area; provided, however, that nothing herein shall mandate a particular method or level of maintenance and it is expressly understood that portions of the Common Area may be maintained to different standards or left "rustic" or "natural" (not maintained) as the Board in its sole discretion deems appropriate from time to time.

(b) all water service facilities included in the Common Area;

(c) all fences constructed by the Declarant surrounding the Properties or which separate a Lot from the Common Area, regardless of whether such fence is located on the Common Area or

on a Lot; provided that Owners shall be responsible for maintaining the interior surface of the fence located on such Owner's Lot as provided in **Section 5.2;**

(d) all Shared Walls;

(e) if, and to the extent, required under applicable ordinances, and except for such areas for which Owners are responsible as provided herein, landscaping, street lights and signage within public rights-of-way abutting the Properties;

(f) except for such areas for which Owners are responsible as provided herein, landscaping and other flora within any public utility easements and scenic easements within the Common Area (subject to the terms of any easement agreement relating thereto);

(g) any additional property included within the Area of Common Responsibility as may be required under the terms of this Declaration, any Supplemental Declaration, any Plat, or any contract or agreement for maintenance thereof entered into by, or which is binding upon, the Association;

(h) any property or facility owned by the Declarant and made available, on a temporary or permanent basis, for the use and enjoyment of the Association and its Members and identified by written notice from the Declarant to the Association until the Declarant revokes such privilege by written notice to the Association; and

(i) "cluster"-type mail boxes, and associated structures, as may be installed by Declarant.

The Association may also maintain other property which it does not own, including, without limitation, rights-of-way and other property dedicated to public use, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard and if otherwise permitted by applicable law and any governmental entity directly responsible therefor.

During the Development Period, the Association may also maintain any vacant Lot which abuts an occupied Lot and the cost of such maintenance shall be a Common Expense.

Except as hereinafter provided in this Section, the costs of maintenance, repairs and replacement of the Common Area and Areas of Common Responsibility shall be Common Expenses.

If, during the Development Period, the Association fails to properly perform its maintenance responsibilities hereunder, the Declarant may, upon not less than ten (10) days' notice and opportunity to cure such failure, cause such maintenance to be performed and in such event, the Association shall reimburse the party who performed such maintenance for all costs incurred. Any amounts incurred by the Association pursuant to the exercise of the self-help rights described herein by Declarant, shall be a Common Expense.

5.2 Owner's Responsibility. Except for the typical landscaping on each Lot, which is the responsibility of the Association, (i) each Owner (other than Declarant) shall maintain his or her Lot and all improvements thereon in a manner consistent with the Community-Wide Standard and all applicable easements, buffer requirements and covenants, and (ii) unless expressly designated as part of the Common Area, each Owner (other than Declarant) shall be responsible for maintaining the area located within the public right-of-way adjacent to his or her Lot and between the perimeter boundary of the Lot and the paved portion of the roadway located thereon, consistent with the Community Wide Standard, as well as all requirements and ordinances of the Governmental Authorities, if any. The Association has no duty to

maintain owner made improvements to the landscaping or to replace sod or plant material that dies. The Association is not responsible for damage to items left or placed within the landscaping.

In addition to any other enforcement rights, if an Owner other than Declarant, fails to perform properly his or her maintenance responsibility as provided above, the Association shall have the right to come upon such Owner's Lot and perform such maintenance responsibilities and to assess all costs incurred as a Benefitted Assessment in accordance with **Section 8.4**. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency or other situation where injury, harm or damage is imminent, which determination shall be made by the Board, acting in its sole discretion.

5.3 Special Services. To the extent provided for in a Supplemental Declaration or by action of the Board, from time to time, the Association may furnish "Special Services" to a Lot or a group or groups of Lots. By way of example and without limitation, a Special Service may include snow removal from driveways and/or walkways on a Lot or maintenance of landscaping on a Lot. The cost of furnishing a Special Service shall be assessed to the benefitted owner as a Benefitted Assessment under **Section 8.4**. The Association may, by Board action and in its sole discretion, discontinue providing a Special Service in which case each Owner may be required to furnish the Special Service to the Lot at Owner's sole cost and expense. If the Association is required to furnish a Special Service to a Lot, but if a portion of the Lot with respect to which the Special Service is to be furnished is obstructed with temporary or permanent improvements, personal property or other obstructions which make it difficult or impractical for the Association's agent or contractor to furnish the Special Service, the Association shall not be required to furnish the Special Service and, in such case, the Owner shall be responsible for furnishing the Special Service to such portion of the Lot at the Owner's sole cost and expense, so that the appearance of such portion of the Lot is similar to that of those portions where the Special Services are furnished by the Association.

5.4 Alterations, Additions or Improvements. Alterations, additions or improvements to the Common Area may be made only pursuant to approval of the Board. If improved by an Owner, the cost of any such alterations, additions or improvements to Common Area shall be at the cost of the Owner who received approval to improve the Common Area.

5.5 Party Walls.

(a) In General. Every wall, including the foundations therefor, which is built as a part of or in connection with the original construction of a building and placed on the boundary line between separate Lots shall constitute and be a "**Party Wall**," and the Owner of a Lot immediately adjacent to a Party Wall shall have the obligation and be entitled to the rights and privileges of these covenants and, to the extent not inconsistent herewith, the general rules of law regarding party walls. Additionally, all "**Common Fencing**" (as defined in **Section 5.8(d)** below) shall constitute a Party Wall, and be subject to the terms and provisions of this **Section 5.**7.

(b) Rights in Party Wall. Each Owner of a Lot, which is adjacent to a Party Wall, shall have the right to use the Party Wall for support and/or benefit of each Lot and the structure originally constructed thereon and all replacements thereof, and shall have the right to keep, maintain, repair and replace the Party Wall, including all pipes, conduit, and ducts, if any, originally located therein and all replacements thereof.

(c) Damage to Party Wall.

(i) If any Party Wall is damaged or destroyed through the act or acts of any Owner or Resident of a Lot which is adjacent to such Party Wall, or his or her agents, servants, tenants, guests, invitees, licensees, or members of his or her family, whether such act is willful, negligent or accidental, the Owner shall forthwith proceed to rebuild or repair the same to as good a condition as in which such Party Wall existed prior to such damage or destruction without costs therefor to the Owner of the other adjoining Lot(s).

(ii) Any Party Wall damaged or destroyed by some act or event other than one caused by the Owner or Resident of a Lot which is adjacent to such Party Wall, or his or her agents, servants, tenants, guests, invitees, licensees, or members of his or her family, shall be rebuilt or repaired by the Owners of the adjacent Lots to as good a condition as in which such Party Wall existed prior to such damage or destruction at joint and equal expense of such Owners, and as promptly as is reasonably possible.

(iii) In the event that any Owner shall fail, within a reasonable time after the occurrence of damage or destruction referred to in this Section, to perform the necessary repair or rebuilding, then the Association and the adjacent Owner each may, but will not be obligated to, cause such repairs or rebuilding to be performed in the manner as provided in this Section and the cost thereof shall be charged to such Owner as his personal obligation and shall be a continuing lien on the Owner's Lot.

(d) Change in Party Wall. Any Owner of a Lot who proposes to modify, rebuild, repair or make additions to any structure upon his Lot in any manner which requires the extension, alteration or modification of any Party Wall shall first obtain the written consent thereto, as to said Party Wall, of the Owner of the other adjacent Lot and the Architectural Review Committee, in addition to meeting any other requirements which may apply. In the event that a Party Wall is altered, regardless of whether all required consents have been obtained, any express or implied warranties made by the Declarant concerning the structural integrity of the Party Wall or any of the Lots adjacent to the Party Wall shall be null and void and the Owner who alters the Party Wall shall be responsible for any and all damage caused to any of the adjacent Lots or improvements thereto.

(e) Arbitration. In the event of a disagreement between Owners of Lots adjoining a Party Wall with respect to their respective rights or obligations as to such Party Wall, upon the written request of either of said Owners to the other the matter shall be submitted to the dispute resolution provisions of **Article XIV**.

5.6 Fences.

(a) Declarant/Builder Fencing. To the extent Declarant or a Builder constructs a fence which fully or partially encloses the rear or side yard of a Lot, then the Owner of that Lot must at all times maintain such fence in accordance with the terms of this Declaration, unless that Owner obtains the Architectural Review Committee's written approval to modify, replace, relocate or remove such fence in accordance with the provisions of this Declaration.

(b) Maintenance of Fencing. Each Owner shall maintain the portion of fencing on such Owner's Lot in a presentable condition and shall make all repairs and replacements thereto (as deemed necessary by the Board, in its sole and absolute discretion), except that Owners adjoining a

Common Fence (as provided in **Section 5.8(d)**) herein shall share in the cost of such maintenance as a Party Wall in accordance with the terms of **Section 5.7.**

(c) No Changes/Repairs. All repairs and replacements to any fencing must be done using the same type and color of materials so that such fencing does not appear to have been repaired or replaced, except to the extent of the new appearance of the repaired or replaced materials. Except as provided in this **Section 5.8(c)**, no fencing may be changed or modified without the prior written consent of the Architectural Review Committee. This includes the prohibition against changing the height of the fencing and the fencing materials.

(d) Common Fencing. Side and rear yard fences that are installed by Declarant or the Builder of the Lot with completed residential improvements to separate adjacent Lots as a common boundary fence (each, a "**Common Fence**") shall be maintained jointly by the Owners whose Lots adjoin such Common Fence as a Party Wall in accordance with the terms of **Section 5.7** above. An Owner is not released from the joint maintenance obligation even if an Owner constructs a second fence along or near the Common Fence, unless the other Owner agrees to such release in writing and such release is approved by the Architectural Review Committee.

5.7 Shared Walls and Shared Drainage. The Association shall maintain, repair and replace the Shared Walls and Shared Drainage and the Association's cost of same shall constitute Common Expenses. Any retaining wall installed by an Owner on such Owner's Lot shall not be deemed to be a Shared Wall regardless of the dimensions of such wall. Any storm drainage pipe installed by Owner on such Owner's Lot shall not be deemed to be Shared Drainage regardless of the dimensions of such pipe. Owner shall maintain, repair and replace such retaining walls and storm drainage pipes.

ARTICLE VI.
INSURANCE AND CASUALTY LOSSES

6.1 Association Insurance.

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements within the Area of Common Responsibility to the extent that it has assumed responsibility for maintenance, repair and/or replacement in the event of a casualty, regardless of ownership. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes; provided, however, that this coverage may include and provide for a deductible in a commercially reasonable amount as determined by the Board from time to time.

(ii) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, the commercial general liability coverage (including primary and any umbrella coverage) shall have a limit of at least $2,000,000.00 per

occurrence with respect to bodily injury, personal injury, and property damage; provided, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;

(iii) Workers compensation insurance and employer's liability insurance, if and to the extent required by law;

(iv) Directors' and officers' liability coverage;

(v) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's best business judgment but not less than an amount equal to one-sixth (1/6) of the total annual assessments then in effect, plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of individuals serving without compensation; and

(vi) Such additional insurance as the Board, in its business judgment, determines advisable.

Premiums for all insurance specified above shall be Common Expenses and shall be included in the Base Assessment.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of insurance coverage by one (1) or more qualified individuals, at least one (1) of whom must be familiar with insurable replacement costs in the area where the Properties are located. All Association policies shall provide for a certificate of insurance to be furnished, upon request, to each Member insured, to the Association and each Mortgagee.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of **Section 6.1(a)**. In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the Bylaws, that the loss is the result of the negligence or willful misconduct of one (1) or more Owners or Residents, or their guests, invitees, or lessees, then the Board may specifically assess the full amount of such deductible as a Benefitted Assessment against such Owner(s) and their Lots pursuant to **Article VIII**.

All insurance coverage obtained by the Board shall:

(i) be written with a company authorized to do business in the State of North Carolina which satisfies the requirements of Fannie Mae, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(ii) be written in the name of the Association as trustee for the benefitted parties. Policies on the Common Areas shall be for the benefit of the Association and its Members;

(iii) not be brought into contribution with insurance purchased by Owners, Residents, or their Mortgagees individually;

(iv) contain an inflation guard endorsement;

(v) include an agreed amount endorsement, if the policy contains a co-insurance clause;

(vi) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Area or membership in the Association;

(vii) provide a waiver of subrogation under the policy against each Owner and each Resident;

(viii) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one (1) or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure; and

(ix) include an endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one (1) or more individual Owners, unless such Owner is acting within the scope of its authority on behalf of the Association.

In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

(x) a waiver of subrogation as to any claims against the directors, committee members, officers, employees, and the Association's manager, the Owners, Residents and their respective tenants, servants, agents, and guests;

(xi) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(xii) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(xiii) an endorsement requiring at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(xiv) a cross liability provision; and

(xv) a provision vesting in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) Damage and Destruction. Immediately after damage or destruction to all or any part of the Properties covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Any damage to or destruction of the Common Area shall be repaired or reconstructed unless: (i) at least eighty percent (80%) of the total votes in the Association, and (ii) the Declarant, during the Development Period, decide within sixty (60) days after the loss not to repair or reconstruct. However, if either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such sixty (60) day period, then the period shall be extended

for such period as the Board may deem appropriate until such funds or information are available. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction and expenses in making and administering the claim, or after such settlement as is necessary and appropriate, shall be, at the Board's election, either: (i) retained in the Association's reserve account; or (ii) distributed among all Owners, if such proceeds are for Common Area.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board of Directors may, without a vote of the Members, levy Special Assessments to cover the shortfall against those Owners responsible for sharing in the cost of the premiums for the applicable insurance coverage under **Section 6.1(a)**.

6.2 Owner's Insurance. By virtue of taking title to a Lot, each Owner (other than Declarant), covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable improvements on his or her Lot, less a reasonable deductible, unless: (i) the Association is expressly required to maintain insurance for the Lots; (ii) the Association voluntarily carries such insurance, or (iii) a Local Area Association, as provided in **Article XV**, is responsible for maintaining such insurance. If the Association assumes responsibility for obtaining any insurance coverage on behalf of Owners, the premiums for such insurance shall be levied as a Benefitted Assessment against each benefitted Lot and the Owner thereof pursuant to **Section 8.4**.

Each Owner (other than Declarant) further covenants and agrees that if the Owner is required to carry property insurance for his or her Lot, in the event of damage to or destruction of structures on or comprising his Lot, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with **Article IX**, regardless of whether the insurance proceeds are sufficient to pay the cost of such work. Alternately, upon approval of the Board, the Owner shall clear the Lot and maintain the Lot in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

ARTICLE VII.
SUPPLEMENTAL DECLARATIONS; ADDITION AND WITHDRAWAL OF PROPERTY

7.1 Incorporation of Supplemental Declaration. Upon recordation of a Supplemental Declaration in the Public Records, such Supplemental Declaration will, automatically and without the necessity of further act, be incorporated into, and be deemed to constitute a part of this Declaration, to the extent not in conflict with this Declaration, but will apply only to those portions of the Properties described in and covered by such Supplemental Declaration.

7.2 Addition of Property.

(a) Additional Property. Declarant may, at any time and from time to time, add additional property to the Properties including, but not limited to, the real property described on Exhibit "B"

and, upon the filing of a Supplemental Declaration, such land will be considered part of the Properties for purposes of this Declaration. The terms, covenants, conditions, restrictions and obligations set forth in this Declaration, and the rights, privileges, duties and liabilities of the Persons subject to this Declaration will be the same with respect to such added property as with respect to the lands originally covered by this Declaration.

(b) Supplemental Declaration. To add property to the Properties, Declarant (and the owner of the property being added, if not the Declarant) will be required only to execute and record in the Public Records a notice of addition of land (which notice may be contained within any Supplemental Declaration affecting such land) containing the following provisions:

(i) A reference to this Declaration, which reference will state the volume and initial page number in the Public Records wherein this Declaration is recorded;

(ii) A statement that such property will be considered part of the Properties for purposes of this Declaration such that all of the terms, covenants, conditions, restrictions and obligations of this Declaration will apply to the added property; and

(iii) A legal description of the added property.

7.3 Withdrawal of Property.

(a) Withdrawal. Declarant may, at any time and from time to time, remove from the Properties and exclude from the burden of this Declaration and the jurisdiction of the Association, portions of the Properties owned by Declarant to the extent that such real property was included originally in error, or as a result of changes in the Community Plan for Traditions approved by the Town. Upon any such withdrawal, this Declaration and the covenants conditions, restrictions and obligations set forth herein (and in any applicable Supplemental Declaration) will no longer apply to the portion of the Properties withdrawn

(b) Procedure to Withdraw. To withdraw property from the Properties hereunder, Declarant will be required only to execute and record in the Public Records, a notice of withdrawal of land containing the following provisions:

(i) A reference to this Declaration, which reference will state the volume and initial page number in the Public Records wherein this Declaration is recorded;

(ii) A statement that the provisions of this Declaration will no longer apply to the withdrawn property; and

(iii) A legal description of the withdrawn property;

7.4 Amendment. This **Article VII** shall not be amended during the Development Period without the prior written consent of Declarant.

7.5 Post-Development Period Authority. After the expiration of the Development Period, the Association may add and annex real estate to the Properties or withdraw and transfer real estate from the Properties pursuant to action approved by a vote of a majority of the votes represented by Voting Members present at a duly called annual or special meeting of the Members.

ARTICLE VIII.
ASSOCIATION FINANCES

8.1 Budgeting for Base Assessment. The Board shall prepare an annual budget covering the Common Expenses estimated to be incurred and the revenues to be received during the fiscal year to which the proposed budget applies (the "Budget") and may make amendments thereto from time to time. The Budget shall include any amount required to establish one or more reserves for repair and replacement of Areas of Common Responsibility or such other purposes as the Board may reasonably determine. Reserves for repair and replacement of Areas of Common Responsibility shall, to the extent then feasible, takes into account the nature and expected life of replaceable assets within the Area of Common Responsibility and their expected repair or replacement cost, but Owners acknowledge that such projections are only estimates. During the Declarant Control Period, in the sole discretion of the Declarant, the Base Assessment may be calculated based on the total Common Expenses anticipated at build out of the Community divided by seventy-five percent (75%) of the anticipated number of Dwelling Units at the build out of the Community. Within thirty (30) days after the adoption of the proposed budget, the Board shall send a summary of the proposed Budget to the Members and a deliver written notice to the Members of a meeting of the Members to consider ratification of the Budget, such meeting to be held not sooner than ten (10) days nor more than sixty (60) days after the mailing of such notice. Such meeting may, but need not be, combined with the annual meeting of the Members. There shall be no requirement that a quorum be present to vote on ratification of the Budget (although a quorum must be present to vote on other matters). That Budget shall be deemed ratified unless at that meeting the Members entitled to cast at least eighty percent (80%) of the votes of the entire membership vote to reject the proposed Budget. If any proposed Budget is disapproved, or if the Board fails for any reason to determine the Budget for any year, then the Budget most recently in effect and last ratified by the Members shall continue in effect until such time as a new Budget is ratified as provided herein. The Board may revise the Budget and adjust the Base Assessment from time to time during the year, subject to the notice requirements and ratification procedures set forth above.

8.2 Budgeting for Reserves. No later than October 31, 2022, the Board shall obtain a "**Reserve Study**" to establish or verify that the 2023 budget includes appropriate reserves. The budget for reserves shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall, in the exercise of its business judgment, establish a plan to fund reserves at a level projected to achieve at a minimum 40% of funding and at a maximum 60% of funding recommended during the Development Period by the end of the Development Period; thereafter, the Board shall review the budget for reserves annually and when additional Common Areas are conveyed to the Association. Amounts to be funded as reserves shall be reflected as such in the budget for Common Expenses.

As an example, if the Development Period commences on December 31, 2020, and expires on December 31, 2025, and the Reserve Study recommends the reserves be funded at $100,000 per year starting January 1, 2026, then when the Development Period ends, the amount of funds in reserve shall be at least $200,000 (5 years X $100,000 per year x 40% = $200,000).

The Board shall adopt a policy restricting the expenditure of any reserves, including policies designating the nature of assets for which reserves may be expended. Such policies may differ for general Association purposes. During the Development Period, neither the Association nor the Board shall adopt, modify, limit, or expand such policies without Declarant's prior written consent.

The Board may enter into agreements with Declarant regarding the timing and extent of Declarant contributions, on negotiated terms, under which Declarant may provide financial assurances in lieu of cash.

Notwithstanding anything contained in this **Section 8.2**, no reserve contributions shall be required in the 2021 or the 2022 budgets.

8.3 Special Assessments. In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of the budget. Except for Lots that are Exempt Property, any such Special Assessment may be levied against all Lots. Except as otherwise specifically provided in this Declaration, any Special Assessment shall require the affirmative vote or written consent of Members representing at least two-thirds (2/3) of the total votes allocated to Lots which will be subject to such Special Assessment, and, during the Development Period, the affirmative vote or written consent of Declarant. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8.4 Benefitted Assessments. The Association shall have the power to levy Benefitted Assessments against a particular Lot or a group of Lots as follows:

(a) to cover the costs, including overhead and administrative costs, of providing services to Lot(s) upon the request of the Lot's Owner pursuant to any menu of Special Services which the Association may offer or which the Association may otherwise provide to less than all Owners under this Declaration or any Supplemental Declaration; and

(b) to cover costs incurred in bringing a Lot or Lots into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner, Residents or other occupants of the Lot, their agents, contractors, employees, licensees, invitees, or guests; provided, however, the Board shall give the Owner of the Lot prior written notice and an opportunity for a hearing, in accordance with the By-Laws, before levying any Benefitted Assessment under this subsection (b).

Benefitted Assessments for Special Services may be levied in advance of the provision of the requested service.

8.5 Fines and Damages Assessments. The Board may assess fines against an Owner for violations of any restriction set forth in the Governing Documents which have been committed by an Owner, a Resident of such Owner's Lot, or the Owner or Resident's family, guests, employees, contractors, agents or invitees. Any fine and/or charge for damage levied in accordance with this **Section 8.6** will be considered an assessment pursuant to this Declaration. Each day of violation may be considered a separate violation if the violation continues after written notice to the Owner. The Board may assess damage charges against an Owner for pecuniary loss to the Association from property damage or destruction of Common Area or for any facilities located therein by the Owner or the Owner's Residents, family, guests, agents, occupants, or tenants. The managing agent will have authority to send notices to alleged violators, informing them of their violations and asking them to comply with the Governing Documents and/or informing them of potential or probable fines or damage assessments. The Board may from time to time adopt a schedule of fines.

The procedure for assessment of fines and damage charges will be as follows:

(a) the Association, acting through an officer, Board member or the managing agent, must give the Owner notice of the fine or damage charge not later than thirty (30) days after the assessment of the fine or damage charge by the Board;

(b) the notice of the fine or damage charge must describe the violation or damage;

(c) the notice of the fine or damage charge must state the amount of the fine or damage charge;

(d) the notice of a fine or damage charge must state that the Owner will have thirty (30) days from the date of the notice to request a hearing before the Board to contest the fine or damage charge; and

(e) the notice of a fine must allow the Owner a reasonable time, by a specified date, to cure the violation (if the violation is capable of being remedied) and avoid the fine unless the Owner was given notice and a reasonable opportunity to cure a similar violation within the preceding twelve (12) months.

Fine and/or damage charges are due immediately after the expiration of the thirty (30) day period for requesting a hearing. If a hearing is requested, such fines or damage charges will be due immediately after the Board's decision at such hearing, assuming that a fine or damage charge of some amount is confirmed by the Board at such hearing.

The payment of each fine and/or damage charge levied by the Board against the Owner of a Lot is, together with interest, all costs of collection and attorney's fees as herein provided, secured by the lien granted to the Association pursuant to **Section 8.8** of this Declaration.

8.6 Commencement of Assessment Obligation; Time of Payment. The obligation to pay assessments shall commence as to each Lot on the date of conveyance of title to an Owner other than Declarant. The first annual Base Assessment levied on each Lot shall be pro-rated for the time remaining in the fiscal year in which the Lot is conveyed to the applicable Owner.

Advance payment of assessments shall be required for the applicable payment period at closing of the transfer of title to a Lot. The Board may impose special requirements for Owners with a history of delinquent payment. The Board shall establish whether assessments are to be paid annually, semi-annually or in quarterly or monthly installments. Until the Board otherwise provides, the annual Base Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on its Lot, the Board may require the outstanding balance on all assessments to be paid in full immediately.

8.7 Obligation for Assessments.

(a) Personal Obligation. Each Owner other than Declarant, by accepting a deed for any Lot, covenants and agrees to timely pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of 18% per annum or such higher rate as the Board may establish, in compliance with the North Carolina and otherwise subject to the limitations of North Carolina law), late charges as determined by Board resolution, costs, and reasonable attorneys' fees, shall be the personal obligation of each Owner and a lien upon each Lot subject to assessment until paid in full. Upon a transfer of title to a Lot, the grantee of title

shall be jointly and severally liable for any assessment and other charges due at the time of conveyance.

The Board's failure to establish or obtain Member approval of assessment amounts or rates, if required hereunder, or the Board's failure to deliver or mail to each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay. In such event, each Owner shall continue to pay Base Assessments on the same basis as during the last fiscal year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

Except for Declarant, no Owner is exempt from liability for assessments by non-use of Common Area, abandonment of his or her Lot, or any other means. The obligation to pay assessments is a separate and independent covenant for which each such Owner is jointly and severally liable. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action taken by the Association or Board.

Common Expenses caused by negligence or misconduct of an Owner, or a tenant or occupant of Owner may be assessed exclusively against the Owner or the Owner's Lot.

Within ten (10) business days of receiving a written request from an Owner, Mortgagee or other person designated by the Owner, the Association shall furnish to the requesting party or other Person designated in the written request, a certificate in writing signed by an Association officer, or their designee, setting forth the amount of any unpaid assessments against the applicable Lot. Such certificate shall be conclusive evidence of payment or non-payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such a certificate.

(b) Declarant's Obligation.

(i) During the Development Period, Declarant shall not be obligated to pay assessments on its unsold Lots but, instead, shall be obligated to pay a subsidy based on the "shortage" (i.e., operating deficit) for each fiscal year. A "shortage" shall exist if Income and Revenues (each as defined below) for a particular fiscal year are less than Expenditures (as defined below) incurred for the same fiscal year. Income and Revenues and Expenditures are to be calculated using the accrual basis of accounting. Declarant shall not be responsible for shortages due to non-payment of assessments. Any shortage paid by the Declarant may be, in the Declarant's sole discretion, paid in the form of a loan to be repaid by the Association.

(ii) For purposes of this Section, Income and Revenues are defined as the amount of all income and revenue of any kind earned by the Association during the subject fiscal year, including, but not limited to, assessments, use fees, cash advances (if any) provided by Declarant, and income from all other sources. For purposes of this Section, assessments for each Lot shall be deemed earned on the anniversary of the commencement of assessments with respect to such Lot.

(iii) For purposes of this Section, Expenditures are defined as the amount of all actual operating expenses incurred by the Association, or for which the Association is obligated, during the subject fiscal year and any budgeted or approved non-budgeted capital

assets acquired during the fiscal year. Expenditures shall not include all non-cash expenses such as depreciation or amortization.

(iv) Following the expiration or termination of the Development Period, Declarant may annually elect either to pay the assessments described in Subsection (i) above on each of its unsold Lots or to pay the shortage for such fiscal year. If Declarant elects to pay assessments on each Lot and, after such payment, a shortage exists, Declarant may, but shall not be obligated to, pay such shortage. Unless Declarant otherwise notifies the Board in writing at least 60 days before the beginning of each fiscal year, Declarant shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year.

(v) The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services, materials, or a combination of services and materials with Declarant or other entities for payment of Common Expenses. Declarant's payment of assessments may be reduced or abated by the agreed value of any such services or materials provided by Declarant, in accordance with any such contract or agreement with the Association.

(vi) Any such subsidy for Base assessments shall be disclosed as a line item in the income portion of the budget. The payment of such subsidy in any year shall not obligate Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

8.8 Lien for Assessments. The Association shall have a lien against each Lot, including Declarant's Lots, to secure payment of assessments that are delinquent by thirty (30) days or more, as well as interest, late charges (subject to the limitations of North Carolina law, other than the Act), and costs of collection (including attorneys' fees by filing a claim of lien in the Public Records). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any recorded first Mortgage (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, and judicial or non-judicial foreclosure in a like manner as the foreclosure of a deed of trust pursuant to North Carolina law.

At a foreclosure sale, the Association may bid for the Lot and acquire, hold, lease, mortgage, and convey the Lot. The Association may sue for unpaid assessments and other charges without foreclosing or waiving its assessment lien.

Sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. However, the sale or transfer of any Lot pursuant to foreclosure by the first Mortgagee extinguishes the lien relating to any amounts due prior to the Mortgagee's foreclosure. The purchaser of a foreclosed Lot shall not be personally liable for assessments on such Lot due prior to the foreclosure sale. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Lots subject to assessment under **Section 8.7** hereof, including such purchaser, its successors and assigns.

Notwithstanding the above, if a Lot is owned by the Association: (a) no right to vote shall be exercised on its behalf, (b) no assessment shall be levied on it, and (c) each other Lot shall be charged, in

addition to its usual assessment, its pro rata share of the assessment that would have been charged such Lot had it not been acquired by the Association.

8.9 Exempt Property. The following property shall be exempt from payment of Base Assessments, and Special Assessments:

(a) All Common Area and other portions of the Community that are not Lots and any other portions of the Community that are not Lots and are used for the common use and enjoyment of its Members.

(b) Any property dedicated to and accepted by any Governmental Authority or public utility; and

In addition, both Declarant and the Association shall have the right, but not the obligation, to grant exemptions to Persons qualifying for tax exempt status under Section 501(c) of the Code, as amended, so long as such Persons own property subject to this Declaration for purposes listed in said Section 501(c).

8.10 Capitalization of Association. Upon acquisition of title to a Lot by the first Owner thereof other than Declarant, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association initially in the amount of Two Thousand Dollars ($2,000.00) ("**Initial Contribution**"). The Initial Contribution shall be in addition to, not in lieu of, the annual Base Assessment and shall not be considered an advance payment of such Assessment. The Initial Contribution shall be collected at the closing of the purchase of the Lot and disbursed therefrom to the Association for use in covering operating expenses and other expenses incurred by the Association pursuant to this Declaration and the By-Laws. The Initial Contribution may be changed by Declarant from time to time during the Development Period, or by the Association from time to time, following the end of the Development Period, as necessary to properly establish and ensure that all Owners fairly contribute to the working capital of the Association.

ARTICLE IX.

ARCHITECTURAL STANDARDS

9.1 Purpose. The Properties derive their unique character from the cooperation of all Owners in upholding minimum design, landscaping, and aesthetic standards. This Article explains how those standards are established and how they are applied and maintained through a process requiring prior approval for construction on and exterior modifications to improvements on Lots. During the Development Period, a primary purpose of this Article is to reserve and preserve Declarant's right of architectural control.

9.2 Architectural Review Committee. The purposes of this Article shall be undertaken by the Architectural Review Committee. Until expiration or termination of the Development Period, the Architectural Review Committee shall mean Declarant or its designee. Upon expiration or termination of the Development Period, the rights of the Architectural Review Committee will automatically be transferred to the ARC appointed by the Board as provided in **Section 9.4** below. In furtherance of the purposes of this Article, the Architectural Review Committee shall adopt Design Guidelines as more fully set forth in **Section 9.6(b)** below.

9.3 Architectural Control by Declarant.

(a) Declarant as Architectural Review Committee. During the Development Period, neither the Association, the Board, nor a committee appointed by the Association or Board (no

matter how the committee is named) may involve itself with the approval of any improvements. Until expiration or termination of the Development Period, the Architectural Review Committee is Declarant or its designee.

(b) Declarant's Rights Reserved. Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees that Declarant has a substantial interest in ensuring that the improvements within the Properties enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market the Properties. Accordingly, each Owner agrees that, during the Development Period, no improvements will be started or progressed without the prior written approval of Declarant, which approval may be granted or withheld in Declarant's sole discretion. In reviewing and acting on an application for approval, Declarant may act solely in its self-interest and owes no duty to any other Person or any organization. Declarant may designate one or more Persons from time to time to act on its behalf in reviewing and responding to applications.

(c) Delegation by Declarant. During the Development Period, Declarant may, but is not obligated to, delegate from time to time all or a portion of its reserved rights under this Article to an architectural control committee appointed by the Board or a committee comprised of architects, engineers, or other persons who may or may not be Members of the Association. Any such delegation must be in writing and must specify the scope of delegated responsibilities. Any such delegation is at all times subject to the unilateral rights of Declarant to: (i) revoke such delegation at any time and reassume jurisdiction over the matters previously delegated; and (ii) veto any decision which Declarant in its sole discretion determines to be inappropriate or inadvisable for any reason.

(d) Member Involvement. The Declarant, in its capacity as the Architectural Review Committee, shall be entitled to take any and all action it deems appropriate to encourage participation and Member involvement in the architectural review process established hereunder. Such action may include, without limitation, the establishment of one or more advisory committees to the Architectural Review Committee, or the appointment of one or more Voting Members to serve on an advisory basis to the Architectural Review Committee.

(e) Declarant Exemption. The Declarant shall be exempt from all architectural review and approval requirements imposed by this Declaration or any other Governing Documents for the Association. Any improvements made by the Declarant are deemed in compliance.

9.4 Architectural Control by Association. Unless and until such time as Declarant delegates all or a portion of its reserved rights to the Board, or the Development Period is terminated or expires, the Association has no jurisdiction over architectural matters. On termination or expiration of the Development Period, or earlier if delegated in writing by Declarant, the Association, acting through an architectural review committee (**"ARC"**), will assume jurisdiction over architectural control and will have the powers of the Architectural Review Committee hereunder.

(a) ARC. The ARC will consist of at least three (3) but not more than seven (7) Persons appointed by the Board. Members of the ARC serve at the pleasure of the Board and may be removed and replaced at the Board's discretion. At the Board's option, the Board may act as the ARC, in which case all references in the Governing Documents to the ARC will be construed to mean the Board. Members of the ARC need not be Owners or Residents, and may but need not

include architects, engineers, and design professionals whose compensation, if any, may be established from time to time by the Board.

9.5 Prohibition of Construction, Alteration and Improvement. Except as otherwise expressly provided herein, no improvement, or any addition, alteration, improvement, installation, modification, redecoration, or reconstruction thereof, may occur unless approved in advance by the Architectural Review Committee. The Architectural Review Committee has the right but not the duty to evaluate every aspect of construction, landscaping, and property use that may adversely affect the general value or appearance of the Properties. Notwithstanding the foregoing, each Owner will have the right to modify, alter, repair, decorate, redecorate, or improve the interior of an improvement, provided that such action is not visible from any other portion of the Properties.

9.6 Architectural Approval.

(a) Submission and Approval of Plans and Specifications. Construction plans and specifications for any construction of improvements or modifications to existing improvements on a Lot, or, when an Owner desires solely to re-subdivide a Lot or consolidate two or more Lots, a proposal for such re-subdivision or consolidation, will be submitted in accordance with the Design Guidelines and any additional rules adopted by the Architectural Review Committee together with any review fee which is imposed by the Architectural Review Committee in accordance with **Section 9.6(b)**. No re-subdivision or consolidation will be made, nor any improvement placed or allowed on any Lot, until the plans and specifications and the Builder which the Owner intends to use to construct the proposed structure or improvement have been approved in writing by the Architectural Review Committee. The Architectural Review Committee may, in reviewing such plans and specifications consider any information that it deems proper; including, without limitation, any permits, environmental impact statements or percolation tests that may be required by the Architectural Review Committee or any other entity; and harmony of external design and location in relation to surrounding structures, topography, vegetation, and finished grade elevation. The Architectural Review Committee may postpone its review of any plans and specifications submitted for approval pending receipt of any information or material which the Architectural Review Committee, in its sole discretion, may require. Site plans must be approved by the Architectural Review Committee prior to the clearing of any Lot, or the construction of any improvements. The Architectural Review Committee may refuse to approve plans and specifications for proposed improvements, or for the re-subdivision of any Lot or consolidation of Lots on any grounds that, in the sole and absolute discretion of the Architectural Review Committee, are deemed sufficient, including, but not limited to, purely aesthetic grounds.

(b) Design Guidelines; Authority to Charge Review Fee. Declarant will have the power to adopt the initial Design Guidelines. The Architectural Review Committee will have the power, but will not be obligated, from time to time to amend, modify, or supplement the Design Guidelines. In the event of any conflict between the terms and provisions of the Design Guidelines and the terms and provisions of this Declaration, the terms and provisions of this Declaration will control. In addition, the Architectural Review Committee will have the power and authority, but not the obligation, to impose a fee equal to the sum of (i) an administrative fee not to exceed $100 per submission, and (ii) all costs which the Architectural Review Committee reasonably expects to incur in connection with the review of plans, specifications and other documents and information submitted to it pursuant to the terms of this Declaration. The Architectural Review Committee will not be required to review any plans until a complete submittal package, as required by this

Declaration and the Design Guidelines, is assembled and submitted to the Architectural Review Committee. The Architectural Review Committee will have the authority to adopt such additional procedural and substantive rules and guidelines (including, without limitation, the imposition of any requirements for a compliance deposit, certificates of compliance or completion relating to any improvement, and the right to approve in advance any contractor selected for the construction of improvements), not in conflict with this Declaration, as it may deem necessary or appropriate in connection with the performance of its duties hereunder.

(c) Failure to Act. In the event that any plans and specifications are submitted to the Architectural Review Committee as provided herein, and the Architectural Review Committee fails to either approve or reject such plans and specifications for a period of sixty (60) days following such submission, the plans and specifications will be deemed **disapproved**. Disapprovals from a failure to act may be appealed to the Board. The Board has no obligation to hear the appeal. If the appeal is not granted the application remains **disapproved.**

(d) Variances. The Architectural Review Committee may grant variances from compliance with any of the provisions of this Declaration, any Supplemental Declaration or the Design Guidelines (if any), including, but not limited to, restrictions upon height, size, shape, floor areas, land area, placement of structures, set-backs, building envelopes, colors, materials, or land use, when, in the opinion of the Architectural Review Committee, in its sole and absolute discretion, such variance is justified. All variances must be evidenced in writing and, if Declarant has assigned its rights to the ARC, must be approved by at least a majority of the members of the ARC. Each variance may also be recorded in the Public Records; provided, however, that failure to record a variance will not affect the validity thereof or give rise to any claim or cause of action against the Architectural Review Committee, Declarant, the Board or the ARC. If a variance is granted, no violation of the covenants, conditions, or restrictions contained in this Declaration or any Supplemental Declaration will be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such variance will not operate to waive or amend any of the terms and provisions of this Declaration, or any Supplemental Declaration, for any purpose except as to the particular property and in the particular instance covered by the variance, and such variance will not be considered to establish a precedent for any future waiver, modification, or amendment of the terms and provisions of this Declaration or any Supplemental Declaration.

(e) Duration of Approval. The approval of the Architectural Review Committee of any final plans and specifications, and any variances granted by the Architectural Review Committee will be valid for a period of one hundred and twenty (120) days only. If construction in accordance with such plans and specifications or variance is not commenced within such one hundred and twenty (120) day period and diligently prosecuted to completion thereafter, the Owner will be required to resubmit such final plans and specifications or request for a variance to the Architectural Review Committee, and the Architectural Review Committee will have the authority to re-evaluate such plans and specifications in accordance with this **Section 9.6(e)** and may, in addition, consider any change in circumstances which may have occurred since the time of the original approval.

(f) No Waiver of Future Approvals. The approval of the Architectural Review Committee to any plans or specifications for any work done or proposed in connection with any matter requiring the approval or consent of the Architectural Review Committee will not be deemed to constitute a waiver of any right to withhold approval or consent as to any plans and specifications on any other matter, subsequently or additionally submitted for approval by the same or a different

person, nor will such approval or consent be deemed to establish a precedent for future approvals by the Architectural Review Committee.

(g) Non-Liability of Architectural Review Committee. THE ARCHITECTURAL REVIEW COMMITTEE WILL HAVE SOLE DISCRETION WITH RESPECT TO TASTE, DESIGN, AND ALL STANDARDS SPECIFIED BY THIS ARTICLE. THE ARCHITECTURAL REVIEW COMMITTEE WILL HAVE NO LIABILITY FOR ITS DECISIONS MADE IN GOOD FAITH AND WHICH ARE NOT ARBITRARY OR CAPRICIOUS. NEITHER THE DECLARANT, ARC, THE ASSOCIATION NOR THE ARCHITECTURAL REVIEW COMMITTEE (COLLECTIVELY, THE **"RELEASED PARTIES"**) WILL BE RESPONSIBLE FOR: (i) ERRORS IN OR OMISSIONS FROM THE PLANS AND SPECIFICATIONS SUBMITTED TO THE ARCHITECTURAL REVIEW COMMITTEE; (ii) SUPERVISING CONSTRUCTION FOR THE OWNER'S COMPLIANCE WITH APPROVED PLANS AND SPECIFICATIONS; OR (iii) THE COMPLIANCE OF THE OWNER'S PLANS AND SPECIFICATIONS WITH GOVERNMENTAL CODES AND ORDINANCES, STATE AND FEDERAL LAWS. THE RELEASED PARTIES WILL NOT BE LIABLE TO ANY OWNER OR TO ANY OTHER PERSON FOR ANY LOSS, DAMAGE OR INJURY ARISING OUT OF THE PERFORMANCE OF THE ARCHITECTURAL REVIEW COMMITTEE'S DUTIES UNDER THIS DECLARATION, UNLESS SUCH LOSS, DAMAGE, OR INJURY IS DUE TO THE WILFUL MISCONDUCT OR BAD FAITH OF THE ARCHITECTURAL REVIEW COMMITTEE OR ONE OR MORE INDIVIDUALS ACTING ON ITS BEHALF, AS THE CASE MAY BE.

ARTICLE X.
USE RESTRICTIONS

10.1 General Restriction. The Properties shall be used only for residential, recreational, and related purposes, which may include, without limitation, offices for any managing agent or agents retained by the Association or business offices for the Declarant or the Association consistent with the Governing Documents.

10.2 Signs.

(a) Religious, Patriotic and Holiday. No religious, patriotic and holiday signs, symbols, and decorations of any kind may be displayed to the public view on any Lot without the prior written approval of the Architectural Review Committee, except for:

(i) signs which are part of Declarant's overall marketing or Declarant's construction plans or activities for the Properties;

(ii) one small security service sign per Lot, provided that the sign has a maximum face area of one (1) square feet and is located no more than five (5) feet from the front elevation of the principal residence constructed upon the Lot;

(iii) permits as may be required by legal proceedings; and

(iv) permits as may be required by any governmental entity.

(b) For Sale. Unless otherwise permitted pursuant to this **Section 10.2**, no "For Sale", "For Rent", "For Lease", or similar sign advertising a Lot for sale or for lease may be placed on any Lot or any portion of the Properties.

(c) Soliciting. An Owner will be permitted to post a "no soliciting" sign near or on the front door to the principal residence constructed upon the Lot, provided, that the sign not exceed twenty-five (25) square inches. Except for signs which are part of Declarant's overall marketing or construction plans or activities for the Properties, no sign may be displayed in the window of any improvement located on a Lot.

(d) Political Signs. The Association shall not regulate the content of political signs. An Owner may post up to one (1) sign, on such Owner's Lot, with a maximum of five (5) square feet, forty-five (45) days prior to an election and must be removed within seven (7) days after such election. Signs must not be placed within the road right of way. If the posted signage interferes with the Association's ability to maintain the landscaping on a Lot, the Owner of the Lot agrees to make arrangements for landscape maintenance at their own cost for the area that may be deemed inaccessible by the landscaping contractor. The Association is not responsible for damage to the signage by their vendors.

10.3 Compliance with Setbacks. The location of all improvements on a Lot must comply with the minimum setbacks shown on the applicable Plat for such Lot. For the purpose of this restriction, eaves, steps, and open and covered porches will not be considered as part of a building; however, this Section will not be construed to permit any portion of any improvement on any Lot to encroach upon another Lot or other portion of the Properties.

10.4 Vehicles and Parking.

(a) Parking and Storage. No automobile, truck, commercial vehicle, recreational vehicle, motorcycle, other motorized vehicle or cart, boat, trailer, or other wheeled vehicle or equipment, whether motorized or not motorized, shall at any time be parked or stored on any portion of the Properties other than in a garage. For purposes of this Declaration, "commercial vehicle" shall include any vehicle bearing any commercial or business markings or which is used, in whole or in part, for any commercial or business purpose, regardless of its markings or configuration. No unsafe parking shall be allowed on any streets in the Community. Notwithstanding the foregoing, vehicles may be parked or placed on the paved driveway of a Lot as follows:

(i) If the Owner or lawful occupants of the Lot have two private, personal, non-commercial vehicles, which may include a golf cart or other approved electric powered vehicle for neighborhood transportation ("**NEV**"), one of the passenger vehicles or the NEV may be parked on the driveway when the other vehicle is in the garage. No more than one vehicle may be in the driveway at any time.

(ii) Automobiles, trucks, commercial vehicles, recreational vehicles boats, watercraft, trailers or other wheeled vehicles may be parked on driveways for up to a total of 48 hours during any consecutive seven (7) days, or as expressly and specifically permitted by the Board in writing or in rules and regulations adopted by the Board.

(iii) All vehicles, personal property, or equipment parked or left on driveways shall at all times be operable and properly licensed and inspected as required by applicable law. The Board may request and the Owner shall provide evidence or verification of operability or proper license or inspection, from time to time.

(b) Additional Rules and Regulations. Declarant or (after the expiration of the Development Period) the Board, may in its sole discretion determine what is unsafe and, to the

extent permitted by the applicable Governmental Authorities, adopt rules and regulations to prohibit, limit, or control on and off-street parking. Parking spaces located within the Common Area, if any, shall be subject to any parking regulations established by Declarant or the Board. The Board shall have the authority to adopt additional rules and regulations regarding the presence and use of vehicles on any portion of the Properties, including, without limitation, parking or periods during which Lot garage doors must be closed.

10.5 Occupants Bound. All provisions of the Governing Documents shall also apply to all Residents, tenants, lessees, guests, and invitees of any Lot ("**Occupant**"). Every Owner shall cause all Occupants to comply with the foregoing, and every Owner shall be responsible for all violations, losses, or damages caused by an Occupant, notwithstanding the fact that such Occupant is fully liable and may be sanctioned for any violation. In addition to all other remedies available to the Association pursuant to the terms and provisions of this Declaration in the event of a violation by an Occupant, the Association may require that the Occupant be removed from and not allowed to return to the Properties and/or that any lease, agreement or permission given allowing the Occupant to be present be terminated.

10.6 Animals and Pets.

(a) Restrictions on Animals. No animals of any kind, including livestock and poultry, shall be raised, bred, or kept on any portion of the Properties, except that for each Lot there shall be permitted up to a total of three (3) dogs or three (3) cats or a combination of dogs and cats not to exceed three (3) in total, no more than two (2) birds, and a reasonable number, as determined by the Board, of other usual and common household pets, subject to compliance with applicable local laws, codes and ordinances. In no event, however, shall monkeys, snakes, pigs, or ferrets be permitted in any Lot.

(b) Pet Clean Up. Fecal waste deposited by any pet on portions of the Properties other than the Lot of the Owner must be immediately removed and properly disposed of by the Owner. Fecal waste deposited by any pet on or around the Lot of its Owner must be cleaned up and removed at least once every seven (7) days. Pets which are permitted to roam free, or which, in the sole discretion of the Board, make objectionable noise, endanger the health or constitute a nuisance or inconvenience to the Owners of other Lots or the owner of any portion of the Properties shall be removed from the Properties upon request of the Board. If the Owner fails to honor such request, the pet may be removed by the Board.

(c) Authority of Board. The Board may adopt reasonable rules designed to minimize damage and disturbance to other Owners and Residents, including rules requiring damage deposits, waste removal, leash controls, noise controls, pet occupancy limits based on size and facilities of the Lot and fair share use of the Common Area; provided, however, any rule prohibiting the keeping of ordinary household pets shall apply prospectively only and shall not require the removal of any pet which was being kept on the Properties in compliance with the rules in effect prior to the adoption of such rule. Nothing in this provision shall prevent the Association from requiring removal of any animal that presents an actual threat to the health or safety of Residents or from requiring abatement of any nuisance or unreasonable source of annoyance. No pets shall be kept, bred, or maintained for any commercial or business purpose.

10.7 Noise and Odors. Nothing shall be done or maintained on any part of a Lot which emits foul or obnoxious odors outside the Lot or creates noise or other conditions which tend to unreasonably disturb the peace, quiet, safety, comfort, or serenity of the Residents and invitees of other Lots. No activity

shall be carried on upon any portion of the Properties, which in the sole discretion of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to Persons using the Common Area or to the Residents and invitees of other Lots.

10.8 Unsightly or Unkempt Conditions. All portions of a Lot outside of enclosed structures shall be kept in a clean and tidy condition at all times. No rubbish, debris of any kind, project automobiles, or other unsightly conditions shall be placed or permitted to accumulate upon or adjacent to any Lot so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other portion of the Properties. No other nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other portion of the Properties. No activities shall be conducted upon or adjacent to any Lot or within improvements constructed thereon which are or might be unsafe or hazardous to any Person or property. No open fires shall be lighted or permitted on the Properties, except in a barbecue unit while attended and in use for cooking purposes or within a safe and well designed interior or exterior fireplace. No Owner shall engage in any activity which materially disturbs or destroys the vegetation, wildlife, or air quality within the Properties or which results in unreasonable levels of sound or light pollution. The determination as to whether a condition or activity violates this section shall be made by the Board acting in its sole discretion.

10.9 Antennae and Other Structures. Except as expressly provided below, no exterior radio (including HAM radio) or television or other antennae or aerial (including those related to cellular telephone or other forms of communication) or satellite dish, wind turbine, nor any solar energy system, may be erected, maintained or placed on a Lot without the prior written approval of the Architectural Review Committee; provided, however, that: (i) an antenna designed to receive direct broadcast services, including direct-to-home satellite services, that is one meter or less in diameter; or (ii) an antenna designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or (iii) an antenna that is designed to receive television broadcast signals;(collectively, (i) through (iii) are referred to herein as the "**Permitted Antennas**") will be permitted subject to reasonable requirements as to location and screening as may be set forth in rules adopted by the Architectural Review Committee, consistent with applicable law, in order to minimize obtrusiveness as viewed from streets and adjacent property. Declarant and/or the Association will have the right, but not the obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or any portion of the Properties.

10.10 Location of Permitted Antennas. A Permitted Antenna may be installed solely on the Owner's Lot thereon and may not encroach upon any street, Common Area, or any other portion of the Properties. A Permitted Antenna may be installed in a location on the Lot from which an acceptable quality signal can be obtained and where least visible from the street and the Properties, other than the Lot. In order of preference, the locations of a Permitted Antenna which will be considered least visible by the Architectural Reviewer are as follows:(i) attached to the back of the principal single-family residence constructed on the Lot, with no part of the Permitted Antenna any higher than the lowest point of the roofline and screened from view of adjacent Lots and the street; then (ii) attached to the side of the principal single-family residence constructed on the Lot, with no part of the Permitted Antenna any higher than the lowest point of the roofline and screened from view of adjacent Lots and the street. The Architectural Reviewer may, from time to time, modify, amend, or supplement the rules regarding installation and placement of Permitted Antennas.

10.11 Fences and Dog Runs. No wall, dog run, animal pen, or fence of any kind shall be constructed on any Lot, except as approved by the Architectural Review Committee in accordance with **Article IX** of this Declaration.

10.12 Exterior Lighting. Except for floodlights installed by the Declarant and seasonal holiday decorative lights, which may be displayed between November 15 and January 15 only, all exterior lights must be approved by the Architectural Review Committee in accordance with **Article IX** of this Declaration.

10.13 Temporary Structures. No tent, shack, or other temporary building, improvement, or structure may be placed within the Properties without the prior written approval of the Architectural Review Committee in accordance with **Article IX** of this Declaration; provided, however, that temporary structures necessary for storage of tools and equipment, and for office space for architects, builders, and foremen during the performance of any actual construction may be maintained with the prior approval of Declarant, approval to include the nature, size, duration, and location of such structure.

10.14 Storage. Placement or storage of furniture, fixtures, appliances, machinery, equipment or other goods and chattels on the Common Area is prohibited. Placement or storage of furniture, fixtures, appliances, machinery, equipment or other goods and chattels not in active use on any portion of a Lot which is visible from outside the Lot shall not be permitted, except as approved by the Architectural Review Committee in accordance with **Article IX** of this Declaration.

10.15 Subdivision of Lot and Time-Sharing. No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Architectural Review Committee in accordance with **Article IX** of this Declaration; provided, however, Declarant, its successors and assigns, hereby expressly reserves the right unilaterally to subdivide, change the boundary line of, and re-plat any Lot(s) owned by such party, or their successors and assigns during the Development Period. No Lot shall be made subject to any type of timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Lot rotates among members of the program on a fixed or floating time schedule over a period of years. However, the Declarant hereby reserves the right for itself and its assigns to operate such a program.

10.16 Weapons/Firearms/Fireworks/. The discharge of weapons, firearms or fireworks within the Properties is prohibited. The term "firearms" includes "B-B" guns, pellet guns, paintball markers, archery, bows, crossbows, slingshots, and other weapons/firearms of all types, regardless of size. Nothing herein shall be construed to prohibit the Declarant or the Association from using portions of the Common Area from time to time to put on a fireworks show.

10.17 Wetlands, Lakes, and Other Water Bodies. The ponds, streams and other water bodies within the Properties shall be conveyed to the Association prior to the expiration of the Development Period. Such water bodies are primarily aesthetic and/or are intended for the retention of storm water pursuant to this Declaration. The Association may permit limited uses of such bodies of water such as recreational fishing, canoeing, and kayaking, pursuant to rules and regulations established in accordance with this Declaration (as such rules and regulations may be changed from time to time) but in any event, **the operation of gas powered passenger water vehicles of any type is expressly prohibited**. In addition, use of lakes, ponds, streams, or other water bodies within the Properties is expressly restricted by separate governmental regulations, restrictions, agreements, and ordinances, all of which must be observed by all Persons who make use of the lakes, ponds, streams, or other water bodies within the Properties, as those governmental regulations, restrictions, agreements, and ordinances may be changed from time to time. The Association, Declarant, and their successors and assigns, shall not be responsible for any loss, damage, or

injury to any Person or property arising out of any use of lakes, ponds, streams or other bodies of water within or adjacent to the Properties.

10.18 Business Use and Leasing.

(a) Restrictions on Business. No commercial activity, business trade, or similar activity shall be conducted in or from any Lot, except that an Owner or Resident may conduct ancillary business activities within the Lot so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Lot; (b) the business activity conforms to all zoning requirements for the Properties; (c) the business activity does not involve regular visitation of the Lot by clients, customers, suppliers, or other business invitees or door-to-door solicitation of residents of the Properties; and (d) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board. "Business and trade" shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to Persons other than the family of the producer of such goods or services and for which the producer receives a fee, compensation, or other form of consideration, regardless of whether (a) such activity is engaged in full or part time, (b) such activity is intended to or does generate a profit, or (c) a license is required.

(b) No Application to Declarant. This Section shall not apply to any activity conducted by the Declarant or a Builder approved by the Declarant with respect to development and sale of the Properties or such party's use of any Lots which it owns within the Properties, including the operation of a timeshare or similar program.

(c) Leasing. The leasing of a Lot shall not be considered a business or trade within the meaning of this subsection. "Leasing," for purposes of this Declaration, is defined as occupancy of a Lot by any Person other than the Owner, for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. No Owner may enter into a lease for such Owner's Lot if no Person occupying the Lot (or to be occupying the Lot) is at least 55 years of age, without the prior written approval of the Board. Lots may be leased only in their entirety. No fraction or portion of any Lot may be leased or rented. There shall be no subleasing of Lots or assignment of leases unless prior written approval is obtained from the Board. All leases shall be in writing, shall comply with the provisions of this Declaration, and shall contain such terms as the Board may prescribe from time to time including the terms set forth in **Section 2.5(b)**. All leases shall provide that they may be terminated in the event of a violation of the Governing Documents by a tenant or a tenant's family, guests or invitees, and the Board, in its discretion, may require termination by the Owner and eviction of the tenant in such event.

(d) Term of Lease. Except as authorized for Vacation Getaways as described in Section 13.7, all leases shall be for an initial term of no less than six (6) months. The Owners may not amend this provision to prohibit leasing of Lots authorized by Declarant for rental to transient tenants and for a term less than six (6) months. Any Owner who leases a Lot pursuant to the authority set forth herein is specifically referred to **Section 10.2** which, among other things, regulates signage in connection with the leasing of Lots.

(e) Notice to Board. Notice of any lease, together with a complete copy of the lease and such additional information as may be required by the Board, shall be given to the Board by the Lot

Owner within ten (10) days of execution of the lease. The Owner must make available to the lessee copies of the Governing Documents. The Board may adopt reasonable rules regulating or restricting leasing and subleasing.

(f) Yard Sales. The barter, sale, or exchange of new or used personal property at any Lot (by way of description and not limitation, such events are commonly referred to as "yard sales," "moving sales," "attic sales," or "garage sales") will be allowed only if (a) sponsored by the Association, or (b) expressly authorized in writing by the Board. The Association may, but it is not required to, adopt rules and regulations regarding such sales.

10.19 Occupancy. The Board may adopt rules regarding the occupancy of Lots. If the rules fail to establish occupancy standards, no more than two (2) Persons per bedroom may occupy a Lot, subject to the exception for familial status. The Association's occupancy standard for Residents who qualify for familial status protection under the fair housing laws may not be more restrictive than the minimum (i.e., the fewest people per Lot) permitted by the U.S. Department of Housing and Urban Development. A Person may not occupy a Lot if the Person constitutes a direct threat to the health or safety of other Persons, or if the Person's occupancy would result in substantial physical damage to the property of others.

10.20 Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot, except in covered containers of a type, size and style which are approved by the Architectural Review Committee in accordance with **Article IX** of this Declaration or as required by the applicable governing jurisdiction and, if applicable, the private collection contractor. In no event shall such containers be maintained so as to be visible from outside the Lot unless they are being made available for collection and then only for the shortest time reasonably necessary to effect such collection. All rubbish, trash, or garbage shall be removed from the Lots and shall not be allowed to accumulate thereon. No outdoor incinerators shall be kept or maintained on any Lot.

10.21 Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any Lot and no clothes, sheets, blankets or laundry of any kind shall be hung outside on any portion of the Properties.

10.22 ATV's, and Unlicensed Motorized Vehicles Regulated. The operation of ATV's or other unlicensed or motorized vehicles within the Properties is prohibited except as expressly permitted in writing by the Board. Golf carts, golf cars, and Low Speed Vehicles (LSVs) are specifically allowed and must comply with local traffic laws.

10.23 Unlawful Acts or Omissions. Any act or omission which is in violation of any law, code, ordinance, governmental rule or regulation, shall not be done, permitted or allowed to remain or continue within the Properties.

10.24 Bird and Squirrel Houses. No Lot shall be allowed to have more than three (3) bird houses and/or feeders. Permitted bird houses and feeders shall all be hung from an approved structure or mounted on a single pole. In no event shall any permitted bird house or feeder be hung or mounted higher than the height of the eave of the residence on the Lot. With the exception of the foregoing, Residents shall not house or feed wildlife or create or maintain conditions or structures which attract wildlife to the Properties.

10.25 Flagpoles. No Lot shall be allowed to have a free standing flagpole of any type. Flags on Lots must be flown only on poles mounted to the side of the residence by a bracket. Notwithstanding the foregoing, one portable, removable United States flag may be displayed in a respectful manner and consistent with 36 U.S.C. Sections 171-178, as amended, on each Lot.

10.26 Swimming Pools. The installation of a swimming pool on any Lot is prohibited. The foregoing does not apply to indoor or outdoor Jacuzzis and hot-tubs included within a deck, screened from view from neighboring Lots and installed with the prior approval of the Architectural Review Committee in accordance with **Article IX** of this Declaration.

10.27 Irrigation/Wells. No sprinkler or irrigation system of any type which would draw water from creeks, streams, rivers, lakes, ponds, wetlands, canals or other ground or surface waters within the Properties shall be installed, constructed or operated within the Properties. All sprinkler and irrigation systems shall be subject to approval by the Architectural Review Committee in accordance with **Article IX** of this Declaration. Private wells are prohibited on the Properties. The provisions of this Section shall not apply to wells or irrigation systems installed or authorized by Declarant or the Governmental Authorities.

10.28 Drainage-and Septic Systems. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person other than Declarant may obstruct or re-channel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant hereby reserves for the benefit of Declarant, a perpetual easement across the Properties for the purpose of altering drainage and water flow. Private septic or sewage disposal systems are prohibited on the Properties.

10.29 Air Conditioning Units. Except as may be permitted by the Architectural Review Committee, no window air conditioning units or window fans may be installed in any Lot.

10.30 Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on the exterior of any portion of the Properties. Exterior sculpture, fountains and similar items must be approved by the Architectural Review Committee in accordance with **Article IX** of this Declaration.

10.31 Compliance with Governing Documents. Each Occupant must comply strictly with the provisions of the Governing Documents as the same may be amended from time to time. Failure to comply with any of the Governing Documents will constitute a violation of the Governing Documents may result in a Fines and Damages Assessment against the Owner in accordance with the terms and provisions of this Declaration, and will give rise to a cause of action to recover sums due for damages or injunctive relief, or both, maintainable by the Declarant, the managing agent, the Board on behalf of the Association, the Architectural Review Committee, or by an aggrieved Owner. Without limiting any rights or powers of the Association, the Board may (but will not be obligated to) remedy or attempt to remedy any violation of any of the provisions of Governing Documents, and the Owner whose violation has been so remedied will be personally liable to the Association for all costs and expenses of effecting (or attempting to effect) such remedy. If such Owner fails to pay such costs and expenses upon demand by the Association, such costs and expenses (plus interest from the date of demand until paid at the maximum lawful rate, or if there is no such maximum lawful rate, at the rate of one and one-half percent (1-1/2%) per month) will be assessed against and chargeable to the Owner's Lot(s). Any such amounts assessed and chargeable against a Lot will be secured by the liens reserved in this Declaration for Charges and may be collected by any means provided in this Declaration for the collection of Charges, including, but not limited to, foreclosure of such liens against the Owner's Lot(s). Each such Owner will indemnify and hold harmless the Association and its officers, directors, employees and agents from any cost, loss, damage, expense, liability, claim or cause of action incurred or that may arise by reason of the Association's acts or activities under this **Section 10.31** (including any cost, loss, damage, expense, liability, claim or cause of action arising out of the Association's negligence in connection therewith), except for such cost, loss, damage, expense, liability, claim or cause of action arising by reason of the Association's gross negligence or wilful misconduct.

10.32 Liability of Owners for Damage to Common Area. No Owner may in any way alter, modify, add to or otherwise perform any work upon the Common Area without the prior written approval of the Board. The Board may establish an independent committee similar to the Architectural Review Committee for the sole purpose of reviewing and approving or disapproving requests from Owners for improvements to the Common Area, which shall operate in the same manner and with the same authority as the Architectural Control Committee with respect to any such proposed improvements. Each Owner will be liable to the Association for any and all damages to: (i) the Common Area and any improvements constructed thereon; or (ii) any improvements constructed on any Lot, the maintenance of which has been assumed by the Association, which damages were caused by the neglect, misuse or negligence of such Owner or Owner's family, or by any tenant or other occupant of such Owner's Lot, or any guest or invitee of such Owner. The full cost of all repairs of such damage will be a Fines and Damages Assessment against such Owner's Lot, secured by a lien against such Owner's Lot and collectable in the same manner as provided for in this Declaration.

10.33 No Warranty of Enforceability. Declarant makes no warranty or representation as to the present or future validity or enforceability of any restrictive covenants, terms, or provisions contained in the Declaration. Any Owner acquiring a Lot in reliance on one or more of such restrictive covenants, terms, or provisions will assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant harmless therefrom.

ARTICLE XI.
EASEMENTS

11.1 Easements of Encroachment. The Declarant reserves to itself and grants to the Association and to each Lot reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Lot and any adjacent Common Area and between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three (3) feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

11.2 Easements for Utilities.

(a) Easements Reserved to Declarant. There are hereby reserved to the Declarant, and granted to the Association, and the designees of each (which may include, without limitation, any governmental or quasi-governmental entity and any utility company) perpetual non-exclusive easements upon, across, over, and under all of the Properties to the extent reasonably necessary to install, replace, repair, and maintain cable television systems, master television antenna systems, telecommunications systems, security and similar systems, roads, walkways, bicycle pathways, trails, lakes, ponds, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewer, meter boxes, telephone, gas, and electricity. Any of the parties benefitted by these easements may assign these rights to any local utility supplier, cable company, security company or other company providing a service or utility to the Properties subject to the limitations herein.

This easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any Lot (except as may be shown on a Plat), and any damage

to a Lot resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of this easement shall not unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or Resident.

Declarant specifically grants to the local utility suppliers, easements across the Properties for ingress, egress, installation, reading, replacing, repairing, and maintaining utility meters and boxes. However, the exercise of this easement shall not extend to permitting entry into the structures on any Lot, nor shall any utilities be installed or relocated on the Properties, except as approved by the Board or Declarant during the Development Period.

(b) Declarant's Right to Grant Easements. There is hereby reserved to the Declarant, the non-exclusive right and power to grant such specific easements in, over and across the portion of the Properties owned by Declarant or by the Association, as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of the Properties.

11.3 Easements to Serve Expansion Property. The Declarant hereby reserves for itself and for its duly authorized agents, representatives, and employees, successors, assigns, licensees, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the Properties, the Expansion Property, or other real property owned by such party, whether or not such real estate is made part of the Properties. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property. Any damage caused to the Common Area as a result of vehicular traffic connected with development of such real estate shall be repaired by Declarant. If the easement is exercised for permanent access to such real estate and such real estate or any portion thereof benefitting from such easement is not made subject to this Declaration, the owner of the benefitted real estate or portion thereof, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of any maintenance which the Association provides to or along any roadway providing access to such real estate.

11.4 Easements for Cross-Drainage. Declarant hereby reserves for itself, and grants to the Association, an easement across every Lot and all Common Area for the natural drainage (or drainage consistent with the grading and/or drainage plans for the Properties or the developed drainage conditions) of storm water runoff from other portions of the Properties. No Person shall alter the drainage on any Lot to materially hinder, block or increase the drainage of storm water onto adjacent portions of the Properties without the consent of the Owner(s) of the affected property, the Architectural Review Committee, and, during the Development Period, the Declarant.

11.5 Right of Entry. Declarant hereby grants to the Association an easement of access and right, but not the obligation, to enter all portions of the Properties, including each Lot, for emergency, security, and safety reasons. Such right may be exercised by the authorized agents of the Association, its Board, officers, or committees, and by all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in emergencies, entry into a structure on a Lot shall be only during reasonable hours and after notice to and permission from the Owner thereof, which shall not be unreasonably withheld. This easement includes the right to enter any Lot to cure any condition which increases the risk of fire or other hazard if an Owner fails or refuses to cure the condition within a reasonable time after request by the Board, but does not authorize entry into any structure on a Lot without permission of the Owner, except by emergency personnel acting in their official capacities.

11.6 Easements for Maintenance and Enforcement. The Declarant hereby grants to the Association, and its authorized agents, a perpetual easement and right to enter all portions of the Properties, including each Lot to: (i) perform any work pursuant to maintenance responsibilities under **Article V** of this Declaration, and (ii) allow the Association to make inspections to ensure compliance with the Governing Documents. Except in emergencies, entry into a structure on a Lot shall be only during reasonable hours and after notice to and permission from the Owner which shall not be unreasonably withheld. This easement shall be exercised with a minimum of interference to the quiet enjoyment to Owners' property, and any damage thereto shall be repaired by the Association at its expense.

The Declarant grants to the Association an easement and the right to enter a Lot to abate or remove, using such measures as may be reasonably necessary, any structure, thing or condition which violates the Governing Documents. All costs incurred, including reasonable attorneys' fees, shall be assessed against the violator as a Benefitted Assessment.

11.7 Easements for Exterior Landscaping and Maintenance. The Declarant hereby grants to the authorized agents of the Association the right to enter upon those portions of a Lot to furnish services required or permitted to be furnished by the Association hereunder or under any Supplemental Declaration. Any damage caused by the exercise of this easement shall be repaired by the Association at its expense.

11.8 Rights to Stormwater Runoff, Effluent and Water Reclamation. Declarant hereby reserves for itself and its designees all rights to ground water, surface water, storm water runoff, and effluent located or produced within the Properties, and each Owner agrees, by acceptance of a deed to a Lot, that Declarant shall retain all such rights. Such rights shall include the reservation of an easement over the Properties for access, and for installation and maintenance of facilities and equipment to capture and transport such water, runoff, and effluent. This Section may not be amended without the consent of the Declarant or its successor(s), and the rights created in this Section shall survive termination of this Declaration.

11.9 Subdivision Entry and Perimeter Fencing Easement. Declarant hereby reserves for itself and the Association, an easement over and across the Properties for the installation, maintenance, repair or replacement of any subdivision entry facilities and perimeter fencing which serve the Properties. Declarant will have the right, from time to time, to record a written notice in the Public Records which identifies any such subdivision entry facilities and perimeter fencing to which the easement reserved hereunder applies. If any subdivision entry facilities and perimeter fencing is installed to exclusively serve the Properties, Declarant may designate all or any portion of the subdivision entry facilities and perimeter fencing as Common Area by written notice executed by Declarant and recorded in the Public Records. The exercise of the easements reserved hereunder will not extend to permitting entry into any residence, nor will it unreasonably interfere with the use of any Lot or improvement constructed thereon.

11.10 Easements for Special Events. Declarant reserves for itself and the Association, and their successors, assigns, and designees, a perpetual, non-exclusive easement over the Common Area for the purpose of conducting parades; running, sailing, fishing, biking or other sporting events; educational, cultural, artistic, musical and entertainment activities; and other activities of general community interest at such locations and times as Declarant or the Association, in their sole discretion, deem appropriate. Each Owner, by accepting a deed or other instrument conveying any interest in a Lot, acknowledges and agrees that the exercise of this easement may result in a temporary increase in traffic, noise, gathering of crowds, and related inconveniences, and each Owner agrees on behalf of itself and the Residents of its Lot to take no action, legal or otherwise, which would interfere with the exercise of such easement.

11.11 Declarant as Attorney in Fact. To secure and facilitate Declarant's exercise of the rights reserved by Declarant pursuant to the terms and provisions of this Declaration, each Owner, by accepting a deed to a Lot and each Mortgagee, by accepting the benefits of a Mortgage against a Lot, and any other third party by acceptance of the benefits of a Mortgage, mechanic's lien contract, mechanic's lien claim, vendor's lien and/or any other security interest against any Lot, will thereby be deemed to have appointed Declarant such Owner's, Mortgagee's, and third party's irrevocable attorney-in-fact, with full power of substitution, to do and perform, each and every act permitted or required to be performed by Declarant pursuant to the terms of this Declaration. The power thereby vested in Declarant as attorney-in-fact for each Owner, Mortgagee and/or third party, will be deemed, conclusively, to be coupled with an interest and will survive the dissolution, termination, insolvency, bankruptcy, incompetency and death of an Owner, Mortgagee and/or third party and will be binding upon the legal representatives, administrators, executors, successors, heirs and assigns of each such party.

ARTICLE XII.
MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders, insurers and guarantors of first lien Mortgages on Lots in the Properties. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

12.1 Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage who provides written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Lot to which its Mortgage relates, thereby becoming an "**Eligible Holder**"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of Charges owed by a Lot subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of thirty (30) days, or any other violation of the Declaration or Bylaws relating to such Lot or the Owner or Resident which is not cured within thirty (30) days;

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(d) Any proposed action which would require the consent of a specified percentage of Eligible Holders.

12.2 No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

12.3 Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

12.4 Failure of Mortgagee to Respond. Any Eligible Holder who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Eligible Holder within thirty (30) days of the date

of the Association's request, provided such request is delivered to the Eligible Holder by certified or registered mail, return receipt requested.

12.5 Examination of Books and Records. The Association will permit Mortgagees to examine the books and records of the Association during normal business hours.

12.6 Taxes, Assessments and Charges. All taxes, assessments and charges that may become liens prior to first lien Mortgages under applicable law will relate only to the individual Lots and not to any other portion of the Properties.

ARTICLE XIII.
SPECIAL DECLARANT RIGHTS

13.1 Special Declarant Rights.

(a) Rights Reserved to Declarant. This **Article XIII** sets forth certain rights and powers reserved to the Declarant in connection with its development and marketing of the Properties. Such rights, collectively, are referred to herein as the "**Special Declarant Rights**".

(b) Revise Plans. The Special Declarant Rights include all rights and powers designated herein as being rights and powers of the Declarant, and except as otherwise provided below, to be exercised during the Development Period, including, without limitation, the following rights:

(i) To complete, modify, revise or eliminate any improvements indicated on Plats, development plans filed with the Declaration, or the Community Plan; or to modify the Community Plan and/or Plats as reserved in **Sections 1.31** and **1.42**.

(ii) To add or withdraw real property from the terms of this Declaration as provided in **Article VII**;

(iii) To maintain sales offices, management offices, and advertising signs on the Properties, as set forth in **Section 13.2** which shall survive the Development Period for the period of twenty-four (24) months;

(iv) To use easements through the Common Area for the purpose of making improvements within the Properties, as set forth in **Section 13.3**;

(v) To use the Common Area for special events as set forth in **Section 11.10** without the payment of any fee or charge;

(vi) To exercise architectural control, as set forth in **Article IX**;

(vii) To furnish maintenance services, including, without limitation, watering of grass and other landscaping on portions of the Properties at Association's expense; and

(viii) To unilaterally amend this Declaration as provided in **Section 16.2**.

(c) Right to Remove Director or Officer. The rights and powers designated herein as being rights and powers of the Declarant to be exercised during the Development Period including, without limitation, the right and power to appoint and remove any director or officer of the Association as provided in **Section 3.3(b)**.

13.2 Models, Sales Offices and Management Offices. During the Development Period and for the period of twenty-four (24) months thereafter, the Declarant and Builders authorized by Declarant may maintain and carry on upon any Lot owned by Declarant or a Builder or any portion of the Common Area such facilities and activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the construction or sale of Lots or other real estate, including, but not limited to, business offices, signs, model units, marketing trails, and sales offices. The Declarant and authorized Builders shall have easements for access to and use of such facilities. Except as provided below, the Declarant's or Builder's right to use the Common Area for purposes stated in this paragraph shall not be exclusive and shall not unreasonably interfere with use of such Common Area by Owners.

13.3 Easement to Inspect and Right To Correct. For a period of ten (10) years after the expiration of the Development Period, Declarant reserves for itself, and for Declarant's architects, engineers, other design professionals, builders, and general contractors, the right, but not the duty, to inspect, monitor, test, redesign, correct, and relocate any structure, improvement, or condition that may exist on any portion of the Properties, including the Lots, and a perpetual nonexclusive easement of access throughout the Property to the extent reasonably necessary to exercise this right. The party exercising such rights will promptly repair, at its sole expense, any damage resulting from the exercise of this right. By way of illustration but not limitation, relocation of mechanical or electrical facilities may be warranted by a change of circumstance, imprecise siting of the original facilities, or the desire or necessity to comply more fully with public codes and ordinances. This Section may not be construed to create a duty for Declarant or any architects, engineers, other design professionals, builders or general contractors acting on behalf of Declarant and may not be amended without the foregoing parties' written and acknowledged consents. In support of this reservation, each Owner, by accepting an interest in or title to a Lot, hereby grants to Declarant, an easement of access and entry over, across, under, and through the Properties, including without limitation, all Common Areas and the Owner's Lot and all improvements thereon for the purposes contained in this Section.

13.4 Construction of Improvements/Removal of Property. The Declarant and its employees, agents and designees shall also have a right and easement during the Development Period over and upon all of the Common Area for the purpose of: (i) making, constructing and installing such improvements to the Common Area as it deems appropriate in its sole discretion; or (ii) removing peat moss, dirt, gravel, trees, bushes, or other landscaping, and other material as the Declarant deems appropriate in its sole discretion. The Declarant shall not be obligated to pay or otherwise account to the Association for any material removed from the Common Area under (ii) above.

13.5 Other Covenants Prohibited. During the Development Period, no Person shall record any declaration of covenants, conditions and restrictions or similar instrument affecting any portion of the Properties without the prior written consent of Declarant. Any instrument recorded without such consent shall result in such instrument being void and of no force and effect unless subsequently approved in writing by the Declarant and recorded in the Public Records.

13.6 Master Planned Community. Each Owner, by accepting title to a Lot and becoming an Owner, and each other Person, by acquiring any interest in the Properties, acknowledges awareness that the Community is a master planned community, the development of which is likely to extend over many years, and agrees not to protest or otherwise object to: (i) zoning or changes in zoning or to uses of, or changes in density of, the Properties during the Development Period; or (ii) changes in any conceptual or master plan for the Properties, including, but not limited to, the Community Plan; provided, such revision is or would

be lawful (including, but not limited to, lawful by special use permit, variance or the like) and is not inconsistent with what is permitted by the Declaration (as amended from time to time).

13.7 Vacation Getaways. The Declarant may, in its discretion, construct residential improvements for temporary residency in or adjacent to the Properties and designate such improvements as "**Vacation Getaways**." Vacation Getaways located outside of the Properties shall not be Lots hereunder, and their owners shall not be Members of the Association; provided, however, persons residing in such Vacation Getaways shall have access to the Common Area in consideration of the payment of such fees as provided by a contract or a Covenant to Share Costs. Additionally, during the Development Period, the Declarant shall be entitled to grant rights of access to the Common Area to prospective purchasers of Lots and other third parties in consideration of the payment of such fees as provided by a contract, or for no consideration, as the Declarant deems appropriate in its sole discretion.

The Declarant may transfer or lease Vacation Getaways and make Vacation Getaways available for use by guests selected in its discretion. Residents of the Vacation Getaways shall have a non-exclusive easement for use, access, and enjoyment in and to the Common Area, including but not limited to any recreational facilities within the Common Area. The Board shall assign activity or use privilege cards to the Declarant on behalf of all owners of Vacation Getaways for the purpose of exercising such easement. Vacation Getaways shall remain Vacation Getaways until the Declarant otherwise provides by written notice to the owner of such Vacation Getaway and to the Association.

13.8 Equal Treatment. During the Development Period, the Association shall not, without the prior written consent of the Declarant, adopt any policy, rule or procedure that:

(a) Limits the access of the Declarant or its successors, assigns and/or affiliates or their personnel and/or guests, including visitors, to the Common Areas;

(b) Limits or prevents the Declarant, its successors, assigns and/or affiliates or their personnel from advertising, marketing or using the Association or its Common Areas in promotional materials;

(c) Limits or prevents purchasers of new residential housing constructed by the Declarant, any Builder, their successors, assigns and/or affiliates in the Community from becoming members of the Association or enjoying full use of its Common Areas, subject to the membership provisions of this Declaration and the Bylaws;

(d) Impacts the ability of the Declarant and its successors, assigns and/or affiliates, to carry out to completion its development plans and related construction activities for the Community, as such plans are expressed in the Community Plan, as may be amended and updated from time to time. Policies, rules or procedures affecting the provisions of existing easements established by the Declarant and limiting the establishment by the Declarant of easements necessary to complete the Community shall be expressly included in this provision. Easements that may be established by the Declarant shall include but shall not be limited to easements for development, construction and landscaping activities and utilities; or

(e) Impacts the ability of the Declarant, its successors, assigns and/or affiliates to develop and conduct customer service programs and activities in a customary and reasonable manner.

The Association shall not exercise its authority over the Common Areas (including, but not limited to, any gated entrances and other means of access to the Properties) to interfere with the

rights of the Declarant set forth in this Declaration or to impede access to any portion of the Properties over the streets and other Common Areas within the Properties.

13.9 Sales By Declarant. Notwithstanding the restriction set forth in **Section 2.5**, Declarant reserves the right to sell Lots to Persons between the ages of 50 and 55, inclusive years of age; provided, such sales shall not affect the Community' compliance with all applicable state and federal laws under which the Properties may be developed and operated as an age-restricted community.

13.10 Activity Cards for Marketing or Promotion. During the Development Period, the Declarant may, in its sole discretion, issue Activity Cards to persons or entities as part of its sales, marketing, or promotional activities.

ARTICLE XIV.
DISPUTE RESOLUTION

14.1 Alternative Methods for Resolving Disputes. Declarant, the Association, and their respective officers, directors, and committee members, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "**Bound Parties**") agree to encourage the amicable resolution of disputes involving the Properties, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that each shall act diligently and in good faith to resolve those claims, grievances, or disputes described in **Section 14.2** ("**Claims**") using the procedures set forth in **Section 14.3** prior to filing suit in any court.

14.2 Claims. Unless specifically exempted below, all Claims arising out of or relating to the interpretation, application, or enforcement of the Governing Documents, or the rights, obligations, and duties of any Bound Party under the Governing Documents or relating to the design, construction, operation or maintenance of improvements on the Properties shall be subject to the provisions of **Section 14.5**.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not constitute a Claim and shall not be subject to the provisions of **Section 14.3**:

(a) any suit, action or proceeding by the Association against any Bound Party to collect Charges payable pursuant to the provisions of **Article VIII**, or to enforce the provisions thereof, or otherwise to enforce the terms and provisions of the Governing Documents;

(b) any suit, action or proceeding by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of **Article VII** and **Article XIII**;

(c) counterclaims brought by the Association in proceedings instituted against it;

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

(e) any suit by an Owner concerning the aesthetic judgment of the Architectural Review Committee, the Association, or Declarant pursuant to their authority and powers under **Article IX**;

(f) any suit in which any indispensable party is not a Bound Party;

(g) any internal administrative process for the possible imposition of fines or suspension of rights, services or privileges as provided under **Section 4.3**; and

(h) any suit as to which any applicable statute of limitations would expire within ninety (90) days of giving the Notice required by **Section 14.3(a)**, unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in **Section 14.3**.

14.3 Mandatory Procedures.

(a) Notice. Any Bound Party having a Claim ("**Claimant**") against any other Bound Party ("**Respondent**") (collectively, the "**Parties**") shall notify each Respondent in writing (the "**Notice**"), stating plainly and concisely:

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

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

(iii) Claimant's proposed remedy; and

(iv) that Claimant will meet with Respondent to discuss good faith ways to resolve the Claim.

(b) Negotiation and Mediation. The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in negotiation.

If the Parties do not resolve the Claim within thirty (30) days after the date of the Notice (or within such other period as may be agreed upon by the Parties) ("**Termination of Negotiations**"), Claimant shall have thirty (30) additional days to submit the Claim to a mediator who is certified in North Carolina by the Dispute Resolution Commission.

If Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If the Parties do not settle the Claim within thirty (30) days after submission of the matter to the mediation, or within such time as determined by the mediator, the mediator shall issue a written notice of termination of the mediation proceedings. The notice of termination of mediation shall set forth that the Parties are at an impasse and the date that mediation was terminated.

14.4 Allocation of Costs of Resolving Claims. Each Party shall bear its own costs, including attorneys' fees, and each Party shall share equally all charges rendered by the mediator.

14.5 Enforcement of Resolution. After resolution of any Claim through negotiation or mediation, if any Party fails to abide by the terms of any agreement, then any other Party may file suit or initiate administrative proceedings to enforce such agreement without the need to comply with the procedures set forth in **Section 14.3** or **Section 14.8**. In such event, the Party taking action to enforce the agreement shall be entitled to recover from the non-complying Party (or if more than one (1) non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement, including, without limitation, attorneys' fees and court costs.

14.6 Attorneys' Fees. In the event of an action or proceeding instituted to enforce any of the obligations and provisions contained in the Governing Documents, the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment, reasonable attorneys' fees and costs, including administrative and lien fees, of such action or proceeding. In the event the Association is a prevailing party in such action, the amount of such attorneys' fees and costs awarded against an Owner shall also be a Benefitted Assessment under **Section 8.4(c)** with respect to that Owner's Lot(s).

14.7 Prerequisites to Actions Against Declarant. Prior to any Owner or the Association filing a civil action, undertaking any action in accordance with **Section 14.3**, or retaining an expert for any such action against Declarant or any Builder or subcontractor of any portion of the Community, the Owner or the Board, as appropriate, shall notify and meet with the Members to discuss the alleged problem or deficiency. Moreover, prior to taking any action, the potential adverse party shall be notified of the alleged problem or deficiency and provided reasonable opportunity to cure the problem.

14.8 Consensus for Association Litigation. Except as provided in this **Section 14.8**, after the Development Period, the Association shall not commence a judicial or administrative proceeding unless first approved by a number of votes equal to or greater than (75%) of the total number of Lots in the Association. This Section shall not be amended: (i) without the written consent of the Declarant during the Development Period; and (ii) unless such amendment is approved by the foregoing percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

ARTICLE XV.
OTHER HOMEOWNERS ASSOCIATIONS

15.1 In General. Declarant may determine, in its sole discretion, that it is necessary or appropriate to have a portion of the Properties administered by a homeowners association which is separate and apart from the Association hereunder. For example, the Declarant may record a Supplemental Declaration with respect to a portion of the Properties which will provide for the creation of a not-for-profit corporation to administer and maintain such portions of the Properties. An example of a situation where the Declarant may create a separate homeowners association to administer a portion of the Properties is where the homes thereon which are made part of the Properties will require services which are quantitatively or qualitatively different than those which will be furnished by the Association hereunder with respect to the Common Area. For purposes hereof, any separate association created to administer the affairs of a portion of the Properties shall be referred to herein as a "**Local Area Association**." A Local Area Association shall not be created after the expiration of the Development Period.

15.2 Relationship of the Association and the Local Area Associations. It is intended that any Local Area Association shall operate independent of the Association hereunder. Thus, to the extent that a Local Area Association is granted the power and authority to maintain Lots or portions of the Properties which serve Lots, the Association hereunder shall not be obligated to maintain such areas or furnish such services. Otherwise the provisions of this Declaration shall remain fully applicable to and enforceable

against any portion of the Properties which is also subject to the jurisdiction of a Local Area Association, and each Owner shall remain a member of this Association as well as the Local Area Association. Nothing herein shall be deemed to restrict or limit the rights of the Architectural Review Committee as provided in **Article IX**.

ARTICLE XVI.
GENERAL PROVISIONS

16.1 Term. The terms, covenants, conditions, restrictions, easements, charges, and liens set out in this Declaration will run with and bind the Properties, and will inure to the benefit of and be enforceable by the Association, and every Owner, including Declarant, and their respective legal representatives, heirs, successors, and assigns, for a term beginning on the date this Declaration is recorded in the Public Records, and continuing for fifty (50) years, after which time this Declaration will be automatically extended for successive periods of ten (10) years each unless a change (the word "change" meaning a termination, or change of term or renewal term) is approved in a resolution adopted by Members entitled to cast at least eighty percent (80%) of the total number of votes of the Association, voting in person or by proxy at a meeting duly called for such purpose, written notice of which will be given to all Members at least thirty (30) days in advance and will set forth the purpose of such meeting; provided, however, that such change will be effective only upon the recording of a certified copy of such resolution in the Public Records. Notwithstanding any provision in this **Section 16.1** to the contrary, if any provision of this Declaration would be unlawful, void, or voidable by reason of any North Carolina law restricting the period of time that covenants on land may be enforced, such provision will expire (twenty one) 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

16.2 Amendment. This Declaration may be amended or terminated by the recording in the Public Records, of an instrument executed and acknowledged by: (i) during the Development Period, Declarant acting alone; or (ii) following the Development Period, by the president and secretary of the Association setting forth the amendment and certifying that such amendment has been approved by Declarant (unless Declarant has relinquished such right by written instrument recorded in the Public Records) and Members entitled to cast at least seventy percent (70%) of the number of votes entitled to be cast by Members of the Association. No amendment may remove, revoke, or modify any right or privilege of the Declarant without the written consent of the Declarant. No amendment will be effective without the written consent of Declarant, its successors or assigns, unless and until Declarant has relinquished such right by written instrument recorded in the Public Records. Without limitation on Declarant's right to amend the Declaration as provided hereinabove, Declarant may unilaterally amend this Declaration for any reason including but not limited to the following: (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on any Lot; (c) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on Lots; (d) to comply with any requirements promulgated by a local, state or governmental agency, including, for example, the Department of Housing and Urban Development; or (e) to correct errors or resolve inconsistencies or ambiguities in this Declaration or any Exhibit hereto or any Supplemental Declaration.

16.3 Assignment of Declarant's Rights. Notwithstanding any provision in this Declaration to the contrary, Declarant may, by written instrument, assign, in whole or in part, any of its privileges, exemptions, rights, and duties under this Declaration, expressly including its Special Declarant Rights, to

any Person and may permit the participation, in whole, in part, exclusively, or non-exclusively, by any other Person in any of its privileges, exemptions, rights, and duties hereunder.

16.4 Severability. Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect other provisions or applications.

16.5 Interpretation. The provision of this Declaration will be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of the Properties, provided, however, that the provisions of this Declaration will not be held to impose any restriction, condition or covenant whatsoever on any land owned by Declarant other than the Properties. This Declaration will be construed and governed under the laws of the State of North Carolina.

16.6 Cumulative Effect; Conflict. The provisions of this Declaration shall be cumulative with any additional covenants and restrictions provided for in any Supplemental Declaration, and the Association may, but shall not be required to, enforce such additional covenants and restrictions. Nothing herein shall preclude any Supplemental Declaration or other recorded covenants and restrictions applicable to any portion of the Properties from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration, and the Association shall have the standing and authority to enforce the same.

16.7 Use of the Words "Carolina Gardens by Del Webb" by Residents and Owners. Declarant and/or its affiliates own numerous trademarks, including but not limited to DEL WEBB®, PULTE HOMES®, and Carolina Gardens by Del Webb (collectively, "**Marks**"). Residents and Owners may not use the Marks in any way without Declarant's prior written consent, including without limitation (a) in domain names or in the names and titles of Web sites and social media pages, and (b) in the name of real estate or other businesses. Notwithstanding the foregoing, Residents and Owners may use the mark "Carolina Gardens by Del Webb" solely to indicate that a particular property is located within the Community.

16.8 Use of DEL WEBB®, PULTE HOMES®, and Carolina Gardens by Del Webb (registration pending). The Association may not use the Marks in any way without Declarant's prior written consent, provided that the Association is permitted to use the mark "Carolina Gardens by Del Webb" in its name. Immediately upon Declarant's request, the Association shall enter into a written trademark license agreement ("**License**") with Declarant and/or its affiliates, in form and substance satisfactory to Declarant in its sole discretion, with respect to the Association's use of the Marks. All use of the Marks by the Association, including but not limited to use of "Carolina Gardens by Del Webb" in its name, shall inure to the benefit of and be on behalf of Declarant and/or its affiliates and shall be subject to Declarant's and/or its affiliates' periodic review for quality control. The Association's breach of the License or failure to enter into the License upon Declarant's request, shall entitle Declarant to terminate the Association's right to use the Marks, except for use of "Carolina Gardens by Del Webb" in the Association's name.

16.9 Compliance. Every Owner and Resident of any Lot shall comply with this Declaration, the Bylaws, and the rules of the Association. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, administrative imposition of fines and suspension of services or privileges provided in **Section 4.3** or for any other remedy available at law or in equity, by the Association or, in a proper case, by any aggrieved Lot Owner(s), subject, however, to the provisions of **Article XIV**.

16.10 Enforcement and Nonwaiver.

(a) Except as otherwise provided herein, any Owner of a Lot, at such Owner's own expense, Declarant and the Association will have the right to enforce all of the provisions of this Declaration. The Association may initiate, defend or intervene in any action brought to enforce any provision of this Declaration. Such right of enforcement will include both damages for and injunctive relief against the breach of any provision hereof.

(b) Every act or omission whereby any provision of the Governing Documents is violated, in whole or in part, is hereby declared to be a nuisance and may be enjoined or abated by any Owner of a Lot (at such Owner's own expense), Declarant or the Association.

(c) Any violation of any federal, state, or local law, ordinance, or regulation pertaining to the ownership, occupancy, or use of any portion of the Properties is hereby declared to be a violation of this Declaration and subject to all of the enforcement procedures set forth herein.

(d) The failure to enforce any provision of the Governing Documents at any time will not constitute a waiver of the right thereafter to enforce any such provision or any other provision of the Governing Documents.

16.11 Construction. The provisions of this Declaration will be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion hereof will not affect the validity or enforceability of any other provision. Unless the context requires a contrary construction, the singular will include the plural and the plural the singular. All captions and titles used in this Declaration are intended solely for convenience of reference and will not enlarge, limit, or otherwise affect that which is set forth in any of the paragraphs, sections, or articles hereof.

16.12 Notice of Sale or Transfer of Title. Any Owner (other than Declarant) desiring to sell or otherwise transfer title to his or her Lot shall give the Board prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Lot, including assessment obligations, until the date upon which such written notice is received by the Board, notwithstanding the transfer of title. The transferor shall also provide the transferee with copies of the Governing Documents applicable to the Lot transferred before the sale is closed or the transfer finalized.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 21st day of August, 2020.

DECLARANT:
PULTE HOME COMPANY, LLC,
a Michigan limited liability company

By: Chris Raughley

Printed Name: Chris Raughley

Title: Vice President of Land Development

STATE OF NORTH CAROLINA §

COUNTY OF WAKE §

I, the undersigned, a Notary Public of the County and State aforesaid, certify that the following person(s) personally appeared before me this day, and

Chris Raughley

☑ I have personal knowledge of the identity of the principal(s)

☐ I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a _____

☐ A credible witness has sworn to the identity of the principal(s);

each acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: VP of Land Development of Pulte Home Company, LLC.

Witness my hand and official seal, this the 21st day of August, 2020.

My commission expires: 7-1-24

Shannon C. Elderdice

[NOTARY SEAL] Print Name of Notary

Shannon C. Elderdice

SHANNON C ELDERDICE NOTARY PUBLIC WAKE COUNTY, NC

EXHIBIT "A"

DESCRIPTION OF THE PROPERTIES INITIALLY SUBMITTED

Akins Parcel:

BEGINNING at an existing iron pipe, the southeast corner of Lot 65 of Old Waverly Subdivision, in the northern right of way line of Galega Drive, a sixty feet public right, recorded in the Book of Maps 2007, Page 672, at the Wake County Register of deeds. Thence with the western line of Lot 65, North 2°05'49" West, 349.29' to an existing iron pipe, the common corner between Lot 65 and Lot 64; thence with the western line of Lot 64, North 2°13'10" West, 161.40' to an existing iron pipe, the common corner of Lot 64 and the AKINS, LLC Property (PIN 0665-97-4128); thence North 2°08'26" West, 49.24' to rebar set, a corner with the aforementioned property, crossing a lake, North 61°25'26"" East, 293.76' to a rebar set, a corner with the aforementioned property; thence a curve to right with a radius of 255.00', a length of 144.01', and a chord bearing and distance of North 12°22'25" West, 142.10' to a rebar set, a corner with the aforementioned property; thence North 3°48'18" East, 320.75' to a rebar set, a common corner with aforementioned property, in the line of the Rudolph Braxton McLean property; thence with the Rudolph Braxton McLean property, South 86°12'20" East, 453.55' to a rebar set, a common corner with the aforementioned property; thence with the line of the aforementioned property, South 2°02'47" West, 636.00' to a nail in a tree stump with an existing 1" iron rod found as a witness accessory to the corner; thence with the aforementioned property, South 87°55'55" East, 325.12' to an existing iron pipe; the continuing South 87°55'41" East, 43.68' to the centerline Kennis Creek; thence with the center of Kennis Creek the following courses: South 39°50'28' West, 8.15'; South 47°33'33" East, 17.52'; South 11°00'12" West, 17.10'; South 9°03'01" West; 54.80'; South 46°38'59" West, 42.86'; South 19°21'18" East, 32.05'; South 54°00'01" West, 16.54'; South 62°27'45" West, 37.14'; South 87°47'07' West, 30.15'; South 51°46'14" West, 19.00'; South 6°55'06" East, 47.52'; South 39°15'57" East, 27.93'; South 59°20'58" East, 21.93'; South 17°16'12" West, 33.56'; South 32°46'39" West, 2.50'; North 88°05'32" West, 10.86'; South 13°02'44" West, 59.12'; South 33°09'42" West, 40.54'; North 88°37'33" West, 37.18'; North 41°27'31" West 20.04'; South 74°48'47" West, 25.25; South 27°58'10" West, 64.88'; South 72°06'32" West, 15.86'; South 60°54'02" West, 15.63'; South 40°04'50" West, 54.82'; South 37°39'59" West, 32.05'; South 79°36'04" West, 9.81'; South 69°09'53" West, 19.81'; South 49°51'48" West, 24.50'; South 46°55'05" West, 18.13'; South 5°58'53" East, 12.72'; South 15°54'39" East, 8.64'; South 55°26'02" East, 3.65'; thence leaving Kennis Creek with the line of Dorothy Adcock Mays Trustee property, North 86°21'32" West, 20.00' to a rebar set in the line of the aforementioned property; thence continuing with said line, North 86°21'32" West, 637.74' to a rebar set in the aforementioned line; thence North 3°42'07" East, 59.95' to the POINT OF BEGINNING, containing 19.344 acres.

Phase 1 Parcel:

Parcel 1 - Upper Akins

BEGINNING AT A 1/2 INCH PIPE FOUND MARKING THE SOUTHWESTERN CORNER OF LOT 64, HOLLAND HILLS, PHASE I AS SHOWN ON BOOK OF MAPS 1989, PAGE 1177, WAKE COUNTY REGISTRY AND THE EASTERN RIGHT-OF-WAY OF PURFOY ROAD (S.R. 1301), A 60' PUBLIC RIGHT-OF-WAY; THENCE LEAVING THE EASTERN RIGHT-OF-WAY OF PURFOY ROAD AND WITH THE SOUTHERN LINE OF LOT 64 AND THE SOUTHERN LINE OF LOT 63, HOLLAND HILLS, PHASE I AS SHOWN ON BOOK OF MAPS 1989, PAGE 1177, S 87° 42' 17" E A DISTANCE OF 559.00' TO A 1/2 INCH PIPE FOUND, THENCE S 51° 14' 37" E A DISTANCE OF 83.88' TO A 1/2 INCH PIPE FOUND, THENCE S 87° 41' 48" E A DISTANCE OF 219.70' TO A 1/2 INCH PIPE FOUND IN THE WESTERN LINE OF LOT 56, HOLLAND HILLS, PHASE II AS SHOWN IN BOOK OF MAPS 1991, PAGE 579, WAKE COUNTY REGISTRY, THENCE S 13° 17' 31" E A DISTANCE OF 222.20' TO A 1/2 INCH PIPE FOUND , THENCE WITH THE WESTERN LINE OF LOT 55, HOLLAND HILLS, PHASE 2 AS SHOWN ON BOOK OF MAPS 1994, PAGE 1215, WAKE COUNTY REGISTRY S 13° 09' 31" E A DISTANCE OF 229.92' TO A 1 INCH PIPE FOUND IN THE NORTHERN LINE OF ROSEMARY M. HOLLAND, AS SHOWN IN BOOK OF MAPS 1911, PAGE 35, WAKE COUNTY REGISTRY, THENCE N 88° 07' 52" W, A DISTANCE OF 35.10' TO A 1 INCH PIPE FOUND IN THE NORTHEAST CORNER OF PULTE HOME COMPANY, LLC AS DESCRIBED IN DEED BOOK 17335, PAGE 2559, WAKE COUNTY REGISTRY, THENCE WITH THE NORTH LINE OF PULTE HOME COMPANY LLC PROPERTY N 87°27' 31" W, A DISTANCE OF 741.65' TO A 1/2 INCH PIPE FOUND, THENCE N 11° 49' 48" E, A DISTANCE OF 438.94' TO A 1/2 INCH PIPE FOUND, THENCE N 87° 37' 20" W A DISTANCE OF 268.69' TO A 1/2 INCH PIPE FOUND ALONG THE EASTERN RIGHT-OF-WAY OF THE SAID PURFOY ROAD (S.R. 1301), THENCE ALONG THE EASTERN RIGHT-OF-WAY OF PURFOY ROAD N 8° 45' 28" E A DISTANCE OF 49.65' TO A 1/2 INCH PIPE FOUND, SAID PIPE BEING THE POINT OF BEGINNING, CONTAINING 7.461 ACRES, MORE OR LESS.

Parcel 2 - Holland

BEGINNING AT AN EXISTING 1/2" IRON ROD FOUND, THE SOUTHWEST CORNER OF LOT 15 OF HOLLAND HILLS SUBDIVISION, PHASE IV IN THE NORTH WEST INTERSECTION OF WHITE STAR ROAD AND BALKAN ROAD, RECORDED IN THE BOOK OF MAPS 1999, PAGE 1205 AT THE WAKE COUNTY REGISTER OF DEEDS,THENCE S 02° 56' 43" W A DISTANCE OF 152.56' TO AN EXISTING IRON ROD, THENCE S 03° 44' 11" W A DISTANCE OF 125.95' TO AN EXISTING ½-INCH IRON ROD, THENCE S 03° 44' 11" W A DISTANCE OF 448.69' TO AN AXLE, THENCE N 87° 34' 17" W A DISTANCE OF 302.00' TO A POINT, THENCE N 87° 34' 17" W A DISTANCE OF 1392.32' TO AN EXISTING 2-INCH IRON PIPE SET 12.5 FEET FROM CENTERLINE OF KENNIS CREEK, THENCE ALONG THE CENTERLINE OF KENNIS CREEK THE FOLLOWING FIFTY-ONE (51) CALLS: S 18° 52' 14" E A DISTANCE OF 8.67', THENCE S 51° 53' 47" E A DISTANCE OF 58.90', THENCE S 66° 11' 04" E A DISTANCE OF 63.31', THENCE S 23° 04' 33" E A DISTANCE OF 31.08', THENCE S 45° 00' 00" E A DISTANCE OF 12.42', THENCE N 85° 07' 05" E A DISTANCE OF 14.09', THENCE S 42° 26' 21" E A DISTANCE OF 39.91', THENCE N 86° 22' 40" E A DISTANCE OF 10.22', THENCE S 67° 17' 31" E A DISTANCE OF 11.71', THENCE S 35° 26' 40" E A DISTANCE OF 20.44', THENCE S 07° 01' 49" E A DISTANCE OF 22.88', THENCE S 31° 04' 44" E A DISTANCE OF 23.59', THENCE S 02° 05' 47" W A DISTANCE OF 25.28', THENCE S 48° 33' 13" E A DISTANCE OF 18.65', THENCE S 04° 27' 09" E A DISTANCE OF 19.18', THENCE S 52° 06' 27" E A DISTANCE OF 11.80', THENCE S 19° 14' 55" E A DISTANCE OF 38.81', THENCE S 24° 18' 04" W A DISTANCE

OF 41.85', THENCE S 67° 38' 36" W A DISTANCE OF 33.13', THENCE S 23° 33' 41" W A DISTANCE OF 24.92', THENCE S 54° 23' 27" W A DISTANCE OF 25.98', THENCE S 24° 43' 10" E A DISTANCE OF 36.35', THENCE S 12° 05' 23" W A DISTANCE OF 14.69', THENCE S 47° 18' 48" W A DISTANCE OF 13.26', THENCE S 01° 42' 46" W A DISTANCE OF 12.62', THENCE S 24° 19' 58" W A DISTANCE OF 22.23', THENCE S 63° 46' 03" W A DISTANCE OF 12.20', THENCE S 03° 06' 56" W A DISTANCE OF 29.01', THENCE S 57° 40' 22" E A DISTANCE OF 15.97', THENCE S 74° 17' 33" E A DISTANCE OF 23.52', THENCE S 26° 19' 17" W A DISTANCE OF 16.74', THENCE S 51° 36' 56" E A DISTANCE OF 19.53', THENCE S 87° 05' 30" E A DISTANCE OF 13.87', THENCE S 07° 55' 48" E A DISTANCE OF 9.19', THENCE S 21° 08' 56" W A DISTANCE OF 10.54', THENCE S 12° 29' 01" E A DISTANCE OF 33.02', THENCE S 24° 53' 51" W A DISTANCE OF 11.46', THENCE S 57° 56' 52" W A DISTANCE OF 17.08', THENCE S 14° 33' 57" E A DISTANCE OF 19.79', THENCE S 30° 37' 41" E A DISTANCE OF 41.51', THENCE S 00° 37' 32" W A DISTANCE OF 16.74', THENCE S 87° 11' 57" E A DISTANCE OF 25.13', THENCE S 01° 48' 37" E A DISTANCE OF 20.43', THENCE S 12° 16' 02" E A DISTANCE OF 34.97', THENCE S 00° 14' 42" W A DISTANCE OF 28.46', THENCE S 27° 38' 15" E A DISTANCE OF 32.40', THENCE S 69° 40' 14" E A DISTANCE OF 11.50', THENCE S 16° 06' 07" W A DISTANCE OF 28.68', THENCE S 03° 51' 03" W A DISTANCE OF 29.71', THENCE S 15° 58' 15" E A DISTANCE OF 48.14', THENCE S 89° 55' 47" W A DISTANCE OF 8.61' TO AN EXISTING 1-INCH IRON ROD, THENCE N 88° 20' 25" W A DISTANCE OF 331.92' TO AN EXISTING IRON PIPE, THENCE N 88° 20' 25" W A DISTANCE OF 370.05' TO AN AXLE WITH 2-INCH IRON PIPE AS WITNESS, THENCE N 01° 42' 21" E A DISTANCE OF 904.00' TO AN AXLE, THENCE S 88° 39' 49" W A DISTANCE OF 158.28' TO A CARVED PINE STUMP, THENCE N 02° 27' 09" E A DISTANCE OF 912.65' TO AN EXISTING 1-INCH IRON ROD, THENCE, S 88° 07' 52" E A DISTANCE OF 35.10' EXISTING 1-INCH IRON PIPE, THENCE S 88° 08' 36" E A DISTANCE OF 517.12' TO AN EXISTING IRON PIPE, THENCE S 88° 08' 36" E A DISTANCE OF 490.02' TO AN EXISTING IRON PIPE, THENCE S 88° 08' 36" E A DISTANCE OF 140.02' TO AN EXISTING IRON PIPE, THENCE S 88° 08' 36" E A DISTANCE OF 140.02' TO AN EXISTING IRON PIPE, THENCE S 88° 08' 36" E A DISTANCE OF 139.61' TO AN EXISTING IRON ROD, THENCE S 88° 08' 36" E A DISTANCE OF 140.32' TO AN EXISTING IRON PIPE, THENCE S 88° 08' 36" E A DISTANCE OF 140.04' TO AN EXISTING IRON PIPE, THENCE S 88° 08' 36" E A DISTANCE OF 139.97' TO AN EXISTING IRON PIPE, THENCE S 88° 08' 36" E A DISTANCE OF 169.93' TO AN EXISTING IRON PIPE, THENCE S 88° 08' 36" E A DISTANCE OF 160.22' TO AN EXISTING IRON PIPE, THENCE S 87° 37' 54" E A DISTANCE OF 52.93' TO AN EXISTING IRON PIPE, THENCE S 02° 56' 43" W A DISTANCE OF 186.88' TO AN EXISTING ½-INCH IRON ROD, AND THE POINT OF COMMENCEMENT CONTAINING 59.719 ACRES MORE OR LESS.

Parcel 3 – Lower Akins:

BEGINNING at an existing iron pipe, the southeast corner of Lot 65 of Old Waverly Subdivision, in the northern right of way line of Galega Drive, a sixty feet public right, recorded in the Book of Maps 2007, Page 672, at the Wake County Register of deeds. Thence with the western line of Lot 65, North 2°05'49" West, 349.29' to an existing iron pipe, the common corner between Lot 65 and Lot 64; thence with the western line of Lot 64, North 2°13'10" West, 161.40' to an existing iron pipe, the common corner of Lot 64 and the AKINS, LLC Property (PIN 0665-97-4128); thence North 2°08'26" West, 49.24' to rebar set, a corner with the aforementioned property, crossing a lake, North 61°25'26"" East, 293.76' to a rebar set, a corner with the aforementioned property; thence a curve to right with a radius of 255.00', a length of 144.01', and a chord bearing and distance of North 12°22'25" West, 142.10' to a rebar set, a corner with the aforementioned property; thence North 3°48'18" East, 320.75' to a rebar set, a common

corner with aforementioned property, in the line of the Rudolph Braxton McLean property; thence with the Rudolph Braxton McLean property, South 86°12'20" East, 453.55' to a rebar set, a common corner with the aforementioned property; thence with the line of the aforementioned property, South 2°02'47" West, 636.00' to a nail in a tree stump with an existing 1" iron rod found as a witness accessory to the corner; thence with the aforementioned property, South 87°55'55" East, 325.12' to an existing iron pipe; the continuing South 87°55'41" East, 43.68' to the centerline Kennis Creek; thence with the center of Kennis Creek the following courses: South 39°50'28' West, 8.15'; South 47°33'33" East, 17.52'; South 11°00'12" West, 17.10'; South 9°03'01" West; 54.80'; South 46°38'59" West, 42.86'; South 19°21'18" East, 32.05'; South 54°00'01" West, 16.54'; South 62°27'45" West, 37.14'; South 87°47'07' West, 30.15'; South 51°46'14" West, 19.00'; South 6°55'06" East, 47.52'; South 39°15'57" East, 27.93'; South 59°20'58" East, 21.93'; South 17°16'12" West, 33.56'; South 32°46'39" West, 2.50'; North 88°05'32" West, 10.86'; South 13°02'44" West, 59.12'; South 33°09'42" West, 40.54'; North 88°37'33" West, 37.18'; North 41°27'31" West 20.04'; South 74°48'47" West, 25.25; South 27°58'10" West, 64.88'; South 72°06'32" West, 15.86'; South 60°54'02" West, 15.63'; South 40°04'50" West, 54.82'; South 37°39'59" West, 32.05'; South 79°36'04" West, 9.81'; South 69°09'53" West, 19.81'; South 49°51'48" West, 24.50'; South 46°55'05" West, 18.13'; South 5°58'53" East, 12.72'; South 15°54'39" East, 8.64'; South 55°26'02" East, 3.65'; thence leaving Kennis Creek with the line of Dorothy Adcock Mays Trustee property, North 86°21'32" West, 20.00' to a rebar set in the line of the aforementioned property; thence continuing with said line, North 86°21'32" West, 637.74' to a rebar set in the aforementioned line; thence North 3°42'07" East, 59.95' to the POINT OF BEGINNING, containing 19.344 acres.

Parcel 4 - Adcock

BEGINNING at an iron stake in the R.E. Aiken northern line, a corner with the Gilbert property, runs thence along the Aiken line and the Sherron estate property line and crossing SR 1301 North 84° 50' West 3,375.0 feet to an iron stake, a corner with E.B. Walters; thence North 4° 00' East 235 feet to an iron stake, corner with Frances J. Muhlsteff; thence along the Muhlsteff line and crossing the right of way of the Carolina Power and Light Company North 4° 16' East 1,447.0 feet to an iron stake, a corner with Laura S. Dickens property; thence along the Laura S. Dickens line North 9° 00' East 619 feet to an iron stake, a corner with Dr. J.R. Edwards Estate property; thence along the Dr. J.R. Edwards Estate property line and recrossing the right of way of Carolina Power and Light Company and recrossing SR 1301 South 84° 00' East 2,560.5 feet to an iron pipe, a corner with J.C. Holland estate property; thence along the Holland Estate property South 15° 20' West 439 feet to an iron stake in the J.C. Holland Estate line, a corner with the Gilbert property; thence along the Gilbert property line South 6° 10' West 910 feet to an iron stake; thence South 84° 00' East 146 feet to an iron stake; thence South 5° 10' West 905 feet to the point of BEGINNING, containing 165.551 acres, and is known as "The B.A. Chappell Estate" and was surveyed by C.W. Russum, R.L.S., in September, 1968, and is Drawing No. 14568 of File C in the Office of the said Surveyor.

Parcel 5 – Akins 4.2:

Being all of that tract or parcel of real property containing 3.889+/- acres identified as "N/F Akins LLC, PIN 0665-97-4128; DB 13794 PG 1768; 3.889 AC" on that map entitled "Corporate Limits Annexation Map Prepared for Stephens Road Partners, LLC, Akins, LLC Property, PIN: 0665-97-4128, Fuquay-Varina, North Carolina" recorded at Book of Maps 2019, Page 1268 in the Wake County Registry, reference which is hereby made for greater certainty of description.

Parcel 6 – McLean:

BEGINNING at a rebar set marking the northeastern most corner of the property now or formerly owned by Pulte Home Company, LLC, being a 19.227 acre tract (Wake County PIN 0665-96-8722) as shown on a map recorded in Book of Maps 2018, Page 1475 (Deed Book 17377, Page 649); thence North 86°12'20" West, 453.55' to a rebar set; thence North 86°11'39" West, 196.94' to a computed point; thence North 86°11'11" West, 137.80' to a rebar set; thence North 78°07'00" West, 101.41' to a rebar set; thence North 78°06'56" West, 397.17' to a rebar set, thence North 20°12'10" West, 253.28' to an existing iron rod; thence North 9°07'50" East, 231.62' to a 1" existing iron rod; thence North 89°55'47" East, 8.61' to the centerline of Kennis Creek; thence with the centerline of Kennis Creek the following courses: North 15°58'15" West, 48.14'; North 3°51'03" East, 29.71'; North 16°06'07" East, 28.68'; North 69°40'14" West, 11.50'; North 27°38'15" West, 32.40'; North 0°14'42" East, 28.46'; North 12°16'02" West, 34.97'; North 1°48'37" West, 20.43'; North 87°11'57" West, 25.13'; North 0°37'32" East, 16.74'; North 30°37'41" West; 41.51'; North 14°33'57" West, 19.79'; North 57°56'52" East, 17.08'; North 24°53'51" East, 11.46'; North 12°29'01" West, 33.02'; North 21°08'56" East, 10.54'; North 7°55'48" West, 9.19'; North 87°05'30" West, 13.87'; North 51°36'56" West, 19.53'; North 26°19'17" East, 16.74'; North 74°17'33" West, 23.52'; North 57°40'22" West, 15.97'; North 3°06'56" East, 29.01'; North 63°46'03" East, 12.20'; North 24°19'58 East, 22.23'; North 1°42'46" East, 12.62'; North 47°18'48" East, 13.26'; North 12°05'23" East, 14.69'; North 24°43'10" West, 36.35'; North 54°23'27" East, 25.98'; North 23°33'41' East, 24.92'; North 67°38'36" East, 33.13'; North 24°18'04" East, 41.85'; North 19°14'55" West, 38.81'; North 52°06'27" West, 11.80'; North 4°27'09" West, 19.18'; North 48°33'13" West, 18.65'; North 2°05'47" East, 25.28'; North 31°04'44" West, 23.59'; North 7°01'49" West, 22.88'; North 35°26'40" West, 20.44'; North 67°17'31" West, 11.71'; South 86°22'40" West, 10.22'; North 42°26'21" West, 39.91'; South 85°07'05" West, 14.09'; North 45°00'00" West, 12.42'; North 23°04'33" West, 31.08'; North 66°11'04" West, 63.31'; North 51°53'47" West, 58.90'; North 18°52'14" West, 8.67' to the common corner with Rosemary M. Holland; thence leaving Kennis Creek, South 87°34'17" East, passing a 2" existing iron pipe at 12.5', and continuing for a total distance of 1,392.32' to a rebar set; thence South 4°22'16" West, 295.64' to a rebar set; thence South 41°24'32" East, 415.29' to an axle, a common corner with William B. Holland property; thence South 88°59'17" East, 306.00' to a rebar set; thence South 0°59'17" East, 430.45' to a rebar set; thence North 89°00'43" East, 418.02', to an axle in the line of Karen Z. Tidwell property; thence with Karen Z. Tidwell property line, South 3°04'10" West, 1108.80' to a ¾" existing iron pipe beneath a tree stump, a common corner with the Karen Z. Tidwell property; thence North 87°55'41" West crossing Kennis Creek, 410.55' to a ½" iron rod found; thence North 87°55'55" West, 325.12' to an existing nail in a tree stump with a 1" existing iron rod as a witness accessory; thence North 2°02'47" East, 636.00' to a rebar set, to the POINT OF BEGINNING, containing 65.425 acres, as shown on a survey prepared by Timmons Group entitled "ALTA/NSPS Land Title Survey Prepared for Pulte Land Group Rudolph Braxton McLean Property PIN 0665-98-2183 Fuquay Varina, North Carolina, dated July 1, 2020.

EXHIBIT "B"

DESCRIPTION OF EXPANSION PROPERTY

TRACT 1:

BEGINNING at an iron pipe in the center of Old N. C. Highway No. 55, a common corner in the land of Naomi Harvell Maser; runs thence along the line of Naomi Harvell Maser North 85 degrees West 646.2 feet to an iron pipe, a corner in the land of Naomi Harvell Maser; continues thence along the line of Naomi Harvell Maser North 5 degrees East 60.0 feet to an iron pipe; continues thence along the line of Naomi Harvell Maser North 84 degrees 30' West 913.5 feet to a new iron pipe, a corner in the land of R. B. McLean; runs thence along the land of R. B. McLean and crossing Kennis Creek and passing an iron stake North 6 degrees 32' East 1,513.0 feet to an iron stake, a corner with A. S. Olive property; runs thence along A. S. Olive property, and crossing Kennis Creek South 82 degrees 10' East 973.0 feet to a lightwood stake, a corner in the W. H. Baird property; runs thence along the W. H. Baird property South 6 degrees 32' West 1,473.0 feet to a hickory tree; continues thence along the W. H. Baird land South 85 degrees East 600.00 feet to a new iron pipe in the center of Old N. C. Highway No. 55; runs thence along the center of Old N. C. Highway No. 55 South 18 degrees 5' West 61.6 feet to the BEGINNING, and containing 34.265 acres, and being Tract No. 1A, as shown on a plat of the property of D. T. Harvell Estate, dated March, 1969, prepared by C. W. Russum, R. L. S., and recorded in Book of Maps 1969, page 366, Wake County Registry.

Wake County REID#: *0016877*

Wake County PIN#: *0675172458*

Address: *0 S. NC 55 Hwy, Willow Spring NC 27592*

TRACT 2:

Being all of Tract 3 (containing 25.93 acres more or less) as shown on the plat entitled "Recombination Survey For: Shirley J. Baird" recorded in Book of Maps 1997, page 217 Wake County Registry.

Property Address: *0 Horseman Creek Road, Willow Spring, NC 27592-0000*

Wake Co. Tax REID: *0252168*

Wake Co. Tax PIN: *0675271608*

TRACT 3:

BEGINNING at the intersection of the eastern right of way of Durham & Southern Railroad (now abandoned) and the western right of way of NC Highway 55, thence along the eastern right of way of the railroad North 6 49' West approximately 560.0 feet to an existing iron pipe; thence along the W.H. Baird Estate South 69 degrees 49' East 332.0 feet to an iron pipe located in the western right of way line of NC Highway 55; thence along the right of way of said road in a southerly direction approximately 505.0 feet to the point of beginning, containing 1.92 acres more or less. Property located at 7504 S NC 55 HWY, Willow Springs, NC 27529

Property Address: *7504 S NC 55 HWY, Willow Spring, NC 27592-0000*

Wake Co. Tax REID: 0095068

Wake Co. Tax PIN: 0675275371

WAKE COUNTY, NC
TAMMY L. BRUNNER
REGISTER OF DEEDS
PRESENTED & RECORDED ON
03-12-2025 AT 10:30:01

BOOK: 019849 PAGE: 02249 - 02251

Drawn by and return to:
Sellers, Ayers, Dortch & Lyons, P.A. (SCS)
Filed Electronically

AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR CAROLINA GARDENS BY DEL WEBB

Wake County, North Carolina

This AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR CAROLINA GARDENS BY DEL WEBB ("Amendment") is made and entered into this the 10 day of March, 2025, by **Pulte Home Company, LLC**, a Michigan limited liability company (hereinafter, "Declarant").

STATEMENT OF PURPOSE

The DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR CAROLINA GARDENS BY DEL WEBB was recorded on August 21, 2020, in Book 18031 at Page 168 in the Wake County, North Carolina Register of Deeds office (as amended and supplemented, the "Declaration"). Article XVI, Section 16.2 ("Amendment") of the Declaration provides that the Declaration may be amended by the Declarant acting alone during the Development Period (as defined in Section 1.22 of the Declaration). As of the date of this Amendment, the Development Period remains on-going.

NOW, THEREFORE, pursuant to Section 16.2 of the Declaration, the undersigned Declarant hereby amends the Declaration as follows:

Article II, Section 2.2(a) ("Activity Cards; Issuance by the Board") shall be amended to read as follows:

(a) Issuance by the Board. Activity Cards shall be allocated as follows:

(i) Each Lot which is occupied by one (1) Qualified Resident shall be allocated one (1) Activity Card at no additional charge beyond the payment of assessments levied under Article VIII hereof.

Submitted electronically by "Sellers Ayers Dortch & Lyons, PA"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Wake County Register of Deeds.

(ii) Each Lot which is occupied by two (2) Qualified Residents shall be allocated two (2) Activity Cards at no additional charge beyond the payment of assessments levied under Article VIII hereof.

(iii) Each Lot which is occupied by more than two (2) Qualified Residents shall be allocated two (2) Activity Cards at no additional charge beyond the payment of assessments levied under Article VIII hereof, plus one (1) additional Activity Card for each additional Qualified Resident occupying the Lot, up to a maximum of four (4) total Activity Cards per Lot (that is, two initial Activity Cards, plus a maximum of two additional). The monthly fee for additional Activity Cards allocated to a Lot pursuant to this subsection (iii) shall be set by the Board, and may be changed by the Board, in its discretion, from time to time.

No Activity Cards shall be allocated to any Lot which is not occupied by a Qualified Resident. The Board shall determine entitlement to Activity Cards on an annual basis. The Board may establish policies, limits, and charges with regard to the issuance of additional or duplicate cards and guest privilege cards. The Board may issue Activity Cards to Persons who have signed binding contracts to purchase a Lot, subject to such policies as the Board may determine from time to time. An Owner is not entitled to any refund of assessments for any delays associated with the issuance of the Activity Cards.

Except as specifically amended herein, the provisions of the Declaration as well as all prior amendments and supplements are ratified and confirmed and shall continue in full force and effect in accordance with their terms.

[SIGNATURE AND NOTARY ACKNOWLEDGEMENT FOLLOWS]

IN WITNESS WHEREOF, the undersigned Declarant has executed this Amendment as of the day and year first above written.

DECLARANT:

PULTE HOME COMPANY, LLC,
a Michigan limited liability company

By: Chris Raughley
Chris Raughley
Vice President of Land Development

STATE OF NC

COUNTY OF Wake

I, a notary public for the county and state aforesaid, do hereby certify that **Chris Raughley** personally came before me, and being by me duly sworn, said that he is Vice President of Land Development of **PULTE HOME COMPANY, LLC** and that said writing was signed by him, in his capacity as Vice President of Land Development, by its authority duly given and on behalf of the company.

This 10 day of March, 2025.

Melissa Smetana [NOTARIAL SEAL/STAMP]

Printed Name: Melisa Smetana

My commission expires: 07/27/2025

